

Tab 1 SB 4 by Flores; (Similar to CS/H 06501) Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office

Tab 2 CS/SB 410 by CA, Perry; (Compare to CS/H 00203) Growth Management

Tab 3 SB 664 by Lee (CO-INTRODUCERS) Gruters, Harrell; Verification of Employment Eligibility

569026	D	S	RCS	JU, Simmons	Delete everything after	02/13 07:45 AM
412606	AA	S	UNFAV	JU, Rodriguez	btw L.89 - 90:	02/13 07:45 AM
848944	AA	S	UNFAV	JU, Rodriguez	btw L.89 - 90:	02/13 07:45 AM
846536	AA	S	UNFAV	JU, Rodriguez	btw L.89 - 90:	02/13 07:45 AM
885186	AA	S	UNFAV	JU, Rodriguez	btw L.89 - 90:	02/13 07:45 AM
488938	AA	S	UNFAV	JU, Rodriguez	btw L.186 - 187:	02/13 07:45 AM
487102	SD	S	UNFAV	JU, Rodriguez	Delete everything after	02/13 07:45 AM
224638	A	S	WD	JU, Gibson	btw L.99 - 100:	02/13 07:45 AM
423022	A	S	WD	JU, Gibson	btw L.126 - 127:	02/13 07:45 AM
925668	A	S	WD	JU, Gibson	btw L.134 - 135:	02/13 07:45 AM
923154	A	S	WD	JU, Gibson	Delete L.144 - 146:	02/13 07:45 AM
286242	A	S	WD	JU, Gibson	Delete L.169 - 175:	02/13 07:45 AM
698622	A	S	WD	JU, Gibson	btw L.273 - 274:	02/13 07:45 AM

Tab 4 SB 698 by Book (CO-INTRODUCERS) Stewart; (Compare to CS/H 01287) Assisted Reproduction Facilities

Tab 5 SB 1340 by Gruters; (Similar to CS/CS/H 00007) Legal Notices

190756	A	S	FAV	JU, Gruters	Delete L.157:	02/12 09:22 AM
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Tab 6 SB 1366 by Gruters; (Similar to CS/H 01089) Trusts

409666	A	S	RCS	JU, Gruters	Delete L.65 - 81:	02/13 09:57 AM
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Tab 7 CS/SB 1516 by HP, Harrell; (Compare to CS/H 01187) Organ Donation

767912	A	S	RCS	JU, Harrell	Delete L.136 - 215:	02/13 09:05 AM
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Tab 8 SB 1672 by Broxson (CO-INTRODUCERS) Baxley; (Similar to CS/CS/H 00813) Protection of Vulnerable Investors

158696	A	S	RCS	JU, Broxson	Delete L.109 - 170:	02/13 09:57 AM
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Tab 9 CS/SB 1564 by BI, Stargel; (Compare to H 01189) Use of Genetic Information

370850	D	S	RCS	JU, Stargel	Delete everything after	02/13 09:57 AM
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Tab 10 SB 1746 by Stargel; (Similar to CS/H 01335) Florida Virtual Education

919468	A	S	RCS	JU, Stargel	Delete L.164 - 232:	02/13 09:57 AM
225780	A	S	WD	JU, Stargel	btw L.446 - 447:	02/13 09:57 AM

Tab 11 CS/SB 1794 by EE, Hutson; (Similar to CS/H 07037) Constitutional Amendments Proposed by Initiative

920890	D	S	FC	JU, Hutson	Delete everything after	02/13 09:57 AM
560852	AA	S	FC	JU, Gibson	Delete L.311 - 314:	02/13 09:57 AM
817884	SD	S	RCS	JU, Hutson	Delete everything after	02/13 09:57 AM
643500	ASA	S	UNFAV	JU, Rodriguez	Delete L.22 - 23:	02/13 09:57 AM
782924	ASA	S	UNFAV	JU, Rodriguez	btw L.64 - 65:	02/13 09:57 AM
946112	ASA	S	UNFAV	JU, Rodriguez	Delete L.67 - 71:	02/13 09:57 AM
292920	ASA	S	UNFAV	JU, Gibson	Delete L.313 - 316:	02/13 09:57 AM
811190	ASA	S	UNFAV	JU, Rodriguez	Delete L.479:	02/13 09:57 AM
385532	A	S	UNFAV	JU, Gibson	Delete L.345 - 348:	02/13 09:57 AM

Tab 12 SB 16 by Simmons; (Similar to CS/H 06517) Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles

Tab 13 CS/SB 1286 by CJ, Simmons; (Similar to CS/H 00745) Contraband in Specified Facilities

274472	A	S	RCS	JU, Simmons	Delete L.40 - 211:	02/13 07:43 AM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Simmons, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Tuesday, February 11, 2020
TIME: 2:00—5:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Simmons, Chair; Senator Rodriguez, Vice Chair; Senators Baxley, Gibson, Hutson, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 4 Flores (Similar CS/H 6501)	Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office; Providing for the relief of Dontrell Stephens through Evett L. Simmons, as guardian of his property, by the Palm Beach County Sheriff's Office; providing for an appropriation to compensate him for personal injuries and damages sustained as the result of the negligence of a deputy of the office; providing a limitation on the payment of compensation, fees, and costs, etc. JU 02/11/2020 Temporarily Postponed GO RC	Temporarily Postponed
2	CS/SB 410 Community Affairs / Perry (Compare CS/H 203)	Growth Management; Requiring the Department of Economic Opportunity to give a preference to certain counties and municipalities when selecting applications for funding for technical assistance; requiring a comprehensive plan to include a property rights element; providing a statement of rights that a local government may use, etc. CA 01/27/2020 Fav/CS JU 02/11/2020 Favorable RC	Favorable Yeas 5 Nays 1
3	SB 664 Lee	Verification of Employment Eligibility; Requiring employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; requiring the Department of Economic Opportunity to order certain agencies to suspend an employer's license under certain circumstances; requiring the department to notify the United States Immigration and Customs Enforcement Agency and specified law enforcement agencies of certain violations, etc. JU 02/11/2020 Fav/CS CM RC	Fav/CS Yeas 4 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 11, 2020, 2:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 698 Book (Compare CS/H 1287)	Assisted Reproduction Facilities; Requiring a donor to enter into a certain contract with a donor bank or fertility clinic before he or she may donate; requiring a donor bank to clearly label each donation that is transferred to a fertility clinic according to the terms of each donor's contract; requiring the Department of Health to perform annual inspections of donor banks and fertility clinics without notice; providing civil and criminal causes of action for, criminal penalties for, and disciplinary action against a physician who intentionally or recklessly artificially inseminates a patient with the incorrect sperm, eggs, or embryos, etc. JU 02/11/2020 Favorable CJ RC	Favorable Yeas 6 Nays 0
5	SB 1340 Gruters (Similar CS/CS/H 7)	Legal Notices; Providing for the publication of legal notices on certain publicly accessible websites; allowing a governmental agency to publish legal notices on a publicly accessible website under certain circumstances; removing provisions relating to the publication of legal notices in newspapers; providing that an advertisement of a sale or disposition of property may be published on certain websites for a specified time period, etc. JU 02/11/2020 Amendment Adopted - Temporarily Postponed CA RC	Amendment Adopted - Temporarily Postponed
6	SB 1366 Gruters (Similar CS/H 1089)	Trusts; Authorizing trustees of certain trusts to reimburse persons being treated as the owner of the trust for specified amounts and in a specified manner; prohibiting certain policies, values, and proceeds from being used for such reimbursement; requiring that specified powers be granted to certain persons if the terms of the trust require a trustee to act at the direction or with the consent of such persons, etc. JU 02/11/2020 Fav/CS BI RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 11, 2020, 2:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 1516 Health Policy / Harrell (Compare CS/H 1187)	Organ Donation; Prohibiting a health insurance policy from limiting or excluding coverage solely on the basis that an insured is a living organ donor; revising a written document for making an anatomical gift to include a specified statement relating to the responsibility of payment for fees associated with certain services; revising the responsibilities of a contractor procured by the agency for the purpose of educating and informing the public about anatomical gifts; prohibiting an organ transplantation facility from charging a donor or his or her family member any fee for services relating to the procurement or donation of organs, etc. HP 01/28/2020 Fav/CS JU 02/11/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0
8	SB 1672 Broxson (Similar CS/CS/H 813)	Protection of Vulnerable Investors; Requiring securities dealers, investment advisers, and associated persons to immediately report knowledge or suspicion of abuse, neglect, or exploitation of vulnerable adults to the Department of Children and Families' central abuse hotline; authorizing dealers and investment advisers to delay disbursements or transactions of funds or securities from certain accounts associated with specified adults if certain conditions are met; providing for administrative and civil immunity for dealers, investment advisers, and associated persons, etc. BI 01/28/2020 Favorable JU 02/11/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0
9	CS/SB 1564 Banking and Insurance / Stargel (Compare H 1189)	Use of Genetic Information; Specifying criteria that must be met before a life insurer, long-term care insurer, or disability income insurer may use genetic information for underwriting purposes; specifying prohibited acts by such insurers relating to genetic information; prohibiting companies providing direct-to-consumer commercial genetic testing from sharing certain information about a consumer with a life insurer or health insurer unless the company obtains the consumer's prior written consent, etc. BI 01/28/2020 Fav/CS JU 02/11/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 11, 2020, 2:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 1746 Stargel (Similar CS/H 1335)	Florida Virtual Education; Providing that certain employees of the Florida Virtual School are entitled to sovereign immunity; revising the students given priority by the Florida Virtual School; authorizing the Florida Virtual School to accrue supplemental revenue from a specified organization; providing that all Florida Virtual School employees are subject to specified policies; deleting a requirement that certain school districts provide a specified number of virtual instruction options, etc. ED 02/03/2020 Favorable JU 02/11/2020 Fav/CS AP	Fav/CS Yeas 6 Nays 0
11	CS/SB 1794 Ethics and Elections / Hutson (Similar CS/H 7037)	Constitutional Amendments Proposed by Initiative; Requiring the Secretary of State to submit an initiative petition to the Legislature when a certain amount of signatures are obtained; providing that a citizen may challenge a petition circulator's failure to register with the Secretary of State; authorizing the Division of Elections or a supervisor of elections to provide petition forms in a certain electronic format; requiring the Secretary of State to submit a copy of an initiative petition to the Financial Impact Estimating Conference, etc. EE 01/27/2020 Fav/CS JU 02/11/2020 Fav/CS RC	Fav/CS Yeas 4 Nays 2
12	SB 16 Simmons (Similar CS/H 6517)	Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles; Providing for the relief of Christeia Jones, guardian of Logan Grant, Denard Maybin, Jr., and Lanard Maybin; providing an appropriation to compensate them for injuries and damages sustained as a result of the alleged negligence of Trooper Raul Umana and the Florida Highway Patrol, a division of the Department of Highway Safety and Motor Vehicles; providing a limitation on the payment of attorney fees, etc. SM JU 02/11/2020 Not Considered ATD AP	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 11, 2020, 2:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SB 1286 Criminal Justice / Simmons (Similar CS/H 745)	Contraband in Specified Facilities; Prohibiting the introduction of certain cannabis related substances, cellular telephones and other portable communication devices, and vapor-generating electronic devices inside the secure perimeter of specified facilities of the Department of Children and Families or of the Agency for Persons with Disabilities; providing criminal penalties; prohibiting the introduction of certain cannabis related substances and vapor-generating electronic devices inside the secure perimeter of a correctional institution, etc. CJ 01/28/2020 Fav/CS JU 02/11/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 4

INTRODUCER: Senator Flores

SUBJECT: Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 4, a claim bill, alleges that Dontrell Stephens was wrongfully shot four times by a Palm Beach County Duty Sherriff resulting in Mr. Stephens' paralysis. The claim bill further states that after a civil trial for damages, a judgment was entered against the sheriff's department in the amount of \$22,431,892.05 plus postjudgment interest and costs of \$260,000. Of this judgment, the sheriff's department has paid \$200,000 in accordance with the state's sovereign immunity waiver, and this payment was allocated to the claimant's costs.

As compensation for Mr. Stephens' damages, the claim bill authorizes and directs the Palm Beach County Sheriff's Office "to appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$22,431,892.05 plus post-judgment interest as ordered in the final judgment, along with remaining costs in the amount of \$60,000, payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens."

II. Present Situation:

Doctrine of Sovereign Immunity: Overview

Sovereign immunity is defined as: "A government's immunity from being sued in its own courts without its consent."¹ The doctrine had its origin with the judge-made law of England. During English feudal times, the King was the sovereign. Today, for the purposes of this discussion, the term "sovereign" refers to Florida state agencies and subdivisions including local governments.

Article X, section 13 of the State Constitution authorizes the Legislature to enact laws that permit suits against the state. The Legislature has, to some extent, permitted tort suits against the state and has limited the collectability of judgments against the state to \$200,000 per person and

¹ BLACK'S LAW DICTIONARY (8th ed. 2004).

\$300,000 per incident. A person seeking to recover amounts in excess of the limits may request that the Legislature enact a claim bill.

In medieval England “one could not sue the king in his own courts; hence the phrase ‘the king can do no wrong.’”² The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.³

Although one could not sue the king, one could petition the king for relief.⁴

Under s. 2.01, F.S., Florida has adopted the common law of England as it existed on July 4, 1776.⁵ This adoption of English common law included the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.⁶

The Legislature was first expressly authorized to waive the state’s sovereign immunity under Article IV, section 19 of the Constitution of 1868.⁷ The Legislature again was expressly authorized to waive the state’s sovereign immunity under Article X, section 13 of the Constitution of 1968. This authorization to waive sovereign immunity states:

Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

Although the first general waiver of the state’s sovereign immunity was not adopted until 1969, “one . . . could always petition for legislative relief by means of a claims bill.”⁸ The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.⁹ The claim bill authorized payment to a person who supplied labor and building materials for the first permanent Capitol building.¹⁰

Florida’s Current Statutory Sovereign Immunity Waiver

Section 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same

² *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981).

³ *Id.* (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

⁴ *Id.*

⁵ English common law that is inconsistent with state or federal law is not included.

⁶ *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).

⁷ Section 19, Art. VI, State Const. (1868), states, “Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.”

⁸ *Cauley*, 403 So. 2d at note 5.

⁹ D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April, 1988).

¹⁰ *Id.*

conduct. Section 768.28 applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment.”¹¹

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident.¹² “Although an ‘excess’ judgment may be entered, the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide.”¹³

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.¹⁴ A government entity is not liable for any damages resulting from actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.¹⁵

Claim Bills

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. “A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.”¹⁶ Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.¹⁷

Legislative claim bills are used either after procurement of a judgment in an action at law or as a mechanism to avoid an action at law altogether.¹⁸ The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.¹⁹ “Unlike civil judgments, private relief acts are not obtainable by right upon the claimant’s proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.”²⁰

The beneficiary of a claim bill recovers by virtue of its enactment, regardless of whether the governmental tortfeasor purchased liability insurance for the purpose of paying an excess

¹¹ *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

¹² Section 768.28(5), F.S.

¹³ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla.2005).

¹⁴ Section 768.28(9)(a), F.S.

¹⁵ *Id.*

¹⁶ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

¹⁷ *Id.*

¹⁸ *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

¹⁹ *Wagner*, 960 So. 2d at 788 (citing Kahn, *Legislative Claim Bills*, Fla. B. Journal (April 1988)).

²⁰ *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

judgment.²¹ However, where the governmental tortfeasor has liability insurance in excess of the statutory cap, and the claimant receives compensation in excess of that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.²²

A government entity may, without a claim bill, settle claim against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.²³

III. Effect of Proposed Changes:

This claim bill alleges that Dontrell Stephens was wrongfully shot four times by a Palm Beach County Duty Sheriff resulting in Mr. Stephens' paralysis. The claim bill further states that after a civil trial for damages, a judgment was entered against the sheriff's department in the amount of \$22,431,892.05 plus postjudgment interest and costs of \$260,000. Of this judgment, the sheriff's department has paid \$200,000 in accordance with the state's sovereign immunity waiver, and the payment was allocated to the claimant's costs.

As compensation for Mr. Stephens' damages, the claim bill authorizes and directs the Palm Beach County Sheriff's Office "to appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$22,431,892.05 plus post-judgment interest as ordered in the final judgment, along with remaining costs in the amount of \$60,000, payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens."

The claim bill further states that the \$200,000 paid by the Palm Beach County Sheriff's Office pursuant to the state's waiver of sovereign immunity, and the amount awarded under this bill are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in the bill which resulted in injuries suffered by Dontrell Stephens.

Attorney fees relating to this claim bill may not exceed 25 percent of the amount awarded by the bill.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²¹ *Servs. Auto Ass'n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

²² *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544 (Fla. 4th DCA 2003).

²³ *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

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:

This claim bill authorizes and directs the Palm Beach County Sheriff's Office "to appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$22,431,892.05 plus post-judgment interest as ordered in the final judgment, along with remaining costs in the amount of \$60,000, payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens."

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

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

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

None.

B. Amendments:

None.

By Senator Flores

39-00166-20

20204__

1 A bill to be entitled
2 An act for the relief of Dontrell Stephens through
3 Evelt L. Simmons, as guardian of his property, by the
4 Palm Beach County Sheriff's Office; providing for an
5 appropriation to compensate him for personal injuries
6 and damages sustained as the result of the negligence
7 of a deputy of the office; providing a limitation on
8 the payment of compensation, fees, and costs;
9 providing an effective date.

10
11 WHEREAS, on September 13, 2013, Dontrell Stephens, then age
12 20, was shot four times by Palm Beach County Deputy Sheriff
13 Adams Lin during an encounter in West Palm Beach, and

14 WHEREAS, the last of the bullets fired at Mr. Stephens
15 entered his back, severing his spinal cord and rendering him
16 permanently paraplegic, and

17 WHEREAS, during testimony at trial, Deputy Lin stated that
18 he mistook a cell phone, which was clearly visible throughout
19 the encounter with Mr. Stephens, for a handgun, and such
20 testimony was found to be not credible and was unanimously
21 rejected by the jury, and

22 WHEREAS, Mr. Stephens' testimony, corroborated by video
23 from Deputy Lin's dashboard camera and physical evidence at the
24 scene, establishes that the only offense committed by Mr.
25 Stephens was a noncriminal bicycle infraction, that he was
26 unarmed, and that he posed no reasonable threat to Deputy Lin,
27 and

28 WHEREAS, Mr. Stephens, through no fault of his own, and
29 based solely on the wrongful conduct of an agent of the Palm

39-00166-20

20204__

30 Beach County Sheriff's Office, suffered permanent and
31 catastrophic injuries that will force him to use a wheelchair
32 for the remainder of his life, and

33 WHEREAS, Mr. Stephens currently resides in a homeless
34 shelter and relies exclusively on public assistance and hospital
35 emergency room services to meet his extensive health care needs,
36 and

37 WHEREAS, Mr. Stephens will require a lifetime of medical,
38 therapeutic, rehabilitative, and nursing care, and his future
39 life expectancy exceeds 50 years, and

40 WHEREAS, following a trial that lasted from January 25,
41 2016, until February 4, 2016, the jury in the case, brought on
42 behalf of Mr. Stephens against Ric Bradshaw in his capacity as
43 Sheriff of Palm Beach County, awarded Mr. Stephens compensatory
44 damages resulting in the entry of a final judgment in the amount
45 of \$22,431,892.05, plus postjudgment interest and costs, and

46 WHEREAS, in an opinion rendered on January 10, 2018, with
47 rehearing en banc denied on September 10, 2018, the United
48 States Court of Appeals for the Eleventh Circuit affirmed the
49 factual findings and the judgment of the trial court in the
50 case, and

51 WHEREAS, in the 5 years since being paralyzed, Mr. Stephens
52 has incurred more than \$1.4 million in unpaid expenses for his
53 care and treatment, and

54 WHEREAS, the costs incurred in the prosecution of the
55 claims on behalf of Mr. Stephens exceed \$260,000, with \$60,000
56 remaining to be paid, and

57 WHEREAS, in accordance with the statutory limits of
58 liability set forth in s. 768.28, Florida Statutes, Ric

39-00166-20

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59 Bradshaw, in his capacity as Sheriff of Palm Beach County, has
60 paid \$200,000 toward the total amount of this claim, NOW,
61 THEREFORE,

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. The facts stated in the preamble to this act are
66 found and declared to be true.

67 Section 2. The Palm Beach County Sheriff's Office is
68 authorized and directed to appropriate from funds of the Palm
69 Beach County Sheriff's Office not otherwise encumbered and to
70 draw a warrant in the sum of \$22,431,892.05 plus post-judgment
71 interest as ordered in the final judgment, along with remaining
72 costs in the amount of \$60,000, payable to Evett L. Simmons, as
73 guardian of the property of Dontrell Stephens, as compensation
74 for injuries and damages sustained.

75 Section 3. The amount paid by the Palm Beach County
76 Sheriff's Office pursuant to s. 768.28, Florida Statutes, and
77 the amount awarded under this act are intended to provide the
78 sole compensation for all present and future claims arising out
79 of the factual situation described in this act which resulted in
80 injuries suffered by Dontrell Stephens. The total amount paid
81 for attorney fees relating to this claim may not exceed 25
82 percent of the amount awarded under this act.

83 Section 4. This act shall take effect upon becoming a law.

S00004
CLAIM/LOCAL by Flores; (Similar CS/H 06501)
Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office. CLAIM: Indeterminate. EFFECTIVE DATE: Upon becoming a law.
02/04/20 S Withdrawn from Special Master on Claim Bills -SJ 227 ; Now in Judiciary
02/06/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building --Temporarily Postponed



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: November 25, 2019

I respectfully request that **Senate Bill #4**, relating to the Relief of Dontrell Stephens, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 39

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

4

Bill Number (if applicable)

Topic Dontrell Stephens claim bill

Amendment Barcode (if applicable)

Name Jason Unger

Job Title _____

Address 301 S. Bronough Street #600

Phone 577-9090

Street

Tallahassee

FL

32301

Email junger@gray-robinson.com

City

State

Zip

Speaking: For Against Information

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

Representing Palm Beach County Sheriff's Office

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 Judiciary

BILL: CS/SB 410

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Growth Management

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 410 requires the Department of Economic Opportunity (DEO), when selecting applicants for Community Planning Technical Assistance Grants, to give preference to certain small counties and municipalities located near a proposed multiuse corridor interchange.

The bill also adds a required property rights element to local comprehensive plans. The added element requires local governments to consider certain private property rights while making governmental decisions. The bill provides a model statement of private property rights, which consists of specific property rights recognized under common law and may be added directly to a comprehensive plan. Alternatively, the bill also allows local governments to create unique property rights provisions for a comprehensive plan, as long as the provisions do not conflict with the bill's model language. The bill requires local governments to adopt a property rights element in their comprehensive plan by the earlier of its next proposed plan amendment or July 1, 2023.

II. Present Situation:

DEO Technical Assistance Grant Program

Section 163.3168(3), F.S., requires the DEO, as the state land planning agency, to help communities find creative solutions to fostering vibrant, healthy communities and authorizes DEO to use various means to provide direct and indirect technical assistance within available

resources. To carry out this charge, DEO's Bureau of Community Planning and Growth manages the Community Planning Technical Assistance Grant Program. Under the program, DEO awards grant funds to counties, cities, and regional planning councils to assist local governments in developing economic development strategies, meeting the requirements of the Community Planning Act, addressing critical local planning issues, and promoting innovative planning solutions to challenges identified by local government applicants.¹ The program has funded a wide range of activities which have included, for example, the development and revision of comprehensive plan amendments, economic development strategic plans, affordable housing action plans, downtown master plans, transportation master plans, and revitalization plans.

Beginning in fiscal year 2011-2012, the Legislature has annually appropriated state funds to DEO to implement the program. From fiscal years 2015-2016 to 2019-2020, DEO has expended almost \$6 million on 174 approved grant projects.²

M-CORES Program

Enacted during the 2019 Regular Session,³ the Multi-use Corridors of Regional Economic Significance (M-CORES) Program is designed to advance the construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure.⁴ 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 the quality of life and public safety, and protecting the environment and natural resources.⁵

Section 338.2278(1)(a)-(k), F.S., enumerates the intended benefits which the M-CORES Program seeks to address, which include, but are not limited to: hurricane evacuation; congestion mitigation; trade and logistics; broadband, water, and sewer connectivity; energy distribution; autonomous, connected, shared, and electric vehicle technology; other transportation modes, such as shared-use nonmotorized trails, freight and passenger rail, and public transit; mobility as a service; availability of a trained workforce skilled in traditional and emerging technologies; protection or enhancement of wildlife corridors or environmentally sensitive areas; and protection or enhancement of primary springs protection zones and farmland preservation areas.

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 (the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).⁶

¹ DEO, Division of Community Planning, *Technical Assistance*, available at: <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/technical-assistance> (last visited Feb. 8, 2020).

² Information received from DEO staff on Jan. 23, 2020 (on file with Senate Committee on Judiciary).

³ Chapter 2019-43, Laws of Fla.

⁴ For additional detailed information about M-CORES, see the FDOT M-CORES website, <https://floridamcores.com/> (last visited Jan. 28, 2020).

⁵ Section 338.2278(1), F.S.

⁶ Section 338.2278(2)(a)-(c), F.S.

As required by law, the Florida Department of Transportation (FDOT) has assembled three task forces to study the three specific multi-use corridors.⁷ The task forces will make recommendations to FDOT regarding the potential economic and environmental impacts of the corridor and other factors as specified in the M-CORES legislation. Task Forces are required to report their evaluations in a final report submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2020.⁸ The law requires, to the maximum extent feasible, project construction to begin no later than December 31, 2022, with projects open to traffic no later than December 31, 2030.⁹

Private Property Rights and Constitutional Protections

Under Article I, section 2 of the Florida Constitution's Declaration of Rights, individuals are guaranteed the right "to acquire, possess, and protect property."¹⁰ Although these property rights are enshrined in Florida's constitution, the state and local governments may curtail these rights through sovereign police powers. State police powers are derived from the Tenth Amendment to the U.S. Constitution, which affords states all rights and powers "not delegated to the United States."¹¹ Under this provision, states have police powers to establish and enforce laws protecting the welfare, safety, and health of the public.¹² Regarding private property rights, courts have continuously held that "even constitutionally protected property rights are not absolute, and 'are held subject to the fair exercise of the power inherent in the State to promote the general welfare of the people through regulations that are necessary to secure the health, safety, good order, [and] general welfare.'"¹³

When a state or political subdivision exercises its police powers to affect property rights, citizens are provided two constitutional challenges to oppose the governmental act. The first challenge is that the government may have acted arbitrarily in violation of due process.¹⁴ In the *City of Coral Gables v. Wood*, the court ruled that "[a] zoning ordinance will be upheld unless it is clearly shown that it has no foundation in reason and is a mere arbitrary exercise of power without reference to public health, morals, safety or welfare."¹⁵ In the first constitutional challenge, government action is simply invalid under the due process clause of the constitution.¹⁶

The second challenge is whether the government so intrusively regulated the use of property in pursuit of legitimate police power objectives so as to take the property without compensation in

⁷ Section 338.2278(3)(c)1., F.S.

⁸ Section 338.2278(3)(c)9., F.S.

⁹ Section 338.2278(6), F.S.

¹⁰ FLA. CONST. art. I s. 2.

¹¹ U.S. CONST. amend. X.

¹² "The States thus can and do perform many of the vital functions of modern government—punishing street crime, running public schools, and zoning property for development, to name but a few—even though the Constitution's text does not authorize any government to do so. Our cases refer to this general power of governing, possessed by the States but not by the Federal Government, as the police power." See *NFIB v. Sebelius*, 567 U.S. 519, 535-536 (2012).

¹³ *Shriners Hospitals for Crippled Children v. Zrillic*, 563 So.2d 64, 68 (Fla. 1990) (quoting *Golden v. McCarthy*, 337 So.2d 388, 390 (Fla. 1976)).

¹⁴ See U.S. CONST. amend. V, XIV, s. 1; FLA. CONST. art. I s. 9; see also *Fox v. Town of Bay Harbor Islands*, 450 So.2d 559, 560 (Fla. 3rd DCA 1984).

¹⁵ *City of Coral Gables v. Wood*, 305 So.2d 261, 263 (Fla. 3rd DCA 1974).

¹⁶ See *Department of Transp. v. Weisenfeld*, 617 So.2d 1071 (Fla. 5th DCA 1993).

violation of the just compensation clause (takings clause).¹⁷ When reasoning whether a regulation or land use plan constitutes a taking of a landowner's property, the operative inquiry is whether the landowner has been deprived of all or substantially all economic, beneficial or productive use of the property.¹⁸ In the second constitutional challenge, the government action is invalid absent compensation, and so the government may either abandon its regulation or validate its action by payment of appropriate compensation to the landowner.¹⁹

Since the establishment of these constitutional protections for citizens, the scale of government and land use regulation has considerably expanded, but courts have been reluctant to afford relief to property owners under these constitutional challenges.²⁰ Thus, property owners who experienced property devaluation or economic loss caused by government regulation were seldom compensated.²¹

In 1995, the Legislature addressed the ineffectiveness of these constitutional challenges to government regulation by enacting ch. 70, F.S., which is known as the “Bert J. Harris, Jr., Private Property Rights Protection Act” (hereinafter the “Harris Act”).²²

The Bert J. Harris, Jr., Private Property Rights Protection Act

The Harris Act²³ entitles private property owners to relief when a specific action of a governmental entity inordinately burdens the owner’s existing use of the real property or a vested right to a specific use of the real property.²⁴ The Harris Act recognizes that the inordinate burden, restriction, or limitation on private property rights as applied may fall short of a taking or due process violation under the State Constitution or the U.S. Constitution.²⁵ The law does not apply to the U.S. government, federal agencies, or state or local government entities exercising delegated U.S. or federal agency powers.²⁶

In addition to action that inordinately burdens a property right, an owner may seek relief when a government entity’s development order or enforcement action is unreasonable or unfairly burdens the use of the owner’s real property,²⁷ or when a government entity imposes a condition on the proposed use of the real property that amounts to a prohibited exaction.²⁸ A prohibited exaction occurs when an imposed condition lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity seeks to avoid, minimize, or mitigate.²⁹

¹⁷ See FLA. CONST. art X, s. 6.

¹⁸ See *Taylor v. Village of North Pam Beach*, 659 So.2d 1167 (Fla. 4th DCA 1995).

¹⁹ See *Department of Transp. v. Weisenfeld*, 617 So.2d 1071 (Fla. 5th DCA 1993).

²⁰ See Cooper, Weaver, and ‘Connor, *The Florida Bar, Florida Real Property Litigation, Statutory Private Property Rights Protection*, s.13.1 (2018).

²¹ *Id.*

²² *Id.*

²³ Section 70.001(1), F.S.

²⁴ Section 70.001(2), F.S.

²⁵ Section 70.001(1), F.S.

²⁶ Section 70.001(3)(c), F.S.

²⁷ Section 70.51(3), F.S.

²⁸ Section 70.45(2), F.S.

²⁹ Section 70.45(1)(c), F.S.

The Community Planning Act

The Harris Act is balanced against the state's sovereign rights. The state needs to effectively and efficiently plan, coordinate, and deliver government services amid the state's continued growth and development.³⁰ Statutes govern how the state and local governments direct land development³¹ with the State Comprehensive Plan and local comprehensive plans adopted by counties and municipalities as required by statute.³²

The State Comprehensive Plan must provide long-range policy guidance for the orderly social, economic, and physical growth of the state.³³ The goals and policies of the State Comprehensive Plan must be consistent with the protection of private property rights.³⁴ The State Comprehensive Plan must be reviewed every two years by the Legislature, and legislative action is required to implement its policies unless specifically authorized otherwise in the Constitution or law.³⁵

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act, also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act.³⁶ The Community Planning Act governs how local governments create and adopt their local comprehensive plans. The Legislature expressly intended for all governmental entities in the state to recognize and respect judicially acknowledged or constitutionally protected private property rights.³⁷ The authority provided by the Community Planning Act must be exercised with sensitivity for private property rights, without undue restriction, and leave property owners free from actions by others which would harm their property or constitute an inordinate burden on property rights under the Harris Act.³⁸

Local Comprehensive Plan Elements

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements.³⁹ Plans also are required to identify procedures for monitoring, evaluating, and appraising implementation of the plan.⁴⁰ Plans may include optional elements,⁴¹ but must include the following nine elements:

- Capital improvements;⁴²

³⁰ See s. 186.002(1)(b), F.S.

³¹ See chs. 186, 187, and 163, part II, F.S.

³² Section 163.3167(1)(b), F.S.

³³ Section 187.101(1), F.S.

³⁴ Section 187.101(3), F.S. The plan's goals and policies must also be reasonably applied where they are economically and environmentally feasible and not contrary to the public interest.

³⁵ Section 187.101(1), F.S.

³⁶ See ch. 2011-139, s. 4, Laws of Fla.

³⁷ See Section 163.3161(10), F.S., *See also* Section 187.101(3), F.S.

³⁸ *Id.*

³⁹ Section 163.3177(1), F.S.

⁴⁰ Section 163.3177(1)(d), F.S.

⁴¹ Section 163.3177(1)(a), F.S.

⁴² Section 163.3177(3)(a), F.S. The capital improvements element must be reviewed by the local government on an annual basis.

- Future land use plan;⁴³
- Intergovernmental coordination;⁴⁴
- Conservation;⁴⁵
- Transportation;⁴⁶
- Sanitary sewer, solid waste, drainage, potable water, and aquifer recharge;⁴⁷
- Recreation and open space;⁴⁸
- Housing;⁴⁹ and
- Coastal management (for coastal local governments).⁵⁰

All local government land development regulations must be consistent with the local comprehensive plan.⁵¹ Additionally, all public and private development, including special district projects, must be consistent with the local comprehensive plan.⁵² However, plans cannot require any special district to undertake a public facility project which would impair the district's bond covenants or agreements.⁵³

Amendments to a Local Comprehensive Plan

Local governments must review and amend their comprehensive plans every 7 years to reflect any changes in state requirements.⁵⁴ Within a year of any such amendments, local governments must adopt or amend local land use regulations consistent with the amended plan.⁵⁵ A local government is not required to review its comprehensive plan before its regular review period unless the law specifically requires otherwise.⁵⁶

Generally, a local government amending its comprehensive plan must follow an expedited state review process.⁵⁷ Certain plan amendments, including amendments required to reflect a change in state requirements, must follow the state coordinated review process for the adoption of comprehensive plans.⁵⁸ Under the state process, the state land planning agency is responsible for plan review, coordination, and preparing and transmitting comments to the local government.⁵⁹ The Department of Economic Opportunity (DEO) is designated as the state land planning agency.⁶⁰

⁴³ Section 163.3177(6)(a), F.S.

⁴⁴ Section 163.3177(6)(h), F.S.

⁴⁵ Section 163.3177(6)(d), F.S.

⁴⁶ Section 163.3177(6)(b), F.S.

⁴⁷ Section 163.3177(6)(c), F.S.

⁴⁸ Section 163.3177(6)(e), F.S.

⁴⁹ Section 163.3177(6)(f), F.S.

⁵⁰ Section 163.3177(6)(g), F.S.

⁵¹ Section 163.3194(1)(b), F.S.

⁵² See ss. 163.3161(6) and 163.3194(1)(a), F.S.

⁵³ Section 189.081(1)(b), F.S.

⁵⁴ Section 163.3191(1), F.S.

⁵⁵ Section 163.3191(2), F.S.

⁵⁶ Section 163.3161(12), F.S.

⁵⁷ Section 163.3184(3)(a), F.S.

⁵⁸ Section 163.3184(2)(c), F.S.

⁵⁹ Section 163.3184(4)(a), F.S.

⁶⁰ Section 163.3164(44), F.S.

Under the state coordinated review process, local governments must hold a properly noticed public hearing⁶¹ about the proposed amendment before sending it for comment from several reviewing agencies,⁶² including DEO, the Department of Environmental Protection, the appropriate regional planning council, and the Department of Transportation.⁶³ Local governments or government agencies within the state filing a written request with the governing body are also entitled to copies of the amendment.⁶⁴ Comments on the amendment must be received within 30 days after DEO receives the proposed plan amendment.⁶⁵

DEO must provide a written report within 60 days of receipt of the proposed amendment if it elects to review the amendment.⁶⁶ The report must state the agency's objections, recommendations, and comments with certain specificity, and must be based on written, not oral, comments.⁶⁷ Within 180 days of receiving the report from DEO, the local government must review the report and any written comments and hold a second properly noticed public hearing on the adoption of the amendment.⁶⁸ Adopted plan amendments must be sent to DEO and any agency or government that provided timely comments within 10 working days after the second public hearing.⁶⁹

Once DEO receives the adopted amendment and determines it is complete, it has 45 days to determine if the adopted plan amendment complies with the law⁷⁰ and to issue on its website a notice of intent finding whether or not the amendment is compliant.⁷¹ A compliance review is limited to the findings identified in DEO's original report unless the adopted amendment is substantially different from the reviewed amendment.⁷² Unless the local comprehensive plan amendment is challenged, it may go into effect pursuant to the notice of intent.⁷³ If there is a timely challenge, then the plan amendment will not take effect until DEO, or the Administration Commission⁷⁴ enters a final order determining the adopted amendment complies with the law.⁷⁵

⁶¹ Sections 163.3184(4)(b) and (11)(b)1., F.S.

⁶² See s. 163.3184(1)(c), F.S., for complete list of all reviewing agencies.

⁶³ Section 163.3184(4)(b) and (c), F.S.

⁶⁴ Section 163.3184(4)(b), F.S.

⁶⁵ Section 163.3184(4)(c), F.S.

⁶⁶ Section 163.3184(4)(d)1., F.S.

⁶⁷ Section 163.3184(4)(d)1., F.S. All written communication the agency received or generated regarding a proposed amendment must be identified with enough information to allow for copies of documents to be requested. See s. 163.3184(4)(d)2., F.S.

⁶⁸ Sections 163.3184(4)(e)1. and (11)(b)2., F.S. If the hearing is not held within 180 days of receipt of the report, the amendment is deemed withdrawn absent an agreement and notice to DEO and all affected persons that provided comments. See s. 163.3184(4)(e)1., F.S.

⁶⁹ Section 163.3184(4)(e)2., F.S.

⁷⁰ Section 163.3184(4)(e)3. and 4., F.S.

⁷¹ Section 163.3184(4)(e)4., F.S.

⁷² *Id.*

⁷³ Section 163.3184(4)(e)5., F.S.

⁷⁴ Section 14.202, F.S., provides that the Administration Commission is composed of the Governor and the Cabinet (Section 20.03, F.S., provides that "Cabinet" means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture).

⁷⁵ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 163.3168, F.S., to require DEO, when selecting applications for Community Planning Technical Assistance Grants, to give preference to certain small counties and municipalities for assistance in:

- Determining whether an area in and around a proposed multiuse corridor interchange contains appropriate land uses and natural resource protection; and
- Developing or amending a local government's comprehensive plan to provide for the land uses, natural resource protection, and intended benefits associated with a proposed multiuse corridor interchange.

Counties with a population of 200,000 or less, and municipalities within such counties, are eligible for the funding preference provided in the bill.

Section 2 amends s. 163.3177(6), F.S., to require local governments to incorporate a private property rights element into their comprehensive plans and respect private property rights in local decision making.

The bill provides a model statement of property rights and local governments may incorporate the suggested language directly into their comprehensive plan. The property rights provided in the bill include the following five acknowledgments that a local government should consider in the decision-making process:

- The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- The right of the property owner to the quiet enjoyment of the property, to the exclusion of all others.
- The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.
- The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- The right of the property owner to dispose of his or her property through sale or gift.

Each local government must adopt its own property rights element in its comprehensive plan by the earlier of its next proposed plan amendment or by July 1, 2023. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in the bill.

Section 3 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the State Constitution, provides in part that no county or municipality shall be bound by a general law requiring the county or municipality to spend funds or take an action that requires the expenditure of funds unless certain exemptions or exceptions are met.

The bill might require counties and municipalities to incur some costs to amend their comprehensive plans to add a private property rights element by July 1, 2023. Article VII, section 18 (d), provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact”⁷⁶ are exempt from the mandate requirements, which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.⁷⁷ The cumulative cost for counties and municipalities to update their comprehensive plans to comply with the provisions of the bill is unknown at this time. However, the model language supplied by the bill may help reduce some costs for local governments. Additionally, costs may be lower if a local government adopts a private property rights element concurrent with another necessary comprehensive plan amendment before July 1, 2023.

If the bill does qualify as a mandate, and no exemption or exception applies, to be binding on the counties, the bill must include a finding of important state interest, and two-thirds of the membership of each house of the Legislature must approve the final passage.

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.

⁷⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Dec. 11, 2019)

⁷⁷ Based on the Florida Demographic Estimating Conference’s Dec. 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 11, 2019).

C. Government Sector Impact:

Providing a preference to small M-CORES counties and municipalities for technical assistance grants will likely have a minimal fiscal impact, if any, on DEO.

Eligible small M-CORES counties and municipalities will receive preference when applying for DEO technical assistance grants.

DEO indicated that section two of the bill would have no fiscal impact on the department.⁷⁸

There seems to be legitimate disagreement as to whether section two of the bill will have a fiscal impact on local governments that are not scheduled to review their plans before 2024 but under the bill, must amend their comprehensive plans by July 1, 2023, to include a property rights element.

Some people have expressed the opinion that this provision will not require significant costs because they believe no additional consultants will be needed to draft an amendment to comply with the provisions of the bill. They believe that, if local staff does not have the “in-house” expertise, they may simply “copy and paste” the language into the comprehensive plan and be in compliance. The argument has also been offered that a notice requirement would be a minimal expense because the notice could be included on an existing agenda and would not require a separate meeting notice or separate meeting.

In contrast, the Florida League of Cities indicates that there is a range of responses for the cost for a municipality to adopt a comprehensive plan amendment. According to the Hillsborough County City-County Planning Commission, the cost to review and process a privately initiated amendment to the text of a comprehensive plan may be \$10,375. The Fort Myers Community Development Department has found that a small town or city may spend \$50,000 hiring a planning consultant to draft a comprehensive plan amendment and may end up spending another \$50,000 on total staff time, advertising, and paperwork.⁷⁹ However, the costs to comply with the bill may be significantly lower for a local government depending on the timing of the adoption of the amendment (if done concurrently with another amendment) and whether a local government deems it necessary to enlist the assistance of an outside consultant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁷⁸ Department of Economic Opportunity, 2020 Agency Legislative Bill Analysis for SB 410 (Oct. 23, 2019) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=29749>.

⁷⁹ Information received from the Florida League of Cities (Jan. 23, 2020) (on file with Senate Committee on Judiciary).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3168 and 136.3177.

IX. Additional Information:

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

CS by Community Affairs on January 27, 2020:

The committee substitute requires DEO to give a preference for technical assistance grant funding to certain small counties and municipalities located near a proposed multiuse corridor interchange.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Perry

578-02686-20

2020410c1

1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3168, F.S.; requiring the Department of Economic
4 Opportunity to give a preference to certain counties
5 and municipalities when selecting applications for
6 funding for technical assistance; amending s.
7 163.3177, F.S.; requiring a comprehensive plan to
8 include a property rights element; providing a
9 statement of rights that a local government may use;
10 requiring a local government to adopt a property
11 rights element by a specified date; providing that a
12 local government's property rights element may not
13 conflict with the statutorily provided statement of
14 rights; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Present subsection (4) of section 163.3168,
19 Florida Statutes, is redesignated as subsection (5), and a new
20 subsection (4) is added to that section, to read:

21 163.3168 Planning innovations and technical assistance.—
22 (4) When selecting applications for funding for technical
23 assistance, the state land planning agency shall give a
24 preference to a county that has a population of 200,000 or less,
25 and to a municipality located within such a county, for
26 assistance in determining whether the area in and around a
27 proposed multiuse corridor interchange as described in s.
28 338.2278 contains appropriate land uses and natural resource
29 protections and for aid in developing or amending a local

578-02686-20

2020410c1

30 government's comprehensive plan to provide for such uses,
31 protections, and intended benefits as provided in s. 338.2278.

32 Section 2. Paragraph (i) is added to subsection (6) of
33 section 163.3177, Florida Statutes, to read:

34 163.3177 Required and optional elements of comprehensive
35 plan; studies and surveys.—

36 (6) In addition to the requirements of subsections (1)-(5),
37 the comprehensive plan shall include the following elements:

38 (i)1. In accordance with the legislative intent expressed
39 in ss. 163.3161(10) and 187.101(3) that governmental entities
40 respect judicially acknowledged and constitutionally protected
41 private property rights, each local government shall include in
42 its comprehensive plan a property rights element to ensure that
43 private property rights are considered in local decisionmaking.
44 A local government may adopt its own property rights element or
45 use the following statement of rights:

46
47 The following rights shall be considered in local
48 decisionmaking:

49
50 1. The right of a property owner to physically possess
51 and control his or her interests in the property,
52 including easements, leases, or mineral rights.

53
54 2. The right of the property owner to the quiet
55 enjoyment of the property, to the exclusion of all
56 others.

57
58 3. The right of a property owner to use, maintain,

578-02686-20

2020410c1

59 develop, and improve his or her property for personal
60 use or the use of any other person, subject to state
61 law and local ordinances.

62
63 4. The right of the property owner to privacy and to
64 exclude others from the property to protect the
65 owner's possessions and property.

66
67 5. The right of a property owner to dispose of his or
68 her property through sale or gift.

69
70 2. Each local government must adopt a property rights
71 element in its comprehensive plan by the earlier of its next
72 proposed plan amendment or July 1, 2023. If a local government
73 adopts its own property rights element, the element may not
74 conflict with the statement of rights provided in subparagraph
75 1.

76 Section 3. This act shall take effect July 1, 2020.

S00410

GENERAL BILL/CS by CA, Perry; (Compare CS/H 00203, CS/S 01398)

Growth Management. EFFECTIVE DATE: 07/01/2020.

02/06/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building

02/11/20 S Favorable by Judiciary; YEAS 5 NAYS 1 -SJ 268

02/12/20 S Now in Rules



The Florida Senate

Committee Agenda Request

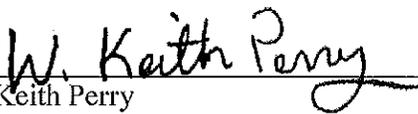
To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 29, 2020

I respectfully request that **Senate Bill #410**, relating to Growth Management , be placed on the:

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



Senator Keith Perry
Florida Senate, District 8

Kerry Godwin, Planning and Design Director, Community Development, Osceola County: *To handle the Comprehensive Plan Amendment support with required research, analysis, supporting language, citizen outreach, Commissioner Briefings, Public Notices, and Public Hearings. In addition, there may be required Land Development Code changes that will require staff review, required research, analysis, supporting language, citizen outreach, Public Notices, Public Hearings, Commissioner Briefings, etc. Based upon this approach, we estimate the costs to be in the \$150,000 to \$250,000 range.*

Anthony Palermo, Assistant Director, Community Development Department, Fort Myers: *A small town or City may spend \$50,000 (conservative estimate) hiring a planning consultant to draft a Comp Plan amendment and may end up spending another \$50,000 on total staff time, advertising, and paperwork. If they hold a lot of meetings and get a lot of public input it could be more. If the town does not have a land use lawyer they may spend another \$5,000 - 10,000 on legal consultants. It is a burden and most small governments will be impacted the most. A big place like Lee County may be able to absorb it with existing staff and experts.*

Brian Teeple, former Executive Director, NEFRC: *The NEFRC created a new "Quality of Life" element for the Town of Penny Farms recently using a DEO TA grant of \$30,000 and we slightly went over that budget. PF is a very small community. So I would guess average would be more like \$50K x 477 local governments (that may not be the exact number) = \$23,850,000, That estimate is conservative.*

Melissa Zornitta, Executive Director, Hillsborough County City-County Planning Commission: *We are in the midst of a fee study so I can tell you that the consultant has found it costs \$10,375.00 to review and process a privately initiated amendment to the text of the comprehensive plan. I would venture that creating a new element to the Comprehensive Plan would be at least that much – probably quite a bit more – particularly in legal staff costs. That does not include costs for holding a hearing – like the clerk, security or HTV for broadcasting it.*

Jason Green, Weiler Engineering (located in Punta Gorda): *\$25,000 minimum*

*Kim Glas-Castro, AICP LEED AP
Planning, Zoning & Building Director
Village of Palm Springs*

You might remember that in addition to serving as Vice Mayor in Lake Park, I am the Planning, Zoning & Building Director for the Village of Palm Springs.

I started my planning career working on the first 9J-5 Comp Plans for Palm Beach County and Palm Beach Gardens, so I might be a bit opinionated on this topic.

With exception of lines 30-44, the draft bills don't provide enough substance to warrant an entire element of the comprehensive plan – perhaps the better approach would be to make an element optional, and at a minimum, all Future Land Use Elements need to include a Goal, Objective and Policy pursuant to the draft bills.

The Department of Economic Opportunity no longer has sufficient staff to draft a Model Element for all cities and counties to use as a template.

Locally, I imagine our planners group will share details on how each city is addressing the mandate. As a smaller city (both Lake Park and Palm Springs), we might wait for a larger city to draft its element and then mirror their provisions. Alternatively, one of the local planning consultants will take the lead as the "expert" on what is required and all the small cities will hire the firm to draft the element.

While I have the experience to undertake the effort myself, I don't have the time given my other responsibilities and will be relying on a consultant.

Based on the fees I was charging while in the private sector, I would estimate consulting fees at \$25,000-40,000.

In Palm Springs, we have a local neighborhood newspaper (The Coastal Observer) in which we can place legal ads – the fees will be approx.. \$350.

But in Lake Park, we have to use the Palm Beach Post, and fees will be twice that (approx. \$700).

I don't have any issues with the proposed language, other than the unfunded mandate aspect of it. (The provisions would actually give me something to point to when a resident complains about a neighbor regarding something that is not within my regulatory authority and is more a matter of preference or privacy.) The provisions serve as overarching principles and not something that can really be written into the land development regulations. Again, I don't feel that an entire element is needed.

Technical Assistance (TA) GRANTS AWARDED FY 15-16 Totals \$1,294,000

Grantee		County	Grant Project	Grant Award
1	Apalachicola, City of (Franklin County)	Franklin	Study the stormwater framework of the City and develop a work plan to address pollutants. Draft Land Development Regulations regarding stormwater fees within the City.	\$55,000
2	Apalachee Regional Planning Council	Calhoun	Create a Strategic Community Vision Plan for downtown Blountstown and incorporate into the City's Comprehensive Plan	\$22,000
3	Dunnellon, City of	Marion	Assemble and update comprehensive plan.	\$74,000
4	Holmes County	Holmes	Create a Hwy. 90 Corridor Plan in concert with plans of Walton, Jackson, Washington, and Gadsden Counties; purpose is to draw visitors to the historic Hwy. 90 Corridor to enhance economic development.	\$20,000
5	Islamorada, Village of	Monroe	Develop a revised Building Permit Allocation System that takes into account preferred development areas and environmentally sensitive areas. Provide a draft of revised Land Development Regulations incorporating the Allocation System and hold a public workshop to obtain feedback.	\$32,500
6	Walton County	Walton	Create a Hwy. 90 Corridor Plan in concert with plans of Holmes, Jackson, Washington, and Gadsden Counties; purpose is to encourage visitors to the historic Hwy. 90 Corridor to enhance economic development.	\$20,000
7	Gadsden County	Gadsden	Create a Hwy. 90 Corridor Plan in concert with similar plans for Walton, Holmes, Jackson, and Washington Counties; purpose is to draw visitors to the historic Hwy. 90 Corridor to enhance economic development.	\$20,000
8	Alford, Town of	Jackson	Analyze the Town's strengths, weaknesses, opportunities and threats, prepare a Vision Plan, and update the Town's comprehensive plan to enhance economic development.	\$22,000

9	North Bay Village, City of	Miami-Dade	Produce an Economic Development and Redevelopment Strategic Plan	\$25,000
10	East Central Florida Regional Planning Council		Expand on Indian River Lagoon Outfall Project and update economic impact analysis for the Lagoon.	\$155,000
11	Daytona Beach, City of	Volusia	Visual Imaging for Public Projects.	\$25,000
12	East Central Florida Regional Planning Council	Orange County	Develop Orange County Food Production Strategic Plan.	\$30,000
13	Tampa Bay Regional Planning Council	Citrus, Hernando, Hillsborough, Manatee, Pasco and Pinellas	Coast to Coast Trail Branding Image.	\$115,000
14	Indian Harbour Beach, City of	Brevard	Comprehensive Stormwater Management Plan.	\$25,000
15	Franklin County	Franklin	Create a GIS-based Planning Map for unincorporated Franklin County and make available via web link on County's website	\$25,000
16	Hamilton County	Hamilton	Analyze Comprehensive Plan to address changes in statutes, streamline development review process and digitize and update Future Land Use Map	\$25,000
17	Jennings, Town of	Hamilton	Conduct a mapping study and analysis of the Town's current infrastructure and develop a 10-year plan for infrastructure repairs and expansion	\$25,000
18	Madison County	Madison	Prepare comprehensive plan amendments to update the plans of the Town of Lee and the Town of Greenville and incorporate a new Economic Development Element into each of the two comprehensive plans.	\$39,000
19	Marathon, City of	Monroe	Update Land Development Regulations to be consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern.	\$42,500
20	Mascotte, City of	Lake	Update Land Development Regulations to be consistent with the Principles for Guiding Development for the Green Swamp Area of Critical State Concern and to address previous DEO rejections.	\$10,000

21	Niceville, City of	Okaloosa	Update Land Development Code to maintain consistency with the Future Land Use Element of the City's Comprehensive Plan, clarifying unclear and contradicting regulations	\$25,000
22	St. Johns County	St. Johns	Conduct an analysis of the County's passive recreation parks to provide information to guide the County promote maximum use of the parks.	\$25,000
23	Atlantic Beach, City of	Duval	Create a Community Redevelopment Area (CRA) to encourage the redevelopment of the Mayport Road corridor (Highway A1A).	\$25,000
24	Dade City	Pasco	The City of Dade City, under its Neighborhood Improvement Program, will prepare a neighborhood plan for a specific neighborhood identified in the deliverables.	\$25,000
25	Tampa, City of	Hillsborough	Prepare a final proposed Tree & Landscape Ordinance that Implements the Tampa Comprehensive Plan and the City's recently adopted Urban Forest Management Plan.	\$25,000
26	Holmes County	Holmes	Prepare a Industrial park master plan for a 255-acre site in Holmes County.	\$18,000
27	Walton County	Walton	Prepare s study to determine the options for transit/transportation for the CR 30A corridor and determine infrastructure needs to enable use of these options.	\$25,000
28	Newberry, City of	Alachua	Prepare comprehensive plan amendments to update the Future Land Use, Community Visioning component, Economic Development, and other key elements of the comprehensive plan.	\$25,000
29	Columbia County	Columbia	Update the County's comprehensive plan Future Land Use Map (FLUM) and Official Zoning Atlas (OZA) to create an interactive, web-based application for its citizens to access the data.	\$17,500

30	Hampton, City of	Bradford	Update the City's comprehensive plan while educating the public and elected officials about the value purpose and potential of planning to develop strategies to improve the City for current and future residents.	\$25,000
31	Fort White, Town of	Columbia	Conduct an Evaluation and Appraisal Review of its comprehensive plan and draft any required plan amendments.	\$5,000
32	Central Florida Regional Planning Council	Brevard, Lake, Marion, Orange, Osceola, Seminole, Sumter, and Volusia	Develop and draft comprehensive plan amendments to meet required updates, providing transportation, intergovernmental coordination, and capital improvement policies to address the newly formed Heartland Regional Transportation Planning Organization for twelve local governments in the HRTPO.	\$77,500
33	Southwest Florida Regional Planning Council	Charlotte, Collier, Glades, Hendry, Lee and Sarasota	Developing a Rail Preservation Plan to determine the necessary steps to take in the 12 local government comprehensive plans to preserve the intact Seminole Gulf Railway Corridor for long-term multi-modal transportation uses.	\$39,000
34	Clewiston	Hendry	Develop a Main Street Revitalization Plan along US Highway 27 in the City of Clewiston	\$25,000
35	Dundee, Town of	Polk	Vision Plan for the Downtown Area and draft Land Development Regulations (LDRs) to implement the Vision Plan.	\$25,000
36	Fort Myers, City of	Lee	Community education program, Community Preference Analysis, and a Visual Preference Assessment for the Dr. Martin Luther King Corridor in the City in order to facilitate redevelopment of the corridor.	\$30,000
37	Frostproof, City of	Polk	Develop a Community Redevelopment Area (CRA) Plan that will meet the requirements of Section 163.362, Florida Statutes.	\$25,000

38	Highlands County	Highlands	Draft Land Development Regulations to implement the voluntary Sebring Airport Encouragement Zone/Spring Lake Mixed Use Development Area Overlay.	\$25,000
TOTALS				\$1,294,000

Technical Assistance (TA) GRANTS AWARDED FY 16-17 Totals \$1,509,850

Grantee		County	Project Discription	Amount
1	Altha	Calhoun	Update Comp Plan adopted in 1991	\$30,000.00
2	Apalachee Regional Planning Council #1	Bay, Jackson, Gadsden	Feasibility Study for Chattahoochee to Bristol Trail	\$30,000.00
3	Apalachee Regional Planning Council #2	Franklin, Liberty, Dixie	Corridor 98 Vision, inventory and maps of community events, historic sites, etc., and developing a corridor master plan for three local governments along Highway 98; seek buy-in from other local governments along Highway 98	\$75,000.00
4	Bell	Gilchrist	Prepare EAR-Based Amendments	\$10,000.00
5	Bowling Green	Hardee	Master Recreation Plan for Pyatt Park	\$25,000.00
6	Bushnell	Bushnell	Establish a Community Redevelopment Area	\$25,000.00
7	Calhoun	Calhoun	Plan amendments to clarify land use categories; amend Infrastructure Element policies to address protection of areas of prime groundwater recharge	\$25,000.00
8	Cape Canaveral #1	Brevard	Master Plan Update for Canaveral City Park	\$40,000.00
9	Central FL RPC	DeSoto, Hardee, Highlands, Okechobee, Polk	Draft LDRs for temporary post-disaster accommodations	\$60,000.00
10	Century	Escambia	Update LDRs	\$25,000.00
11	Charlotte	Charlotte	Update Murdock Village Community Redevelopment Plan	\$40,000.00
12	Chipley	Washington	Develop Chipley CRA Community Redevelopment Plan	\$25,000.00
13	Clearwater	Pinellas	Evaluate flood risk for coastal areas within municipal boundaries with the Peril of Flood	\$20,000.00
14	Columbia	Columbia	Five-Year Sports Tourism Enrichment Strategic Plan	\$35,000.00
15	DeSoto	DeSoto	Update Housing and FLUE Elements, FLUM, and Housing Support Document re: work force housing	\$40,000.00
16	Dundee	Polk	Update LDRs, prepare fact sheet, application checklist, and application forms	\$25,000.00
17	Dunnellon	Marion	Update land development regulations; identify nonconforming properties, recommend solutions, and conduct a public workshop on potential solutions.	\$40,000.00

18	Freeport	Walton	Develop Freeport Recreation Plan	\$32,000.00
19	Green Cove Springs	Clay	Annexation Report	\$30,000.00
20	Gulf Co.	Gulf, Franklin, Liberty, Gadsden	Strategic Sites Inventory (identify quality industrial and commercial sites along intermodal transportation assets - highway, rail, airports, and seaport transportation assets - connecting Gulf, Franklin, Liberty, and Gadsden counties); develop a Strategic Plan for designation as a "freight logistic zone."	\$65,000.00
21	Hallandale Beach	Broward	Corridor Revitalization Plan for Hallandale Beach Boulevard	\$35,000.00
22	Hastings	St.Johns	Update Town's LDRs	\$25,000.00
23	Hawthorne	Alachua	Update Comp Plan and Data and Analysis	\$40,000.00
24	Hillsborough	Hillsborough	Promote healthy food access in an area of need in the City of Tampa	\$25,000.00
25	Indialantic	Brevard	Master Sidewalk Plan	\$15,000.00
26	Indian River	Indian River	An assessment that identifies and prioritizes areas and projects within Indian River County that are suitable for the conversion of Onsite Sewage Treatment and Disposal Systems (OSTDS, also referred to as septic systems) to centralized sewer.	\$35,000.00
27	LaBelle	Hendry	Tourism Marketing Strategy	\$30,000.00
28	LaCrosse	Alachua	EAR-based amendments	\$6,000.00
29	Lake Placid	Highlands	Community Redevelopment Plan	\$25,000.00
30	Liberty	Liberty	Update Land Development Code	\$25,000.00
31	Lynn Haven	Bay	Develop multi-modal mobility fee structure; necessary comp plan and LDR amendments.	\$25,000.00
32	Miami Gardens	Miami-Dade	Multi-Purpose CRA/Entertainment District Plan	\$25,000.00
33	Milton	Santa Rosa	Community Life Cycle Plan (planning for 1/4 of population shifting to 65+)	\$30,000.00
34	Montverde	Lake	Develop Complete Streets Criteria, Residential Design Criteria, Sidewalk Master Plan, and Village Core Ecotourism and Sports Tourism Overlay District	\$23,000.00

35	North Port	Sarasota	Develop a Neighborhood Revitalization Plan for a minimum of four and up to seven of its older neighborhoods on the north and south side of US Highway 41 along the Big Slough.	\$33,000.00
36	Orange Co.	Orange	Urban Infill and Redevelopment Plan for Pine Castle Corridor Area	\$60,000.00
37	Palm Beach	Palm Beach	Action Plan for the Westgate Avenue corridor	\$25,000.00
38	Santa Rosa	Santa Rosa	Bicycle and Pedestrian Master Plan for Pace/Pea Ridge area	\$30,000.00
39	Sneads	Jackson	Vision and Targeted Industries List and Amend Comp Plan	\$35,000.00
40	South Florida RPC	Broward, Miami-Dade, Monroe	Infrastructure Protection Plan for 6 communities in Monroe, Miami-Dade, and Broward Counties that have high risks of coastal flooding.	\$53,600.00
41	St. Augustine	St. Johns	Action Plan for the Peril Flood area	\$20,000.00
42	St. Lucie	St. Lucie	Fisherman's Wharf Plan	\$35,000.00
43	Tampa Bay Regional Planning Council	Pinellas, Pasco, Hernando, Sumpter, Lake, Orange, Seminole, Volusia and Brevard	Coast to Coast Trail Implementation and Marketing Plan	\$67,250.00
44	Wakulla	Wakulla	Land Use Assessment within Crawfordville Town Plan area.	\$25,000.00
45	Webster	Sumter	Update Zoning and Land Development Code	\$25,000.00
46	West Melbourne	Brevard	Develop a mixed use town center, identify transportation improvements, and draft comprehensive plan policies and LDRs.	\$40,000.00
TOTAL				\$1,509,850.00

Technical Assistance (TA) Grants Awarded FY 17-18 Totals \$1,151,000

GRANTEE		County	PROJECT	Amount Funded
1	Altha, Town of	Calhoun	Complete the adoption of comp plan amendments funded in FY 2016-2017 grant and add a Public School Facilities Element.	\$5,000
2	Baker County	Baker	Neighborhood Development Plan for Town of Sanderson	\$32,500
3	Crescent City, City of	Putnam	CRA Plan Update and necessary comp plan and LDR amendments	\$40,000
4	East Central Florida RPC	St. Johns, Volusia, Brevard, Putnam and Flagler	St. Johns River-To-Sea Loop Strategic Plan and Eco Tourism Resource Initiative	\$75,000
5	Havana, Town of	Gadsden	Prepare Havana Historic Downtown Master Plan	\$28,000
6	Jackson County	Jackson	Comprehensive Plan Update	\$23,500
7	Lake Helen, City of	Volusia	Prepare a Downtown Master Plan	\$40,000
8	Marineland, Town of	Flagler and St. Johns	Feasibility study of extending the municipal sewer line from either Flagler County or St. Johns County into the Town; amend Capital Improvements Element to reflect funding for the chosen alternative.	\$32,000
9	Marion County	Marion	Architectural & Site Design Standards Manual for the Silver Springs CRA and accompanying Land Development Code Amendments to adopt the manual	\$40,000
10	Mary Esther, City of	Okaloosa	Update Coastal Management Element to address Peril of Flood	\$18,000
11	Mexico Beach, City of	Bay	Update Comprehensive Plan	\$25,000
12	Montverde, Town of	Lake	Eco-tourism/Sports Tourism Facilities Plan, plan to promote Historic and Archaeological Tourism, and preparation of a draft comp plan Archaeological and Historic Resources Element to implement comp plan Economic Prosperity Element adopted in 2014	\$19,000
13	Oak Hill, City of	Volusia	Economic Development Strategic Plan	\$43,500
14	Penney Farms, Town of	Clay	Prepare a vision and Quality of Life Element for its comp plan	\$32,500
15	Pensacola, City of	Escambia	Prepare design guidelines for 3 CRAs and adopt into LDRs	\$40,000

16	West Florida RPC - AGREEMENT WILL BE WITH WALTON COUNTY; AWARD LETTER GOES TO WALTON COUNTY	Walton	Hwy 331 Corridor Economic Development Plan (EDP); plan amendment to incorporate the EDP into the comprehensive plan	\$40,000
17	Williston, City of	Levy	EAR amendments and other comp plan updates	\$32,000
18	East Central Regional Planning Council	Seminole	Food entrepreneurship plan for Sanford's Historic Goldsboro community	\$30,000
19	Orange County	Orange	Green Stormwater Master Plan for the proposed Pine Castle Urban Infill and Redevelopment Area	\$50,000
20	Palm Beach County	Palm Beach	Evaluate Westgate/Belvedere Homes CRA Overlay zoning regulations adopted in 1989 and prepare draft LDR amendments	\$40,000
21	Port St. Lucie, City of	St. Lucie	Overlay Zoning District for 5-mile area between a Florida Turnpike Interchange to the East and an I-95 Interchange to the West	\$40,000
22	South Florida RPC	Broward and Miami-Dade	Reduction in coastal flood vulnerability for City of Miami and Hallandale Beach, and Peril of Flood comp plan amendments.	\$25,000
23	Tamarac, City of	Broward	Add an Economic Development Element to the comp plan	\$25,000
24	Treasure Coast RPC for City of West Palm Beach	Palm Beach	Complete Streets Project, Forest Hill Boulevard Corridor between I-95 and US 1	\$30,000
25	Arcadia, City of	DeSoto	Prepare Economic Diversification Strategic Plan and comp plan amendments	\$25,000
26	Cape Coral, City of	Lee	Mooring Field Ordinance for Bimini Field CRA	\$30,000
27	Central Florida RPC	Polk, Highlands, Osceola, Okeechobee	Priority Action Plan for the Avon Park Air Force Range Sentinel Landscape Program (sample conservation easement, guidebook for landowners considering conservation easements, and GIS database of public owned land and land in conservation easements)	\$50,000
28	Davenport, City of	Polk	Draft LDR update, create fact sheets/guides, application checklist, and application forms	\$25,000
29	DeSoto County	DeSoto	Prepare Comprehensive Plan Economic Development Element	\$35,000

30	Dundee, Town of	Polk	Draft engineering design manual and standard details manual for design and construction of public and private infrastructure	\$25,000
31	Pasco County, City of Dade City and City of Zephyrhills	Pasco	US 301 Corridor Model Development Code to implement the adopted 2016 US 301 Corridor Land Use Vision and Transportation Strategy	\$50,000
32	Polk City, City of	Polk	Parks and Recreation Master Plan	\$25,000
33	Sebring, City of	Highlands	Update 10-Year Water Supply Plan and prepare draft related comp plan goals, objectives and policies	\$10,000
34	Southwest Florida Regional Planning Council	Glades, Hendry and Collier	Regional strategy for agricultural sustainability for Glades and Hendry Counties and the Immokalee portion of Collier County.	\$30,000
35	Marathon, City of	Monroe	Survey and Master Plan of Historic Resources	\$40,000
Total:				\$1,151,000

Technical Assistance (TA) GRANTS AWARDED FY 18-19 Totals \$1,222,300

Grantee		County	Project Description	Amount Awarded
1	Apalachee Regional Planning Council #1	Wakulla, Gulf and Jefferson	Continuation of Hwy 98 project funded FY 2016-2017 by adding Wakulla, Gulf and Jefferson Counties to the three already in (Dixie, Taylor and Franklin).	\$45,000.00
2	Apalachee Regional Planning Council #2	Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson, Liberty and Wakulla	<i>Apalachee Online</i> : planning and mapping tool for ARPC region; will include story boards and GIS analyses, digitized FLUMs and zoning maps.	\$63,450.00
3	Apalachicola	Franklin	Resiliency to sea level rise; draft fill regulations for flood-prone areas, establish floodplain management permitting system, and update coastal management element in the comprehensive plan to include peril of flood requirements in s. 163.3178(2)(f), F.S. (ACSC)	\$40,000.00
4	Central Florida Regional Planning Council	DeSoto, Glades, Hardee, Hendry, Highlands, Okeechobee, Polk	Interactive website for Heartland Regional TPO; data from Heartland 2060 visioning process and Building a Resilient Region to be used to forecast regional data for Heartland Regional TPO long range transportation plan.	\$60,000.00
5	Chattahoochee, City of (Grantee declined the grant 2/3/19)	Gadsden	Hwy. 90 (Washington Street) Streetscape Plan to be adopted by City Council.	\$32,600.00
6	Citrus County	Citrus	Report and recommendations for long range planning for Suncoast Parkway II.	\$40,000.00

7	Cocoa, City of	Brevard	Peril of Flood/Economic Resiliency Analysis; create a model to estimate business losses due to periodic flooding or loss of a critical city asset. Additional funding for data and analysis provided by DEP's Resilient Coastlines Program.	\$20,000.00
8	DeFuniak Springs	Walton	Create a new comprehensive plan, FLUM and zoning maps, and analyze consistency of LDRs with the new comprehensive plan.	\$40,000.00
9	DeLand, City of (Grantee declined the grant, 1st quarter)	Volusia	Update City's comprehensive plan to incorporate its 2012 Mobility Study and add policies/strategies to encourage development and redevelopment within the major transportation corridors linking the recently developed Sun Rail Commuter Train corridor.	\$35,000.00
10	Frostproof	Polk	Downtown Master Plan	\$30,000.00
11	Hendry County	Hendry	Conduct planning study addressing updated land uses for Wheeler Estate. Comp plan amendments and LDR update. Includes land use for commercial and industrial guidelines for intensity, location and supporting infrastructure. Will also address household farm animals and nonresidential uses.	\$33,250.00
12	Hernando County	Hernando	Affordable housing needs analysis for County, including cities of Weeki Wachee and Brooksville; proposed housing action plan with recommendations for amendments to the comp plan and LDRs; implementation component.	\$35,000.00
13	Highlands County	Highlands	Financial feasibility and analysis and Housing Market Study; draft amendments to Housing Element, Future Land Use Element, and FLUM in the comprehensive plan to address workforce housing and economics.	\$40,000.00

14	Howey in the Hills, Town of	Lake	Bike/ped Master Plan to implement comprehensive plan requirement.	\$35,000.00
15	Indian River County	Indian River	Living Shoreline project design and signage.	\$13,500.00
16	Jay	Santa Rosa	Locate and assemble maps of existing water system infrastructure so city can assess current infrastructure and make repairs where necessary.	\$16,000.00
17	Lake Alfred	Polk	Green Swamp related plan amendments and LDRs and guidebook to developing in the Green Swamp. (ACSC)	\$20,000.00
18	Lake County	Lake	Master Plan research report and recommendations for redevelopment of approximately 475 acres in the Mount Plymouth-Sorrento CRA.	\$30,000.00
19	Laurel Hill	Okaloosa	Locate and assemble maps of existing water system infrastructure so city can assess current infrastructure and make repairs where necessary.	\$20,000.00
20	Marianna, City of	Jackson	Redevelopment plan for growing blighted area adjacent to Jackson Hospital (closed school); proposed Medical Service District overlay.	\$32,000.00
21	Mary Esther	Okaloosa	Update zoning, FLUM, and stormwater maps.	\$25,000.00
22	Palm Beach Gardens (on behalf of 10 municipalities)	Palm Beach	Smart Connected Cities - Palm Beach Gardens, Riviera Beach, Juno Beach, Jupiter, Jupiter Inlet Colony, Mangonia Park, Lake Park, Palm Beach Shores, Tequesta	\$48,000.00
23	Port St. Lucie	St. Lucie	Feasibility study for development of Southern Grove (former DRI and a portion of the Tradition development). Property is 1,391 acres along I-95. City advises there is a potential to provide 22,500 jobs.	\$40,000.00

24	Sanford, City of	Seminole	Multi-Modal Connectivity Plan from the Downtown area to the Waterfront/Riverwalk and outline visions for connectivity to other communities along Lake Monroe/St. Johns River. The emphasis will be to establish Sanford as a destination city for the Coast-to-Coast Trail and the St. Johns River.	\$48,500.00
25	South Florida Regional Planning Council	Broward, Miami-Dade, Monroe	Peril of Flood amendments for 4 communities, 2 in the Florida Keys ACSC: Lauderdale by the Sea, Bal Harbor, Islamorada and Marathon	\$40,000.00
26	Southwest Florida Regional Planning Council #2	Lee, Collier, Sarasota, Glades, Charlotte, Hendry	Food Safety Plan for Small to Mid-Sized Growers	\$30,000.00
27	St. Cloud, City of Priority #1	Osceola	Update Housing Element	\$20,000.00
28	St. Cloud, City of Priority #2	Osceola	Transportation Master Plan	\$20,000.00
29	St. Marks, City of	Wakulla	GIS analysis to evaluate the effects of spring tides and storm surge (using the SLOSH model), soil analysis related to stormwater, and potential for flash flood events; prepare Peril of Flood amendments and conduct transmittal public hearings.	\$25,000.00
30	Suwannee County	Suwannee	Strategic Sites Inventory, Phase II, for 8 parcels that have been identified as potential sites for economic development; quantify potential costs for development, mitigation and permitting; and identify a candidate site meeting the FDOT Intermodal Logistics Center (ILC) definition for potential future request to FDOT to establish a freight logistics zone.	\$40,000.00
31	Taylor County (Steinhatchee)	Taylor	Bike/ped Master Plan that stands on its own and also connects to Florida National Scenic Trail, Sun Trail, and other regional trails; part of plan to make Steinhatchee a "trail town."	\$36,000.00

32	Volusia County	Volusia	Economic opportunity assessment (study and report) for the southern part of the county to profile commercial space launch industry suppliers and service organizations, which will provide information to help define infrastructure needs and guide recruitment of businesses in the aerospace industry. Present the report to the County and the public; prepare a comprehensive plan amendment that might include development of an aerospace industrial center. County is part of the Cape Canaveral Spaceport Technologies Triangle.	\$45,000.00
33	Washington County	Washington	Comprehensive water and sewer plan that includes central facilities for three sites identified through SSI process as suitable for economic development; geotechnical analysis; proposed plan amendment to adopt water and sewer plan into comprehensive plan.	\$35,000.00
34	Wauchula #2	Hardee	Update Water Supply Plan	\$10,000.00
35	Winter Haven	Polk	Florence Villa CRA Plan Update	\$35,000.00
36	Zephyrhills #1	Pasco	Industrial Corridor Master Plan	\$44,000.00
Total				\$1,222,300.00

Technical Assistance (TA) GRANTS AWARDED FY 19-20 Totals \$752,550

Grantee		County	Project	Amount Funded
1	Apalachee Regional Planning Council	Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson, Liberty, Wakulla	<i>Apalachee Online - Phase 2:</i> Expand platform funded with a CPTA grant in FY 2018-2019 to include municipal future land use maps and create municipal websites to link the 27 municipalities in the region to the <i>Apalachee Online</i> resource.	\$65,450.00
2	Calhoun County	Calhoun	Collect data and analysis to prepare a long-term recovery plan that responds to the needs of Calhoun County following Hurricane Michael. Prepare long-term recovery plan that details specific community actions to be taken, along with responsible parties and targeted funding sources that follows the outline established by Florida's Post-Disaster Redevelopment Planning process and the National Disaster Recovery Framework.	\$40,000.00
3	Chattahoochee, City of	Gadsden	Partner with Chattahoochee Main Street to develop a US 90 (Washington Street) Conceptual Streetscape Improvement Plan	\$32,600.00
4	Havana, Town of	Gadsden	Develop Historic Main Street Overlay District Design Standards	\$34,500.00
5	Hernando County	Hernando	Develop Master Plan for Anderson Snow District Park that will optimize park assets, plan for park upgrades, plan for a 43-acre expansion to the park, identify opportunities for public/private partnerships, and prepare a long-term vision that meets the needs of County residents.	\$35,000.00
6	Hilliard, Town of	Nassau	Update comprehensive plan data and analysis and goals, objectives and policies; digitize updated comprehensive plan, including maps	\$40,000.00

7	Liberty County	Liberty	Collect data and analysis and prepare a long-term recovery plan that responds to the needs of Liberty County following Hurricane Michael. Long-term recovery plan will detail specific community actions to be taken, along with responsible parties and targeted funding sources and followss the outline established by Florida's Post-Disaster Redevelopment Planning process and the National Disaster Recovery Framework.	\$40,000.00
8	Orange Park, Town of	Clay	Develop a 20-year Strategic Vision Plan to include: performance of an assessment of current capabilities/needs; review of current budgets/capital improvement plans, and other key documents; public and staff input through surveys, establish committees; conduct town meetings; conduct a SWOT analysis; and prepare Strategic Vision Plan 2040.	\$40,000.00
9	Springfield, City of	Bay	Prepare preliminary site planning of the central government complex to replace structures that were destroyed by Hurricane Michael. The site plan will identify possible locations for city hall, police & fire stations, warehouses, and vehicle maintenance shops within a pre-identified city-owned parcel located more inland than the original structures.	\$30,000.00
10	Hallandale Beach, City of	Broward	Develop a Post-Disaster Redevelopment Plan which integrates Adaptation into Long-Term Recovery for the City.	\$40,000.00

11	Indian River County #1	Indian River	Develop an outline for a management plan specific to Indian River County's portion of the Indian River Lagoon (IRL). Once an outline for the Plan is adopted, the Research Phase will commence and will seek to identify the specific factors having the greatest negative impacts to the IRL and provide recommendations for how the County can manage these factors to revitalize the IRL.	\$30,000.00
12	Loxahatchee Groves, Town of	Palm Beach	Update and improve planning "tool box" including (1) creation of a town GIS Future Land Use Map Series and Zoning Map Atlas and (2) adoption of FLUM and Comprehensive Plan text and Zoning Map amendments to update Town planning tools necessary to address unresolved issues in Town and changing conditions within the surrounding area.	\$40,000.00
13	Miami Shores Village	Dade	Procure engineering consultant to collect data, review or prepare maps, conduct a geographic information system analysis, and prepare a Sewer Facility Plan that meets the minimum policy and regulatory requirements from the county Dept of Environmental Resources Management and the Florida Department of Environmental Protection	\$40,000.00
14	Tamarac, City of (Declined Funding)	Broward	Develop a comprehensive Multi-Modal Transportation Master Plan aligned with the Broward Metropolitan Planning Organization's Transportation Planning Guidebook.	\$40,000.00
15	Central Florida RPC	DeSoto, Glades, Hardee, Hendry, Highlands, Okeechobee, Polk	Complete Phase II of the update of the regional vision known as Heartland 2060, Building a Resilient Region based upon the updated databases for population and economic forecasts and housed on an interactive website developed in Phase I.	\$50,000.00

16	Everglades City, City of	Collier	Water resource study	\$40,000.00
17	Frostproof, City of	Polk	Create Technical Memo on how best to expand the City's Sewage Treatment Plant effluent disposal capacity.	\$35,000.00
18	Apalachicola, City of	Franklin	Create a new 10-year plan that will outline specific community projects to be completed that support the mandates outlined by the Florida Legislature in section 380.0555(2), Florida Statutes.	\$40,000.00
19	Monroe County	Monroe	Update and streamline Monroe County Code Sections 114-2(a)(5) and 114-3 to reflect best practices in floodplain management. Update and republish the "Manual of Stormwater Management Practices" and "Layman's Brochure".	\$40,000.00

TOTAL

\$752,550.00

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

410

Bill Number (if applicable)

Topic Growth Mgt.

Amendment Barcode (if applicable)

Name DAN PETERSON

Job Title President

Address Bx 1875
Street

Phone 407-758-2491

Minneola FL 34755
City State Zip

Email dan.peterson@cpa-fl.org

Speaking: For Against Information

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

Representing Coalition for Property Rights

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

02/11/2020

Meeting Date

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

SB 410

Bill Number (if applicable)

Topic GROWTH MANAGEMENT

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title COALITIONS DIRECTOR

Address 200 W. COLLEGE AVE

Phone 786 260 9283

Street

TALLAHASSEE FL

Email cgrajales@belibre.org

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing AMERICANS FOR PROSPERITY

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

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

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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)

2/11/20

Meeting Date

410

Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee FL 32301

Email dcruz@fccities.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Judiciary

BILL: CS/SB 664

INTRODUCER: Judiciary Committee and Senators Lee, Gruters, and Harrell

SUBJECT: Verification of Employment Eligibility

DATE: February 13, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 664 requires private employers to register with E-Verify or an approved alternative. The bill also requires some contractors and subcontractors to use an employment verification system to maintain eligibility to enter into contracts with a department, agency, or political subdivision of the state.

The private-employer requirement, after it is fully phased-in, will generally apply to nonagricultural employers having 150 or more employees. If a private employer fails to comply with the registration requirement, it could face a \$500 fine and be required to register within 30 days. For a failure to register by this deadline, an employer could have its business licenses suspended.

The bill also provides immunity from civil or criminal liability for an employer's reliance on an approved employment-verification system. For instance, an employer who relies on E-Verify's indication that a person is unauthorized may not be sued for refusing to hire the person. And if E-Verify indicated an employee was authorized to work in the United States, the indication creates a rebuttable presumption that the employer did not knowingly employ an unauthorized alien.

As to the requirements relating to public contracts, the bill requires public employers and certain contractors and subcontractors to register with and use an employment verification system. The requirements to use an employment verification system apply to contractors or subcontractors

that have more than 10 employees and have contracts valued in excess of \$195,000 or subcontracts valued in excess of \$65,000.

II. Present Situation:

Overview

Both federal and Florida law prohibit a person from employing a person who is not authorized to work in the United States. Additionally, federal law requires some employers to use E-Verify and requires most employers to verify the eligibility of new hires using certain employee-provided documents. Moreover, by executive order of Governor Scott, state agencies under the direction of the Governor, as well as their contractors and subcontractors, must use E-Verify.

E-Verify is an Internet-based system through which an employer can verify that a newly hired employee is authorized to work in the United States.¹ E-Verify is

operated by U.S. Citizenship and Immigration Services, part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration. E-Verify is free and easy to use. E-Verify provides an automated link to government records to help employers confirm the employment eligibility of new hires.²

Florida Law

A person may not knowingly employ, hire, recruit, or refer an alien for private or public employment within the state if the alien is not authorized to work under “the immigration laws” or by the United States Attorney General.³ A first offense of this prohibition is a noncriminal violation punishable by a fine of up to \$500; each subsequent offense is a second degree misdemeanor,⁴ punishable by up to 60 days in jail⁵ and a fine not to exceed \$500.⁶

Moreover, by Executive Order 11-116, state agencies that are under the direction of the Governor must use E-Verify for all newly hired employees. The order also requires an agency to include in a contract a provision requiring a contractor to use E-Verify for all new hires for the duration of the contract. These same requirements must be included in the contractor’s contracts with subcontractors.⁷

¹ U.S. Citizenship and Immigration Services, *How do I use E-Verify?* <https://www.e-verify.gov/sites/default/files/everify/guides/E4en.pdf> (last visited Jan. 27, 2020).

² *Id.*

³ Section 448.09(1), F.S.

⁴ Section 448.09(2), F.S.

⁵ Section 775.082(4)(b), F.S.

⁶ Section 775.083(1)(e), F.S.

⁷ Exec. Order No. 11-116 (May 2011), available at <http://edocs.dlis.state.fl.us/fldocs/governor/orders/2011/11-116-suspend.pdf>.

Federal Law

The federal Immigration Reform and Control Act of 1986 (IRCA)⁸ made it illegal for any U.S. employer to knowingly:

- Hire, recruit, or refer for a fee an alien knowing he or she is unauthorized to work;
- Continue to employ an alien knowing he or she has become unauthorized; or
- Hire, recruit or refer for a fee, any person (citizen or alien) without following the record keeping requirements of the Act.⁹

The IRCA established a procedure that employers must follow to verify that employees are authorized to work in the United States.¹⁰ The procedure requires employees to present documents that establish both the worker's identity and eligibility to work, and requires employers to complete a Form I-9 for each new employee hired.¹¹ The IRCA provides sanctions to be imposed on employers who knowingly employ aliens who are not authorized to work.¹² Federal law contains no criminal sanction for working without authorization, although document fraud is a civil violation.¹³ The United States Citizenship and Immigration Services (USCIS) enforces these provisions.¹⁴

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),¹⁵ which, among other things, created various employment eligibility verification programs, including the Basic Pilot program. Originally, the Basic Pilot program (now referred to as E-Verify) was available in five of the seven states that had the highest populations of unauthorized aliens and was initially authorized for only 4 years. However, Congress has consistently extended the program's life. It expanded the program in 2003, making it available in all 50 states. In 2008, the federal government began requiring any entity that maintained or applied for federal contracts to use E-Verify.¹⁶

Using E-Verify

The Process, in Context

E-Verify is the last step in a larger eligibility-verification process. This process begins when an employee accepts an offer of employment.¹⁷ Between this point and the employee's first day on the job, he or she must complete Section 1 of the Form I-9, which requires providing his or her

⁸ Public Law 99-603, 100 Stat. 3359.

⁹ 8 U.S.C. s. 1324a.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* s. 1324a(a)(1)-(2).

¹³ *Id.* s. 1324c.

¹⁴ *Id.* s. 1324a.

¹⁵ Public Law 104-208.

¹⁶ Department of Homeland Security and USCIS, *History and Milestones [of E-Verify]*,

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=84979589cdb76210VgnVCM100000b92ca60aRCRD&vgnnextchannel=84979589cdb76210VgnVCM100000b92ca60aRCRD> (last visited Jan. 28, 2020).

¹⁷ United States Citizenship and Immigration Services, *Complete and Correct Form I-9*, <https://www.uscis.gov/i-9-central/complete-and-correct-form-i-9>, (last visited Feb. 5, 2020).

name, address, Social Security Number, and citizenship status under penalty of perjury.¹⁸ By the end of the third day on the job, the *employer* is required to complete Section 2, stating under penalty of perjury that he or she has reviewed certain employee-provided documents that establish the employee's eligibility.¹⁹ This is where the required verification of employment eligibility stops for most employers. However, for those who choose to use or are required to use E-Verify, the process continues.

Before using E-Verify for the first time, an employer must enroll via the DHS's website.²⁰ At the end of the enrollment process, the employer must sign a Memorandum of Understanding that provides the terms of agreement between the employer and DHS.²¹

Once enrolled, an employer uses E-Verify by opening a "case" for an employee and entering basic information from the employee's Form I-9 (name, address, SSN) into the case.²² Then E-Verify compares that information to records available to the U.S. Department of Homeland Security and the Social Security Administration, and usually within seconds, issues one of several possible results to the employer.²³ A result of "Employment Authorized" indicates that the employee may work in the United States. However, in a given case, the system might issue one of several other results:

- **Verification In Process** - This case was referred to DHS for further verification.
- **Tentative Nonconfirmation (TNC)** - Information did not match records available to SSA or DHS. Additional action is required.
- **Case in Continuance** - The employee has visited an SSA field office or contacted DHS, but more time is needed to determine a final case result.
- **Close Case and Resubmit** - SSA or DHS requires that the employer close the case and create a new case for this employee. This result may be issued when the employee's U.S. passport, passport card, or driver's license information is incorrect.²⁴

If the result is TNC, the employer must notify the employee, who must take further action to verify his or her eligibility.²⁵ If the result is Verification in Process or Case in Continuance, the E-Verify system needs more time to process the case.²⁶ Lastly, a result of "Final Nonconfirmation" indicates that there is no further action to be taken by any party and that E-Verify will not confirm that the employee is authorized to work in the United States.²⁷

¹⁸ See 8 C.F.R. § 274a.2(b)(1)(i)(A).

¹⁹ See 8 C.F.R. § 274a.2(b)(1)(ii).

²⁰ Department of Homeland Security and USCIS, *The Enrollment Process*, <https://www.e-verify.gov/employers/enrolling-in-e-verify/the-enrollment-process> (last visited Jan. 27, 2020).

²¹ *The E-Verify Memorandum for Employers*, available at <https://www.e-verify.gov/sites/default/files/everify/memos/MOUforEVerifyEmployer.pdf> (last visited Jan. 27, 2020).

²² Department of Homeland Security and USCIS, *ABOUT E-Verify*, <https://www.e-verify.gov/about-e-verify> (last visited Jan. 27, 2020).

²³ *Id.*

²⁴ Department of Homeland Security and USCIS, *Verification Process*, <https://www.e-verify.gov/employers/verification-process> (last visited Jan. 27, 2020).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Results in FY 2019

In FY 2019, E-Verify processed 38,930,405 cases, 98.51% of which were automatically confirmed as “work authorized” and another 0.23% were confirmed after an initial “mismatch.”²⁸

In the remaining 1.27% of cases, the employees were not found to be authorized to work in the United States.²⁹ The vast majority of this 1.27% (0.97%) were cases that were not resolved by the end of FY 2019 for various reasons, including because the case was awaiting further action by either the employer or employee at the end of the fiscal year or because the employer closed the case as “self-terminated.”³⁰

Accuracy

The most recent independent report of E-Verify’s accuracy appears to have been done 2012 by the firm Westat.³¹ The report relied on data from 2009 and before.³²

Westat found that E-Verify was 94% accurate in its final disposition of cases—E-Verify confirmed 94% of employees who were in fact authorized to work in the United States; 94% of the Final Nonconfirmations (FNCs) issued were for people who were in fact not authorized to work in the United States. As such, according to Westat, 6% of people who were in fact authorized to work in the United States received a FNC from E-Verify.³³

User Satisfaction

According to the Department of Homeland Security’s most recent customer service report, which was published in 2018 regarding users’ experiences in 2017, employers rated their experience of “using E-Verify” at “90,” based on subcategories such as “ease of use” and “speed of response.”³⁴ These same users rated their overall satisfaction with E-Verify at “85.”³⁵

In 2017, 13 percent of employers contacted E-Verify by phone for customer service.³⁶ These employers rated their experience at “89.”³⁷ And 96 percent of those who contacted customer service reported having their issue resolved, usually on the first call (89 percent).³⁸

²⁸ Department of Homeland Security and USCIS, *E-Verify Performance*, <https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-performance> (last visited Jan. 27, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ Westat, *Evaluation of the Accuracy of E-Verify Findings*, (July, 2012) available at <https://www.e-verify.gov/sites/default/files/everify/data/FindingsEVerifyAccuracyEval2012.pdf>.

³² *Id.*

³³ *Id.*

³⁴ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Annual Customer Satisfaction Survey 2017*, (Mar. 2018), available at <https://www.e-verify.gov/sites/default/files/everify/data/EVerifyCustomerSatisfactionSurvey2017.pdf>.

³⁵ *Id.* This rating is in line with prior years’ ratings, which have fluctuated between 85 and 87 since 2011.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

Mandatory Use of E-Verify in Other States

At least 19 other states require the use of E-Verify by public employers, contractors or subcontractors of public employers, or private employers.

The following states require private employers, as well as public employers and their contractors and subcontractors, to use E-Verify:

- North Carolina³⁹
- Mississippi⁴⁰
- Georgia⁴¹
- Arizona⁴²
- Alabama⁴³
- Utah⁴⁴
- South Carolina⁴⁵

The following states require only public employers and their contractors to use E-Verify:

- Indiana⁴⁶
- Nebraska⁴⁷
- Missouri⁴⁸
- Colorado⁴⁹
- Oklahoma⁵⁰
- Texas⁵¹
- Virginia⁵²

Some states' approaches do not fall squarely into the above categories. For example, Tennessee requires only private employers that have 50 or more employees to use E-Verify.⁵³ Pennsylvania requires public contractors and private *construction* employers to use E-Verify.⁵⁴ In Michigan, only contractors of the Michigan Department of Transportation must use E-Verify.⁵⁵ Finally,

³⁹ N.C.G.S. § 160A-169.1 (municipalities); 153A-99.1 (counties); 143-48.5, 143-133.3 (public contractors); 64-26 (private employers that have more than 25 employees); 126-7.1 (state agencies).

⁴⁰ Miss. Code § 71-11-3.

⁴¹ Ga. Code § 13-10-91 (public employers and contractors); 36-60-6 (private employers that have more than 10 employees).

⁴² Ariz. Rev. Stat. § 41-4401 (public contractors); 23-214 (private and public employers).

⁴³ Ala. Code § 31-13-15.

⁴⁴ Utah Code § 63G-12-301 (private employers having 15 or more employees, unless the employee has a guest worker permit), 63G-12-302 (public employers and contractors). Under both statutes, the employers may use E-Verify or another federal verification program.

⁴⁵ S.C. Code § 41-8-20 (private employers); 8-14-20 (public employers and contractors).

⁴⁶ Ind. Code § 22-5-1.7-11.1.

⁴⁷ Nev. Rev. St. § 4-114.

⁴⁸ Miss. Stat. § 285.530.

⁴⁹ Colo. Rev. Stat. § 8-17.5-102.

⁵⁰ 25 Okl. St. § 1313 (public employers and contractors must use E-Verify or another federal verification program).

⁵¹ Tex. Nat. Res. Code § 81.072 (public contractors); Tex. Gov. Code § 673.002 (state agencies)

⁵² Va. Code § 40.1-11.2 (state agencies), 2.2-4308.2 (public contractors).

⁵³ Tenn. Code § 50-1-703.

⁵⁴ 43 Penn. Stat. § 167.3 (public contractors); 43 Penn. Stat. § 168.3 (private construction employers).

⁵⁵ Act 200, Public Acts of 2012, Sec. 381.

West Virginia requires contractors whose employees work on the Capitol grounds to use E-Verify.⁵⁶

III. Effect of Proposed Changes:

The bill requires private employers⁵⁷ to register with E-Verify or an approved alternative, and prohibits public employers, and certain contractors, and subcontractors from entering into a contract unless the other parties register with and use an approved employment-verification system.

The requirement for private employers to register with an employment verification system will generally apply to nonagricultural employers⁵⁸ having 150 or more employees once fully phased-in. The requirement applies to employers having 500 or more employees beginning on January 1, 2021. When fully phased-in on January 1, 2022, the requirement will apply to employers having 150 or more employees.

If an employer fails to register, it could face a fine of up to \$500 and be required to register within 30 days. For a failure to register by this deadline, the Department of Economic Opportunity may order the suspension of the employer's business licenses.

The bill also provides immunity from civil or criminal liability for an employer's reliance on an approved employment-verification system. For instance, an employer who relies on E-Verify's indication that a person is unauthorized may not be sued for refusing to hire the person. And if E-Verify indicates that an employee is authorized to work in the United States, the indication creates a rebuttable presumption that the employer did not knowingly employ an unauthorized alien.

As to the requirements relating to public contracts, the bill requires public employers and certain contractors and subcontractors to register with and use an employment verification system. The requirements to use an employment verification system apply to contractors or subcontractors having more than 10 employees and have contracts valued in excess of \$195,000 or subcontracts valued in excess of \$65,000.

Finally, the bill requires the Department of Economic Opportunity to adopt rules to identify any E-Verify alternative that is at least as effective as E-Verify in identifying unauthorized aliens and persons authorized to work in the United States.

The bill takes effect July 1, 2020.

⁵⁶ W. Va. Code, § 15-2D-3.

⁵⁷ The bill specifically provides that a few types of people or entities are not "employers," and are thus exempt from using an employment verification system. These include agricultural employers, a homeowner who hires "casual labor" to be performed at the home, and a homeowner who hires a licensed independent contractor to perform "a specified portion of labor or services." The bill also exempts employee leasing companies to the extent they operate under a contract that puts the primary burden for compliance with the bill on the client company.

⁵⁸ The description of agricultural employer in the bill closely tracks the definition of "agricultural employer" in 29 U.S.C. s. 1802(2).

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 bill could increase costs to contractors and subcontractors. Though the federal government does not charge a fee for the use of E-Verify, using E-Verify could increase the labor involved in onboarding an employee, especially if the initial response for that employee is not "Employment Authorized."

Additionally, the use of E-Verify can, at least in some cases, detect the use of fraudulent documents that would not be detected otherwise. By minimizing the employment of unauthorized aliens, authorized workers and citizens may have more employment opportunities and better wages.

C. Government Sector Impact:

The bill creates new responsibilities for the Department of Economic Opportunity.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 287.137 and 448.093 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 Judiciary on February 11, 2020:

The committee substitute:

- Authorizes the Department of Economic Opportunity to designate an alternative (non-E-Verify) employment verification system;
- Phases in the required use of an employment verification system by private employers, based on number of employees (largest employers first);
- Exempts agricultural employers from the use of an employment verification system;
- Requires contractors and subcontractors having a contract with a department, agency, political subdivision of the state to use an employee verification system only if they meet certain thresholds, including contract value;
- Alters the penalties for failing to use an employment verification system;
- Removes penalties provided in the bill for knowingly employing an unauthorized alien (these penalties were additional to those already provided in law);
- Removes the bill's requirement that DEO act on complaints that an employer had failed to use E-Verify;
- Removes the bill's provisions expressly authorizing an employer or employee to seek an injunction against the bill's enforcement provisions;
- Removes the bill's provisions making it an unfair trade practice to terminate an authorized employee while employing an unauthorized alien; and
- Removes several of the bill's provisions regarding parties to public contracts, including the:
 - Required termination of a contract by a party who believes another party is not using E-Verify.
 - Prohibition on a contractor's entering into a public contract for one year if the contractor fails to use E-Verify.

B. Amendments:

None.



569026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 287.137, Florida Statutes, is created to
read:

287.137 Verification of work authorization status; public
employers.-

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

(a) "Contractor" means a person or an entity that has more
than 10 employees and has entered into, or is attempting to



569026

12 enter into, a contract with a public employer to provide labor,
13 supplies, or services to such employer.

14 (b) "Employee" has the same meaning as provided in s.
15 448.093.

16 (c) "Employment verification system" has the same meaning
17 as provided in s. 448.093.

18 (d) "Public employer" means a department, an agency, or a
19 political subdivision of this state which enters into, or
20 attempts to enter into, a contract with a contractor for an
21 amount that will, or is expected to, exceed the CATEGORY FOUR
22 threshold amount provided in s. 287.017.

23 (e) "Subcontractor" means a person or an entity that has
24 more than 10 employees and provides labor, supplies, or services
25 to or for a contractor or another subcontractor pursuant to a
26 contract that will, or is expected to, exceed the CATEGORY THREE
27 threshold amount provided in s. 287.017.

28 (f) "Unauthorized alien" means a person who is not
29 authorized under federal law to be employed in the United
30 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
31 be interpreted consistently with that section and any applicable
32 federal rules or regulations.

33 (2) On or after July 1, 2022:

34 (a) Every public employer, contractor, and subcontractor
35 shall register with and use an employment verification system to
36 verify the work authorization status of all new employees and
37 identify whether an employee is an unauthorized alien.

38 (b) A public employer or a contractor or subcontractor in
39 this state may not enter into a contract under this section
40 unless each party to the contract registers with and uses an



569026

41 employment verification system.

42 Section 2. Section 448.093, Florida Statutes, is created to
43 read:

44 448.093 Definitions; use of employment verification system
45 required for private employers; business licensing enforcement.-

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

47 (a) "Agency" means an agency, a department, a board, or a
48 commission of this state or a county, municipality, or town
49 issuing a license to operate a business in this state.

50 (b) "Department" means the Department of Economic
51 Opportunity.

52 (c) "Employee" means an individual whose work is performed
53 under the direction and supervision of the employer and whose
54 employer withholds tax pursuant to the Federal Insurance
55 Contributions Act (FICA) or federal income tax from the
56 individual's compensation, or whose employer issues an Internal
57 Revenue Service W-2 form, but not an Internal Revenue Service
58 Form 1099, to an individual for purposes of documenting
59 compensation. The term does not include a licensed independent
60 contractor as defined in federal laws or regulations.

61 (d) "Employer" means a person or an entity in this state
62 which employs an employee. The term does not include:

63 1. A government employer.

64 2. The occupant or owner of a private residence who hires:

65 a. Casual labor, as defined in s. 443.036, to be performed
66 entirely within the private residence;

67 b. A licensed independent contractor, as defined in federal
68 laws or regulations, to perform a specified portion of labor or
69 services; or



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70 c. An agricultural employer, which includes any person who
71 owns or operates a farm, ranch, processing establishment,
72 cannery, gin, packing shed, or nursery, or who produces or
73 conditions seed, and who either recruits, solicits, hires,
74 employs, furnishes, or transports any migrant or seasonal
75 agricultural worker. This sub-subparagraph is repealed 90 days
76 after the effective date of any federal law, rule, regulation,
77 or program that authorizes this state or a federal agency to
78 grant temporary legal status to an unauthorized alien who can
79 demonstrate that he or she has performed agricultural work in
80 the United States for not fewer than 575 hours or 100 work days
81 during a 2-year period and has maintained a continuous presence
82 in the United States, except for brief absences, during that
83 period.

84 3. An employee leasing company licensed pursuant to part XI
85 of chapter 468 which enters into a written agreement or
86 understanding with a client company which places the primary
87 obligation for compliance with this section upon the client
88 company. In the absence of a written agreement or understanding,
89 the term includes an employee leasing company.

90 (e) "Employment verification system" means:

91 1. An Internet-based system operated by the United States
92 Department of Homeland Security which allows participating
93 employers to electronically verify the employment eligibility of
94 newly hired employees; or

95 2. A substantially equivalent electronic employment
96 verification system that is permissible under department rule.

97 (f) "Knowingly employ an unauthorized alien" has the same
98 meaning as in 8 U.S.C. s. 1324a. The term shall be interpreted



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99 consistently with 8 U.S.C. s. 1324a and any applicable federal
100 rules or regulations.

101 (g) "License" means a franchise, a permit, a certificate,
102 an approval, a registration, a charter, or any similar form of
103 authorization required by state law and issued by an agency for
104 the purpose of operating a business in this state. The term
105 includes, but is not limited to:

106 1. An article of incorporation.

107 2. A certificate of partnership, partnership registration,
108 or article of organization.

109 3. A grant of authority issued pursuant to state or federal
110 law.

111 4. A transaction privilege tax license.

112 (h) "Unauthorized alien" means a person who is not
113 authorized under federal law to be employed in the United
114 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
115 be interpreted consistently with that section and any applicable
116 federal rules or regulations.

117 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; FINE FOR
118 VIOLATION; SUSPENSION OF BUSINESS LICENSE.—

119 (a) An employer shall, after making an offer of employment
120 which has been accepted by a person, use an employment
121 verification system to verify such person's employment
122 eligibility. Verification must occur within the period
123 stipulated by applicable federal rules or regulations. However,
124 an employer is not required to verify the employment eligibility
125 of a continuing employee hired before the date of the employer's
126 registration with an employment verification system.

127 (b) The requirement to use an employment verification



569026

128 system shall be phased in as follows:

129 1. Employers having at least 500 employees must use an
130 employment verification system beginning January 1, 2021.

131 2. Employers having at least 250 employees must use an
132 employment verification system beginning July 1, 2021.

133 3. Employers having at least 150 employees must use an
134 employment verification system beginning January 1, 2022.

135 4. Employers having more than 10 employees must use an
136 employment verification system 90 days after the effective date
137 of any federal law, rule, regulation, or program that authorizes
138 this state to issue a work permit, whether temporary or
139 permanent, to a qualifying undocumented alien.

140 (c) If an employer does not register with an employment
141 verification system, the department may impose a fine of up to
142 \$500 on the employer, who must then register with an employment
143 verification system and provide an affidavit of stating such
144 fact to the department within 30 days. If the employer does not
145 register with and provide the required affidavit within 30 days
146 after the imposition of the fine becomes final, the department
147 must order the appropriate agency to suspend all applicable
148 licenses held by the employer until the employer registers with
149 an employment verification system and provides the department
150 with the required affidavit.

151 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; IMMUNITY.—

152 (a)1. An employer registered with and using an employment
153 verification system may not be held civilly liable in a cause of
154 action for the employer's:

155 a. Hiring of an unauthorized alien if the information
156 obtained from the employment verification system indicated that



569026

157 the person's work authorization status was not that of an
158 unauthorized alien; or

159 b. Refusal to hire a person if the information obtained
160 from the employment verification system indicated that the
161 person's work authorization status was that of an unauthorized
162 alien.

163 2. An employer who in good faith registers with and uses an
164 employment verification system is considered to have complied
165 with the requirements of 8 U.S.C. s. 1324a(b) and may not be
166 held liable for any damages and is immune from any legal cause
167 of action brought by any person or entity, including former
168 employees, for the use of and reliance upon any incorrect
169 information obtained from the employment verification system,
170 including any incorrect information obtained as a result of an
171 isolated, sporadic, or accidental technical or procedural
172 failure, when determining final action on a person's work
173 authorization status.

174 (b) For purposes of this subsection, compliance with
175 subsection (2) creates a rebuttable presumption that an employer
176 did not knowingly employ an unauthorized alien in violation of
177 s. 448.09.

178 (4) RULEMAKING.—The department shall adopt rules to define
179 an employment verification system, if any, that is substantially
180 equivalent to or more effective than the E-Verify system with
181 respect to identifying unauthorized aliens and those persons
182 eligible to work in the United States. The rules must identify
183 the types of databases, methodologies, and evidence of identity
184 and employment eligibility that qualify an employment
185 verification system as substantially equivalent to or more



569026

186 effective than the E-Verify system.

187 Section 3. This act shall take effect July 1, 2020.

188

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

190 And the title is amended as follows:

191 Delete everything before the enacting clause

192 and insert:

193 A bill to be entitled

194 An act relating to the verification of employment
195 eligibility; creating s. 287.137, F.S.; defining
196 terms; requiring public employers and certain
197 contractors and subcontractors to register with and
198 use an employment verification system by a specified
199 date; prohibiting public employers, contractors, and
200 subcontractors from entering into a contract unless
201 each party to the contract registers with and uses an
202 employment verification system; creating s. 448.093,
203 F.S.; defining terms; requiring employers who meet
204 specified criteria to register with and use an
205 employment verification system to verify the
206 employment eligibility of new employees; prescribing
207 an implementation schedule for the employment
208 verification requirement; authorizing the imposition
209 of fines for violations of the act; requiring a
210 violating employer to submit certain affidavits to the
211 Department of Economic Opportunity; requiring the
212 department to order the appropriate licensing agency
213 to suspend an employer's license under certain
214 circumstances; providing civil immunity for an



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215 employer registered with and using an employment
216 verification system; providing specified immunity and
217 nonliability for an employer who complies in good
218 faith with the requirements of the act; creating a
219 rebuttable presumption for certain employers that the
220 employer did not knowingly employ an unauthorized
221 alien; requiring the department to define by rule
222 employment verification systems substantially
223 equivalent to the E-Verify system; providing
224 requirements for such rules; providing an effective
225 date.



412606

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Amendment (569026)

Between lines 89 and 90

insert:

4. An employer who is a health care provider as defined in s. 766.101(1)(b).



848944

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Amendment (569026)

Between lines 89 and 90

insert:

4. A public lodging establishment or a public food service establishment licensed under part I of chapter 509.



846536

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Amendment (569026)

Between lines 89 and 90

insert:

4. An employer engaged in the construction industry as defined in s. 440.02.



885186

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Amendment (569026)

Between lines 89 and 90

insert:

4. A religious institution, as defined in s. 199.183(2)(a).

5. An educational institution, as defined in s.

199.183(2)(b)1.



488938

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1 **Senate Amendment to Amendment (569026) (with title**
2 **amendment)**

3
4 Between lines 186 and 187
5 insert:

6 Section 3. (1) As soon as practicable after the effective
7 date of this act, the Chief Financial Officer shall review the
8 United States Citizenship and Immigration Services' annual E-
9 Verify performance findings.

10 (2) An employer, as defined in s. 448.093, Florida



488938

11 Statutes, as created by this act, is not required to participate
12 in an employment verification system to verify the employment
13 eligibility of new employees until the Chief Financial Officer
14 can certify that:

15 (a) No more than 0.10 percent of all tentative
16 nonconfirmations provided through the employment verification
17 system are incorrectly issued to work-authorized individuals;

18 (b) No more than 0.05 percent of all final nonconfirmations
19 provided through the employment verification system are
20 incorrectly issued to work-authorized individuals;

21 (c) No more than 0.10 percent of tentative nonconfirmations
22 provided through the employment verification system to work-
23 authorized noncitizens are incorrectly issued;

24 (d) No more than 0.05 percent of final nonconfirmations
25 provided through the employment verification system to work-
26 authorized noncitizens are incorrectly issued; and

27 (e) Work-authorized individuals are able to effectively
28 rectify incorrect tentative nonconfirmations and final
29 nonconfirmations.

30

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

32 And the title is amended as follows:

33 Delete line 224

34 and insert:

35 requirements for such rules; requiring the Chief
36 Financial Officer to review performance findings of
37 the E-Verify system; providing that employers are not
38 required to participate in an employment verification
39 system to verify the employment eligibility of new



488938

40 employees until the Chief Financial Officer can
41 certify certain performance measures of an employment
42 verification system; providing an effective



487102

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1 **Senate Substitute for Amendment (569026) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. The Office of Program Policy Analysis and
7 Government Accountability (OPPAGA) shall conduct a study to
8 evaluate the effect of the E-Verify system on the economy of
9 Florida. At a minimum, the study's scope must include, but need
10 not be limited to, an evaluation of the accuracy of the system;



487102

11 the detrimental impacts, if any, of the system's implementation
12 to the state's major economic industries, including the
13 agricultural, construction, and tourism industries; and methods
14 for reducing the impacts identified. OPPAGA shall submit a
15 report detailing the results of the study to the Governor, the
16 President of the Senate, the Minority Leader of the Senate, the
17 Speaker of the House of Representatives, and the Minority Leader
18 of the House of Representatives by December 1, 2020.

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

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete everything before the enacting clause
24 and insert:

25 A bill to be entitled
26 An act relating to the verification of employment
27 eligibility; requiring the Office of Program Policy
28 Analysis and Government Accountability to conduct a
29 study regarding the impact of the E-Verify system on
30 the state's economy; specifying requirements for the
31 study; requiring the office to submit the results of
32 the study to the Governor and the Legislature by a
33 specified date; providing an effective date.



224638

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment

Between lines 99 and 100
insert:
4. A small business, as defined in s. 288.703, Florida
Statutes.



423022

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
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The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment

Between lines 126 and 127
insert:
Any tentative verification not resolved within 7 days shall be
closed and treated as an authorization for employment.



925668

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
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	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment

Between lines 134 and 135
insert:

(c) An employer may not subsequently verify the employment eligibility of any current employee after having completed the initial verification process of the employee in accordance with paragraph (a).



923154

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
	.	
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	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment

Delete lines 144 - 146

and insert:

(c) A complaint may not be based on race, color, or national origin.



286242

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 169 - 175
and insert:

(h) The information collected by the department and employers pursuant to this section may not be used for any other purpose other than for the verification of employment eligibility.

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

And the title is amended as follows:



286242

12 Delete lines 21 - 24
13 and insert:
14 prohibiting the department and employers from using
15 information collected under the act for purposes other
16 than the verification of employment eligibility;
17 requiring the department to order certain



698622

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment (with title amendment)

Between lines 273 and 274
insert:

(6) RIGHTS OF EMPLOYEES.-

(a) An employee has the right to know whether an employer is using the E-Verify program. Each employer using the E-Verify system shall post, in an area clearly visible to applicants and new employees, a notice in English and Spanish which says the company is participating in E-Verify.

(b) A worker has the right to know if he or she has



698622

12 received a Tentative Nonconfirmation (TNC). Upon receiving a
13 TNC, an employer shall give a Further Action Notice in English
14 and a translated version, if appropriate, with information on
15 how to contest the TNC. The notice must indicate whether the
16 United States Department of Homeland Security or the Social
17 Security Administration issued the TNC.

18 (c) An employee has the right to choose which documentation
19 he or she presents to complete the Form I-9. An employer may not
20 specify or request which Form I-9 documentation an employee must
21 present.

22 (d) During the verification process, an employee has the
23 right to start and continue working, including while in the
24 process of contesting a TNC. An employer may not terminate,
25 suspend, refuse to pay for work completed, refuse to train,
26 delay a start date, or take any other adverse action against an
27 employee solely because the employee has contested a TNC or has
28 a pending E-Verify case with the United States Department of
29 Homeland Security or the Social Security Administration.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 47

34 and insert:

35 employer under specified circumstances; specifying
36 rights of employees with respect to the employment
37 eligibility verification process; requiring each
38 employer using the E-Verify system to display certain
39 postings; prohibiting an employer from taking certain
40 actions against an employee; providing

By Senator Lee

20-00198-20

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1 A bill to be entitled
2 An act relating to the verification of employment
3 eligibility; defining terms; requiring employers to
4 register with and use the E-Verify system beginning on
5 a specified date to verify the employment eligibility
6 of new employees; requiring the Department of Economic
7 Opportunity to order certain agencies to suspend an
8 employer's license under certain circumstances;
9 prohibiting an employer from knowingly employing an
10 unauthorized alien; authorizing certain persons to
11 file a specified complaint with the department;
12 prohibiting the filing of a complaint based on race,
13 color, or national origin; providing that a person who
14 knowingly files a false or frivolous complaint commits
15 a misdemeanor of the second degree; providing
16 responsibilities and powers of the department relating
17 to notice, investigations, and subpoenas for the
18 production of records; prohibiting the department from
19 independently making a final determination regarding
20 whether an employee is an unauthorized alien;
21 requiring the department to notify the United States
22 Immigration and Customs Enforcement Agency and
23 specified law enforcement agencies of certain
24 violations; requiring the department to order certain
25 employers to take specified actions after the finding
26 of a violation; providing for the suspension of an
27 employer's license upon the finding of certain
28 violations; providing civil immunity for an employer
29 registered with and using the E-Verify system;

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2020664__

30 providing specified immunity and nonliability for an
31 employer who complies in good faith with the E-Verify
32 system; requiring the department to maintain a public
33 database containing certain information and make such
34 information available on its website; authorizing the
35 department to apply for a judicial order directing an
36 agency or employer to comply with an order issued by
37 the department; creating a rebuttable presumption for
38 certain employers that the employer did not knowingly
39 employ an unauthorized alien; authorizing an employer
40 or employee to seek an injunction under certain
41 circumstances; providing that certain actions by an
42 employer constitute a deceptive and unfair trade
43 practice; providing that an employee aggrieved by such
44 actions has a private cause of action against the
45 employer and providing available remedies; providing
46 that a cause of action does not exist against an
47 employer under specified circumstances; providing
48 construction; creating s. 287.137, F.S.; defining
49 terms; requiring public employers, contractors, and
50 subcontractors to register with and use the E-Verify
51 system; prohibiting such entities from entering into a
52 contract unless each party to the contract registers
53 with and uses the E-Verify system; requiring a
54 subcontractor to provide certain certification to a
55 contractor, which the contractor must maintain for a
56 specified period of time; requiring the termination of
57 a contract under certain conditions; providing that
58 such termination is not a breach of contract;

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59 authorizing a challenge to such termination;
 60 prohibiting a contractor from being awarded a public
 61 contract under certain circumstances; providing
 62 construction; providing an effective date.

63
 64 Be It Enacted by the Legislature of the State of Florida:

65
 66 Section 1. Definitions; use of E-Verify system required for
 67 private employers; business licensing enforcement; private right
 68 of action for wrongfully discharged employee.-

69 (1) DEFINITIONS.-As used in this section, the term:

70 (a) "Agency" means an agency, a department, a board, or a
 71 commission of this state or a county, municipality, or town
 72 issuing a license to operate a business in this state.

73 (b) "Department" means the Department of Economic
 74 Opportunity.

75 (c) "E-Verify system" means an Internet-based system
 76 operated by the United States Department of Homeland Security
 77 which allows participating employers to electronically verify
 78 the employment eligibility of newly hired employees.

79 (d) "Employee" means a person who performs labor or
 80 services for an employer in exchange for salary, wages, or other
 81 remuneration. The term does not include a licensed independent
 82 contractor as defined in federal laws or regulations.

83 (e) "Employer" means a person or an entity that employs
 84 persons to perform labor or services in exchange for salary,
 85 wages, or other remuneration. The term does not include:

86 1. A government employer.

87 2. The occupant or owner of a private residence who hires:

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88 a. Casual labor, as defined in s. 443.036, Florida
89 Statutes, to be performed entirely within the private residence;
90 or

91 b. A licensed independent contractor, as defined in federal
92 laws or regulations, to perform a specified portion of labor or
93 services.

94 3. An employee leasing company licensed pursuant to part XI
95 of chapter 468, Florida Statutes, which enters into a written
96 agreement or understanding with a client company which places
97 the primary obligation for compliance with this section upon the
98 client company. In the absence of a written agreement or
99 understanding, the term includes an employee leasing company.

100 (f) "Knowingly employ an unauthorized alien" has the same
101 meaning as in 8 U.S.C. s. 1324a. The term shall be interpreted
102 consistently with 8 U.S.C. s. 1324a and any applicable federal
103 rules or regulations.

104 (g) "License" means a franchise, a permit, a certificate,
105 an approval, a registration, a charter, or any similar form of
106 authorization required by state law and issued by an agency for
107 the purpose of operating a business in this state. The term
108 includes, but is not limited to:

109 1. An article of incorporation.

110 2. A certificate of partnership, partnership registration,
111 or article of organization.

112 3. A grant of authority issued pursuant to state or federal
113 law.

114 4. A transaction privilege tax license.

115 (h) "Unauthorized alien" means a person who is not
116 authorized under federal law to be employed in the United

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117 States, as described in 8 U.S.C. s. 1324a(h) (3). The term shall
118 be interpreted consistently with that section and any applicable
119 federal rules or regulations.

120 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF
121 BUSINESS LICENSE.—

122 (a) Beginning January 1, 2021, an employer shall, after
123 making an offer of employment which has been accepted by a
124 person, use the E-Verify system to verify such person's
125 employment eligibility. Verification must occur within the
126 period stipulated by applicable federal rules or regulations.
127 However, an employer is not required to verify the employment
128 eligibility of a continuing employee hired before the date of
129 the employer's registration with the E-Verify system.

130 (b) If an employer does not register with the E-Verify
131 system, the department must order the appropriate agency to
132 suspend all applicable licenses held by the employer until the
133 employer registers with the E-Verify system and provides the
134 department with an affidavit stating such fact.

135 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; PROHIBITION; FALSE
136 AND FRIVOLOUS COMPLAINTS; VIOLATION; CLASSIFICATION; SUSPENSION
137 AND REVOCATION OF LICENSE.—Beginning January 1, 2021:

138 (a) An employer may not knowingly employ an unauthorized
139 alien.

140 (b) A person who has a good faith belief that an employer
141 knowingly employs, or has within the last 90 calendar days
142 knowingly employed, an unauthorized alien may file a complaint
143 with the department.

144 (c) A complaint may not be based on race, color, or
145 national origin, except to the extent permitted by state or

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146 federal law.

147 (d) A person who knowingly files a false or frivolous
148 complaint under this subsection commits a misdemeanor of the
149 second degree, punishable as provided in s. 775.082 or s.
150 775.083, Florida Statutes.

151 (e) Upon the receipt of a valid complaint of a violation of
152 paragraph (a), the department must notify the employer of the
153 complaint and direct the employer to notify any employees named
154 in the complaint.

155 (f) The department shall investigate whether a violation of
156 paragraph (a) has occurred and hold an administrative hearing at
157 which the employer has the right to counsel and may present any
158 evidence it desires. The department shall request that the
159 Federal Government verify, pursuant to 8 U.S.C. s. 1373(c), the
160 citizenship or immigration status of any employee named in the
161 complaint, and the department must rely upon such verification.
162 The department may not independently make a final determination
163 as to whether an employee is an unauthorized alien.

164 (g) The department may issue a subpoena for an employer to
165 produce employment records that relate to employment
166 recruitment, hiring, or termination policies, practices, or acts
167 relating to the investigation of a valid complaint of a
168 violation of paragraph (a).

169 (h) Upon finding that an employer has violated paragraph
170 (a), the department must notify:

171 1. The United States Immigration and Customs Enforcement
172 Agency of the identity of the unauthorized alien and, if known,
173 the physical address at which the unauthorized alien resides.

174 2. The local law enforcement agency of the jurisdiction in

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175 which the unauthorized alien resides.

176 (i)1. Upon finding that an employer has violated paragraph
177 (a), the department must order the employer to:

178 a. Terminate the employment of all unauthorized aliens; and

179 b. File a sworn affidavit with the department within 10
180 calendar days after receipt of the order. The affidavit must
181 state that the employer has corrected such violation by:

182 (I) Terminating the employment of all unauthorized aliens;

183 or

184 (II) Attempting to terminate the employment of all
185 unauthorized aliens but such termination is being challenged in
186 a court of competent jurisdiction.

187 2. If the employer fails to file the affidavit under
188 subparagraph 1., the department must order the appropriate
189 agencies to suspend all applicable licenses held by the employer
190 until the affidavit is filed. Notwithstanding any other law, the
191 suspended licenses are deemed to have been reinstated upon the
192 filing of the affidavit. During the pendency of any court action
193 or challenge to an E-Verify system determination, the 10-
194 calendar-day period shall be tolled.

195 3. Licenses subject to suspension under subparagraph 2.
196 include all licenses that are held by the employer that are
197 necessary to operate the employer's business at the specific
198 location at which the unauthorized alien performed work. If a
199 license is not necessary to operate the employer's business at
200 such location, but a license is necessary to operate the
201 employer's business in general, the licenses subject to
202 suspension under subparagraph 2. include all licenses held by
203 the employer at the employer's primary place of business.

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204 (j) Upon finding that a second or subsequent violation of
205 paragraph (a) occurred during a 2-year period, the department
206 must order the appropriate agencies to suspend, for at least 30
207 calendar days, all licenses held by the employer that are
208 necessary to operate the employer's business at the specific
209 location at which the unauthorized alien performed work. If a
210 license is not necessary to operate the employer's business at
211 such location, but a license is necessary to operate the
212 employer's business in general, the department must order the
213 appropriate agencies to suspend, for at least 30 calendar days,
214 all licenses held by the employer at the employer's primary
215 place of business.

216 (k)1. An employer registered with and using the E-Verify
217 system may not be held civilly liable in a cause of action for
218 the employer's:

219 a. Unlawful hiring of an unauthorized alien if the
220 information obtained from the E-Verify system indicated that the
221 person's work authorization status was not that of an
222 unauthorized alien; or

223 b. Refusal to hire a person if the information obtained
224 from the E-Verify system indicated that the person's work
225 authorization status was that of an unauthorized alien.

226 2. An employer who in good faith registers with and uses
227 the E-Verify system is considered to have complied with the
228 requirements of 8 U.S.C. s. 1324a(b) and may not be held liable
229 for any damages and is immune from any legal cause of action
230 brought by any person or entity, including former employees, for
231 the use of and reliance upon any incorrect information obtained
232 from the E-Verify system, including any incorrect information

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233 obtained as a result of an isolated, sporadic, or accidental
234 technical or procedural failure, when determining final action
235 on a person's work authorization status.

236 (1) The department shall maintain a public database
237 containing copies of all orders issued pursuant to this
238 subsection and shall make such information available on its
239 website.

240 (m) If the department determines that an agency or employer
241 has failed to comply with an order under this subsection, the
242 department may apply to the circuit court for a judicial order
243 directing the agency or employer to comply with such order.

244 (n) For purposes of this subsection, compliance with
245 paragraph (2) (a) creates a rebuttable presumption that an
246 employer did not knowingly employ an unauthorized alien in
247 violation of paragraph (a).

248 (4) INJUNCTION.—At any time after the department has
249 notified an employer that a valid complaint of a violation of
250 paragraph (3) (a) was received, and up to 30 calendar days after
251 the date on which the department issues an order pursuant to
252 paragraph (3) (i), the employer subject to the complaint, or any
253 employee who is alleged to be an unauthorized alien, may
254 challenge and seek to enjoin the enforcement of this section
255 before a court of competent jurisdiction.

256 (5) DECEPTIVE AND UNFAIR TRADE PRACTICE.—

257 (a) An employer commits a deceptive and unfair trade
258 practice in violation of part II of chapter 501, Florida
259 Statutes, if it discharges an employee who is a United States
260 citizen or resident alien, as defined in s. 379.101(31), Florida
261 Statutes, while knowingly employing an unauthorized alien at the

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262 same job site or in the same job classification elsewhere in
263 this state.

264 (b) The discharged employee has a private cause of action
265 against the employer for a violation of this subsection. The
266 available remedies to the discharged employee are reinstatement,
267 back pay, court costs, and attorney fees. Criminal or civil
268 sanctions, including fines, may not be imposed against an
269 employer for a violation of this subsection.

270 (c) A cause of action under this subsection does not exist
271 against an employer who, on the date it discharged an employee
272 as described in paragraph (a), was registered with and used the
273 E-Verify system to verify a person's work authorization status.

274 (6) CONSTRUCTION.—This section shall be enforced without
275 regard to race, color, or national origin and shall be construed
276 in a manner so as to be fully consistent with any applicable
277 federal laws or regulations.

278 Section 2. Section 287.137, Florida Statutes, is created to
279 read:

280 287.137 Verification of work authorization status; public
281 employers.—

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

283 (a) "Contractor" means a person or an entity that has
284 entered into, or is attempting to enter into, a contract with a
285 public employer to provide labor, supplies, or services to such
286 employer in exchange for salary, wages, or other remuneration.

287 (b) "E-Verify system" means an Internet-based system
288 operated by the United States Department of Homeland Security
289 which allows participating employers to electronically verify
290 the employment eligibility of newly hired employees.

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291 (c) "Public employer" means a department, an agency, or a
292 political subdivision of this state which enters into, or
293 attempts to enter into, a contract with a contractor.

294 (d) "Subcontractor" means a person or an entity that
295 provides labor, supplies, or services to or for a contractor or
296 another subcontractor in exchange for salary, wages, or other
297 remuneration.

298 (e) "Unauthorized alien" means a person who is not
299 authorized under federal law to be employed in the United
300 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
301 be interpreted consistently with that section and any applicable
302 federal rules or regulations.

303 (2)(a) Every public employer, contractor, and subcontractor
304 shall register with and use the E-Verify system to verify the
305 work authorization status of all new employees.

306 (b) A public employer, contractor, or subcontractor may not
307 enter into a contract under this section unless each party to
308 the contract registers with and uses the E-Verify system.

309 (3)(a) If a contractor enters into a contract with a
310 subcontractor, the subcontractor shall certify to the contractor
311 in a manner that does not violate federal law that the
312 subcontractor, at the time of such certification, does not
313 employ, contract, or subcontract with an unauthorized alien.

314 (b) A contractor shall maintain a copy of such
315 certification for the duration of the contract with the
316 subcontractor.

317 (4)(a) A public employer, contractor, or subcontractor who
318 has a good faith belief that a person or entity with which it is
319 contracting has knowingly violated this section shall terminate

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320 the contract with the person or entity.

321 (b) A public employer that has a good faith belief that a
322 subcontractor knowingly violated this section, but the
323 contractor otherwise complied with this section, shall promptly
324 notify the contractor and order the contractor to immediately
325 terminate the contract with the subcontractor.

326 (c) A contract terminated pursuant to paragraph (a) or
327 paragraph (b) is not a breach of contract and may not be
328 considered as such.

329 (d) A public employer, contractor, or subcontractor may
330 file an action with a circuit or county court to challenge a
331 termination under paragraph (a) or paragraph (b) no later than
332 20 calendar days after the date on which the contract was
333 terminated.

334 (e) If a public employer terminates a contract with a
335 contractor pursuant to paragraph (a), the contractor may not be
336 awarded a public contract for at least 1 year after the date on
337 which the contract was terminated.

338 (5) This section shall be construed in a manner so as to be
339 fully consistent with any applicable federal laws or
340 regulations.

341 Section 3. This act shall take effect July 1, 2020.

S00664
GENERAL BILL by Lee; (CO-INTRODUCERS) Gruters; Harrell;
Verification of Employment Eligibility. EFFECTIVE DATE: 07/01/2020.
02/11/20 S CS by Judiciary; YEAS 4 NAYS 2
02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Commerce and
Tourism



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Judiciary Committee

Subject: Committee Agenda Request

Date: November 6, 2019

I respectfully request that **Senate Bill #664**, relating to Verification of Employment Eligibility, be placed on the:

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

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

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/2020
Meeting Date

664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N. Mills Ave

Phone _____

Orlando FL 32801
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Immigrant Coalition

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)

2/11/20
Meeting Date

6064
Bill Number (if applicable)

Topic VERIFY

Amendment Barcode (if applicable)

Name Rev. Russell Meyer

Job Title Pastor Executive

Address 5025 Southampton Cir

Phone 8134355335

TAMPA FL 33647
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA COUNCIL OF CHURCHES

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)

2/11/2020
Meeting Date

SB 664
Bill Number (if applicable)

Topic Verification of Employment Eligibility

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Policy Director

Address P.O. Box 10788
Street

Phone 334-224-4309

Tallahassee FL 32302
City State Zip

Email Scott.McCoy@spfc.org

Speaking: For Against Information

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

Representing Southern Poverty Law Action 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.

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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)

2/11/2020
Meeting Date

664
Bill Number (if applicable)

Topic Employment Verification

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Cell St.

Phone 850-321-9386

Tallahassee FL 32307
City State Zip

Email fctep@nyaho.com

Speaking: For Against Information

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

Representing FI Center for Fiscal & Economic Policy

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)

2/11/20

Meeting Date

664

Bill Number (if applicable)

Topic Requiring use of e-verify

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@acluff.org

City

State

Zip

Speaking: For Against Information

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

Representing American Civil Liberties Union of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 11 2020
Meeting Date

664
Bill Number (if applicable)

Topic Verification of Employment Eligibility

Amendment Barcode (if applicable)

Name Edgar G. Fernandez

Job Title _____

Address 201 W Park Ave Ste 100
Street

Phone (786) 255-5755

Tallahassee FL 32301
City State Zip

Email Edgar.Antiel@tlobca.com

Speaking: For Against Information

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

Representing Unidos U.S.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-11-20
Meeting Date

664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Rev. Joe Parramore

Job Title Florida Leadership Council

Address 6099 Pat Thomas Hwy
Street

Phone 880-510-0584

Quincy
City

FL
State

32351
Zip

Email revjoe@arramore@gmail

Speaking: For Against Information

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

Representing Faith In Public Life

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)

02/11/2020

SB 664

Meeting Date

Bill Number (if applicable)

Topic Senate Bill 664

Amendment Barcode (if applicable)

Name David Barkey

Job Title Senior & Southeastern Counsel ADL (Anti-Defamation League)

Address 5295 Town Center Road, Ste. 300

Phone 561-988-2912

Street

Boca Raton

FL

33486

Email dbarkey@adl.org

City

State

Zip

Speaking: For Against Information

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

Representing ADL (Anti-Defamation League)

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)

2/11/20
Meeting Date

SB-664
Bill Number (if applicable)

846536
Amendment Barcode (if applicable)

Topic E-VARIETY

Name J.B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRWB
Street

Phone 850-556-8143

TALLAHASSEE, FL 32303
City State Zip

Email J.B. CLARK'S DEPARTMENT

Speaking: For Against Information

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

Representing FL. ELECTRICAL WORKERS ASSN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

2/11/2020
Meeting Date

664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name MARCUS DIXON

Job Title EXECUTIVE DIRECTOR

Address 2881 Corporate Way

Phone (305) 720-1627

Street

Miramar, FL 33025

Email Marcus.Dixon@seidlog

City

State

Zip

Speaking: For Against Information

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

Representing SEIU Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20 Meeting Date

6064 Bill Number (if applicable)

Topic Verification of Employment Eligibility Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Av Phone

Street

Tallahassee FL 32301 Email

City

State

Zip

Speaking: For [] Against [X] Information []

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: Yes [] No [X] Lobbyist registered with Legislature: Yes [X] 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)

2-11-2020
Meeting Date

SB664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Barbara Richards

Job Title Wife

Address 1517 Pennsylvania Ave

Phone 407-256-4139

St. Cloud FL
City State

34769
Zip

Email blscantlan@yahoo.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

53664

Bill Number (if applicable)

Topic E-VERIFY

Amendment Barcode (if applicable)

Name PETRA MCCORD

Job Title ENVIRONMENTAL ENGINEER

Address 10151 UNIVERSITY BLVD.
Street

Phone (407) 491-2365

ORLANDO FL 32817
City State Zip

Email OVERL@KONWENTRATIONAL.COM

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 11th, 2020
Meeting Date

SB664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Amapola Hansberger

Job Title President

Address 1170 Tree Swallow Dr., #302
Street

Phone 407-415-8111

Winter Springs, Fl. 32708
City State Zip

Email amapolah@gmail.com

Speaking: For Against Information

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

Representing Legal Immigrants for America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02-11-2020
Meeting Date

SB 664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Margaret Dumont

Job Title RETIRED

Address 6113 Hodgesparrows Ln.
Street

Phone (352) 266-0066

Sanford FL 32771
City State Zip

Email egwineed@aol.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

2/11/20

Meeting Date

SB 664

Bill Number (if applicable)

Topic Employment Authorization

Amendment Barcode (if applicable)

Name Kathy Bird Carvajal

Job Title Executive Director

Address 121 Alhambra Plaza #1100

Phone 786 210 9030

Street

City

State

Zip

Coral Gables FL

Email Kathy@impactfund.org

Speaking: For Against Information

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

Representing IMPAC Fund / ABIC

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)

2/11/2020

Meeting Date

SB664

Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name David Caulkett

Job Title VP

Address 2314 S. Cypress Bend Dr.

Phone 9544619391

Street

Pompano Bch FL 33069

Email David@FLIMEN.org

City

State

Zip

Speaking: For Against Information

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

Representing Floridians For Immigration Enforcement

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)

FEB 11 2020
Meeting Date

SB 664 (2020)
Bill Number (if applicable)

VERIFICATION OF EMPLOYMENT
Amendment Barcode (if applicable)
ELIGIBILITY.

Topic E-VERIFY

Name NICHOLAS P. VESSIO

Job Title CONGRESSIONAL CANDIDATE 18-CD FL

Address 2828 NE COLDSRING DR. Phone (772) 631-1484

JENSEN BEACH, FL 34957
City State Zip

Email NICK0124@VERIZON.

Speaking: For Against Information
AND IN CLARIFICATION OF

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

Representing MY-SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

Feb 11, 2020
Meeting Date

664
Bill Number (if applicable)

Topic E-Verify (Economic Impacts of Adoption) Amendment Barcode (if applicable)

Name Rick Harper

Job Title Economist

Address 516 E. Zaragoza St

Phone 850 341 8908

Street Pensacola State FL Zip

Email RickHarperPhD@gmail.com

Speaking: For Against Information

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

Representing I am the author of a study examining the likely economic impacts of E-Verify. Opinions are my own. Study sponsored by FWD.us

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)

2-11-2020

Meeting Date

SB 664

Bill Number (if applicable)

Topic E Verify

Amendment Barcode (if applicable)

Name Felicia Bruce

Job Title Retired

Address 106 Mariner Bay Blvd

Phone 772 4094560

Street

Ft Pierce

City

FL

State

34949

Zip

Email spmomch1@aol.com

Speaking: For Against Information

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

Representing Ø

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)

2/11/20

Meeting Date

664

Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name Bro. Matt Daily

Job Title Legislative Assistant

Address 134 Northcott Ter

Phone 850-602-4167

Street Tallahassee

State FL

Zip 32317

Email matt@dailyconsulting, vs

Speaking: For [] Against [X] Information []

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

Representing Faith in Public Life

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)

2/11/201
Meeting Date

SB-664
Bill Number (if applicable)

Topic E-Verify

Amendment Barcode (if applicable)

Name J. B. CLARK

Job Title LOBBYIST

Address ZONI CYNTHIA DRIVE
Street

Phone 950-536-8143

TAYLORSSMA, FL 32303
City State Zip

Email JBCCLARK5@PARTLINE.NET

Speaking: For Against Information

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

Representing FL. ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-10-20
Meeting Date

SB 664
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

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

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)

2/11/2020
Meeting Date

664
Bill Number (if applicable)
569026
Amendment Barcode (if applicable)

Topic _____

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S. Bronough St

Phone _____

Street

TKH

City

FL

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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)

2/11/20
Meeting Date

6064
Bill Number (if applicable)
569026-Simmons
Amendment Barcode (if applicable)

Topic _____

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St. Suite 300

Phone 222-7500

Street

Tallahassee FL 32301

City

State

Zip

Email garyh@hgsllaw.com

Speaking: For Against Information

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

Representing Florida Fruit & Vegetable 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)

2/11/20

Meeting Date

664

Bill Number (if applicable)

569026

Amendment Barcode (if applicable)

Topic Verification of Employment Eligibility

Name Adam Basford

Job Title Legislative Affairs Director

Address 310 W College Ave

Street

Tallahassee FL 32301

City

State

Zip

Phone 222-2557

Email adam.basford@fls.org

Speaking: For Against Information

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

Representing Florida Farm Bureau

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 Judiciary

BILL: SB 698

INTRODUCER: Senator Book

SUBJECT: Assisted Reproduction Facilities

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.			CJ	
3.			RC	

I. Summary:

SB 698 establishes protections for people who are dealing with infertility and seek medical assistance to artificially conceive a child. The bill also provides remedies for people who are intentionally or recklessly implanted with incorrect sperm, eggs, or embryos by a physician.

The bill requires a donor to complete a contract with a donor bank or fertility clinic that specifies what must be done with an unused donation of human sperm, eggs, or embryos. Donor banks and fertility clinics must ensure that they comply with the terms of the donor's contract, and the facilities will be inspected annually by the Department of Health to ensure that they are complying with best practices policies. The bill authorizes the imposition of fines for violations and the fines will be deposited into the Rape Crisis Program Trust Fund.

Civil causes of actions, criminal prosecutions, and administrative complaints are provided for a patient or child allegedly injured by a physician who intentionally or recklessly implants the incorrect sperm, eggs, or embryos into a patient. The civil damages may include, but are not limited to damages for emotional or mental distress. The time limitations for bringing an action do not begin to run until the patient or child allegedly injured discovers the violation.

II. Present Situation:

The recent arrival of genetic testing kits and ancestry reports, such as Ancestry.com or 23andMe, has yielded unsettling results for many users. According to media reports, several fertility doctors who represented that they were using the sperm of a patient's husband or an anonymous donor to artificially inseminate a patient, were in fact lying to their patients. The fertility

specialists were inseminating the patients with their own sperm. Even more distressing to the victims of these acts was the realization that the doctors' actions were not actually illegal.¹

Fertility Specialists Alleged to Have Been Sperm Donors to their Patients

Virginia

One media report stated that Dr. Cecil Jacobson, a fertility specialist in Vienna, Virginia, may have secretly donated his own sperm to father at least 75 children. Although prosecutors wanted to try Dr. Jacobson for lying to patients about the source of the sperm, no laws at that time prohibited a doctor from donating sperm to a patient. Instead, prosecutors charged him with the more basic counts of criminal fraud in his medical practice which involved the use of telephones and the United States Postal Service. He was convicted of committing 52 counts of fraud and perjury in 1992.²

Connecticut

A doctor in Greenwich, Connecticut, Ben D. Ramaley, settled a lawsuit in 2009 for secretly using his own sperm to impregnate a patient. The case was settled without any depositions being taken, but a gag order was issued which prevented the plaintiffs from discussing the case.³

When Barbara Rousseau used genetic testing to learn who her biological father was, she was astounded to learn that her father was actually her mother's fertility specialist in 1977, not an anonymous sperm donor. Barbara's parents filed a fertility fraud lawsuit against Dr. John Boyd Coats of Berlin, Vermont, in December, 2018, and seek compensatory and exemplary damages. The suit alleges that the doctor's conduct was "outrageously reprehensible" and had the character of outrage that is often "associated with a crime" and was done with malice.⁴

Indiana

In 2018, Dr. Ronald Cline of Zionsville, Indiana, surrendered his medical license after pleading guilty to two counts of obstruction of justice. It was alleged that he inseminated dozens of women with his own sperm while telling his patients that the donors were anonymous men. DNA tests revealed that he is likely the father of as many as 46 children whose mothers were his

¹ Ellen Trachman, Above the Law, *Intense and Dramatic Testimony Propels Texas Fertility Fraud Bill Forward* (April 17, 2019) <https://abovethelaw.com/2019/04/intense-and-dramatic-testimony-propels-texas-fertility-fraud-bill-forward/> and CBS News, *Indiana Fertility Doctor Used Own Sperm to Impregnate Patients, Court Docs Say* (Sept. 12, 2016) <https://www.cbsnews.com/news/indiana-fertility-doctor-used-own-sperm-to-impregnate-women-court-docs-say/>.

² *Doctor Is Found Guilty in Fertility Case*, N.Y. TIMES (March 5, 1992) <https://www.nytimes.com/1992/03/05/us/doctor-is-found-guilty-in-fertility-case.html> [https://perma.cc/J2NA-NUY8], cited by Jody Lynee Madeira, *infra* at Note 4.

³ LeAnne Gendreau and Diana Perez, NBC Connecticut News, *Fertility Doc Accused of Making His Own Donation* (Nov. 12, 2009) NBC News <https://www.nbcconnecticut.com/news/local/fertility-doctor-may-have-done-the-deed-himself/2060754/>.

⁴ Jody Lynee Madeira, *Understanding Illicit Insemination and Fertility Fraud, From Patient Experience to Legal Reform*, Columbia Journal of Gender & Law, 2019 Fall Issue 110, 123-124.

patients. Indiana law, at that time, did not specifically prohibit fertility specialists from donating their own sperm.^{5,6}

Colorado

Dr. Paul Brennan Jones, a fertility specialist in Grand Junction, Colorado, was sued in October, 2019, for using his own sperm, rather than the sperm of anonymous donors, to impregnate women. Maia Emmons-Boring, whose mother relied on Dr. Jones for fertility treatment nearly 40 years earlier, has learned through DNA testing that she and her sister have five known half-siblings who were fathered by Dr. Jones. Ms. Emmons-Boring has been contacted by three additional people who are biologically linked to them through DNA testing. The civil lawsuit against the doctor alleges negligence, fraud, and other claims for damages.⁷

Idaho

In 2019, Dr. Gerald Mortimer, a retired gynecologist in Idaho Falls, Idaho, admitted to using his own sperm to impregnate multiple women in his infertility practice. He left the Obstetrics and Gynecology Associates practice in Idaho Falls because he feared he would be caught using his own sperm to impregnate women. At least one lawsuit is pending against him.⁸

The Difficulty of Holding the Doctors Legally Accountable

Holding the fertility doctors legally accountable for their fraudulent acts, either criminally or civilly, has been difficult. One of the most obvious obstacles is an expired statute of limitation because the fraudulent act often occurred decades before it was discovered. Another obstacle involves the destruction of evidence which could be the destruction of medical records. It is difficult to prosecute a case criminally as a traditional sexual assault case because the women “consented” to the inseminations. It is difficult to prevail in a civil case because the facts do not readily lend themselves to the elements of fraud. The fraudulent inseminations more closely resemble “fraud in the inducement” where a person agrees to a procedure knowing what is involved, but consents to the procedure based upon false representations made by the defendant doctor.⁹

Several States’ Responses to Fertility Fraud

Texas

In response to the revelation that the doctors’ actions were not technically illegal, several states have enacted laws to criminalize the doctors’ deceptive acts. Texas, for example, enacted a law in 2019 that creates a sexual assault felony, punishable by up to 2 years’ imprisonment, if a

⁵ Associated Press, *Fertility Doctor Who Used Own Sperm to Impregnate Women Surrenders License* (Aug. 23, 2018) <https://nypost.com/2018/08/23/fertility-doctor-who-used-own-sperm-to-impregnate-women-surrenders-license/>.

⁶ Associated Press, *Indiana Senate Sends Sperm-Misuse Legislation to Governor* (April 17, 2019) <https://www.ibj.com/articles/73357-indiana-senate-sends-sperm-misuse-legislation-to-governor>.

⁷ Morgan Phillips, Fox News, *Colorado fertility doctor used his own sperm to impregnate women, lawsuit claims* (Oct. 29, 2019) <https://www.foxnews.com/us/colorado-fertility-doctor-used-his-own-sperm-to-impregnate-women-lawsuit-claims>.

⁸ Grace Hansen, EastIdahoNews.com, *Former Idaho Falls Doctor Admits to Using Own Sperm to Inseminate Multiple Patients* (Nov. 7, 2019) <https://www.eastidahonews.com/2019/11/former-idaho-falls-gynecologist-admits-to-using-own-sperm-to-father-patients-children/>.

⁹ *Supra*, Note 4 at 113, 184.

health care services provider, while performing an assisted reproduction procedure, uses human reproductive material from a donor knowing that the recipient has not expressly consented to the use of the material from that donor. Additionally, and because most children born under these fraudulent circumstances and their parents do not discover the truth of their conception until many years later, victims are given 2 years from the time the offense is discovered to bring an action for the crime of sexual assault. The act is prospective in its application.¹⁰

California

California passed legislation in 2011 that criminalized the use of sperm, ova, or embryos in assisted reproduction technology for a purpose other than that indicated by the provider. A violator will be punished by imprisonment between 3 and 5 years and a fine that does not exceed \$50,000.¹¹

Indiana

Indiana similarly enacted legislation in 2019. The statute establishes a cause of action for civil fertility fraud and provides that a prevailing plaintiff may receive compensatory and punitive damages or liquidated damages of \$10,000. The legal action must be commenced within 10 years of the child's 18th birthday, 20 years after the procedure was performed, when the person first discovers evidence through DNA testing, when the person becomes aware of a record that provides sufficient evidence to bring a suit against the defendant, or when the defendant confesses to the offense.¹²

Colorado

Colorado is now considering a bill entitled "Misuse of Human Reproductive Material" which creates a new civil cause of action as well as a criminal offense if a health care provider, during the course of assisted reproduction, uses a donation from someone without obtaining the written consent of the patient. The bill provides for compensatory or liquidated damages of \$50,000 in a civil action and provides a felony penalty for the criminal act. Conviction of the offense is also considered unprofessional conduct under the licensing statute.¹³

Additional States Considering Legislation

Nebraska, Ohio, and Washington state are currently considering legislation to provide redress against physicians for fertility fraud.

Florida Law

It does not appear that Florida law specifically prohibits a health care practitioner from inseminating a patient with reproductive material from a donor without the patient's consent. As discussed above, the statute of limitations, the time allowed to bring an action for a previous act,

¹⁰ Texas SB 1259 (2019) <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1259>.

¹¹ California Penal Code s. 367g. https://california.public.law/codes/ca_penal_code_section_367g.

¹² Senate Enrolled Act No. 174, an act amending the Indiana Code concerning civil procedure. <http://iga.in.gov/legislative/2019/bills/senate/174#document-d66c4e90>.

¹³ HB 20-1014, Colorado General Assembly, Second Regular Session, 72nd General Assembly, <https://www.leg.colorado.gov/bills/hb20-1014>.

has generally expired because many people do not realize that fraud was committed until decades after the insemination. Similarly, it would be challenging to prove sexual battery because the patient “consented” to the insemination, and the act was not technically committed against her will.

Fertility Clinics in Florida

As far as staff has been able to determine, no current law requires donor banks or fertility clinics to be regulated, registered, or inspected in the state. According to the Department of Health, there are approximately 30 fertility clinics operating in the state, some with multiple locations, and four donor banks.¹⁴

III. Effect of Proposed Changes:

The bill establishes protections for people who are dealing with infertility and seek medical assistance to artificially conceive a child. The bill:

- Establishes causes of actions against a physician who intentionally or recklessly implants the incorrect reproductive material into a patient;
- Expands the traditional statutes of limitations for legal actions;
- Requires donor contracts dealing with sperm, eggs, or embryos to specify how donations will be handled;
- Requires donor banks and fertility clinics to develop best practices policies for storing and segregating specimens;
- Provides for inspections as well as fines for donor bank and fertility clinic violations.

Causes of Action Against a Physician – Subsection (6)

The bill establishes causes of action against a physician who intentionally or recklessly implants the incorrect sperm, eggs, or embryo into a patient.

- Civilly, the physician is liable to the patient or a child born from the assisted reproduction procedure for all damages that are reasonably necessary to compensate the patient or the child for any injuries suffered including, but not limited to, emotional or mental distress.
- Criminally, the physician commits a felony of the third degree and commits a sexual battery if the incorrect insemination is determined to be the physician’s own biological specimen.
- Administratively, the physician is subject to disciplinary action for failing to perform a statutory or legal obligation, and additionally is subject to denial of a license or disciplinary action, by the Department of Health and the Board of Medicine or the Board of Osteopathic Medicine, whichever is applicable.

¹⁴ Florida Department of Health, *SB 698 Legislative Bill Analysis*, (Feb. 7, 2020) (on file with the Senate Committee on Judiciary).

Time Limitations for Initiating Civil, Criminal, or Administrative Actions Against a Physician – Subsection (7)

Civil Actions

The time limitations for a civil action brought by or on behalf of a patient or a child who is allegedly injured by an incorrect insemination do not begin to run until the patient discovers the violation. Hence, the period for bringing an action is 3 years after the discovery of the violation pursuant to s. 95.11(3)(p), F.S.

Criminal Prosecutions

The time limitations for the prosecution of intentionally or recklessly implanting the incorrect sperm, eggs, or embryos into a patient does not begin to run until the patient discovers the violation and reports it to a law enforcement agency or other governmental agency. The law enforcement agency or other governmental agency has a duty to promptly report the allegation to the state attorney for the judicial circuit where the alleged violation occurred.

If the violation did not involve reproductive material from the physician, the crime is a third degree felony, and the crime must be prosecuted within 3 years after discovery of the violation. If the doctor's own biological specimen is used, the crime is sexual battery, a second degree felony, and the crime must be also be prosecuted within 3 years after the violation is discovered.

Administrative Complaints

The time limitations for a regulatory agency to file an administrative complaint against a physician's license do not begin to run until the patient discovers the violation and reports it to the department or law enforcement agency. Accordingly, an administrative complaint against a physician's license must be brought within 6 years of the discovery of the act, pursuant to s. 456.073(13), F.S.

Donor Contracts – Subsection (2)

The bill requires a donor to enter into a contract with a donor bank or fertility clinic, as defined in the bill, before he or she is permitted to donate to that facility. The contract must include what must be done with the specimen if:

- The donor dies or becomes incapacitated;
- A designated recipient who is to receive the donation dies or becomes incapacitated;
- The donor and recipient separate or their marriage is dissolved; and
- The specimen is unused, including whether the specimen maybe disposed of, offered to a different recipient, or may be donated to science.

A donor bank must ensure that each donation transferred to a fertility clinic is clearly labeled based upon the terms of the donor's contract. A fertility clinic must ensure that each donation received from a donor or a donor bank is implanted, returned, or disposed of according to the terms of the donor's contract.

Best Practices Policies – Subsection (3)

The bill requires each donor bank and fertility clinic, by January 1, 2021, to develop a written best practices policy for storing and segregating sperm, eggs, and embryos to ensure that the correct specimens are implanted in the correct patients and also handled as directed by each donor's contract with either the donor bank or fertility clinic. The best practices policy must be submitted to the Department of Health each year for review. If a fertility clinic does not have a written best practices policy in place, the bill creates a presumption of physician recklessness in a cause of action brought under the provision of the bill.

Inspections – Subsection (4)

The Department of Health is responsible for inspecting donor banks and fertility clinics annually and performing the inspections without notice.

Fines – Subsection (5)

The Department of Health must impose:

- A fine of \$5,000 on a donor bank for each failure to clearly label a donation or otherwise comply with the terms of the donor's contract.
- An administrative fine of up to \$20,000 on a donor bank or a fertility clinic for each violation of 42 U.S.C. part 263, the preparation of biological products.

All fines collected under this section shall be deposited into the Rape Crisis Trust Fund within the Department of Health.

Definitions – Subsection (1)

The bill defines assisted reproductive technology, department, donation, donor, donor bank, fertility clinic, and incorrect insemination.

Effective Date

The bill takes effect 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:

Section 383.61(3), F.S., provides that there is a “presumption of physician recklessness” if a fertility clinic does not have a written best practices policy in place. This presumption appears to be applicable to civil, administrative, and criminal proceedings resulting from violations of the bill. Similar presumptions in the criminal context have been found to be unconstitutional by courts.¹⁵ The Legislature may wish to limit the application of the presumption of recklessness to civil and administrative proceedings.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Health agency analysis, as currently written, the bill would create an increased workload and have a fiscal impact of \$610,423. This reflects the need to hire 6 full-time employees and a physician. The Department anticipates needing to hire additional clinical nursing staff to conduct facility inspections as well as contract with a fertility specialist physician. The bill would also create a need for additional staff to manage and review annual contracts and oversee compliance with state and federal requirements.¹⁶

VI. Technical Deficiencies:

According to the Department of Health agency analysis, the requirement that donor banks and fertility clinics submit best practices to the department for review does not provide guidance on what the requirements must contain or whether the best practices are acceptable or not.¹⁷

¹⁵ See *State v. Brake*, 796 So. 2d 522 (Fla. 2001).

¹⁶ Florida Department of Health, *SB 698 Legislative Bill Analysis*, (Feb. 7, 2020) (on file with the Senate Committee on Judiciary).

¹⁷ *Id.*

The bill requires the department to inspect donor banks and fertility clinics each year but does not give the department jurisdiction over these facilities and no current law requires the donor banks and fertility clinics to be regulated or registered and the bill does not contain a similar provision.¹⁸

Finally, the bill requires the department to impose a range of fines for violations but does not provide rule making authority to meet APA standards that would enable the department to implement the provisions.¹⁹

If the impetus for the bill is the fact that some physicians have used their own biological specimens in patients expecting a specimen from an “anonymous donor,” the Legislature may wish to expressly prohibit a physician from making a donation to a patient without a patient’s express consent.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 383.61 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁸ *Id.*

¹⁹ *Id.*

By Senator Book

32-00305A-20

2020698__

1 A bill to be entitled
2 An act relating to assisted reproduction facilities;
3 creating s. 383.61, F.S.; defining terms; requiring a
4 donor to enter into a certain contract with a donor
5 bank or fertility clinic before he or she may donate;
6 providing requirements for the contract; requiring a
7 donor bank to clearly label each donation that is
8 transferred to a fertility clinic according to the
9 terms of each donor's contract; requiring a fertility
10 clinic to ensure that each donation received from a
11 donor or a donor bank is implanted, returned, or
12 disposed of according to the terms of the applicable
13 donor's contract; requiring donor banks and fertility
14 clinics to develop, by a specified date, a written
15 best practices policy for storing and segregating
16 sperm, eggs, and embryos; requiring the annual
17 submission of such written policies to the department
18 for review; creating a presumption of recklessness
19 against a physician at a fertility clinic that does
20 not have such a written policy; requiring the
21 Department of Health to perform annual inspections of
22 donor banks and fertility clinics without notice;
23 requiring the department to impose specified fines on
24 donor banks and fertility clinics for certain
25 violations and specified conduct; requiring such fines
26 to be deposited into the Rape Crisis Program Trust
27 Fund; providing civil and criminal causes of action
28 for, criminal penalties for, and disciplinary action
29 against a physician who intentionally or recklessly

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30 artificially inseminates a patient with the incorrect
31 sperm, eggs, or embryos; tolling applicable time
32 limitations for civil actions, criminal prosecution,
33 and disciplinary proceedings relating to certain
34 violations until certain conditions are met; providing
35 an effective date.

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

38
39 Section 1. Section 383.61, Florida Statutes, is created to
40 read:

41 383.61 Assisted reproduction facilities.-

42 (1) DEFINITIONS.-As used in this section, the term:

43 (a) "Assisted reproductive technology" means all treatments
44 or procedures that include the handling of human eggs, sperm, or
45 embryos, including in vitro fertilization, gamete intrafallopian
46 transfer, zygote intrafallopian transfer, and any other specific
47 technology the department deems appropriate by rule.

48 (b) "Department" means the Department of Health.

49 (c) "Donation" means the giving of human sperm, eggs, or
50 embryos to a donor bank or fertility clinic for use in assisted
51 reproduction, regardless of whether for personal use or
52 compensation.

53 (d) "Donor" means a person who gives a donation.

54 (e) "Donor bank" means a facility that collects donations
55 from donors for use by a fertility clinic.

56 (f) "Fertility clinic" means a facility in which human eggs
57 are subject to assisted reproductive technology based on
58 manipulation of eggs or embryos that are subject to

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59 implantation.

60 (g) "Incorrect insemination" means the implantation of
61 sperm, eggs, or embryos into a patient which is contrary to the
62 terms of the donor's contract.

63 (2) DONOR CONTRACTS.—

64 (a) A donor must enter into a contract with a donor bank or
65 fertility clinic before he or she may donate to that donor bank
66 or fertility clinic. The contract must, at a minimum, indicate
67 what must be done with the specimen if:

68 1. The donor dies or becomes incapacitated;

69 2. A designated recipient for the donation dies or becomes
70 incapacitated;

71 3. The donor and recipient separate or their marriage is
72 dissolved; and

73 4. The specimen is unused, including whether it may be
74 disposed of, offered to a different recipient, or donated to
75 science.

76 (b) A donor bank must ensure that each donation transferred
77 to a fertility clinic is clearly labeled according to the terms
78 of each donor's contract.

79 (c) A fertility clinic must ensure that each donation
80 received from a donor or a donor bank is implanted, returned, or
81 disposed of according to the terms of the applicable donor's
82 contract.

83 (3) BEST PRACTICES POLICIES.—

84 (a) By January 1, 2021, each donor bank and fertility
85 clinic in this state shall develop a written best practices
86 policy for storing and segregating sperm, eggs, and embryos to
87 ensure that the correct specimens are implanted in the correct

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88 individuals and otherwise handled as directed by each donor's
89 contract with the donor bank or fertility clinic.

90 (b) The best practices policy must be submitted to the
91 department annually for review.

92 (c) Evidence that a fertility clinic does not have a
93 written best practices policy in place creates a presumption of
94 physician recklessness in a cause of action brought under this
95 section.

96 (4) INSPECTIONS.—The department shall perform annual
97 inspections of donor banks and fertility clinics without notice.

98 (5) FINES.—

99 (a) The department shall impose a fine of \$5,000 on a donor
100 bank for each failure to clearly label a donation or otherwise
101 comply with the terms of a donor's contract or this section.

102 (b) The department shall impose a fine of up to \$20,000 on
103 a fertility clinic that fails to comply with the terms of a
104 donor's contract or this section.

105 (c) The department shall impose an administrative fine of
106 up to \$20,000 on a donor bank or a fertility clinic for each
107 violation of 42 U.S.C. part 263.

108 (d) Fines collected under this section shall be deposited
109 into the Rape Crisis Program Trust Fund established within the
110 department under s. 794.056.

111 (6) CAUSES OF ACTION.—A physician who intentionally or
112 recklessly implants the incorrect sperm, eggs, or embryos into a
113 patient:

114 (a) Is liable to that patient or a child born from such
115 assisted reproduction for all damages reasonably necessary to
116 compensate the patient or the child for any injuries suffered as

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117 a result of the physician's intentional or reckless incorrect
118 insemination, including, but not limited to, emotional or mental
119 distress.

120 (b) Commits a felony of the third degree, punishable as
121 provided in s. 775.082, s. 775.083, or s. 775.084.

122 (c) Commits a sexual battery under s. 794.011, if the
123 incorrect insemination is of the physician's own biological
124 specimen.

125 (d) Is subject to disciplinary action under s.
126 456.072(1)(k), s. 458.331(1), or s. 459.015(1).

127 (7) TOLLING TIME LIMITATIONS.—

128 (a) The time limitations with respect to any civil action
129 that may be brought by, or on behalf of, a patient or a child
130 allegedly injured as a result of an incorrect insemination do
131 not begin to run until the patient discovers the violation.

132 (b) The applicable time limitations in s. 775.15 to
133 commence prosecution for a violation of subsection (6) do not
134 begin to run until the patient discovers the violation and
135 reports it to a law enforcement agency or other governmental
136 agency. Such law enforcement agency or other governmental agency
137 shall promptly report such allegation to the state attorney for
138 the judicial circuit in which the alleged violation occurred.

139 (c) The applicable time limitations in s. 456.073(13) to
140 file an administrative complaint against a licensee for a
141 violation of subsection (6) do not begin to run until the
142 patient discovers the violation and reports it to the department
143 or a law enforcement agency. Such law enforcement agency shall
144 promptly report such allegation to the department.

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

S00698

GENERAL BILL by Book; (CO-INTRODUCERS) Stewart; (Compare CS/H 01287)

Assisted Reproduction Facilities. EFFECTIVE DATE: 07/01/2020.

02/06/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building

02/11/20 S Favorable by Judiciary; YEAS 6 NAYS 0 -SJ 267

02/12/20 S Now in Criminal Justice



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

December 4, 2019

Chair David Simmons
Committee on Judiciary
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Simmons:

I respectfully request that **SB 698—Assisted Reproduction Facilities** be placed on the agenda for the next Committee on Judiciary 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: Tom Cibula, Staff Director
Joyce Butler, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore



2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 698
BILL TITLE:	Assisted Reproduction Facilities
BILL SPONSOR:	Book
EFFECTIVE DATE:	7/1/2020

<u>COMMITTEES OF REFERENCE</u>
1) Judiciary
2) Criminal Justice
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Judiciary

<u>SIMILAR BILLS</u>	
BILL NUMBER:	CS HB 1287
SPONSOR:	Jenne

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
Click or tap here to enter text.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	02/07/2020
LEAD AGENCY ANALYST:	Rhonda Jackson
ADDITIONAL ANALYST(S):	Jennifer Wenhold, Anna Simmons
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Matthew Martin, Jonathon Sackett

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill creates section 381.61 Florida Statutes, requiring individuals who donate human sperm, eggs, or embryos to a donor bank or fertility clinic to enter into certain contracts with these facilities prior to donation. It also specifies requirements for the contract and donations; requiring donor banks and fertility clinics to develop best practices policies and submit these documents to the Department annually. Finally, the bill requires these facilities to undergo annual inspections with penalties and fines attached if necessary. The fines would be deposited into the Rape Crisis Trust Fund.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Centers for Medicare & Medicaid Services (CMS) regulates all laboratory testing (except research) performed on humans in the U.S. through the Clinical Laboratory Improvement Amendments (CLIA). The Division of Clinical Laboratory Improvement & Quality, within the Quality, Safety & Oversight Group, under the Center for Clinical Standards and Quality (CCSQ) has the responsibility for implementing the CLIA Program. The objective of the CLIA program is to ensure quality laboratory testing.

In Florida, the Agency for Healthcare Administration (AHCA) is responsible for processing the CLIA Applications for Certification Forms and has oversight of the CLIA certified facilities. AHCA conducts CLIA inspections every two years for each CLIA certified facility in Florida. However, there are no current inspections or licensure required beyond that. Additionally, there is not a singular location detailing the number of these facilities in Florida.

The Federal Clinical Laboratory Improvement Amendments of 1988 (CLIA), at 42 CFR 493, define a clinical laboratory as any facility that examines materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. Any facility that meets this definition must have the appropriate CLIA certificate to perform laboratory tests. If a facility is only collecting specimens, a CLIA certificate is not required.

Effective July 1, 2018, the State of Florida no longer requires a state license for clinical laboratory services, however the federal CLIA program is still in effect. CLIA certification is required for facilities that test clinical specimens for the purpose of diagnosis, treatment, or prevention of disease.

2. EFFECT OF THE BILL:

The bill requires fertility clinics and donor banks to enter into contracts with donors prior to any donations being made. The contract, at a minimum, must designate what should be done with the specimen (including whether it may be disposed of, offered to a different recipient, or donated to science) if: the donor dies or becomes incapacitated; a designated recipient for the donation dies or becomes incapacitated; the donor and recipient separate or their marriage is dissolved; and the specimen is unused.

The bill requires each donor bank and fertility clinic to develop a written best practices policy for storing and segregating sperm, eggs, and embryos to ensure that the correct specimens are implanted in the correct individuals and otherwise handled as directed by each donor's contract with the donor bank or fertility clinic by January 1, 2021. This bill charges the Department of Health (Department) to review all best practice policies created by each donor bank and fertility clinic in the state on an annual basis. To achieve this, the Department would be required to maintain a registry of all donor banks, and contract with a fertility specialist physician to establish guidelines for reviewing these policies to ensure the policies adhere to current clinical guidelines and standards.

The bill also requires the Department to conduct annual inspections of donor banks and fertility clinics without notice.

It provides the Department may issue fines resulting from the inspection:

- Donor bank: \$5,000 for each Failure to clearly label a donation or otherwise comply with the terms of a donor's contract or this section.
- Up to \$20,000 on a fertility clinic that fails to comply with the terms of a donor's contract or this section.

- An administrative fine of up to \$20,000 on a donor bank or a fertility clinic for each violation of 42 U.S.C. part 263.

Fines collected under this section shall be deposited into the Rape Crisis Program Trust Fund established within the department under s. 794.056.

The bill establishes liabilities and penalties for a physician who intentionally or recklessly implants the incorrect sperm, eggs, or embryos into a patient.

It creates causes of action against a physician and provides for disciplinary action under sections 456.072, 458.331, or 459.015, F.S.

The bill tolls the time limitations with respect to any civil action, in s. 775.15, and s. 456.073(13) until the patient discovers the violation.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A

Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y N

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
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?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	<p>This bill reflects a potential increase in revenue for the Rape Crisis Trust Fund; however, impact cannot be determined at this time.</p> <p>Any imposed fines ranging from \$5,000 to \$20,000 per penalty will be added to the Rape Crisis Trust Fund.</p>
Expenditures:	<p>The size and impact of these new regulated entities is unknown and would cause an increased workload on the Department. There is approximately 30 fertility clinics in Florida, with some clinics having multiple locations, and four donor banks.</p> <p>There is currently no data system established to register and track donor banks and fertility clinics.</p> <p>In order to effectively inspect these facilities, the Department anticipates having to hire additional clinical nursing staff. It is estimated that DOH would need to hire one executive nursing supervisor and five registered nursing consultants to conduct facility inspections. In addition, the Department estimates resources to contract with fertility specialist physicians will be required.</p> <p>There would be a fiscal impact of \$610,423 to support 6 FTE and a contracted physician.</p>

	Additional contract management or legal staff may be required to conduct annual contract review, contract compliance, and compliance with 42 U.S.C. part 263.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	Unknown.
Expenditures:	This bill allows for the imposition of fines ranging from \$5,000 to \$20,000.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	The bill allows for the imposition of fines ranging from \$5,000 to \$20,000.
Bill Section Number:	Section 1.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.

N/A

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.

N/A

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>Lines 91-92 require donor banks and fertility clinics to submit best practice policies to the department for review. The legislation provides no guidance on the content requirements of the policies nor sufficient information to guide the department in its review to determine whether the best practice is acceptable or unacceptable.</p> <p>Lines 97-98 require the department to inspect donor banks and fertility clinics on an annual basis. Current law does not grant jurisdiction over these facilities to the department and there is no current law that requires donor banks and fertility clinics to be regulated or registered and the proposed legislation does not contain any such provision. Consequently, the department would have no information or knowledge regarding the location, business, or practices of donor banks or fertility clinics. Additionally, the bill does not provide guidance on the nature of the inspection or what constitutes an acceptable or a failed inspection.</p> <p>In addition to the requirement to inspect donor banks and fertility clinics set forth above, lines 99-109 require the department to impose a range of fines for specific violations. The proposed bill does not provide rule authority sufficient to meet APA standards that would enable the department to implement these provisions of the bill.</p>
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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)

2-11-20

Meeting Date

698

Bill Number (if applicable)

Topic Assisted Reproductive Facilities

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Ms

Address 625 E. Bernard St
Street

Phone 251-4280

City

State

Zip

Email barbadevane10@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

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

2/11/2020

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

698

Bill Number (if applicable)

Meeting Date

Topic Assisted Repro. Facilities

Amendment Barcode (if applicable)

Name Kim Porteous

Job Title FLNOW President

Address 6666 Crenshaw

Phone 706 669 8192

Orlando FL 32835

Email Kim4FLNOW

Speaking: [X] For [] Against [] Information

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

Representing _____

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [] No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1340

INTRODUCER: Senator Gruters

SUBJECT: Legal Notices

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 1340 allows a governmental agency the option of publishing legally required advertisements and public notices on a publicly accessible website if certain conditions are met. Specifically, the bill permits a governmental agency:

- In a county that has not been designated a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website if the cost of publishing advertisements and notices online is less than the cost of publishing those items in a newspaper.
- In a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website after making a determination at a publicly noticed meeting that online publication:
 - Is in the public interest;
 - The cost of publishing is less expensive than newspaper publication; and
 - Will not, after taking into account the level of Internet access in the county, unreasonably restrict public access to advertisements and legal notices.

If a local government publishes legally required advertisements and public notices on a publicly accessible website, the bill requires the governmental agency to publish a notice at least once a year in a newspaper of general circulation or other publication mailed and delivered to all residents and property owners in the government's jurisdiction stating that the residents or property owners may receive legally required notices or advertisements by first-class mail or e-mail by registering their name, address, and e-mail address with the governmental agency.

II. Present Situation:

Constitutional Notice Requirements for State and Local Governments

The State Constitution requires that meetings of “any collegial public body” of the executive branch, or of a county, municipality, school district, or special district where official acts will be taken or where public business will be transacted or discussed, “shall be open and noticed to the public.”¹ Accordingly, the statutes contain several provisions that specify when notice must be given before local governments may take certain actions.

Statutory Notice Requirements

Chapter 50, F.S., contains the requirements for the publication of legal notices and official advertisements. All legal notices and publications must be made in a newspaper that:

- Is printed and published at least once a week;
- Contains at least 25 percent of its words in the English language;
- Is considered a periodical by the post office in the county where it is published;
- Is for sale to the public generally; and
- Customarily contains information of public interest to the residents or property owners in the county where it is published or is of interest or of value to the general public.²

If no newspaper is published in the county, three copies of the notice or advertisement must be posted in the county, with one being posted at the front door of the courthouse, two others posted at other locations in the county, and by publication of the notice in the nearest county where a newspaper is published.³

Newspaper Website

If the newspaper publishing the legal notice maintains a website, the legal notice must appear on the newspaper’s website the same day it appears in the newspaper. The notice must be published at no additional charge on a separate web page titled “Legal Notices,” “Legal Advertising,” or with comparable identifying language. The newspaper’s website must contain a search function to aid in searching the legal notices and the newspaper publisher may not charge a fee or require registration to view or search the legal notices. The newspaper must also place a copy of the notice on a repository website maintained by the Florida Press Association and provide the ability for members of the public to sign up for an e-mail notification to be received when new legal notices are published.⁴

¹ Article I, section 24(b) provides:

(b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

² Section 50.011, F.S.

³ Section 50.021, F.S.

⁴ Section 50.0211(2), F.S. The repository maintained by the Florida Press Association is available at: <http://www.floridapublicnotices.com>. See s. 50.0211(3)(a), F.S.

The publication of a legal notice may not be considered effective unless:⁵

- The notice is published for the period prescribed for such a notice;
- The newspaper has been in existence for at least 1 year at the time the notice is published; and
- The newspaper has been entered as a periodical at a post office in the county where the notice is published.

Proof of Publication

Proof of publication is established by the use of a uniform notice.⁶ The proof of publication affidavit must be on paper formatted in a specific manner or an electronic version that complies with the electronic notarization requirements of s. 117.021, F.S. The proof of publication affidavit must contain the name of the newspaper, the frequency of publication, the city and county of publication, and the signature of a notary public.⁷

Fees

The fees for a legal notice are set by statute and may not be rebated, commissioned, or refunded. The charge for publishing a legal notice is 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion. Notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. If the regular established minimum commercial rate per square inch is greater than the rate stipulated in statute, the publisher may charge the minimum commercial rate for each insertion, except that notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. All notices and legal advertisements are charged on the basis of 6-point type on 6-point body, unless otherwise specified by statute.⁸

Enforcement of Self-Storage Facility Liens

The owner of a self-service storage facility or self-contained storage unit has a lien for rent, labor charges, or other charges on all personal property located in the facility for expenses related to the preservation of the property and reasonably related to its sale or other disposition for nonpayment.⁹ The owner must provide written notice in person, by e-mail, or by registered mail to the tenant's last known address and post notice on the storage unit before satisfying the lien.¹⁰ If the owner does not receive a response, return receipt, or delivery confirmation of a notice sent via e-mail, the owner must provide notice by certified mail.

The notice provided to the tenant must include:¹¹

⁵ Section 50.031, F.S.

⁶ Section 50.041, F.S.

⁷ Section 50.051, F.S.

⁸ Section 50.061, F.S.

⁹ Section 83.805, F.S.

¹⁰ Section 83.806(1), F.S.

¹¹ Section 83.806(2), F.S.

- An itemized statement of the owner’s claim, showing the amount due at the time of the notice and when the amount became due;
- A description of the personal property provided in the rental agreement;
- A demand for payment within a specified time no less than 14 days after delivery of the notice;
- A conspicuous statement that the personal property will be advertised for sale or other disposition and sold or otherwise disposed of at a specified time and place if the amount due is not paid in the time stated in the notice; and
- The name, street address, and telephone number of the owner.

After the expiration of the time given in the notice, the owner must place an advertisement of the sale or other disposition at least once a week for two consecutive weeks in a newspaper of general circulation in the area where the facility is located.¹² If there is no newspaper of general circulation in the area where the facility is located, the owner must post the advertisement in at least three conspicuous places in the neighborhood where the facility is located.¹³ The advertisement must include:¹⁴

- A brief and general description of the personal property contained in the storage unit;
- The address of the facility and the name of the tenant; and
- The time, place, and manner of the sale or other disposition.¹⁵

III. Effect of Proposed Changes:

The bill allows a governmental agency¹⁶ the option to publish legally required advertisements and notices on a publicly accessible website¹⁷ if certain conditions are met. Specifically, the bill allows a governmental agency:

- In a county that has not been designated a fiscally constrained county,¹⁸ to publish the advertisements and notices on a publicly accessible website if the cost of publishing advertisements and notices online is less than the cost of publishing those items in a newspaper.
- In a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website after making a determination at a public hearing that has been noticed in a newspaper, as provided by law, that online publication:
 - Is in the public interest;
 - The cost of publishing is less expensive than newspaper publication; and
 - Will not, after taking into account the level of Internet access in the county, unreasonably restrict public access to advertisements and legal notices.

¹² Section 83.806(4), F.S.

¹³ Section 83.806(4)(c), F.S.

¹⁴ Section 83.806(4)(b), F.S.

¹⁵ The sale or disposition may not occur until at least 15 days after first publication.

¹⁶ “Governmental agency” means a county, municipality, school board, or other unit of local government or political subdivision of this state.

¹⁷ A “publicly accessible website” means a governmental agency’s official website or other private website designated by the governmental agency for the posting of legal notices and advertisements that is accessible via the Internet.

¹⁸ A “fiscally constrained county” means a county within a rural area of opportunity as designated by the Governor or a 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. According to the Department of Revenue, there are 29 fiscally constrained counties in the state. <https://floridarevenue.com/property/Documents/fcco081210.pdf>.

All advertisements and legal notices posted on a governmental agency's website must be in a searchable format.

The bill requires each governmental agency that uses a publicly accessible website to publish legally required advertisements and public notices to publish notice at least once a year in a newspaper of general circulation, a newsletter or periodical, or other publication mailed and delivered to all residents and property owners in the government's jurisdiction, stating the resident and property owner may receive legally required notices or advertisements via first-class mail or e-mail by registration of their name, address, and e-mail address with the governmental agency. The governmental agency must maintain a registry of names, addresses, and e-mail addresses of residents and property owners who request in writing to receive legally required advertisements and notices from the governmental agency by first-class mail or e-mail.

The bill requires any legally required notices and advertisements published on the governmental agency's publicly accessible website to be placed conspicuously on the website's homepage or made accessible through a direct link on the homepage. The homepage or linked page must indicate the date on which the advertisement was first published.

The bill authorizes a governmental agency operating a governmental access channel to include a summary of all advertisements and public notices published on its website on the channel.

The bill revises the criteria a newspaper must meet to be eligible to publish advertisements and legal notices, allowing a governmental agency to publish advertisements and notices in a free newspaper.

The bill makes conforming changes to other provisions requiring a governmental agency to publish a notice to allow for the publication of the notices and advertisements on a publicly accessible website. A notice published on a local government website must be published for the same period a printed notice would have been available to the public.¹⁹

The bill allows the operator of a self-service storage facility or a self-contained storage unit to publish notice for 14 consecutive days on a public website customarily used for conducting personal property auctions in lieu of publication in a newspaper of general circulation.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁹ *E.g.*, if a printed notice must be published at least 30 days before a meeting is held, a notice available on the local government website must be posted and retained on the website for at least 30 days before the meeting is held.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill will likely reduce revenue for newspapers due to the elimination of the print publishing requirements for legal notices and advertisements. The bill may also reduce publication costs that may be borne by members of the public to the extent that those costs would otherwise be passed on by a government agency to the member of the public.

C. Government Sector Impact:

Indeterminate. The bill may significantly reduce a governmental agency's cost to publish legal notices and advertisements in a newspaper. However, if those governmental agencies ultimately recover the costs of publishing the legal notices, for example, by passing the cost on to the person benefitting from the publication, then the governmental agency's expenses might not likely be as substantially different. For example, a governmental entity pays the initial cost of publishing a delinquent tax notice. However, when the delinquent tax is paid, the person paying those taxes is assessed the costs of advertising as well as other fees related to the taxes due on the property.

VI. Technical Deficiencies:

There is an incorrect cross-reference on line 157 of the bill. The cross-reference is currently drafted to "s. 50.11" but should be drafted to "s. 50.011".

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 50.011, 50.021, 50.0211, 50.031, 50.0311, 50.041, 50.051, 50.0711, 83.806, 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09, and 932.704

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

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

None.

B. Amendments:

None.

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



190756

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/12/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gruters) recommended the following:

Senate Amendment

Delete line 157

and insert:

under s. 50.011, the term "publicly accessible website"

means a

By Senator Gruters

23-00673A-20

20201340__

1 A bill to be entitled
2 An act relating to legal notices; amending s. 50.011,
3 F.S.; providing for the publication of legal notices
4 on certain publicly accessible websites; amending ss.
5 50.021, 50.0211, and 50.031, F.S.; conforming
6 provisions to changes made by the act; creating s.
7 50.0311, F.S.; providing definitions; allowing a
8 governmental agency to publish legal notices on a
9 publicly accessible website under certain
10 circumstances; providing criteria for website
11 publication; authorizing a fiscally constrained county
12 to use a publicly accessible website to publish
13 legally required advertisements and public notices
14 only if certain requirements are met; requiring a
15 governmental agency to provide specified notice to
16 certain residents and property owners relating to
17 alternative methods of receiving legal notices;
18 authorizing a governmental agency to publish certain
19 public notices and advertisements on its governmental
20 access channels; amending s. 50.041, F.S.; removing
21 provisions relating to the publication of legal
22 notices in newspapers; amending s. 50.051, F.S.;
23 revising a form for affidavits of publication;
24 amending s. 50.0711, F.S.; revising provisions
25 relating to the use of court docket funds; amending s.
26 83.806, F.S.; providing that an advertisement of a
27 sale or disposition of property may be published on
28 certain websites for a specified time period; amending
29 ss. 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12,

23-00673A-20

20201340__

30 166.041, 189.015, 190.005, 190.046, 194.037, 197.402,
 31 200.065, 338.223, 348.0308, 348.635, 348.7605,
 32 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09,
 33 and 932.704; conforming provisions to changes made by
 34 the act; providing an effective date.

35

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

37

38 Section 1. Section 50.011, Florida Statutes, is amended to
 39 read:

40 50.011 Publication of ~~Where and in what language~~ legal
 41 notices ~~to be published.~~ Whenever by statute an official or
 42 legal advertisement or a publication, or notice in a newspaper
 43 or governmental agency website has been or is directed or
 44 permitted in the nature of or in lieu of process, or for
 45 constructive service, or in initiating, assuming, reviewing,
 46 exercising or enforcing jurisdiction or power, or for any
 47 purpose, including all legal notices and advertisements of
 48 sheriffs and tax collectors, the contemporaneous and continuous
 49 intent and meaning of such legislation all and singular,
 50 existing or repealed, is and has been and is hereby declared to
 51 be and to have been, and the rule of interpretation is and has
 52 been the following:

53 (1) A publication in a newspaper printed and published
 54 periodically at least once a week ~~or oftener~~, containing at
 55 least 25 percent of its words in the English language, entered
 56 or qualified to be admitted and entered as periodicals matter at
 57 a post office in the county where published, ~~for sale to the~~
 58 ~~public generally,~~ available to the public generally for the

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59 publication of official or other notices and customarily
60 containing information of a public character or of interest or
61 of value to the residents or owners of property in the county
62 where published, or of interest or of value to the general
63 public; or

64 (2) On a publicly accessible website pursuant to s.
65 50.0311.

66 Section 2. Section 50.021, Florida Statutes, is amended to
67 read:

68 50.021 Publication when no newspaper in county.—When any
69 law, or order or decree of court, directs ~~shall direct~~
70 advertisements to be made in a any county and there is ~~be~~ no
71 newspaper published in the ~~said~~ county, the advertisement may be
72 posted on a publicly accessible website as provided in s.
73 50.0311 or made by posting three copies thereof in three
74 different places in the ~~said~~ county, one of which shall be at
75 the front door of the courthouse, and by publication in the
76 nearest county in which a newspaper is published.

77 Section 3. Subsections (2) and (3) of section 50.0211,
78 Florida Statutes, are amended to read:

79 50.0211 Internet website publication.—

80 (2) If a governmental agency publishes a legal notice in a
81 newspaper, each legal notice must be posted on the newspaper's
82 website on the same day that the printed notice appears in the
83 newspaper, at no additional charge, in a separate web page
84 titled "Legal Notices," "Legal Advertising," or comparable
85 identifying language. A link to the legal notices web page shall
86 be provided on the front page of the newspaper's website that
87 provides access to the legal notices. If there is a specified

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88 size and placement required for a printed legal notice, the size
89 and placement of the notice on the newspaper's website must
90 optimize its online visibility in keeping with the print
91 requirements. The newspaper's web pages that contain legal
92 notices must present the legal notices as the dominant and
93 leading subject matter of those pages. The newspaper's website
94 must contain a search function to facilitate searching the legal
95 notices. A fee may not be charged, and registration may not be
96 required, for viewing or searching legal notices on a
97 newspaper's website if the legal notice is published in a
98 newspaper.

99 (3) (a) If a legal notice is published in a newspaper, the
100 newspaper publishing the notice shall place the notice on the
101 statewide website established and maintained as an initiative of
102 the Florida Press Association as a repository for such notices
103 located at the following address: www.floridapublicnotices.com.

104 (b) A legal notice placed on the statewide website created
105 under this subsection must be:

- 106 1. Accessible and searchable by party name and case number.
- 107 2. Posted for a period of at least 90 consecutive days
108 after the first day of posting.

109 (c) The statewide website created under this subsection
110 shall maintain a searchable archive of all legal notices posted
111 on the publicly accessible website ~~on or after October 1, 2014,~~
112 for 18 months after the first day of posting. Such searchable
113 archive shall be provided and accessible to the general public
114 without charge.

115 Section 4. Section 50.031, Florida Statutes, is amended to
116 read:

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117 50.031 Newspapers in which legal notices and process may be
118 published.—If a governmental agency publishes a legal notice in
119 a newspaper, no notice or publication required to be published
120 ~~in a newspaper~~ in the nature of or in lieu of process of any
121 kind, nature, character or description provided for under any
122 law of the state, whether heretofore or hereafter enacted, and
123 whether pertaining to constructive service, or the initiating,
124 assuming, reviewing, exercising or enforcing jurisdiction or
125 power, by any court in this state, or any notice of sale of
126 property, real or personal, for taxes, state, county or
127 municipal, or sheriff's, guardian's or administrator's or any
128 sale made pursuant to any judicial order, decree or statute or
129 any other publication or notice pertaining to any affairs of the
130 state, or any county, municipality or other political
131 subdivision thereof, shall be deemed to have been published in
132 accordance with the statutes providing for such publication,
133 unless the same shall have been published for the prescribed
134 period of time required for such publication, in a newspaper
135 which at the time of such publication shall have been in
136 existence for 1 year and shall have been entered as periodicals
137 matter at a post office in the county where published, or in a
138 newspaper which is a direct successor of a newspaper which
139 together have been so published; provided, however, that nothing
140 herein contained shall apply where in any county there shall be
141 no newspaper in existence which shall have been published for
142 the length of time above prescribed. No legal publication of any
143 kind, nature or description, as herein defined, shall be valid
144 or binding or held to be in compliance with the statutes
145 providing for such publication unless the same shall have been

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146 published in accordance with the provisions of this section or
147 s. 50.0311. Proof of such publication shall be made by uniform
148 affidavit.

149 Section 5. Section 50.0311, Florida Statutes, is created to
150 read:

151 50.0311 Publication of advertisements and public notices on
152 a publicly accessible website and governmental access channels.-

153 (1) For purposes of this chapter, "governmental agency"
154 means a county, municipality, school board, or other unit of
155 local government or political subdivision in this state.

156 (2) For purposes of notices and advertisements required
157 under s. 50.11, the term "publicly accessible website" means a
158 governmental agency's official website or other private website
159 designated by the governmental agency for the posting of legal
160 notices and advertisements that is accessible via the Internet.
161 All advertisements and public notices published on a website as
162 provided in this chapter must be in searchable form.

163 (3) "Fiscally constrained county" means a county within a
164 rural area of opportunity as designated by the Governor pursuant
165 to s. 288.0656 or a county for which the value of a mill will
166 raise no more than \$5 million in revenue, based on the certified
167 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
168 from the previous July 1.

169 (4) A governmental agency in a county that is not a
170 fiscally constrained county may use a publicly accessible
171 website to publish legally required advertisements and public
172 notices if the cost of publishing advertisements and public
173 notices on a website is less than the cost of publishing
174 advertisements and public notices in a newspaper.

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175 (5) A governmental agency in a fiscally constrained county
176 may use a publicly accessible website to publish legally
177 required advertisements and public notices only if the
178 governmental agency, after a public hearing that has been
179 noticed in a newspaper as provided in this chapter, makes a
180 determination of the following:

181 (a) Publishing advertisements and public notices on a
182 publicly accessible website is in the public interest.

183 (b) The cost of publishing advertisements and public
184 notices on a publicly accessible website is less than the cost
185 of publishing advertisements and public notices in a newspaper.

186 (c) The residents of the county have sufficient access to
187 the Internet by broadband service as defined in s. 364.02(2) or
188 any other means such that publishing advertisements and public
189 notices on a publicly accessible website will not unreasonably
190 restrict public access.

191 (6) A governmental agency shall provide notice at least
192 once per year in a newspaper of general circulation or another
193 publication that is mailed or delivered to all residents and
194 property owners throughout the government's jurisdiction,
195 indicating that property owners and residents may receive
196 legally required advertisements and public notices from the
197 government agency by first-class mail or e-mail upon registering
198 their name and address or e-mail address with the governmental
199 agency. The governmental agency shall maintain a registry of
200 names, addresses, and e-mail addresses of property owners and
201 residents who request in writing that they receive legally
202 required advertisements and public notices from the governmental
203 agency by first-class mail or e-mail.

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204 (7) A link to advertisements and public notices published
205 on a publicly accessible website shall be conspicuously placed
206 on the website's homepage or accessible through a direct link
207 from the homepage. Each advertisement or public notice shall
208 indicate the date on which the advertisement or public notice
209 was first published on the publicly accessible website.

210 (8) A governmental agency that has a governmental access
211 channel authorized under s. 610.109 may also include on its
212 governmental access channel a summary of all advertisements and
213 public notices that are posted on its publicly accessible
214 website.

215 Section 6. Section 50.041, Florida Statutes, is amended to
216 read:

217 50.041 Proof of publication; uniform affidavits required.-

218 (1) All affidavits ~~of publishers of newspapers (or their~~
219 ~~official representatives)~~ made for the purpose of establishing
220 proof of publication of public notices or legal advertisements
221 shall be uniform throughout the state.

222 (2) Each such affidavit shall be printed upon white paper
223 and shall be 8 1/2 inches in width and of convenient length, not
224 less than 5 1/2 inches. A white margin of not less than 2 1/2
225 inches shall be left at the right side of each affidavit form
226 and upon or in this space shall be substantially pasted a
227 clipping which shall be a true copy of the public notice or
228 legal advertisement for which proof is executed. Alternatively,
229 the affidavit may be provided in electronic rather than paper
230 form, provided the notarization of the affidavit complies with
231 the requirements of s. 117.021.

232 (3) ~~In all counties having a population in excess of~~

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233 ~~450,000 according to the latest official decennial census, in~~
 234 ~~addition to the charges which are now or may hereafter be~~
 235 ~~established by law for the publication of every official notice~~
 236 ~~or legal advertisement,~~ There may be a charge not to exceed \$2
 237 levied for the preparation and execution of each such proof of
 238 publication or ~~publisher's~~ affidavit.

239 Section 7. Section 50.051, Florida Statutes, is amended to
 240 read:

241 50.051 Proof of publication; form of uniform affidavit.—The
 242 printed form upon which all such affidavits establishing proof
 243 of publication are to be executed shall be substantially as
 244 follows:

245 NAME OF COUNTY NEWSPAPER
 246 Published ~~(Weekly or Daily)~~
 247 ~~(Town or City)~~ (County) FLORIDA

248 STATE OF FLORIDA
 249 COUNTY OF :

250 Before the undersigned authority personally appeared ,
 251 who on oath says that he or she is of ~~the , a~~
 252 ~~newspaper published at in County, Florida;~~ that the
 253 attached copy of advertisement, being a in the matter of
 254 in the Court, was published on the publicly accessible
 255 website of the governmental agency or in a ~~said~~ newspaper. ~~in~~
 256 ~~the issues of~~

257 Affiant further says that the website or newspaper complies
 258 with all legal requirements for publication in chapter 50,
 259 Florida Statutes ~~said is a newspaper published at , in~~
 260 ~~said County, Florida, and that the said newspaper has~~
 261 ~~heretofore been continuously published in said County,~~

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262 ~~Florida, each and has been entered as periodicals matter at~~
 263 ~~the post office in, in said County, Florida, for a~~
 264 ~~period of 1 year next preceding the first publication of the~~
 265 ~~attached copy of advertisement; and affiant further says that he~~
 266 ~~or she has neither paid nor promised any person, firm or~~
 267 ~~corporation any discount, rebate, commission or refund for the~~
 268 ~~purpose of securing this advertisement for publication in the~~
 269 ~~said newspaper.~~

270 Sworn to and subscribed before me this day of,
 271 ... (year) ..., by, who is personally known to me or who has
 272 produced (type of identification) as identification.

273 ... (Signature of Notary Public) ...

274 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

275 ... (Notary Public) ...

276 Section 8. Section 50.0711, Florida Statutes, is amended to
 277 read:

278 50.0711 Court docket fund; service charges; publications.-

279 (1) The clerk of the court in each county may establish a
 280 court docket fund for the purpose of paying the cost of
 281 publication of the fact of the filing of any civil case in the
 282 circuit court of the county by the style and of the calendar
 283 relating to such cases. This court docket fund shall be funded
 284 by \$1 mandatory court cost for all civil actions, suits, or
 285 proceedings filed in the circuit court of the county. The clerk
 286 shall maintain such funds separate and apart, and the proceeds
 287 from this court cost shall not be diverted to any other fund or
 288 for any purpose other than that established in this section. The
 289 clerk of the court shall dispense the fund to the designated
 290 publicly accessible website publisher or record newspaper in the

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291 county on a quarterly basis.

292 (2) If a judicial circuit publishes legal notices in a
293 newspaper, a newspaper qualified under the terms of s. 50.011
294 shall be designated as the record newspaper for such publication
295 by an order of the majority of the judges in the judicial
296 circuit in which such county is located, and such order shall be
297 filed and recorded with the clerk of the circuit court for such
298 county. The designated record newspaper may be changed at the
299 end of any fiscal year of the county by a majority vote of the
300 judges of the judicial circuit of the county ordering such
301 change 30 days prior to the end of the fiscal year, notice of
302 which order shall be given to the previously designated record
303 newspaper.

304 (3) The publicly accessible website publisher or publishers
305 of any designated record newspapers receiving payment from this
306 court docket fund shall publish, without additional charge, the
307 fact of the filing of any civil case, suit, or action filed in
308 such county in the circuit. Such publication shall be in
309 accordance with a schedule agreed upon between the website
310 publisher or record newspaper and the clerk of the court in such
311 county.

312 (4) The publicly accessible website publisher or publishers
313 of any designated record newspapers receiving revenues from the
314 court docket fund established in subsection (1) shall, without
315 charge, accept legal advertisements for the purpose of service
316 of process by publication under s. 49.011(4), (10), and (11)
317 when such publication is required of persons authorized to
318 proceed as indigent persons under s. 57.081.

319 Section 9. Subsection (4) of section 83.806, Florida

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320 Statutes, is amended to read:

321 83.806 Enforcement of lien.—An owner's lien as provided in
322 s. 83.805 may be satisfied as follows:

323 (4) After the expiration of the time given in the notice,
324 an advertisement of the sale or other disposition shall be
325 published once a week for 2 consecutive weeks in a newspaper of
326 general circulation in the area where the self-service storage
327 facility or self-contained storage unit is located or published
328 continuously for 14 consecutive days on a public website that
329 customarily conducts personal property auctions.

330 (a) A lien sale may be conducted on a public website that
331 customarily conducts personal property auctions. The facility or
332 unit owner is not required to hold a license to post property
333 for online sale. Inasmuch as any sale may involve property of
334 more than one tenant, a single advertisement may be used to
335 dispose of property at any one sale.

336 (b) The advertisement shall include:

337 1. A brief and general description of what is believed to
338 constitute the personal property contained in the storage unit,
339 as provided in paragraph (2) (b).

340 2. The address of the self-service storage facility or the
341 address where the self-contained storage unit is located and the
342 name of the tenant.

343 3. The time, place, and manner of the sale or other
344 disposition. The sale or other disposition shall take place at
345 least 15 days after the first publication.

346 (c) If there is no newspaper of general circulation in the
347 area where the self-service storage facility or self-contained
348 storage unit is located, the advertisement shall be posted at

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349 least 10 days before the date of the sale or other disposition
350 in at least three conspicuous places in the neighborhood where
351 the self-service storage facility or self-contained storage unit
352 is located or published continuously for 14 consecutive days on
353 a public website that customarily conducts personal property
354 auctions.

355 Section 10. Section 11.02, Florida Statutes, is amended to
356 read:

357 11.02 Notice of special or local legislation or certain
358 relief acts.—The notice required to obtain special or local
359 legislation or any relief act specified in s. 11.065 shall be by
360 publishing the identical notice ~~in each county involved in some~~
361 ~~newspaper~~ as provided ~~defined~~ in chapter 50 ~~published in or~~
362 ~~circulated throughout the county or counties where the matter or~~
363 ~~thing to be affected by such legislation shall be situated one~~
364 ~~time at least 30 days before introduction of the proposed law~~
365 ~~into the Legislature or, if the notice is not posted on a~~
366 publicly accessible website as provided in chapter 50 and there
367 ~~being no newspaper circulated throughout or published in the~~
368 ~~county, by posting for at least 30 days at not less than three~~
369 ~~public places in the county or each of the counties, one of~~
370 ~~which places shall be at the courthouse in the county or~~
371 ~~counties where the matter or thing to be affected by such~~
372 ~~legislation shall be situated. Notice of special or local~~
373 ~~legislation shall state the substance of the contemplated law,~~
374 ~~as required by s. 10, Art. III of the State Constitution. Notice~~
375 ~~of any relief act specified in s. 11.065 shall state the name of~~
376 ~~the claimant, the nature of the injury or loss for which the~~
377 ~~claim is made, and the amount of the claim against the affected~~

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378 municipality's revenue-sharing trust fund.

379 Section 11. Subsection (2) of section 45.031, Florida
380 Statutes, is amended to read:

381 45.031 Judicial sales procedure.—In any sale of real or
382 personal property under an order or judgment, the procedures
383 provided in this section and ss. 45.0315-45.035 may be followed
384 as an alternative to any other sale procedure if so ordered by
385 the court.

386 (2) PUBLICATION OF SALE.—Notice of sale shall be published
387 on a publicly accessible website for at least 2 consecutive
388 weeks before the sale or once a week for 2 consecutive weeks in
389 a newspaper of general circulation, ~~as provided defined~~ in
390 chapter 50, published in the county where the sale is to be
391 held. The second publication by newspaper shall be at least 5
392 days before the sale. The notice shall contain:

393 (a) A description of the property to be sold.

394 (b) The time and place of sale.

395 (c) A statement that the sale will be made pursuant to the
396 order or final judgment.

397 (d) The caption of the action.

398 (e) The name of the clerk making the sale.

399 (f) A statement that any person claiming an interest in the
400 surplus from the sale, if any, other than the property owner as
401 of the date of the lis pendens must file a claim before the
402 clerk reports the surplus as unclaimed.

403

404 The court, in its discretion, may enlarge the time of the sale.

405 Notice of the changed time of sale shall be published as
406 provided herein.

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407 Section 12. Subsection (2) of section 121.0511, Florida
408 Statutes, is amended to read:

409 121.0511 Revocation of election and alternative plan.—The
410 governing body of any municipality or independent special
411 district that has elected to participate in the Florida
412 Retirement System may revoke its election in accordance with the
413 following procedure:

414 (2) At least 7 days, but not more than 15 days, before the
415 hearing, notice of intent to revoke, specifying the time and
416 place of the hearing, must be published as provided in chapter
417 50 ~~in a newspaper of general circulation in the area affected,~~
418 ~~as provided by ss. 50.011-50.031.~~ Proof of publication of the
419 notice must be submitted to the Department of Management
420 Services.

421 Section 13. Paragraphs (b) and (h) of subsection (1) of
422 section 121.055, Florida Statutes, are amended to read:

423 121.055 Senior Management Service Class.—There is hereby
424 established a separate class of membership within the Florida
425 Retirement System to be known as the "Senior Management Service
426 Class," which shall become effective February 1, 1987.

427 (1)

428 (b)1. Except as provided in subparagraph 2., effective
429 January 1, 1990, participation in the Senior Management Service
430 Class is compulsory for the president of each community college,
431 the manager of each participating municipality or county, and
432 all appointed district school superintendents. Effective January
433 1, 1994, additional positions may be designated for inclusion in
434 the Senior Management Service Class if:

435 a. Positions to be included in the class are designated by

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436 the local agency employer. Notice of intent to designate
437 positions for inclusion in the class must be published for at
438 least 2 consecutive weeks if published on a publicly accessible
439 website or once a week for 2 consecutive weeks in a newspaper of
440 general circulation published in the county or counties
441 affected, as provided in chapter 50.

442 b. Up to 10 nonelective full-time positions may be
443 designated for each local agency employer reporting to the
444 department; for local agencies with 100 or more regularly
445 established positions, additional nonelective full-time
446 positions may be designated, not to exceed 1 percent of the
447 regularly established positions within the agency.

448 c. Each position added to the class must be a managerial or
449 policymaking position filled by an employee who is not subject
450 to continuing contract and serves at the pleasure of the local
451 agency employer without civil service protection, and who:

452 (I) Heads an organizational unit; or

453 (II) Has responsibility to effect or recommend personnel,
454 budget, expenditure, or policy decisions in his or her areas of
455 responsibility.

456 2. In lieu of participation in the Senior Management
457 Service Class, members of the Senior Management Service Class,
458 pursuant to subparagraph 1., may withdraw from the Florida
459 Retirement System altogether. The decision to withdraw from the
460 system is irrevocable as long as the employee holds the
461 position. Any service creditable under the Senior Management
462 Service Class shall be retained after the member withdraws from
463 the system; however, additional service credit in the Senior
464 Management Service Class may not be earned after such

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465 withdrawal. Such members are not eligible to participate in the
466 Senior Management Service Optional Annuity Program.

467 3. Effective January 1, 2006, through June 30, 2006, an
468 employee who has withdrawn from the Florida Retirement System
469 under subparagraph 2. has one opportunity to elect to
470 participate in the pension plan or the investment plan.

471 a. If the employee elects to participate in the investment
472 plan, membership shall be prospective, and the applicable
473 provisions of s. 121.4501(4) govern the election.

474 b. If the employee elects to participate in the pension
475 plan, the employee shall, upon payment to the system trust fund
476 of the amount calculated under sub-sub-subparagraph (I), receive
477 service credit for prior service based upon the time during
478 which the employee had withdrawn from the system.

479 (I) The cost for such credit shall be an amount
480 representing the actuarial accrued liability for the affected
481 period of service. The cost shall be calculated using the
482 discount rate and other relevant actuarial assumptions that were
483 used to value the pension plan liabilities in the most recent
484 actuarial valuation. The calculation must include any service
485 already maintained under the pension plan in addition to the
486 period of withdrawal. The actuarial accrued liability
487 attributable to any service already maintained under the pension
488 plan shall be applied as a credit to the total cost resulting
489 from the calculation. The division must ensure that the transfer
490 sum is prepared using a formula and methodology certified by an
491 actuary.

492 (II) The employee must transfer a sum representing the net
493 cost owed for the actuarial accrued liability in sub-sub-

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494 subparagraph (I) immediately following the time of such
495 movement, determined assuming that attained service equals the
496 sum of service in the pension plan and the period of withdrawal.

497 (h)1. Except as provided in subparagraph 3., effective
498 January 1, 1994, participation in the Senior Management Service
499 Class shall be compulsory for the State Courts Administrator and
500 the Deputy State Courts Administrators, the Clerk of the Supreme
501 Court, the Marshal of the Supreme Court, the Executive Director
502 of the Justice Administrative Commission, the capital collateral
503 regional counsel, the clerks of the district courts of appeals,
504 the marshals of the district courts of appeals, and the trial
505 court administrator and the Chief Deputy Court Administrator in
506 each judicial circuit. Effective January 1, 1994, additional
507 positions in the offices of the state attorney and public
508 defender in each judicial circuit may be designated for
509 inclusion in the Senior Management Service Class of the Florida
510 Retirement System, provided that:

511 a. Positions to be included in the class shall be
512 designated by the state attorney or public defender, as
513 appropriate. Notice of intent to designate positions for
514 inclusion in the class shall be published for at least 2
515 consecutive weeks if published on a publicly accessible website
516 or once a week for 2 consecutive weeks in a newspaper of general
517 circulation published in the county or counties affected, as
518 provided in chapter 50.

519 b. One nonelective full-time position may be designated for
520 each state attorney and public defender reporting to the
521 Department of Management Services; for agencies with 200 or more
522 regularly established positions under the state attorney or

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523 public defender, additional nonelective full-time positions may
524 be designated, not to exceed 0.5 percent of the regularly
525 established positions within the agency.

526 c. Each position added to the class must be a managerial or
527 policymaking position filled by an employee who serves at the
528 pleasure of the state attorney or public defender without civil
529 service protection, and who:

530 (I) Heads an organizational unit; or

531 (II) Has responsibility to effect or recommend personnel,
532 budget, expenditure, or policy decisions in his or her areas of
533 responsibility.

534 2. Participation in this class shall be compulsory, except
535 as provided in subparagraph 3., for any judicial employee who
536 holds a position designated for coverage in the Senior
537 Management Service Class, and such participation shall continue
538 until the employee terminates employment in a covered position.
539 Effective January 1, 2001, participation in this class is
540 compulsory for assistant state attorneys, assistant statewide
541 prosecutors, assistant public defenders, and assistant capital
542 collateral regional counsel. Effective January 1, 2002,
543 participation in this class is compulsory for assistant
544 attorneys general.

545 3. In lieu of participation in the Senior Management
546 Service Class, such members, excluding assistant state
547 attorneys, assistant public defenders, assistant statewide
548 prosecutors, assistant attorneys general, and assistant capital
549 collateral regional counsel, may participate in the Senior
550 Management Service Optional Annuity Program as established in
551 subsection (6).

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552 Section 14. Paragraph (a) of subsection (2) and paragraph
553 (b) of subsection (4) of section 125.66, Florida Statutes, are
554 amended to read:

555 125.66 Ordinances; enactment procedure; emergency
556 ordinances; rezoning or change of land use ordinances or
557 resolutions.—

558 (2) (a) The regular enactment procedure shall be as follows:
559 The board of county commissioners at any regular or special
560 meeting may enact or amend any ordinance, except as provided in
561 subsection (4), if notice of intent to consider such ordinance
562 is given at least 10 days prior to said meeting by publication
563 as provided in chapter 50 ~~in a newspaper of general circulation~~
564 ~~in the county~~. A copy of such notice shall be kept available for
565 public inspection during the regular business hours of the
566 office of the clerk of the board of county commissioners. The
567 notice of proposed enactment shall state the date, time, and
568 place of the meeting; the title or titles of proposed
569 ordinances; and the place or places within the county where such
570 proposed ordinances may be inspected by the public. The notice
571 shall also advise that interested parties may appear at the
572 meeting and be heard with respect to the proposed ordinance.

573 (4) Ordinances or resolutions, initiated by other than the
574 county, that change the actual zoning map designation of a
575 parcel or parcels of land shall be enacted pursuant to
576 subsection (2). Ordinances or resolutions that change the actual
577 list of permitted, conditional, or prohibited uses within a
578 zoning category, or ordinances or resolutions initiated by the
579 county that change the actual zoning map designation of a parcel
580 or parcels of land shall be enacted pursuant to the following

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581 procedure:

582 (b) In cases in which the proposed ordinance or resolution
583 changes the actual list of permitted, conditional, or prohibited
584 uses within a zoning category, or changes the actual zoning map
585 designation of a parcel or parcels of land involving 10
586 contiguous acres or more, the board of county commissioners
587 shall provide for public notice and hearings as follows:

588 1. The board of county commissioners shall hold two
589 advertised public hearings on the proposed ordinance or
590 resolution. At least one hearing shall be held after 5 p.m. on a
591 weekday, unless the board of county commissioners, by a majority
592 plus one vote, elects to conduct that hearing at another time of
593 day. The first public hearing shall be held at least 7 days
594 after the day that the first advertisement is published. The
595 second hearing shall be held at least 10 days after the first
596 hearing and shall be advertised at least 5 days prior to the
597 public hearing.

598 2. If published in a newspaper, the required advertisements
599 shall be no less than 2 columns wide by 10 inches long in a
600 standard size or a tabloid size newspaper, and the headline in
601 the advertisement shall be in a type no smaller than 18 point.
602 The advertisement shall not be placed in that portion of the
603 newspaper where legal notices and classified advertisements
604 appear. The advertisement shall be placed in a newspaper ~~of~~
605 ~~general paid circulation~~ in the county and of general interest
606 and readership in the community pursuant to chapter 50, not one
607 of limited subject matter. It is the legislative intent that,
608 whenever possible, the advertisement shall appear in a newspaper
609 that is published at least weekly ~~5 days a week~~ unless the only

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610 newspaper in the community is published less than weekly ~~5 days~~
611 ~~a week~~. The advertisement shall be in substantially the
612 following form:

613 NOTICE OF (TYPE OF) CHANGE

614 The ...(name of local governmental unit)... proposes to
615 adopt the following by ordinance or resolution:... (title of
616 ordinance or resolution)....

617 A public hearing on the ordinance or resolution will be
618 held on ...(date and time)... at ...(meeting place)....

619 Except for amendments which change the actual list of permitted,
620 conditional, or prohibited uses within a zoning category, the
621 advertisement shall contain a geographic location map which
622 clearly indicates the area within the local government covered
623 by the proposed ordinance or resolution. The map shall include
624 major street names as a means of identification of the general
625 area. In addition to being published on a publicly accessible
626 website or in the newspaper, the map must be part of the online
627 notice required pursuant to s. 50.0211 or s. 50.0311.

628 3. In lieu of publishing the advertisements set out in this
629 paragraph, the board of county commissioners may mail a notice
630 to each person owning real property within the area covered by
631 the ordinance or resolution. Such notice shall clearly explain
632 the proposed ordinance or resolution and shall notify the person
633 of the time, place, and location of both public hearings on the
634 proposed ordinance or resolution.

635 Section 15. Paragraph (a) of subsection (2) of section
636 162.12, Florida Statutes, is amended to read:

637 162.12 Notices.—

638 (2) In addition to providing notice as set forth in

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639 subsection (1), at the option of the code enforcement board or
640 the local government, notice may be served by publication or
641 posting, as follows:

642 (a)1. Such notice shall be published for 4 consecutive
643 weeks on a publicly accessible website as provided in chapter 50
644 or once during each week for 4 consecutive weeks (four
645 publications being sufficient) in a newspaper of general
646 circulation in the county where the code enforcement board is
647 located. The newspaper shall meet such requirements as are
648 prescribed under chapter 50 for legal and official
649 advertisements.

650 2. Proof of publication shall be made as provided in ss.
651 50.041 and 50.051.

652 Section 16. Paragraph (c) of subsection (3) of section
653 166.041, Florida Statutes, is amended to read:

654 166.041 Procedures for adoption of ordinances and
655 resolutions.-

656 (3)

657 (c) Ordinances initiated by other than the municipality
658 that change the actual zoning map designation of a parcel or
659 parcels of land shall be enacted pursuant to paragraph (a).
660 Ordinances that change the actual list of permitted,
661 conditional, or prohibited uses within a zoning category, or
662 ordinances initiated by the municipality that change the actual
663 zoning map designation of a parcel or parcels of land shall be
664 enacted pursuant to the following procedure:

665 1. In cases in which the proposed ordinance changes the
666 actual zoning map designation for a parcel or parcels of land
667 involving less than 10 contiguous acres, the governing body

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668 shall direct the clerk of the governing body to notify by mail
669 each real property owner whose land the municipality will
670 redesignate by enactment of the ordinance and whose address is
671 known by reference to the latest ad valorem tax records. The
672 notice shall state the substance of the proposed ordinance as it
673 affects that property owner and shall set a time and place for
674 one or more public hearings on such ordinance. Such notice shall
675 be given at least 30 days prior to the date set for the public
676 hearing, and a copy of the notice shall be kept available for
677 public inspection during the regular business hours of the
678 office of the clerk of the governing body. The governing body
679 shall hold a public hearing on the proposed ordinance and may,
680 upon the conclusion of the hearing, immediately adopt the
681 ordinance.

682 2. In cases in which the proposed ordinance changes the
683 actual list of permitted, conditional, or prohibited uses within
684 a zoning category, or changes the actual zoning map designation
685 of a parcel or parcels of land involving 10 contiguous acres or
686 more, the governing body shall provide for public notice and
687 hearings as follows:

688 a. The local governing body shall hold two advertised
689 public hearings on the proposed ordinance. At least one hearing
690 shall be held after 5 p.m. on a weekday, unless the local
691 governing body, by a majority plus one vote, elects to conduct
692 that hearing at another time of day. The first public hearing
693 shall be held at least 7 days after the day that the first
694 advertisement is published. The second hearing shall be held at
695 least 10 days after the first hearing and shall be advertised at
696 least 5 days prior to the public hearing.

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697 b. If published in a newspaper, the required advertisements
 698 shall be no less than 2 columns wide by 10 inches long in a
 699 standard size or a tabloid size newspaper, and the headline in
 700 the advertisement shall be in a type no smaller than 18 point.
 701 The advertisement shall not be placed in that portion of the
 702 newspaper where legal notices and classified advertisements
 703 appear. The advertisement shall be placed in a newspaper ~~of~~
 704 ~~general paid circulation~~ in the municipality and of general
 705 interest and readership in the municipality, not one of limited
 706 subject matter, pursuant to chapter 50. It is the legislative
 707 intent that, whenever possible, the advertisement appear in a
 708 newspaper that is published at least weekly ~~5 days a week~~ unless
 709 the only newspaper in the municipality is published less than
 710 weekly ~~5 days a week~~. The advertisement shall be in
 711 substantially the following form:

712 NOTICE OF (TYPE OF) CHANGE

713 The ...(name of local governmental unit)... proposes to
 714 adopt the following ordinance:... (title of the ordinance)....

715 A public hearing on the ordinance will be held on ...(date
 716 and time)... at ...(meeting place)....

717 Except for amendments which change the actual list of permitted,
 718 conditional, or prohibited uses within a zoning category, the
 719 advertisement shall contain a geographic location map which
 720 clearly indicates the area covered by the proposed ordinance.
 721 The map shall include major street names as a means of
 722 identification of the general area. If ~~In addition to being~~
 723 published in the newspaper, the map must also be part of the
 724 online notice required pursuant to s. 50.0211 or s. 50.0311.

725 c. In lieu of publishing the advertisement set out in this

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726 paragraph, the municipality may mail a notice to each person
727 owning real property within the area covered by the ordinance.
728 Such notice shall clearly explain the proposed ordinance and
729 shall notify the person of the time, place, and location of any
730 public hearing on the proposed ordinance.

731 Section 17. Subsection (1) of section 189.015, Florida
732 Statutes, is amended to read:

733 189.015 Meetings; notice; required reports.-

734 (1) The governing body of each special district shall file
735 quarterly, semiannually, or annually a schedule of its regular
736 meetings with the local governing authority or authorities. The
737 schedule shall include the date, time, and location of each
738 scheduled meeting. The schedule shall be published quarterly,
739 semiannually, or annually ~~in a newspaper of general paid~~
740 ~~circulation~~ in the manner required in this subsection. The
741 governing body of an independent special district shall
742 advertise the day, time, place, and purpose of any meeting other
743 than a regular meeting or any recessed and reconvened meeting of
744 the governing body, at least 7 days before such meeting as
745 provided in chapter 50, in a newspaper of general paid
746 ~~circulation in the county or counties in which the special~~
747 ~~district is located,~~ unless a bona fide emergency situation
748 exists, in which case a meeting to deal with the emergency may
749 be held as necessary, with reasonable notice, so long as it is
750 subsequently ratified by the governing body. No approval of the
751 annual budget shall be granted at an emergency meeting. The
752 notice shall be posted as provided in ~~advertisement shall be~~
753 ~~placed in that portion of the newspaper where legal notices and~~
754 ~~classified advertisements appear. The advertisement shall appear~~

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755 ~~in a newspaper that is published at least 5 days a week, unless~~
756 ~~the only newspaper in the county is published fewer than 5 days~~
757 ~~a week. The newspaper selected must be one of general interest~~
758 ~~and readership in the community and not one of limited subject~~
759 ~~matter, pursuant to chapter 50. Any other provision of law to~~
760 ~~the contrary notwithstanding, and except in the case of~~
761 ~~emergency meetings, water management districts may provide~~
762 ~~reasonable notice of public meetings held to evaluate responses~~
763 ~~to solicitations issued by the water management district, by~~
764 ~~publication as provided in chapter 50 on a publicly accessible~~
765 ~~website or in a newspaper ~~of general paid circulation~~ in the~~
766 ~~county where the principal office of the water management~~
767 ~~district is located, or in the county or counties where the~~
768 ~~public work will be performed, no less than 7 days before such~~
769 ~~meeting.~~

770 Section 18. Paragraph (d) of subsection (1) of section
771 190.005, Florida Statutes, is amended to read:

772 190.005 Establishment of district.—

773 (1) The exclusive and uniform method for the establishment
774 of a community development district with a size of 2,500 acres
775 or more shall be pursuant to a rule, adopted under chapter 120
776 by the Florida Land and Water Adjudicatory Commission, granting
777 a petition for the establishment of a community development
778 district.

779 (d) A local public hearing on the petition shall be
780 conducted by a hearing officer in conformance with the
781 applicable requirements and procedures of the Administrative
782 Procedure Act. The hearing shall include oral and written
783 comments on the petition pertinent to the factors specified in

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784 paragraph (e). The hearing shall be held at an accessible
785 location in the county in which the community development
786 district is to be located. The petitioner shall cause a notice
787 of the hearing to be published for 4 successive weeks on a
788 publicly accessible website or in a newspaper at least once a
789 week for the 4 successive weeks immediately prior to the hearing
790 as provided in chapter 50. Such notice shall give the time and
791 place for the hearing, a description of the area to be included
792 in the district, which description shall include a map showing
793 clearly the area to be covered by the district, and any other
794 relevant information which the establishing governing bodies may
795 require. If published in a newspaper, the advertisement shall
796 not be placed in that portion of the newspaper where legal
797 notices and classified advertisements appear. The advertisement
798 shall be published in a newspaper ~~of general paid circulation~~ in
799 the county and of general interest and readership in the
800 community, not one of limited subject matter, pursuant to
801 chapter 50. Whenever possible, the advertisement shall appear in
802 a newspaper that is published at least weekly ~~5 days a week,~~
803 unless the only newspaper in the community is published less
804 than weekly ~~fewer than 5 days a week~~. ~~If~~ ~~In addition to being~~
805 published in the newspaper, the map referenced above must also
806 be part of the online advertisement required pursuant to s.
807 50.0211 or s. 50.0311. All affected units of general-purpose
808 local government and the general public shall be given an
809 opportunity to appear at the hearing and present oral or written
810 comments on the petition.

811 Section 19. Paragraph (h) of subsection (1) of section
812 190.046, Florida Statutes, is amended to read:

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813 190.046 Termination, contraction, or expansion of
814 district.—

815 (1) A landowner or the board may petition to contract or
816 expand the boundaries of a community development district in the
817 following manner:

818 (h) For a petition to establish a new community development
819 district of less than 2,500 acres on land located solely in one
820 county or one municipality, sufficiently contiguous lands
821 located within the county or municipality which the petitioner
822 anticipates adding to the boundaries of the district within 10
823 years after the effective date of the ordinance establishing the
824 district may also be identified. If such sufficiently contiguous
825 land is identified, the petition must include a legal
826 description of each additional parcel within the sufficiently
827 contiguous land, the current owner of the parcel, the acreage of
828 the parcel, and the current land use designation of the parcel.
829 At least 14 days before the hearing required under s.
830 190.005(2)(b), the petitioner must give the current owner of
831 each such parcel notice of filing the petition to establish the
832 district, the date and time of the public hearing on the
833 petition, and the name and address of the petitioner. A parcel
834 may not be included in the district without the written consent
835 of the owner of the parcel.

836 1. After establishment of the district, a person may
837 petition the county or municipality to amend the boundaries of
838 the district to include a previously identified parcel that was
839 a proposed addition to the district before its establishment. A
840 filing fee may not be charged for this petition. Each such
841 petition must include:

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842 a. A legal description by metes and bounds of the parcel to
843 be added;

844 b. A new legal description by metes and bounds of the
845 district;

846 c. Written consent of all owners of the parcel to be added;

847 d. A map of the district including the parcel to be added;

848 e. A description of the development proposed on the
849 additional parcel; and

850 f. A copy of the original petition identifying the parcel
851 to be added.

852 2. Before filing with the county or municipality, the
853 person must provide the petition to the district and to the
854 owner of the proposed additional parcel, if the owner is not the
855 petitioner.

856 3. Once the petition is determined sufficient and complete,
857 the county or municipality must process the addition of the
858 parcel to the district as an amendment to the ordinance that
859 establishes the district. The county or municipality may process
860 all petitions to amend the ordinance for parcels identified in
861 the original petition, even if, by adding such parcels, the
862 district exceeds 2,500 acres.

863 4. The petitioner shall cause to be published in a
864 newspaper of general circulation in the proposed district a
865 notice of the intent to amend the ordinance that establishes the
866 district. The notice must be in addition to any notice required
867 for adoption of the ordinance amendment. Such notice must be
868 published as provided in chapter 50 at least 10 days before the
869 scheduled hearing on the ordinance amendment ~~and may be~~
870 ~~published in the section of the newspaper reserved for legal~~

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871 ~~notices~~. The notice must include a general description of the
872 land to be added to the district and the date and time of the
873 scheduled hearing to amend the ordinance. The petitioner shall
874 deliver, including by mail or hand delivery, the notice of the
875 hearing on the ordinance amendment to the owner of the parcel
876 and to the district at least 14 days before the scheduled
877 hearing.

878 5. The amendment of a district by the addition of a parcel
879 pursuant to this paragraph does not alter the transition from
880 landowner voting to qualified elector voting pursuant to s.
881 190.006, even if the total size of the district after the
882 addition of the parcel exceeds 5,000 acres. Upon adoption of the
883 ordinance expanding the district, the petitioner must cause to
884 be recorded a notice of boundary amendment which reflects the
885 new boundaries of the district.

886 6. This paragraph is intended to facilitate the orderly
887 addition of lands to a district under certain circumstances and
888 does not preclude the addition of lands to any district using
889 the procedures in the other provisions of this section.

890 Section 20. Subsection (1) of section 194.037, Florida
891 Statutes, is amended to read:

892 194.037 Disclosure of tax impact.—

893 (1) After hearing all petitions, complaints, appeals, and
894 disputes, the clerk shall make public notice of the findings and
895 results of the board as provided in chapter 50. If published in
896 a newspaper, the notice must be in at least a quarter-page size
897 advertisement of a standard size or tabloid size newspaper, and
898 the headline shall be in a type no smaller than 18 point. The
899 advertisement shall not be placed in that portion of the

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900 newspaper where legal notices and classified advertisements
901 appear. The advertisement shall be published in a newspaper ~~of~~
902 ~~general paid circulation~~ in the county. The newspaper selected
903 shall be one of general interest and readership in the
904 community, and not one of limited subject matter, pursuant to
905 chapter 50. For all advertisements published pursuant to this
906 section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT
907 BOARD. The public notice shall list the members of the value
908 adjustment board and the taxing authorities to which they are
909 elected. The form shall show, in columnar form, for each of the
910 property classes listed under subsection (2), the following
911 information, with appropriate column totals:

912 (a) In the first column, the number of parcels for which
913 the board granted exemptions that had been denied or that had
914 not been acted upon by the property appraiser.

915 (b) In the second column, the number of parcels for which
916 petitions were filed concerning a property tax exemption.

917 (c) In the third column, the number of parcels for which
918 the board considered the petition and reduced the assessment
919 from that made by the property appraiser on the initial
920 assessment roll.

921 (d) In the fourth column, the number of parcels for which
922 petitions were filed but not considered by the board because
923 such petitions were withdrawn or settled prior to the board's
924 consideration.

925 (e) In the fifth column, the number of parcels for which
926 petitions were filed requesting a change in assessed value,
927 including requested changes in assessment classification.

928 (f) In the sixth column, the net change in taxable value

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929 from the assessor's initial roll which results from board
930 decisions.

931 (g) In the seventh column, the net shift in taxes to
932 parcels not granted relief by the board. The shift shall be
933 computed as the amount shown in column 6 multiplied by the
934 applicable millage rates adopted by the taxing authorities in
935 hearings held pursuant to s. 200.065(2) (d) or adopted by vote of
936 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State
937 Constitution, but without adjustment as authorized pursuant to
938 s. 200.065(6). If for any taxing authority the hearing has not
939 been completed at the time the notice required herein is
940 prepared, the millage rate used shall be that adopted in the
941 hearing held pursuant to s. 200.065(2) (c).

942 Section 21. Subsection (1) of section 197.402, Florida
943 Statutes, is amended to read:

944 197.402 Advertisement of real or personal property with
945 delinquent taxes.—

946 (1) If advertisements are required, the board of county
947 commissioners shall make such notice ~~select the newspaper~~ as
948 provided in chapter 50. The tax collector shall pay all
949 ~~newspaper~~ charges, and the proportionate cost of the
950 advertisements shall be added to the delinquent taxes collected.

951 Section 22. Subsection (3) of section 200.065, Florida
952 Statutes, is amended to read:

953 200.065 Method of fixing millage.—

954 (3) The advertisement shall be published as provided in
955 chapter 50. If the advertisement is published by newspaper, the
956 advertisement must be no less than one-quarter page in size of a
957 standard size or a tabloid size newspaper, and the headline in

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958 the advertisement shall be in a type no smaller than 18 point.
 959 The advertisement shall not be placed in that portion of the
 960 newspaper where legal notices and classified advertisements
 961 appear. The advertisement shall be published in a newspaper ~~of~~
 962 ~~general paid circulation~~ in the county or in a geographically
 963 limited insert of such newspaper. The geographic boundaries in
 964 which such insert is circulated shall include the geographic
 965 boundaries of the taxing authority. It is the legislative intent
 966 that, whenever possible, the advertisement appear in a newspaper
 967 that is published at least weekly ~~5 days a week~~ unless the only
 968 newspaper in the county is published less than weekly ~~5 days a~~
 969 ~~week~~, or that the advertisement appear in a geographically
 970 limited insert of such newspaper which insert is published
 971 throughout the taxing authority's jurisdiction at least twice
 972 each week. It is further the legislative intent that the
 973 newspaper selected be one of general interest and readership in
 974 the community and not one of limited subject matter, pursuant to
 975 chapter 50.

976 (a) For taxing authorities other than school districts
 977 which have tentatively adopted a millage rate in excess of 100
 978 percent of the rolled-back rate computed pursuant to subsection
 979 (1), the advertisement shall be in the following form:

980
 981 NOTICE OF PROPOSED TAX INCREASE
 982

983 The ...(name of the taxing authority)... has tentatively
 984 adopted a measure to increase its property tax levy.
 985 Last year's property tax levy:

986 A. Initially proposed tax levy.....\$XX,XXX,XXX

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987 B. Less tax reductions due to Value Adjustment Board and
988 other assessment changes.....(\$XX,XXX,XXX)

989 C. Actual property tax levy.....\$XX,XXX,XXX
990 This year's proposed tax levy.....\$XX,XXX,XXX

991 All concerned citizens are invited to attend a public
992 hearing on the tax increase to be held on ...(date and time)...
993 at ...(meeting place)....

994 A FINAL DECISION on the proposed tax increase and the
995 budget will be made at this hearing.

996

997 (b) In all instances in which the provisions of paragraph
998 (a) are inapplicable for taxing authorities other than school
999 districts, the advertisement shall be in the following form:

1000

1001 NOTICE OF BUDGET HEARING

1002

1003 The ...(name of taxing authority)... has tentatively
1004 adopted a budget for ...(fiscal year).... A public hearing to
1005 make a FINAL DECISION on the budget AND TAXES will be held on
1006 ...(date and time)... at ...(meeting place)....

1007

1008 (c) For school districts which have proposed a millage rate
1009 in excess of 100 percent of the rolled-back rate computed
1010 pursuant to subsection (1) and which propose to levy nonvoted
1011 millage in excess of the minimum amount required pursuant to s.
1012 1011.60(6), the advertisement shall be in the following form:

1013

1014 NOTICE OF PROPOSED TAX INCREASE

1015

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1016 The ...(name of school district)... will soon consider a
1017 measure to increase its property tax levy.

1018 Last year's property tax levy:

1019 A. Initially proposed tax levy.....\$XX,XXX,XXX

1020 B. Less tax reductions due to Value Adjustment Board and
1021 other assessment changes..... (\$XX,XXX,XXX)

1022 C. Actual property tax levy.....\$XX,XXX,XXX

1023 This year's proposed tax levy.....\$XX,XXX,XXX

1024 A portion of the tax levy is required under state law in
1025 order for the school board to receive \$...(amount A)... in state
1026 education grants. The required portion has ...(increased or
1027 decreased)... by ...(amount B)... percent and represents
1028 approximately ...(amount C)... of the total proposed taxes.

1029 The remainder of the taxes is proposed solely at the
1030 discretion of the school board.

1031 All concerned citizens are invited to a public hearing on
1032 the tax increase to be held on ...(date and time)... at
1033 ...(meeting place)....

1034 A DECISION on the proposed tax increase and the budget will
1035 be made at this hearing.

1036 1. AMOUNT A shall be an estimate, provided by the
1037 Department of Education, of the amount to be received in the
1038 current fiscal year by the district from state appropriations
1039 for the Florida Education Finance Program.

1040 2. AMOUNT B shall be the percent increase over the rolled-
1041 back rate necessary to levy only the required local effort in
1042 the current fiscal year, computed as though in the preceding
1043 fiscal year only the required local effort was levied.

1044 3. AMOUNT C shall be the quotient of required local-effort

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1045 millage divided by the total proposed nonvoted millage, rounded
 1046 to the nearest tenth and stated in words; however, the stated
 1047 amount shall not exceed nine-tenths.

1048
 1049 (d) For school districts which have proposed a millage rate
 1050 in excess of 100 percent of the rolled-back rate computed
 1051 pursuant to subsection (1) and which propose to levy as nonvoted
 1052 millage only the minimum amount required pursuant to s.
 1053 1011.60(6), the advertisement shall be the same as provided in
 1054 paragraph (c), except that the second and third paragraphs shall
 1055 be replaced with the following paragraph:

1056
 1057 This increase is required under state law in order for the
 1058 school board to receive \$...(amount A)... in state education
 1059 grants.

1060
 1061 (e) In all instances in which the provisions of paragraphs
 1062 (c) and (d) are inapplicable for school districts, the
 1063 advertisement shall be in the following form:

1064
 1065 NOTICE OF BUDGET HEARING

1066
 1067 The ...(name of school district)... will soon consider a
 1068 budget for ...(fiscal year).... A public hearing to make a
 1069 DECISION on the budget AND TAXES will be held on ...(date and
 1070 time)... at ...(meeting place)....

1071
 1072 (f) In lieu of publishing the notice set out in this
 1073 subsection, the taxing authority may mail a copy of the notice

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1074 to each elector residing within the jurisdiction of the taxing
1075 authority.

1076 (g) In the event that the mailing of the notice of proposed
1077 property taxes is delayed beyond September 3 in a county, any
1078 multicounty taxing authority which levies ad valorem taxes
1079 within that county shall advertise its intention to adopt a
1080 tentative budget and millage rate in a newspaper of paid general
1081 circulation within that county, as provided in this subsection,
1082 and shall hold the hearing required pursuant to paragraph (2)(c)
1083 not less than 2 days or more than 5 days thereafter, and not
1084 later than September 18. The advertisement shall be in the
1085 following form, unless the proposed millage rate is less than or
1086 equal to the rolled-back rate, computed pursuant to subsection
1087 (1), in which case the advertisement shall be as provided in
1088 paragraph (e):

1089
1090 NOTICE OF TAX INCREASE

1091
1092 The ...(name of the taxing authority)... proposes to
1093 increase its property tax levy by ...(percentage of increase
1094 over rolled-back rate)... percent.

1095 All concerned citizens are invited to attend a public
1096 hearing on the proposed tax increase to be held on ...(date and
1097 time)... at ...(meeting place)....

1098
1099 (h) In no event shall any taxing authority add to or delete
1100 from the language of the advertisements as specified herein
1101 unless expressly authorized by law, except that, if an increase
1102 in ad valorem tax rates will affect only a portion of the

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1103 jurisdiction of a taxing authority, advertisements may include a
1104 map or geographical description of the area to be affected and
1105 the proposed use of the tax revenues under consideration. In
1106 addition, if published in the newspaper, the map must be part of
1107 the online advertisement required by s. 50.0211 or s. 50.0311.
1108 The advertisements required herein shall not be accompanied,
1109 preceded, or followed by other advertising or notices which
1110 conflict with or modify the substantive content prescribed
1111 herein.

1112 (i) The advertisements required pursuant to paragraphs (b)
1113 and (e) need not be one-quarter page in size or have a headline
1114 in type no smaller than 18 point.

1115 (j) The amounts to be published as percentages of increase
1116 over the rolled-back rate pursuant to this subsection shall be
1117 based on aggregate millage rates and shall exclude voted millage
1118 levies unless expressly provided otherwise in this subsection.

1119 (k) Any taxing authority which will levy an ad valorem tax
1120 for an upcoming budget year but does not levy an ad valorem tax
1121 currently shall, in the advertisement specified in paragraph
1122 (a), paragraph (c), paragraph (d), or paragraph (g), replace the
1123 phrase "increase its property tax levy by ... (percentage of
1124 increase over rolled-back rate)... percent" with the phrase
1125 "impose a new property tax levy of \$...(amount)... per \$1,000
1126 value."

1127 (l) Any advertisement required pursuant to this section
1128 shall be accompanied by an adjacent notice meeting the budget
1129 summary requirements of s. 129.03(3)(b). Except for those taxing
1130 authorities proposing to levy ad valorem taxes for the first
1131 time, the following statement shall appear in the budget summary

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1132 in boldfaced type immediately following the heading, if the
1133 applicable percentage is greater than zero:

1134
1135 THE PROPOSED OPERATING BUDGET EXPENDITURES OF ...(name of
1136 taxing authority)... ARE ...(percent rounded to one decimal
1137 place)... MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

1138
1139 For purposes of this paragraph, "proposed operating budget
1140 expenditures" or "operating expenditures" means all moneys of
1141 the local government, including dependent special districts,
1142 that:

1143 1. Were or could be expended during the applicable fiscal
1144 year, or

1145 2. Were or could be retained as a balance for future
1146 spending in the fiscal year.

1147
1148 Provided, however, those moneys held in or used in trust,
1149 agency, or internal service funds, and expenditures of bond
1150 proceeds for capital outlay or for advanced refunded debt
1151 principal, shall be excluded.

1152 Section 23. Paragraph (c) of subsection (1) of section
1153 338.223, Florida Statutes, is amended to read:

1154 338.223 Proposed turnpike projects.—

1155 (1)

1156 (c) Prior to requesting legislative approval of a proposed
1157 turnpike project, the environmental feasibility of the proposed
1158 project shall be reviewed by the Department of Environmental
1159 Protection. The department shall submit its Project Development
1160 and Environmental Report to the Department of Environmental

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1161 Protection, along with a draft copy of a public notice. Within
1162 14 days of receipt of the draft public notice, the Department of
1163 Environmental Protection shall return the draft public notice to
1164 the Department of Transportation with an approval of the
1165 language or modifications to the language. Upon receipt of the
1166 approved or modified draft, or if no comments are provided
1167 within 14 days, the Department of Transportation shall publish
1168 the notice as provided in chapter 50 ~~in a newspaper~~ to provide a
1169 30-day public comment period. If published in a newspaper, the
1170 headline of the required notice shall be in a type no smaller
1171 than 18 point. The notice shall be placed in that portion of the
1172 newspaper where legal notices appear and. ~~The notice~~ shall be
1173 published in a newspaper of general circulation in the county or
1174 counties of general interest and readership in the community as
1175 provided in s. 50.031, not one of limited subject matter.
1176 Whenever possible, the notice shall appear in a newspaper that
1177 is published at least weekly ~~5 days a week~~. All The notices
1178 ~~notice~~ published pursuant to this section shall include, at a
1179 minimum ~~but is not limited to~~, the following information:

1180 1. The purpose of the notice is to provide for a 30-day
1181 period for written public comments on the environmental impacts
1182 of a proposed turnpike project.

1183 2. The name and description of the project, along with a
1184 geographic location map clearly indicating the area where the
1185 proposed project will be located.

1186 3. The address where such comments must be sent and the
1187 date such comments are due.

1188

1189 After a review of the department's report and any public

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1190 comments, the Department of Environmental Protection shall
1191 submit a statement of environmental feasibility to the
1192 department within 30 days after the date on which public
1193 comments are due. The notice and the statement of environmental
1194 feasibility shall not give rise to any rights to a hearing or
1195 other rights or remedies provided pursuant to chapter 120 or
1196 chapter 403, and shall not bind the Department of Environmental
1197 Protection in any subsequent environmental permit review.

1198 Section 24. Subsection (3) of section 348.0308, Florida
1199 Statutes, is amended to read:

1200 348.0308 Public-private partnership.—The Legislature
1201 declares that there is a public need for the rapid construction
1202 of safe and efficient transportation facilities for traveling
1203 within the state and that it is in the public's interest to
1204 provide for public-private partnership agreements to effectuate
1205 the construction of additional safe, convenient, and economical
1206 transportation facilities.

1207 (3) The agency may request proposals for public-private
1208 transportation projects or, if it receives an unsolicited
1209 proposal, it must publish a notice in the Florida Administrative
1210 Register and as provided in chapter 50 ~~a newspaper of general
1211 circulation in the county in which it is located at least once a
1212 week~~ for 2 weeks stating that it has received the proposal and
1213 will accept, for 60 days after the initial date of publication,
1214 other proposals for the same project purpose. A copy of the
1215 notice must be mailed to each local government in the affected
1216 areas. After the public notification period has expired, the
1217 agency shall rank the proposals in order of preference. In
1218 ranking the proposals, the agency shall consider professional

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1219 qualifications, general business terms, innovative engineering
1220 or cost-reduction terms, finance plans, and the need for state
1221 funds to deliver the proposal. If the agency is not satisfied
1222 with the results of the negotiations, it may, at its sole
1223 discretion, terminate negotiations with the proposer. If these
1224 negotiations are unsuccessful, the agency may go to the second
1225 and lower-ranked firms, in order, using the same procedure. If
1226 only one proposal is received, the agency may negotiate in good
1227 faith, and if it is not satisfied with the results, it may, at
1228 its sole discretion, terminate negotiations with the proposer.
1229 The agency may, at its discretion, reject all proposals at any
1230 point in the process up to completion of a contract with the
1231 proposer.

1232 Section 25. Subsection (3) of section 348.635, Florida
1233 Statutes, is amended to read:

1234 348.635 Public-private partnership.—The Legislature
1235 declares that there is a public need for the rapid construction
1236 of safe and efficient transportation facilities for traveling
1237 within the state and that it is in the public's interest to
1238 provide for public-private partnership agreements to effectuate
1239 the construction of additional safe, convenient, and economical
1240 transportation facilities.

1241 (3) The authority may request proposals for public-private
1242 transportation projects or, if it receives an unsolicited
1243 proposal, it must publish a notice in the Florida Administrative
1244 Register as provided in chapter 50 and ~~a newspaper of general~~
1245 ~~circulation in the county in which it is located at least once a~~
1246 ~~week~~ for 2 weeks stating that it has received the proposal and
1247 will accept, for 60 days after the initial date of publication,

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1248 other proposals for the same project purpose. A copy of the
1249 notice must be mailed to each local government in the affected
1250 areas. After the public notification period has expired, the
1251 authority shall rank the proposals in order of preference. In
1252 ranking the proposals, the authority shall consider professional
1253 qualifications, general business terms, innovative engineering
1254 or cost-reduction terms, finance plans, and the need for state
1255 funds to deliver the proposal. If the authority is not satisfied
1256 with the results of the negotiations, it may, at its sole
1257 discretion, terminate negotiations with the proposer. If these
1258 negotiations are unsuccessful, the authority may go to the
1259 second and lower-ranked firms, in order, using the same
1260 procedure. If only one proposal is received, the authority may
1261 negotiate in good faith, and if it is not satisfied with the
1262 results, it may, at its sole discretion, terminate negotiations
1263 with the proposer. The authority may, at its discretion, reject
1264 all proposals at any point in the process up to completion of a
1265 contract with the proposer.

1266 Section 26. Subsection (3) of section 348.7605, Florida
1267 Statutes, is amended to read:

1268 348.7605 Public-private partnership.—The Legislature
1269 declares that there is a public need for the rapid construction
1270 of safe and efficient transportation facilities for traveling
1271 within the state and that it is in the public's interest to
1272 provide for public-private partnership agreements to effectuate
1273 the construction of additional safe, convenient, and economical
1274 transportation facilities.

1275 (3) The authority may request proposals for public-private
1276 transportation projects or, if it receives an unsolicited

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1277 proposal, it must publish a notice in the Florida Administrative
1278 Register and as provided in chapter 50 ~~a newspaper of general~~
1279 ~~circulation in the county in which it is located at least once a~~
1280 ~~week~~ for 2 weeks stating that it has received the proposal and
1281 will accept, for 60 days after the initial date of publication,
1282 other proposals for the same project purpose. A copy of the
1283 notice must be mailed to each local government in the affected
1284 areas. After the public notification period has expired, the
1285 authority shall rank the proposals in order of preference. In
1286 ranking the proposals, the authority shall consider professional
1287 qualifications, general business terms, innovative engineering
1288 or cost-reduction terms, finance plans, and the need for state
1289 funds to deliver the proposal. If the authority is not satisfied
1290 with the results of the negotiations, it may, at its sole
1291 discretion, terminate negotiations with the proposer. If these
1292 negotiations are unsuccessful, the authority may go to the
1293 second and lower-ranked firms, in order, using the same
1294 procedure. If only one proposal is received, the authority may
1295 negotiate in good faith, and if it is not satisfied with the
1296 results, it may, at its sole discretion, terminate negotiations
1297 with the proposer. The authority may, at its discretion, reject
1298 all proposals at any point in the process up to completion of a
1299 contract with the proposer.

1300 Section 27. Section 373.0397, Florida Statutes, is amended
1301 to read:

1302 373.0397 Floridan and Biscayne aquifers; designation of
1303 prime groundwater recharge areas.—Upon preparation of an
1304 inventory of prime groundwater recharge areas for the Floridan
1305 or Biscayne aquifers, but prior to adoption by the governing

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1306 board, the water management district shall publish a legal
1307 notice of public hearing on the designated areas for the
1308 Floridan and Biscayne aquifers, with a map delineating the
1309 boundaries of the areas, as provided ~~in newspapers defined in~~
1310 chapter 50 in each county ~~as having general circulation~~ within
1311 the area to be affected. The notice shall be at least one-fourth
1312 page and shall read as follows:

NOTICE OF PRIME RECHARGE

AREA DESIGNATION

1315 The ...(name of taxing authority)... proposes to designate
1316 specific land areas as areas of prime recharge to the ...(name
1317 of aquifer)... Aquifer.

1318 All concerned citizens are invited to attend a public
1319 hearing on the proposed designation to be held on ...(date and
1320 time)... at ...(meeting place)....

1321 A map of the affected areas follows.

1322 The governing board of the water management district shall adopt
1323 a designation of prime groundwater recharge areas to the
1324 Floridan and Biscayne aquifers by rule within 120 days after the
1325 public hearing, subject to the provisions of chapter 120.

1326 Section 28. Section 373.146, Florida Statutes, is amended
1327 to read:

1328 373.146 Publication of notices, process, and papers.—

1329 (1) Whenever in this chapter the publication of any notice,
1330 process, or paper is required or provided for, unless otherwise
1331 provided by law, the publication thereof ~~in some newspaper or~~
1332 ~~newspapers~~ as provided ~~defined~~ in chapter 50 in each county
1333 ~~having general circulation~~ within the area to be affected shall
1334 be taken and considered as being sufficient.

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1335 (2) Notwithstanding any other provision of law to the
1336 contrary, and except in the case of emergency meetings, water
1337 management districts may provide reasonable notice of public
1338 meetings held to evaluate responses to solicitations issued by
1339 the water management district, by publication as provided in
1340 chapter 50 ~~in a newspaper of general paid circulation~~ in the
1341 county where the principal office of the water management
1342 district is located, or in the county or counties where the
1343 public work will be performed, no less than 7 days before such
1344 meeting.

1345 Section 29. Subsection (12) of section 403.722, Florida
1346 Statutes, is amended to read:

1347 403.722 Permits; hazardous waste disposal, storage, and
1348 treatment facilities.—

1349 (12) On the same day of filing with the department of an
1350 application for a permit for the construction modification, or
1351 operation of a hazardous waste facility, the applicant shall
1352 notify each city and county within 1 mile of the facility of the
1353 filing of the application and shall publish notice of the filing
1354 of the application. The applicant shall publish a second notice
1355 of the filing within 14 days after the date of filing. Each
1356 notice shall be published ~~in a newspaper of general circulation~~
1357 in the county in which the facility is located or is proposed to
1358 be located as provided in chapter 50. ~~Notwithstanding the~~
1359 ~~provisions of chapter 50, for purposes of this section, a~~
1360 ~~"newspaper of general circulation" shall be the newspaper within~~
1361 ~~the county in which the installation or facility is proposed~~
1362 ~~which has the largest daily circulation in that county and has~~
1363 ~~its principal office in that county. If the newspaper with the~~

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1364 ~~largest daily circulation has its principal office outside the~~
 1365 ~~county, the notice shall appear in both the newspaper with the~~
 1366 ~~largest daily circulation in that county, and a newspaper~~
 1367 ~~authorized to publish legal notices in that county.~~ The notice
 1368 shall contain:

1369 (a) The name of the applicant and a brief description of
 1370 the project and its location.

1371 (b) The location of the application file and when it is
 1372 available for public inspection.

1373

1374 The notice shall be prepared by the applicant and shall comply
 1375 with the following format:

1376 Notice of Application

1377 The Department of Environmental Protection announces receipt of
 1378 an application for a permit from ...(name of applicant)... to
 1379 ...(brief description of project).... This proposed project will
 1380 be located at ...(location)... in ...(county)... ...(city)....
 1381 This application is being processed and is available for public
 1382 inspection during normal business hours, 8:00 a.m. to 5:00 p.m.,
 1383 Monday through Friday, except legal holidays, at ...(name and
 1384 address of office)....

1385 Section 30. Paragraph (b) of subsection (3) of section
 1386 712.06, Florida Statutes, is amended to read:

1387 712.06 Contents of notice; recording and indexing.—

1388 (3) The person providing the notice referred to in s.
 1389 712.05, other than a notice for preservation of a community
 1390 covenant or restriction, shall:

1391 (b) Publish the notice referred to in s. 712.05 for 2
 1392 consecutive weeks on a publicly accessible website as provided

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1393 in chapter 50 or once a week, for 2 consecutive weeks in a
1394 newspaper as defined in chapter 50, ~~the notice referred to in s.~~
1395 ~~712.05,~~ with the official record book and page number in which
1396 such notice was recorded, ~~in a newspaper as defined in chapter~~
1397 ~~50~~ in the county in which the property is located.

1398 Section 31. Subsection (5) of section 849.38, Florida
1399 Statutes, is amended to read:

1400 849.38 Proceedings for forfeiture; notice of seizure and
1401 order to show cause.—

1402 (5) If the value of the property seized is shown by the
1403 sheriff's return to have an appraised value of \$1,000 or less,
1404 the above citation shall be served by posting at three public
1405 places in the county, one of which shall be the front door of
1406 the courthouse; if the value of the property is shown by the
1407 sheriff's return to have an approximate value of more than
1408 \$1,000, the citation shall be published for at least 2
1409 consecutive weeks on a publicly accessible website as provided
1410 in chapter 50 or at least once each week for 2 consecutive weeks
1411 in some newspaper of general publication published in the
1412 county, if there be such a newspaper published in the county and
1413 if not, then said notice of such publication shall be made by
1414 certificate of the clerk if publication is made by posting, and
1415 by affidavit as provided in chapter 50, if made by publication
1416 as provided in chapter 50 ~~in a newspaper,~~ which affidavit or
1417 certificate shall be filed and become a part of the record in
1418 the cause. Failure of the record to show proof of such
1419 publication shall not affect any judgment made in the cause
1420 unless it shall affirmatively appear that no such publication
1421 was made.

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1422 Section 32. Paragraph (a) of subsection (3) of section
1423 865.09, Florida Statutes, is amended to read:
1424 865.09 Fictitious name registration.—
1425 (3) REGISTRATION.—
1426 (a) A person may not engage in business under a fictitious
1427 name unless the person first registers the name with the
1428 division by filing a registration listing:
1429 1. The name to be registered.
1430 2. The mailing address of the business.
1431 3. The name and address of each registrant.
1432 4. If the registrant is a business entity that was required
1433 to file incorporation or similar documents with its state of
1434 organization when it was organized, such entity must be
1435 registered with the division and in active status with the
1436 division; provide its Florida document registration number; and
1437 provide its federal employer identification number if the entity
1438 has such a number.
1439 5. Certification by at least one registrant that the
1440 intention to register such fictitious name has been advertised
1441 as provided ~~at least once in a newspaper as defined in chapter~~
1442 50 in the county in which the principal place of business of the
1443 registrant is or will be located.
1444 6. Any other information the division may reasonably deem
1445 necessary to adequately inform other governmental agencies and
1446 the public as to the registrant so conducting business.
1447 Section 33. Paragraph (a) of subsection (6) of section
1448 932.704, Florida Statutes, is amended to read:
1449 932.704 Forfeiture proceedings.—
1450 (6) (a) If the property is required by law to be titled or

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1451 registered, or if the owner of the property is known in fact to
1452 the seizing agency, or if the seized property is subject to a
1453 perfected security interest in accordance with the Uniform
1454 Commercial Code, chapter 679, the attorney for the seizing
1455 agency shall serve the forfeiture complaint as an original
1456 service of process under the Florida Rules of Civil Procedure
1457 and other applicable law to each person having an ownership or
1458 security interest in the property. The seizing agency shall also
1459 publish, in accordance with chapter 50, notice of the forfeiture
1460 complaint for 2 consecutive weeks on a publicly accessible
1461 website or once each week for 2 consecutive weeks in a newspaper
1462 of general circulation, ~~as defined in s. 165.031,~~ in the county
1463 where the seizure occurred.

1464 Section 34. This act shall take effect July 1, 2021.

S01340
GENERAL BILL by Gruters; (Similar CS/CS/H 00007)
Legal Notices. EFFECTIVE DATE: 07/01/2021.
01/08/20 S Referred to Judiciary; Community Affairs; Rules -SJ 99
01/14/20 S Introduced -SJ 99
02/12/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building --Amendment(s)
Adopted - Temporarily Postponed



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

February 7, 2020

The Honorable David Simmons, Chair
Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I am writing to request that Senate Bill 1340, Legal Notice to be placed on the agenda of the next Judiciary 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: Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20

Meeting Date

1340

Bill Number (if applicable)

Topic Public Notice

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title

Address 1

Phone

Street

Tallahassee

FL

City

State

Zip

Email

Speaking: [] For [X] Against [] Information

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

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

2-11-20

Meeting Date

1340

Bill Number (if applicable)

Topic NOTICE

Amendment Barcode (if applicable)

Name WAYNE MALANEY

Job Title _____

Address 32 VIA DEL CONGO
Street

Phone 850-933-7001

PALM BEACH GARDENS
City

FL
State

33418
Zip

Email _____

Speaking: For Against Information

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

Representing AMERICAN LAWYER MEDIA & THE OBSERVER GROUP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

2/11/20 Meeting Date

1340 Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Jennifer Viscarra

Job Title Commissioner, City of Sunny Isles Beach

Address 18070 Collins Avenue Street

Phone 305-742-1700

Sunny Isles Beach FL 33160 City State Zip

Email jviscarra@siloff.net

Speaking: [] For [] Against [] Information

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

Representing City of Sunny Isles Beach

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

2/11/20 Meeting Date

1340 Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Larisa Svecchin

Job Title Vice Mayor, City of Sunny Isles Beach

Address 18070 Collins Avenue Street

Phone 305-742-1754

Sunny Isles Beach FL 33160 City State Zip

Email lsuechin@sibofl.net

Speaking: [] For [] Against [] Information

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

Representing City of Sunny Isles Beach

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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

FEB 11, 2020

Meeting Date

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

SR 1340

Bill Number (if applicable)

Topic PUBLIC NOTICES

Amendment Barcode (if applicable)

Name WILLIAM SNOWDEN

Job Title EDITOR/MANAGER THE WAKULLA NEWS & GADSDEN Co. TIMES

Address P.O. 307, CRAWFORD

Phone (850) 926-7102

Street

CRAWFORDVILLE FL 32377

Email editor@thewakulla

City

State

Zip

news.net

Speaking: For Against Information

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

Representing THE WAKULLA NEWS and GADSDEN Co. TIMES

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)

2/11/2020

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Matt Newby

Job Title Publisher - North Lake Outpost Newspaper

Address 131 N. Central Avenue

Phone 352-669-2430

Street

Umatilla

FL

32784

Email northlakeoutpost@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing Community Newspapers

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)

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 11

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Jon Cantrell

Job Title Publisher Clay Today, Clay County Florida

Address 3513 HWY 17

Street

Phone 904-710-8181

Fleming Island

Florida

32003

Email jon@opcfla.com

City

State

Zip

Speaking: For Against Information

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

Representing Community of Clay County Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

February 11, 2020

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

Meeting Date

1340

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____

Name John Murphy

Job Title General Manager Riverland News

Address 20441 E. Pennsylvania Avenue
Street

Phone 352-563-6363

Dunnellon FL 34432
City State Zip

Email jmurphy@chronicleonline.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2020

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Florida Public Notice

Amendment Barcode (if applicable)

Name Tim Thompson

Job Title Publisher

Address 501 W. 11th St

Street

Phone 205 454-1484

Panama City, Florida 32401

City

State

Zip

Email tthompson@pcnh.com

Speaking: For Against Information

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

Representing Panama City News Herald, Northwest Florida Daily News, Apalachicola Times, St Joe Star

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)

2/11/2020

SB 1340

Meeting Date

Bill Number (if applicable)

Topic Florida Public Notice

Amendment Barcode (if applicable)

Name Nicole Barefield

Job Title Publisher

Address 1364 N. Railroad

Phone 850 638-0212

Street

Chipley, Florida 32428

Email nbarefield@chipleypaper.com

City

State

Zip

Speaking: For Against Information

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

Representing Washington County News and Holmes County Advertiser

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)

2/11/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Notice Bill SB 1340

Amendment Barcode (if applicable)

Name Jim Fogler

Job Title President Florida Press Association

Address 336 E. College Ave

Phone 845-219-9400

Tallahassee FL 32301

City

State

Zip

Email J.fogler@FLpress.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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20

Meeting Date

SB1340

Bill Number (if applicable)

Topic Support public notices in newspapers

Amendment Barcode (if applicable)

Name Glen Nickerson

Job Title Publisher

Address 23170 Harborview Road

Phone 941-205-6400

Street

Port Charlotte

FL

33980

City

State

Zip

Email glen.nickerson@fourstate.com

Speaking: For Against Information

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

Representing Sun Coast Media Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

February 11, 2020

1340

Meeting Date

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Emerald Greene

Job Title Publisher

Address P.O. Drawer 772

Phone 850-973-4141

Street

Madison

Fl

32341

Email emerald@greenepublishing.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Press Association / Greene Publishing, 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

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

02/11/2020

Meeting Date

SB 1340

Bill Number (if applicable)

Topic LEGAL NOTICES

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title COALITION'S DIRECTOR

Address 200 W. COLLEGE AVE

Phone 786.260.9283

Street

TALLAHASSEE FL

City

State

Zip

Email Cgrajales@libert.org

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

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)

2/11/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Hugh Osteen

Job Title Florida Market Manager OPC News, LLC

Address 3907 Herschel St

Phone 843 858 0128

Street

Jacksonville

City

FL

State

32205

Zip

Email hugh@opcfly.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic

Newspaper Advertising / Legal

Amendment Barcode (if applicable)

Name

Ron Book

Job Title

Address

104 W. Jefferson

Phone

Street

TLH

32301

Email

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

GANNETT | GATEHOUSE MEDIA

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)

2/11/20

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notice

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Legislative Advocate

Address PO Box 1757

Phone 850 701 3701

Street

TLH

City

FL

State

32302

Zip

Email _____

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-11-20

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

Meeting Date

Bill Number (if applicable)

Topic SB 1340

Amendment Barcode (if applicable)

Name Steven Disbrow / Jan

Job Title Board Member, FL Self Storage Assoc.

Address 2 VIA Bellano

Phone 904-571-3989

DALM COAST FL 32137
City State Zip

Email Steve@Storage-Cash.com

Speaking: For Against Information

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

Representing FLORIDA SELF STORAGE 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)

2pm in 110

Duplicate

THE FLORIDA SENATE APPEARANCE RECORD

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

2/11/20

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/1

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 Judiciary

BILL: CS/SB 1366

INTRODUCER: Judiciary Committee and Senator Gruters

SUBJECT: Trusts

DATE: February 13, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Fav/CS
2.			BI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1366 grants a trustee of a “grantor trust” sole discretion to use trust assets to pay the grantor/settlor’s taxes on trust income. A grantor trust is one in which the grantor retains certain rights or powers over the trust such that federal tax law treats the grantor and the trust as one entity, thus making the grantor tax-liable for trust income.

Under current law, a trustee may pay the grantor’s trust-income taxes only if the trust instrument authorizes it. Under the bill, the trustee generally may pay these taxes unless the trust instrument prohibits it or the trustee is:

- A beneficiary of the trust.
- Treated as the owner of part or all of the trust under federal or state tax law.
- A “related or subordinate party” with respect to:
 - A person treated as the owner of all or part of the trust under federal or state tax law; or
 - A beneficiary of the trust.

Moreover, the bill specifies that a life insurance policy held in the trust, the policy’s cash value, or a loan secured by the policy may not be used to pay the grantor’s income taxes.

Finally, the bill provides that it applies to trusts created before or after the effective date of the bill unless:

- The trustee gives the grantor and all others who may remove the trustee 60 days’ notice that the trustee intends to irrevocably opt out of the bill’s application to the trust; or

- Applying the bill would prevent a contribution to the trust from qualifying for, or would reduce, a federal tax benefit.

II. Present Situation:

Overview

When a grantor is required to pay federal income tax on income from a grantor trust, the trustee may pay these taxes for the grantor only if the trust instrument authorizes it.

Trusts

A trust is a legal instrument, into which a “settlor” (or grantor) places property in the care of a “trustee,” who administers the property according to the terms of the trust for the benefit of one or more “beneficiaries.” For example, a father might place \$100,000 in trust for the benefit of his children, the proceeds to be used only for their education, and appoint the father’s certified financial planner as the trustee.

Grantor Trusts

“Grantor trust” is a term commonly used to describe a trust for which the settlor (grantor) is also its “owner” under federal tax law.¹ Under this arrangement, the grantor and the trust² are treated as one entity under federal income tax law, thus requiring the settlor to pay income tax on income generated by the trust.³

Under sections 671-679 of the U.S. Internal Revenue Code, a grantor will be treated as the owner of a trust if the grantor retains certain rights to or powers over the trust, including:

- A reversionary interest that exceeded 5 percent of the value of the income or corpus at the trust’s inception;⁴
- The “power to control beneficial enjoyment” of the corpus or income *without* the approval of an “adverse party,” which is a person, such as a beneficiary, whose substantial interest in the trust will be adversely affected by the exercise of the power;⁵
- Certain “administrative powers,” such as the power to borrow from the corpus at low or no interest, or to sell the trust assets for below market value, without the approval of an adverse party;⁶
- The “power to revoke,” that is, the power to revest title to trust property in the grantor;⁷ or
- The right to income for the grantor or spouse without approval of an adverse party.⁸

¹ See 26 U.S.C. s. 671 (2020); *Sun First Nat. Bank of Orlando v. U.S.*, 607 F. 2d 1347 (U.S. Ct. of Claims 1979).

² A grantor may also “own” a *portion* of a trust’s assets. See *e.g.*, 26 U.S.C. s. 671 (2019).

³ *Id.*

⁴ 26 U.S.C. s. 673 (2020).

⁵ 26 U.S.C. s. 674 (2020).

⁶ 26 U.S.C. s. 675 (2020).

⁷ 26 U.S.C. s. 676 (2020).

⁸ 26 U.S.C. s. 677 (2020).

At some point, a given grantor might decide that the benefits of the grantor trust no longer outweigh the costs, which include the grantor's personal liability for the trust's income taxes. To address this issue, the trust could be converted to a nongrantor trust. However, this option has its disadvantages, such as potentially jeopardizing the trust's ability to own stock in an S corporation and subjecting the trust's income to higher income tax brackets.⁹

Legislation in Other States

Several states, including Colorado,¹⁰ Delaware,¹¹ New Hampshire,¹² and New York,¹³ grant a trustee the discretion to pay a grantor's trust-income taxes unless the trust instrument expressly prohibits it.

III. Effect of Proposed Changes:

The bill grants a trustee of a "grantor trust" sole discretion to use trust assets to pay the grantor/settlor's taxes on trust income. A grantor trust is one in which the grantor retains certain rights or powers over the trust such that federal tax law treats the grantor and the trust as one entity, thus making the grantor tax-liable for trust income.

Under current law, a trustee may pay the grantor's trust-income taxes only if the trust instrument authorizes it. Under the bill, the trustee generally may pay these taxes unless the trust instrument prohibits it or the trustee is:

- A beneficiary of the trust.
- Treated as the owner of part or all of the trust under federal or state tax law.
- A "related or subordinate party" with respect to:
 - A person treated as the owner of all or part of the trust under federal or state tax law; or
 - A beneficiary of the trust.

Moreover, the bill specifies that a life insurance policy held in the trust, the policy's cash value, or a loan secured by the policy may not be used to pay the grantor's income taxes.

Finally, the bill provides that it applies to trusts created before or after the effective date of the bill unless:

- The trustee gives the grantor and all others who may remove the trustee 60 days' notice that the trustee intends to irrevocably opt out of the bill's application to the trust; or
- Applying the bill would prevent a contribution to the trust from qualifying for, or would reduce, a federal tax benefit.

The bill takes effect July 1, 2020.

⁹ See 26 U.S.C. 1361(c)(2)(A)(i) (broadly permitting grantor trusts to be shareholders in S corporations, but permitting only certain types of other trusts to do the same).

¹⁰ Colo. Rev. Stat. § 15-5-818 (2019).

¹¹ Del. Code 12 § 3344 (2019).

¹² N.H. Rev. Stat § 564-B:8-816(c) (2019).

¹³ N.Y. Est. Powers and Trusts Law § 7-1.11(a) (2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill states it is intended to be applied retroactively. Particularly, it provides that it applies to “all trusts, whether created on, before, or after July 1, 2020.”

The Florida Supreme Court has developed a two-prong analysis for determining whether a statute may be applied retroactively.¹⁴ First, there must be “clear evidence of legislative intent to apply the statute retrospectively.”¹⁵ If so, then the court moves to the second prong, “which is whether retroactive application is constitutionally permissible.”¹⁶ Retroactive application is unconstitutional if it deprives a person of due process by impairing vested rights or imposing new obligations to previous conduct:

A retrospective provision of a legislative act is not necessarily invalid. It is so only in those cases wherein vested rights are adversely affected or destroyed or when a new obligation or duty is created or imposed, or an additional disability is established, on connection with transactions or considerations previously had or expiated.¹⁷

A court may determine that the bill negatively affects a vested right, such as a beneficiary’s right to receive income from a trust. This right could be diminished by the trustee’s payments from trust assets for the grantor’s income taxes. However, given how much authority a grantor has over a grantor trust, a court could find that a beneficiary in a given case had a mere expectancy interest, as opposed to a vested right, in trust assets that were used to pay a grantor’s income taxes.

¹⁴ See, e.g., *Florida Ins. Guar. Ass’n, Inc. v. Devon Neighborhood Ass’n, Inc.*, 67 So. 3d 187, 194 (Fla. 2011).

¹⁵ *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So. 3d 494 (Fla. 1999).

¹⁶ *Id.*

¹⁷ *Id.* at 503 (citing *McCord v. Smith*, 43 So. 2d 704, 708-09 (Fla. 1949)).

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 creates section 736.08145 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 Judiciary Committee on February 11, 2020:**

The committee substitute:

- Prohibits a trustee from choosing to pay the grantor's trust-income taxes if the trustee is a beneficiary or is a related or subordinate party to a beneficiary;
- Provides that if a trust advisor, protector, or other person is authorized to act in place of a trustee by the trust's terms, that person may also choose to pay the grantor's trust-income taxes; and
- Provides that the bill does not, of itself, make anyone a beneficiary of a trust, including for the purposes of determining the elective estate.

B. Amendments:

None.



409666

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 65 - 81

and insert:

(b) The trustee is a beneficiary of such trust.

(c) The trustee is a related or subordinate party, as defined in s. 672(c) of the Internal Revenue Code, with respect to a person treated as the owner of all or part of such trust under s. 671 of the Internal Revenue Code or any similar federal, state, or other tax law or with respect to a beneficiary of such trust.



409666

12 (4) If the terms of a trust require the trustee to act at
13 the direction or with the consent of a trust advisor, a
14 protector, or any other person, or that the decisions addressed
15 in this section be made directly by a trust advisor, a
16 protector, or any other person, the powers granted by this
17 section to the trustee must instead or also be granted, as
18 applicable under the terms of the trust, to the advisor,
19 protector, or other person subject to the limitations set forth
20 in subsection (3), which must be applied as if the advisor,
21 protector, or other person were a trustee.

22 (5) A person may not be considered a beneficiary of a trust
23 solely by reason of the application of this section, including
24 for purposes of determining the elective estate.

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 12

29 and insert:

30 direction or with the consent of such persons or that
31 specified decisions be made directly by such persons;

By Senator Gruters

23-01273A-20

20201366__

1 A bill to be entitled
2 An act relating to trusts; creating s. 736.08145,
3 F.S.; authorizing trustees of certain trusts to
4 reimburse persons being treated as the owner of the
5 trust for specified amounts and in a specified manner;
6 prohibiting certain policies, values, and proceeds
7 from being used for such reimbursement; providing
8 applicability; prohibiting certain trustees from
9 taking specified actions relating to trusts; requiring
10 that specified powers be granted to certain persons if
11 the terms of the trust require a trustee to act at the
12 direction or with the consent of such persons;
13 providing construction; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 736.08145, Florida Statutes, is created
18 to read:

19 736.08145 Grantor trust reimbursement.-

20 (1) (a) Except as otherwise provided under the terms of a
21 trust, if all or any portion of the trust is treated as being
22 owned by a person under s. 671 of the Internal Revenue Code or
23 any similar federal, state, or other tax law, the trustee may,
24 in the trustee's sole discretion, reimburse the person being
25 treated as the owner for any amount of the person's personal
26 federal, state, or other income tax liability which is
27 attributable to the inclusion of the trust's income, capital
28 gains, deductions, or credits in the calculation of the person's
29 taxable income. In the trustee's sole discretion, the trustee

23-01273A-20

20201366__

30 may pay such tax reimbursement amount, determined without regard
31 to any other distribution or payment made from trust assets, to
32 the person directly or to the appropriate taxing authority.

33 (b) A life insurance policy held in the trust, the cash
34 value of any such policy, or the proceeds of any loan secured by
35 an interest in the policy may not be used for such reimbursement
36 or such payment if the person is an insured.

37 (2) This section applies to all trusts, whether created on,
38 before, or after July 1, 2020, unless:

39 (a) The trustee provides written notification that the
40 trustee intends to irrevocably elect out of the application of
41 this section, at least 60 days before the effective date of such
42 election, to the person treated as the owner of all or a portion
43 of the trust under s. 671 of the Internal Revenue Code or any
44 similar federal, state, or other tax law and to all persons who
45 have the ability to remove and replace the trustee.

46 (b) Applying this section would prevent a contribution to
47 the trust from qualifying for, or would reduce, a federal tax
48 benefit, including a federal tax exclusion or deduction, which
49 was originally claimed or could have been claimed for the
50 contribution, including:

51 1. An exclusion under s. 2503(b) or s. 2503(c) of the
52 Internal Revenue Code;

53 2. A marital deduction under s. 2056, s. 2056A, or s. 2523
54 of the Internal Revenue Code;

55 3. A charitable deduction under s. 170(a), s. 642(c), s.
56 2055(a), or s. 2522(a) of the Internal Revenue Code; or

57 4. Direct skip treatment under s. 2642(c) of the Internal
58 Revenue Code.

23-01273A-20

20201366__

59 (3) A trustee may not exercise, or participate in the
60 exercise of, the powers granted by this section with respect to
61 any trust if any of the following applies:

62 (a) The trustee is treated as the owner of all or part of
63 such trust under s. 671 of the Internal Revenue Code or any
64 similar federal, state, or other tax law.

65 (b) The trustee is a qualified beneficiary of such trust.

66 (c) The trustee is a related or subordinate party, as
67 defined in s. 672(c) of the Internal Revenue Code, with respect
68 to a person treated as the owner of all or part of such trust
69 under s. 671 of the Internal Revenue Code or any similar
70 federal, state, or other tax law or with respect to a qualified
71 beneficiary of such trust.

72 (4) If the terms of a trust require the trustee to act at
73 the direction or with the consent of a trust advisor, a
74 protector, or any other person, the powers granted by this
75 section to the trustee must instead or also be granted, as
76 applicable under the terms of the trust, to the advisor,
77 protector, or other person subject to the limitations set forth
78 in subsection (3), which must be applied as if the advisor,
79 protector, or other person were a trustee.

80 (5) A person may not be considered a qualified beneficiary
81 of a trust solely by reason of the application of this section.

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

S01366

GENERAL BILL by Gruters; (Similar CS/H 01089)

Trusts. EFFECTIVE DATE: 07/01/2020.

01/14/20 S Introduced -SJ 101

02/06/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building

02/11/20 S CS by Judiciary; YEAS 6 NAYS 0



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 18, 2020

The Honorable David Simmons, Chair
Judiciary Committee
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I am writing to request that Senate Bill 1366, Trusts to be placed on the agenda of the next Judiciary 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: Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

1366

Bill Number (if applicable)

409666

Amendment Barcode (if applicable)

Topic _____

Name Martha Edenfield

Job Title _____

Address 215 So. Monroe Street #815

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-999-4100

Email medenfield@deanmead.com

Speaking: For Against Information

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

Representing The Real Property, Probate and Trust 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)

2/11/20

Meeting Date

1366

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Martha Edenfield

Job Title _____

Address 215 So. Monroe Street #815

Phone 850-999-4100

Street

Tallahassee

FL

32301

Email medenfield@deanmead.com

City

State

Zip

Speaking: For Against Information

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

Representing The Real Property, Probate and Trust 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
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 Judiciary

BILL: CS/CS/SB 1516

INTRODUCER: Judiciary Committee, Health Policy Committee, and Senator Harrell

SUBJECT: Organ Donation

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
2.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1516 amends multiple sections of law related to organ donations. The bill:

- Prohibits a health insurance policy from limiting or excluding coverage for a living organ donor based on a preexisting condition.
- Prohibits an organ transplantation facility from charging a deceased organ donor or his or her family any fee for services relating to the procurement or donation of the donor's organs.
- Adds a statement on the uniform donor card application form that neither the donor nor his or her family is responsible for the payment of any fees associated with services relating to the procurement or donation of the donor's organs, tissues, or eyes.
- Expands the organ donation education program to include federal laws and information on the organ donation and transplantation process.
- Establishes additional requirements for the Agency for Healthcare Administration (AHCA) related to organ transplantation evaluation, reporting, and education.
- Renames the Organ Transplant Advisory Council as the Organ Transplant Technical Advisory Council (Council), and assigns duties to develop quality standards for programs.
- Specifies that certificate of need (CON) rules for minimum volume standards for organ transplantation and neonatal intensive care unit (NICU) services remain in effect until the AHCA has adopted corresponding licensure rules. The requirement to adopt rules expires upon the AHCA's adoption of such rules.
- Requires the Organ and Tissue Procurement and Transplantation Advisory Board to submit specified recommendations to the AHCA by September 1, 2021.

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

II. Present Situation:

Organ Transplant Advisory Council

Section 765.53, F.S., establishes the Organ Transplant Advisory Council (OTAC) to consist of 12 physician¹ members who are appointed to represent the interests of the public and the clients of the Department of Health (DOH) or the AHCA. All members are appointed by the Secretary of Health Care Administration for 2-year terms. The OTAC is responsible for recommending indications for adult and pediatric organ transplants to the AHCA and formulating guidelines and standards for organ transplants and for the development of End Stage Organ Disease and Tissue/Organ Transplant programs. The OTAC's recommendations, guidelines, and standards are limited in applicability to only those health programs funded through the AHCA.

The OTAC met 22 times with its first meeting held on August 27, 2007 and its last meeting held on April 14, 2015. Most actions of the OTAC revolved around approving guidelines for organ transplantations and reviewing and approving hospital transplant program applications for recommendation to the AHCA.

Organ and Tissue Procurement and Transplantation Advisory Board (Board)

The Organ and Tissue Procurement and Transplantation Advisory Board consists of 14 members appointed by the Secretary for 3-year terms.² The Board is tasked with:

- Assisting the AHCA in the development of necessary professional qualifications, including, but not limited to, the education, training, and performance of persons engaged in organ and tissue procurement, processing, preservation, and distribution for transplantation;
- Assisting the AHCA in monitoring the appropriate expenses associated with organ and tissue procurement, processing, and distribution for transplantation and developing methodologies to ensure uniform statewide reporting of data to facilitate the accurate and timely evaluation of the organ and tissue procurement and transplantation system;
- Providing assistance to the Florida Medical Examiners Commission in the development of appropriate procedures and protocols to ensure the continued improvement in the approval and release of potential donors by the district medical examiners and associate medical examiners;
- Developing with and recommending to the AHCA the necessary procedures and protocols required to assure that all residents of this state have reasonable access to available organ and tissue transplantation therapy and that residents of this state can be reasonably assured that the statewide procurement transplantation system is able to fulfill their organ and tissue requirements within the limits of the available supply and according to the severity of their medical condition and need; and
- Developing with and recommending to the AHCA any changes to the laws of this state or administrative rules or procedures to ensure that the statewide organ and tissue procurement and transplantation system is able to function smoothly, effectively, and efficiently, in

¹ Licensed under chs. 458 and 459, F.S.

² Section 765.543, F.S.

accordance with the Federal Anatomical Gift Act and in a manner that assures the residents of this state that no person or entity profits from the altruistic voluntary donation of organs or tissues.

The Board met five times between September of 2011 and January of 2014. The Board held its last meeting to conduct general business of the advisory board, including a review and discussion on recommendations for changes to the laws and administrative rules related to organ and tissue procurement activities in Florida.³

Licensure Requirements

Volume requirements (including NICU volume requirements):^{4, 5}

Liver	5 transplants over 2 years
Kidneys	Adult – 15 transplants per year Pediatric – 5 transplants per year
Pediatric bone marrow	10 transplants per year of each type performed (allogenic or autologous)
Adult bone marrow	10 transplants per year of each type performed (allogenic or autologous)
Lung, Heart and Lung, Pancreas and Islet Cells, and Intestines	None
Proposed organ transplant volume requirements in 59A-3.246, F.A.R.	Each licensed organ transplant program must perform a minimum of 10 transplants per year averaged over 2 years. Hospitals providing adult and pediatric programs must meet the minimum volume requirement for each age group separately.
Level II NICU	10 beds and the hospital must have at least 1,000 live births per year.
Level III NICU	15 beds and the hospital must have at least 1,500 live births per year.
Proposed rule 59A-3.249	Same as above.

Currently, standards for licensure for organ transplant programs in Florida can be found in AHCA Rule 59C-1.044, F.A.C.⁶ These standards include:

- General staffing requirements:
 - A staff of physicians with expertise in caring for patients having end-stage disease requiring transplantation. The staff must have medical specialties or sub-specialties appropriate for the type of transplantation program to be established. A physician having

³ See meeting notice 14072583 in the Florida Administrative Register. Additional meeting minutes and recommendations are available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Lab_HomeServ/OrganTissueBoard.shtml (last visited on Jan. 28, 2020).

⁴ Projected prior to grant of licensure.

⁵ Volume requirements for liver and kidney transplants are included in the CON portions of the rule.

⁶ For a discussion of the licensure requirements in a CON rule versus a licensure rule, see the CON overview below.

- 1 year of experience in the management of infectious diseases in the transplant patient must be a member of the transplant team. The program must employ a transplant physician, and a transplant surgeon, if applicable, as defined by the United Network for Organ Sharing (UNOS), June 1994.
- A program director who has a minimum of 1 year of formal training and 1 year of experience at a transplantation program for the same type of organ transplantation program proposed.
 - A staff of practitioners with experience in the special needs of children if pediatric transplantations are performed;
 - A staff of nurses and nurse practitioners with experience in the care of chronically ill patients and their families;
 - Contractual agreements with consultants who have expertise in blood banking and are capable of meeting the unique needs of transplant patients on a long-term basis;
 - Nutritionists having expertise in the nutritional needs of transplant patients;
 - Respiratory therapists having expertise in the needs of transplant patients; and
 - Social workers, psychologists, psychiatrists, and other individuals skilled in performing comprehensive psychological assessments, counselling patients, and families of patients, providing assistance with financial arrangements, and making arrangements for use of community resources.
- Coordination of services:
 - Staff and other resources necessary to care for a patient's chronic illness prior to transplantation, during transplantation, and in the post-operative period. Services and facilities for inpatient and outpatient care must be available on a 24-hour basis.
 - If cadaveric transplantation will be part of the transplantation program, a written agreement with an organ acquisition center for organ procurement is required. A system by which 24-hour call can be maintained for assessment, management, and retrieval of all referred donors, cadaver donors or organs shared by other transplant or organ procurement agencies is mandatory. Applicants for a bone marrow transplantation program are exempt from this requirement.
 - An age-appropriate (adult or pediatric) intensive care unit which includes facilities for prolonged reverse isolation when required.
 - A clinical review committee for evaluation and decision-making regarding the suitability of a transplant candidate.
 - Written protocols for patient care for each type of organ transplantation program including, at a minimum, patient selection criteria for patient management and evaluation during the pre-hospital, in-hospital, and immediate post-discharge phases of the program.
 - Detailed therapeutic and evaluative procedures for the acute and long term management of each transplant program patient, including the management of commonly encountered complications.
 - Equipment for cooling, flushing, and transporting organs. If cadaveric transplants are performed, equipment for organ preservation through mechanical perfusion is necessary. Applicants for a bone marrow transplantation program are exempt from this requirement. This requirement may be met through an agreement with an organ procurement agency.
 - An onsite tissue-typing laboratory or a contractual arrangement with an outside laboratory within the state which meets the requirements of the American Society of Histocompatibility.

- Pathology services having the capability of studying and promptly reporting a patient's response to the organ transplantation surgery, and analyzing appropriate biopsy material.
- Blood banking facilities.
- A program for the education and training of staff regarding the special care of transplantation patients.
- Education programs for patients, their families, and a patient's primary care physician regarding after-care for transplantation patients.
- Specialized requirements:
 - For heart transplant programs:
 - A board-certified or board-eligible adult cardiologist, or, in the case of a pediatric heart transplantation program, a board-certified or board-eligible pediatric cardiologist;
 - An anesthesiologist experienced in both open heart surgery and heart transplantation; and
 - A one-bed isolation room in an age-appropriate intensive care unit.
 - For liver transplant programs:
 - A department of gastroenterology, including clinics, and adequately equipped procedure rooms;
 - Radiology services to provide complex biliary procedures, including transhepatic cholangiography, portal venography, and arteriography;
 - A laboratory having the capability of performing and promptly reporting the results of liver function tests as well as required chemistry, hematology, and virology tests; and
 - A patient convalescent unit for further monitoring of patient progress for approximately 1 month post-hospital discharge following liver transplantation.
 - In addition to the general staffing requirements for all transplantation programs, program staff for liver transplantation programs must be trained in the care of patients with hepatic diseases, and liver transplantation.
 - For kidney transplant programs:
 - Coordination of services requirements:
 - Inpatient services must be available and must include renal dialysis and pre- and post operative care. There must be 24-hour availability of onsite dialysis under the supervision of a board-certified or board-eligible nephrologist. If pediatric patients are served, a separate pediatric dialysis unit must be established.
 - Outpatient services must be available and must include renal dialysis services and ambulatory renal clinic services.
 - Ancillary services must include pre-dialysis, dialysis, and post transplantation nutritional services; bacteriologic, biochemical, and pathological services; radiologic services; and nursing services having the capability of monitoring and support during dialysis and assisting with home care including vascular access and home dialysis management, when applicable.
 - Staffing requirements for adult programs:
 - The kidney transplantation program must be under the direction of a physician having experience in physiology, immunology, and immuno-suppressive therapy relevant to kidney transplantation.

- The transplant surgeon must be board-certified in surgery or a surgical subspecialty and must have a minimum of 18 months training in a transplant center.
- The transplant team performing kidney transplantation must include physicians who are board-certified or board-eligible in the areas of anesthesiology, nephrology, psychiatry, vascular surgery, and urology.
- Additional support personnel which must be available include a nephrology nurse with experience in nursing care of patients with permanent kidney failure, and a renal dietician.
- A laboratory with the capability of performing and promptly reporting bacteriologic, biochemical, and pathologic analysis.
- An anesthesiologist experienced in kidney transplantation.
- Staffing requirements for pediatric programs:
 - A medical director who is sub-board-certified or sub-board-eligible in pediatric nephrology.
 - A dialysis unit head nurse with special training and expertise in pediatric dialysis.
 - Nurse staffing at a nurse-to-patient ratio of one-to-one in the pediatric dialysis unit.
 - A registered dietician with expertise in nutritional needs of children with chronic renal disease.
 - A surgeon with experience in pediatric renal transplantation.
 - A radiology service with specialized equipment for obtaining X-rays on pediatric patients.
 - Education services to include home and hospital programs to ensure minimal interruption in school education.
- For bone marrow transplant programs:
 - Staffing Requirements:
 - A program director who is a board certified hematologist or oncologist having experience in the treatment and management of pediatric acute oncological cases involving high dose chemotherapy or high dose radiation therapy. The program director must have formal training in pediatric bone marrow transplantation;
 - Clinical nurses having experience in the care of critically ill immuno-suppressed patients. Nursing staff must be dedicated full time to the program;
 - An interdisciplinary transplantation team having expertise in hematology, oncology, immunologic diseases, neoplastic diseases, including hematopoietic and lymphopoietic malignancies, and non-neoplastic disorders. The team must direct permanent follow-up care of the bone marrow transplantation patients, including the maintenance of immunosuppressive therapy and treatment of complications;
 - A radiation therapy division onsite which is capable of sub-lethal x-irradiation, bone marrow ablation, and total lymphoid irradiation. The division must be under the direction of a board-certified radiation oncologist;
 - An ongoing research program that is integrated either within the hospital or by written agreement with a bone marrow transplantation center operated by a teaching hospital. The program must include outcome monitoring and long-term patient follow-up; and;
 - An established research-oriented oncology program.

- Pediatric allogenic bone marrow transplant requirements:
 - A laboratory equipped to handle studies including the use of monoclonal antibodies, if this procedure is employed by the hospital, or T-cell depletion, separation of lymphocyte and hematological cell subpopulations and their removal for prevention of graft versus host disease. This requirement may be met through contractual arrangements;
 - An onsite laboratory equipped for the evaluation and cryopreservation of bone marrow;
 - An age-appropriate patient convalescent facility to provide a temporary residence setting for transplant patients during the prolonged convalescence; and
 - An age-appropriate outpatient unit for close supervision of discharged patients.
- Adult allogenic bone marrow transplant program requirements:
 - Inpatient transplantation units for post-transplant hospitalization. Post-transplantation care must be provided in a laminar air flow room; or in a private room with positive pressure, reverse isolation procedures, and terminal high efficiency particulate aerosol filtration on air blowers. The designated transplant unit must have a minimum of two beds. This unit can be part of a facility that also manages patients with leukemia or similar disorders;
 - A radiation therapy division onsite which is capable of sub-lethal x-irradiation, bone marrow ablation, and total lymphoid irradiation. The division must be under the direction of a board-certified radiation oncologist;
 - A laboratory equipped to handle studies including the use of monoclonal antibodies, if this procedure is employed by the hospital, or T-cell depletion, separation of lymphocyte and hematological cell subpopulations and their removal for prevention of graft versus host disease. This requirement may be met through contractual arrangements;
 - An onsite laboratory equipped for the evaluation and cryopreservation of bone marrow;
 - An ongoing research program that is integrated either within the hospital or by written agreement with a bone marrow transplantation center operated by a teaching hospital. The program must include outcome monitoring and long-term patient follow-up;
 - An established research-oriented oncology program;
 - A patient convalescent facility to provide a temporary residence setting for transplant patients during the prolonged convalescence; and
 - An outpatient unit for close supervision of discharged patients.
- Adult autologous bone marrow transplant program requirements:
 - Inpatient transplantation units for post-transplant hospitalization. Post-transplantation care must be provided in a laminar air flow room; or in a private room with positive pressure, reverse isolation procedures, and terminal high efficiency particulate aerosol filtration on air blowers. The designated transplant unit must have a minimum of two beds. This unit can be part of a facility that also manages patients with leukemia or similar disorders;
 - A radiation therapy division onsite which is capable of sub-lethal x-irradiation and total lymphoid irradiation. The division must be under the direction of a board-certified radiation oncologist;

- An ongoing research program that is integrated either within the hospital or by written agreement with a bone marrow transplantation center operated by a teaching hospital; or the applicant may enter into an agreement with an outpatient provider having a research program, as defined in this rule. Under the agreement, the outpatient research program may perform specified outpatient phases of adult autologous bone marrow transplantation, including blood screening tests, mobilization of stem cells, stem cell rescue, chemotherapy, and reinfusion of stem cells; and
- An established research-oriented oncology program.
- Lung, Heart and Lung, Pancreas and Islet Cells, and Intestines transplant programs have no additional requirements.

CON Overview

In Florida, a CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices. The Florida CON program has three levels of review: full, expedited, and exempt.⁷ Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.⁸ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986. The Legislature repealed Florida's CON program for most hospitals and tertiary services, including organ transplantation, in 2019 with the passage of HB 21.⁹ However, HB 21 allowed the AHCA to continue to enforce the licensure portions of its CON rules for tertiary services until such time as the AHCA has adopted corresponding licensure rules.

Status of Certificate of Need Rules for Organ Transplant and Neonatal Intensive Care

Currently, licensure of organ transplantation programs in Florida is governed by Rule 59C-1.044, F.A.C., and licensure of NICUs is governed by Rule 59C-1.042, F.A.C. Although the CON program was repealed for tertiary services including organ transplantation and NICUs in 2019 (see CON Overview above), the AHCA was authorized to continue to enforce the licensure portions of its CON rules until such time as the AHCA has adopted corresponding licensure rules. As of January 23, 2020, the AHCA has proposed amending Rule 59A-3.246, F.A.C., to incorporate licensure requirements for organ transplant programs and has proposed creating Rule 59A-3.249, F.A.R.; however, these proposed changes have not yet been adopted.

Florida Sovereign Immunity

Generally, the state has sovereign immunity from liabilities and lawsuits.¹⁰ The Legislature has waived sovereign immunity for certain liabilities from the state, including tort claims for

⁷ Section 408.036, F.S.

⁸ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

⁹ Chapter 2019-136, L.O.F.

¹⁰ FLA. CONST. art. X, s. 13.

negligence.¹¹ However, individual state actors and employees are not personally liable unless they act in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Moreover, there are limits on the collectability of a judgments of \$200,000 limit per claimant and \$300,000 limit per incident unless the Legislature approves a claim bill authorizing additional payments.

Sovereign immunity is not limited to government agencies. Some private entities, such as Community Based Care Agencies contracted with the Department of Children and Families,¹² share sovereign immunity as corporations primarily acting as instrumentalities of the state or its agencies.

Some advisory boards having both private and government purpose share sovereign immunity. The Florida Virtual School, for example, is governed by a board of trustees entitled to sovereign immunity.¹³ The Board acts as the governing board of the Florida Virtual Schools and has the power to generate revenue and supervise employment matters. Similarly, the Nurse Licensure Compact, a national compact of different states making rules for multi-state nurse licensures, enjoys sovereign immunity under Florida law.¹⁴

III. Effect of Proposed Changes:

This bill substantially amends and creates several sections of law relating to organ donations.

Section 1 amends s. 408.0455, F.S., to specify that AHCA CON rules for minimum volume standards for organ transplantation and neonatal intensive care services remain in effect until the AHCA has adopted corresponding licensure rules.

Section 2 amends s. 627.6045, F.S., to prohibit a health insurance policy from limiting or excluding coverage for a living organ donor under a preexisting condition provision.

Sections 3 and 5 amend ss. 765.514 and 765.517, F.S., respectively, to prohibit an organ transplantation facility from charging a deceased donor or his or her family any fee for services relating to the procurement or donation of the donor's organs and to add a statement on the uniform donor card form that neither the donor nor his or her family is responsible for the payment of any fees associated with services relating to the procurement or donation of the donor's organs, tissues, or eyes.

Section 4 amends s. 765.5155, F.S., to expand the organ donation education program to include federal laws and information on the organ donation and transplantation process.

Section 6 amends s. 765.522, F.S., to require that the AHCA establish rules and guidelines to require that individuals who request consent of an anatomical gift from a patient's health care surrogate or other representative, be required to clearly explain to patients and living organ donors the protocols of the hospital and the federal and state regulations regarding donation.

¹¹ Section 768.28, F.S.

¹² Section 409.2564(6), F.S.

¹³ Section 1002.37, F.S.

¹⁴ Section 464.0095, F.S.

Section 7 revises s. 763.53, F.S., to expand the duties of the existing OTAC and rename it as the Organ Transplant Technical Advisory Council (Council).

The bill establishes the Council within the AHCA to develop standards for quality and outcomes at adult and pediatric organ transplant programs. The Council is also tasked with advising the AHCA and the Legislature regarding the cost savings, trends, research, and protocols and procedures relating to organ donation and transplantation, including the availability of organs for donation and access to organ transplants for persons having disabilities. The bill specifies that unless otherwise stated, the Council must operate in accordance with s. 20.052, F.S.

The bill establishes the membership of the council to include eight voting members appointed by the CEO of each of the following hospitals:

- Jackson Memorial Hospital in Miami.
- Tampa General Hospital in Tampa.
- University of Florida Health Shands Hospital in Gainesville.
- AdventHealth Orlando in Orlando.
- Mayo Clinic in Jacksonville.
- Cleveland Clinic Florida in Weston.
- Largo Medical Center in Largo.
- Broward Health Medical Center in Fort Lauderdale

Each such member must have technical expertise in adult or pediatric organ transplantation and must be an organ transplant surgeon licensed under chs. 458 or 459, F.S., or an organ transplant nurse coordinator licensed under ch. 464. Each such member's appointment is contingent upon the appointing hospital's compliance with ch. 395, F.S., and related rules. If the hospital is noncompliant, the member may serve only as a nonvoting member until the hospital comes into compliance.

Additionally, the Secretary of the AHCA must serve as the chair and a nonvoting member of the Council and must appoint the following to serve as voting members:

- The State Surgeon General or his or her designee.
- A parent of a child who has had an organ transplant.
- An adult who has had an organ transplant.
- An adult patient who is on an organ transplant waiting list.
- A representative from an organ procurement organization.
- An administrator of an organ transplant program.
- A licensed physician from each of the following organ transplantation areas:
 - Kidneys.
 - Lungs.
 - Heart.
 - Liver.
 - Pancreas.

Voting members of the Council are required to reflect the ethnic and gender diversity of the state. Members serve without compensation but may be reimbursed for per diem and travel

expenses. Members of the Council who are performing their duties in good faith are considered agents of the state for the purpose of sovereign immunity. Members may be reappointed and each vacancy may be filled in the same manner as it was originally filled.

The Council must meet at least twice annually and additionally upon call of the chair. The meetings may be held using any method of telecommunications.

The Council's duties include:

- Recommending to the AHCA and the Legislature standards for quality care of adult and pediatric organ transplant patients including:
 - Recommendations on minimum volume of transplants by organ type;
 - Personnel;
 - Physical plant;
 - Equipment;
 - Transportation; and
 - Data reporting for hospitals that perform organ transplants.
- Reporting its recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Health Care Administration, and the State Surgeon General by October 1, 2021.

Additionally, the Council may, but is not required to, further advise the AHCA and the Legislature regarding research focused on improving overall organ availability. Voting members may only vote on a specific recommendation if the hospital which the member represents has a transplant program for that type of organ.

Based on the recommendations of the Council, the AHCA must develop and adopt rules for organ transplant programs so that such rules include, at a minimum:

- Quality of care standards for adult and pediatric organ transplants, including minimum volume thresholds by organ type, personnel, physical plant, equipment, transportation, and data reporting.
- Outcome and survival rate standards that meet or exceed nationally established levels of performance in organ transplantation.
- Specific steps to be taken by the AHCA and licensed facilities when the facilities do not meet the volume, outcome, or survival rate standards within a specified timeframe that includes the time required for detailed case reviews and the development and implementation of corrective action plans.

This requirement to adopt or amend rules is repealed on July 1, 2030.

Section 8 amends s. 765.543, F.S., to require the Organ and Tissue Procurement and Transplantation Board to, by September 1, 2021, submit to the AHCA recommendations that address:

- The frequency of communication between patients and organ transplant coordinators.
- The monitoring of each organ transplantation facility and the annual reporting and publication of relevant information regarding the statewide number of patients placed on waiting lists and the number of patients who receive transplants, aggregated by the facility.

- The establishment of a coordinated communication system between organ transplantation facilities and living organ donors for the purpose of minimizing the cost and time required for duplicative lab tests, including the sharing of lab results between facilities.
- The potential incentives for organ transplantation facilities that may be necessary to increase organ donation in this state.
- The creation of a more efficient regional or statewide living organ donor process.
- The potential opportunities and incentives for organ transplantation research.
- The best practices for organ transplantation facilities and organ procurement organizations which promote the most efficient and effective outcomes for patients.
- The monitoring of organ procurement organizations.

Additionally, the bill specifies that the Board must collaborate with other relevant public or private entities in the development of necessary professional qualifications for persons engaged various facets of organ and tissue procurement.

Section 9 creates s. 765.548, F.S., to require the AHCA to:

- Monitor the operation of each organ transplantation facility and organ procurement organization located in this state.
- Develop uniform statewide rules regarding organ donations, which:
 - Must include the requirement that each hospital designate at least one employee or representative of the hospital who is educated on the protocols of the hospital and federal and state regulations regarding organ donation, to provide a clear explanation of such subjects to any patient, or a patient's representative, who is considering posthumous or living organ donation; and
 - May include, but need not be limited to, procedures for maintaining a coordinated system of communication between organ transplantation facilities.
- Evaluate the current protocols and procedures used by organ transplantation facilities and make recommendations for improving such protocols and procedures.
- Establish annual reporting requirements for organ transplantation facilities and organ procurement organizations.
- In consultation with the state Board of Education and the contractor procured by the AHCA pursuant to s. 765.5155, F.S., develop a curriculum for educating high school students regarding the laws of this state relating to organ donation.
- Publish any data and other relevant information to adequately inform patients and potential donors about organ donation and organ transplantation by December 1, 2021, and each year thereafter.

Section 10 amends s. 409.815, F.S., to make a conforming change

Section 11 provides that the bill has 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 1516 may have an indeterminate negative fiscal impact on the AHCA due to the requirement to reimburse Council members for per diem and travel expenses.

VI. Technical Deficiencies:

The bill directs the Secretary of Health Care Administration to appoint a number of voting members to the Organ Transplant Technical Advisory Council. These members must include a “licensed pediatric and adult organ transplant physician” for the kidney, lungs, heart, liver, and pancrea. The Legislature may wish to clarify whether the Secretary is to appoint two physicians for each of the listed organs or a physician who sees both adult and pediatric patients.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 408.0455 and 765.53 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 Judiciary on February 11, 2020

- Clarifies that an organ transplantation facility may not charge a donor, deceased donor, or his or her family for services relating to the procurement or donation of the deceased donors organs.
- Requires the Organ Transplant Technical Advisory Council to advise the Agency for Healthcare Administration and the Legislature on organ donor benefits and access to organ transplants for persons having disabilities.
- Increases the membership of the Organ Transplant Technical Advisory Council to include a representative from an organ procurement organization, administrator of an organ transplant program.

CS by Health Policy on January 27, 2020:

The CS changes the title of the bill from “an act relating to organ transplant technical Advisory Council to “an act relating to organ donation” and amends and creates additional sections of law relating to organ donation as follows:

- Section 627.6045, F.S., is amended to prohibit a health insurance policy from limiting or excluding coverage for a living organ donor under a preexisting condition provision.
- Sections 765.517 and 765.514, F.S., are amended to prohibit an organ transplantation facility from charging an organ donor or his or her family any fee for services relating to the procurement or donation of the donor’s organs and to add a statement on the uniform donor card form that neither the donor nor his or her family is responsible for the payment of any fees associated with services relating to the procurement or donation of the donor’s organs, tissues, or eyes.
- Section 765.5155, F.S., is amended to expand the organ donation education program to include federal laws and information on the organ donation and transplantation process.
- Section 765.543, F.S., is amended to require the Organ and Tissue Procurement and Transplantation Board to, by September 1, 2021, submit to the AHCA recommendations that address:
 - The frequency of communication between patients and organ transplant coordinators.
 - The monitoring of each organ transplantation facility and the annual reporting and publication of relevant information regarding the statewide number of patients placed on waiting lists and the number of patients who receive transplants, aggregated by the facility.
 - The establishment of a coordinated communication system between organ transplantation facilities and living organ donors for the purpose of minimizing the cost and time required for duplicative lab tests, including the sharing of lab results between facilities.
 - The potential incentives for organ transplantation facilities that may be necessary to increase organ donation in this state.

- The creation of a more efficient regional or statewide living organ donor process.
- The potential opportunities and incentives for organ transplantation research.
- The best practices for organ transplantation facilities and organ procurement organizations which promote the most efficient and effective outcomes for patients.
- The monitoring of organ procurement organizations.
- Section 765.548, F.S., is created to require the AHCA to:
 - Monitor the operation of each organ transplantation facility and organ procurement organization located in this state.
 - Develop uniform statewide rules regarding organ donations, which must include the requirement that each hospital designate at least one employee or representative of the hospital who is educated on the protocols of the hospital and federal and state regulations regarding organ donation, to provide a clear explanation of such subjects to any patient, or a patient's representative, who is considering posthumous or living organ donation; and may include, but need not be limited to, procedures for maintaining a coordinated system of communication between organ transplantation facilities.
 - Evaluate the current protocols and procedures used by organ transplantation facilities and make recommendations for improving such protocols and procedures.
 - Establish annual reporting requirements for organ transplantation facilities and organ procurement organizations.
 - In consultation with the state Board of Education and the contractor procured by the AHCA pursuant to s. 765.5155, F.S., develop a curriculum for educating high school students regarding the laws of this state relating to organ donation.
 - Publish any data and other relevant information to adequately inform patients and potential donors about organ donation and organ transplantation by December 1, 2021, and each year thereafter.

In addition, the CS amends requirements for the Council to:

- Require the Council to advise the AHCA and the Legislature regarding the cost savings, trends, research, and protocols and procedures relating to organ donation and transplantation, including the availability of organs for donation.
- Revise the membership of the Council to:
 - Allow the appointment of organ transplant nurses, in addition to physicians;
 - Reduce the members appointed by hospitals to eight;¹⁵ and
 - Grant voting rights to members of the Council appointed by the secretary of the AHCA and revise the list of members appointed by the secretary;¹⁶ and
 - Require voting members to reflect the ethnic and gender diversity of the state;
- Revise the duties of the Council to:
 - Require recommendations be presented to the Legislature as well as the AHCA;

¹⁵ Memorial Regional hospital in Hollywood, Halifax Health Medical Center in Daytona Beach, Sacred Heart Hospital in Pensacola, H. Lee Moffitt cancer Center and Research Institute in Tampa, and the University of Miami Hospital in Fort Lauderdale are removed from the list while Broward Health Medical Center in Fort Lauderdale is added.

¹⁶ Representatives of the Florida Hospital Association, the Safety Net Hospital Alliance of Florida, and HCA Healthcare are removed from the underlying bill while an adult patient who is on an organ transplant waiting list and licensed physicians who specialize in organ transplantation of the kidneys, lungs, liver, heart, and pancreas are added.

- Eliminate the duty to develop recommendations for improving education, outreach, and communication between hospitals, patients, and the public, with an emphasis on potential and prospective donors, including recommendations for clear explanations to the public of relevant laws, rules, and regulations; requirements for coordinated communication between hospitals, between hospitals and patients, and between hospitals and prospective donors; and recommendations for providing education to the public on the organ donation process, with an emphasis on educating potential living donors; and
- Allow the Council to advise the AHCA and the Legislature regarding research focused on improving overall organ availability.

The CS also revises the automatic repeal date of the requirement that the AHCA adopt rules based on the Councils recommendations from an automatic repeal when the AHCA adopts such rules to a repeal on the set date of July 1, 2030.

Amendments:

None.



767912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Harrell) recommended the following:

Senate Amendment

Delete lines 136 - 215
and insert:
transplantation facility may not charge a deceased donor or his
or her family member any fee for services relating to the
procurement or donation of the deceased donor's organs. An organ
transplantation facility may not charge a living donor for
services relating to the procurement or donation of his or her
organs.

Section 6. Section 765.53, Florida Statutes, is amended to



767912

12 read:

13 (Substantial rewording of section. See
14 s. 765.53, F.S., for present text.)

15 765.53 Organ Transplant Technical Advisory Council.-

16 (1) CREATION AND PURPOSE.-The Organ Transplant Technical
17 Advisory Council, an advisory council as defined in s. 20.03, is
18 created within the agency to develop standards for measuring
19 quality and outcomes of adult and pediatric organ transplant
20 programs. In order to increase the number of organs available
21 for transplantation in this state, the council shall advise the
22 agency and the Legislature regarding the cost savings, trends,
23 research, and protocols and procedures relating to organ
24 donation and transplantation, including the availability of
25 organs for donation, organ donor benefits, and access to organ
26 transplants for persons with disabilities. Unless expressly
27 provided otherwise in this section, the council shall operate in
28 a manner consistent with s. 20.052.

29 (2) MEMBERS.-

30 (a) Voting members of the council must have technical
31 expertise in adult or pediatric organ transplantation. The chief
32 executive officers of the following organ transplantation
33 facilities shall each appoint one representative, who must be an
34 organ transplant nurse coordinator licensed under chapter 464 or
35 an organ transplant surgeon licensed under chapter 458 or
36 chapter 459, to serve as a voting member of the council:

37 1. Jackson Memorial Hospital in Miami.

38 2. Tampa General Hospital in Tampa.

39 3. University of Florida Health Shands Hospital in
40 Gainesville.



767912

41 4. AdventHealth Orlando in Orlando.

42 5. Mayo Clinic in Jacksonville.

43 6. Cleveland Clinic Florida in Weston.

44 7. Largo Medical Center in Largo.

45 8. Broward Health Medical Center in Fort Lauderdale.

46 (b) Voting members of the council must reflect the ethnic
47 and gender diversity of this state.

48 (c) The Secretary of Health Care Administration shall serve
49 as the chair and a nonvoting member of the council.

50 (d) The Secretary of Health Care Administration shall
51 appoint the following individuals to serve as voting members of
52 the council:

53 1. The State Surgeon General or his or her designee.

54 2. A parent of a child who has had an organ transplant.

55 3. An adult who has had an organ transplant.

56 4. An adult patient who is on an organ transplant waiting
57 list.

58 5. A licensed pediatric and adult organ transplant
59 physician for each of the following areas:

60 a. Kidneys.

61 b. Lungs.

62 c. Heart.

63 d. Liver.

64 e. Pancreas.

65 6. A representative from an organ procurement organization.

66 7. An administrator of an organ transplant program.

67 (e) Appointments made under paragraph (a) are contingent
68 upon the hospital's compliance with chapter 395 and rules
69 adopted thereunder. A member of the council appointed under



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70 paragraph (a) whose hospital fails to comply with such law and
71 rules may serve only as a nonvoting member until the hospital
72 comes into compliance.

73 (f) Any vacancy on the council must be filled in the same
74 manner as the original appointment. Members are eligible for
75 reappointment.

76 (g) Members of the council shall serve without compensation
77 but may be reimbursed as provided in s. 112.061 for per diem and
78 travel expenses incurred in the performance of their duties
79 under this section.

80 (3) MEETINGS.—The council shall meet at least twice
81 annually and upon the call of the chair. The council may use any
82 method of telecommunications to conduct its meetings.

83 (4) DUTIES.—The council shall recommend to the agency and
84 the Legislature the standards for quality care of adult and
85 pediatric organ transplant patients, including recommendations
86 on minimum volume of transplants by organ type, personnel,
87 physical plant, equipment, transportation, and data reporting
88 for hospitals that perform organ transplants. The council may
89 further advise the agency and the Legislature regarding research
90 focused on improving overall organ availability and benefits for
91 organ donors. A voting member

By the Committee on Health Policy; and Senator Harrell

588-02737-20

20201516c1

1 A bill to be entitled
2 An act relating to organ donation; amending s.
3 408.0455, F.S.; revising a provision relating to the
4 operation of certain rules adopted by the Agency for
5 Health Care Administration; amending s. 627.6045,
6 F.S.; prohibiting a health insurance policy from
7 limiting or excluding coverage solely on the basis
8 that an insured is a living organ donor; amending s.
9 765.514, F.S.; revising a written document for making
10 an anatomical gift to include a specified statement
11 relating to the responsibility of payment for fees
12 associated with certain services; amending s.
13 765.5155, F.S.; revising the responsibilities of a
14 contractor procured by the agency for the purpose of
15 educating and informing the public about anatomical
16 gifts; amending s. 765.517, F.S.; prohibiting an organ
17 transplantation facility from charging a donor or his
18 or her family member any fee for services relating to
19 the procurement or donation of organs; amending s.
20 765.53, F.S.; requiring the agency to establish the
21 Organ Transplant Technical Advisory Council for a
22 specified purpose; providing for membership, meetings,
23 and duties of the council; requiring the council to
24 submit a report to the Governor, the Legislature, the
25 Secretary of Health Care Administration, and the State
26 Surgeon General by a specified date; providing for
27 sovereign immunity of council members under certain
28 circumstances; requiring the agency to adopt specified
29 rules based on the council's recommendations;

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30 providing for future legislative review and repeal of
31 certain provisions; amending s. 765.543, F.S.;
32 revising the duties of the Organ and Tissue
33 Procurement and Transplantation Advisory Board;
34 requiring the board to submit certain recommendations
35 to the agency by a specified date; creating s.
36 765.548, F.S.; providing additional duties of the
37 agency relating to organ transplantation facilities
38 and organ procurement organizations and organ donation
39 procedures and protocols; requiring the agency to
40 publish certain data and information by a specified
41 date and annually thereafter; amending s. 409.815,
42 F.S.; conforming a provision to changes made by the
43 act; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 408.0455, Florida Statutes, is amended
48 to read:

49 408.0455 Rules; pending proceedings.—The rules of the
50 agency in effect on June 30, 2004, ~~shall~~ remain in effect and
51 are shall be enforceable by the agency with respect to ss.
52 408.031-408.045 until such rules are repealed or amended by the
53 agency. Rules 59C-1.039 through 59C-1.044, Florida
54 Administrative Code, including, but not limited to, the minimum
55 volume standards for organ transplantation and neonatal
56 intensive care services, remain in effect for the sole purpose
57 of maintaining licensure requirements for the applicable
58 services until the agency has adopted rules for the

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59 corresponding services pursuant to s. 395.1055(1)(i), Florida
60 Statutes 2018.

61 Section 2. Present subsections (3) and (4) of section
62 627.6045, Florida Statutes, are redesignated as subsections (4)
63 and (5), respectively, and a new subsection (3) is added to that
64 section, to read:

65 627.6045 Preexisting condition.—A health insurance policy
66 must comply with the following:

67 (3) A preexisting condition provision may not limit or
68 exclude coverage solely on the basis that an insured is a living
69 organ donor.

70 Section 3. Paragraph (f) of subsection (1) of section
71 765.514, Florida Statutes, is amended to read:

72 765.514 Manner of making anatomical gifts.—

73 (1) A person may make an anatomical gift of all or part of
74 his or her body under s. 765.512(1) by:

75 (f) Expressing a wish to donate in a document other than a
76 will. The document must be signed by the donor in the presence
77 of two witnesses who shall sign the document in the donor's
78 presence. If the donor cannot sign, the document may be signed
79 for him or her at the donor's direction and in his or her
80 presence and the presence of two witnesses who must sign the
81 document in the donor's presence. Delivery of the document of
82 gift during the donor's lifetime is not necessary to make the
83 gift valid. The following form of written document is sufficient
84 for any person to make an anatomical gift for the purposes of
85 this part:

86 UNIFORM DONOR CARD

87 The undersigned hereby makes this anatomical gift, if medically

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88 acceptable, to take effect on death. The words and marks below
 89 indicate my desires:

90 I give:

91 (a) any needed organs, tissues, or eyes;

92 (b) only the following organs, tissues, or eyes

93 ...[Specify the organs, tissues, or eyes]...

94 for the purpose of transplantation, therapy, medical research,
 95 or education;

96 (c) my body for anatomical study if needed.

97 Limitations or special wishes, if any:

98 ... (If applicable, list specific donee;

99 this must be arranged in advance with the donee.)...

100

101 I understand that neither I nor any member of my family is
 102 responsible for the payment of any fees associated with services
 103 relating to the procurement or donation of my organs, tissues,
 104 or eyes.

105

106 Signed by the donor and the following witnesses in the presence
 107 of each other:

108 ... (Signature of donor)... ... (Date of birth of donor)...

109 ... (Date signed)... ... (City and State)...

110 ... (Witness)... ... (Witness)...

111 ... (Address)... ... (Address)...

112 Section 4. Paragraph (b) of subsection (3) of section
 113 765.5155, Florida Statutes, is amended to read:

114 765.5155 Donor registry; education program.—

115 (3) The contractor shall be responsible for:

116 (b) A continuing program to educate and inform medical

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117 professionals, law enforcement agencies and officers, other
118 state and local government employees, high school students,
119 minorities, and the public about state and federal ~~the~~ laws ~~of~~
120 ~~this state~~ relating to anatomical gifts and the need for
121 anatomical gifts, including the organ donation and
122 transplantation process.

123 1. Existing community resources, when available, must be
124 used to support the program and volunteers may assist the
125 program to the maximum extent possible.

126 2. The contractor shall coordinate with the head of a state
127 agency or other political subdivision of the state, or his or
128 her designee, to establish convenient times, dates, and
129 locations for educating that entity's employees.

130 Section 5. Subsection (4) of section 765.517, Florida
131 Statutes, is amended to read:

132 765.517 Rights and duties at death.—

133 (4) All reasonable additional expenses incurred in the
134 procedures to preserve the donor's organs or tissues shall be
135 reimbursed by the procurement organization. An organ
136 transplantation facility may not charge a donor or his or her
137 family member any fee for services relating to the procurement
138 or donation of his or her organs.

139 Section 6. Section 765.53, Florida Statutes, is amended to
140 read:

141 (Substantial rewording of section. See
142 s. 765.53, F.S., for present text.)

143 765.53 Organ Transplant Technical Advisory Council.—

144 (1) CREATION AND PURPOSE.—The Organ Transplant Technical
145 Advisory Council, an advisory council as defined in s. 20.03, is

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146 created within the agency to develop standards for measuring
147 quality and outcomes of adult and pediatric organ transplant
148 programs. In order to increase the number of organs available
149 for transplantation in this state, the council shall advise the
150 agency and the Legislature regarding the cost savings, trends,
151 research, and protocols and procedures relating to organ
152 donation and transplantation, including the availability of
153 organs for donation. Unless expressly provided otherwise in this
154 section, the council shall operate in a manner consistent with
155 s. 20.052.

156 (2) MEMBERS.—

157 (a) Voting members of the council must have technical
158 expertise in adult or pediatric organ transplantation. The chief
159 executive officers of the following organ transplantation
160 facilities shall each appoint one representative, who must be an
161 organ transplant nurse coordinator licensed under chapter 464 or
162 an organ transplant surgeon licensed under chapter 458 or
163 chapter 459, to serve as a voting member of the council:

164 1. Jackson Memorial Hospital in Miami.

165 2. Tampa General Hospital in Tampa.

166 3. University of Florida Health Shands Hospital in
167 Gainesville.

168 4. AdventHealth Orlando in Orlando.

169 5. Mayo Clinic in Jacksonville.

170 6. Cleveland Clinic Florida in Weston.

171 7. Largo Medical Center in Largo.

172 8. Broward Health Medical Center in Fort Lauderdale.

173 (b) Voting members of the council must reflect the ethnic
174 and gender diversity of this state.

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175 (c) The Secretary of Health Care Administration shall serve
176 as the chair and a nonvoting member of the council.

177 (d) The Secretary of Health Care Administration shall
178 appoint the following individuals to serve as voting members of
179 the council:

180 1. The State Surgeon General or his or her designee.
181 2. A parent of a child who has had an organ transplant.
182 3. An adult who has had an organ transplant.
183 4. An adult patient who is on an organ transplant waiting
184 list.

185 5. A licensed physician who practices in each of the
186 following organ transplantation areas:

187 a. Kidneys.
188 b. Lungs.
189 c. Heart.
190 d. Liver.
191 e. Pancreas.

192 (e) Appointments made under paragraph (a) are contingent
193 upon the hospital's compliance with chapter 395 and rules
194 adopted thereunder. A member of the council appointed under
195 paragraph (a) whose hospital fails to comply with such law and
196 rules may serve only as a nonvoting member until the hospital
197 comes into compliance.

198 (f) Any vacancy on the council must be filled in the same
199 manner as the original appointment. Members are eligible for
200 reappointment.

201 (g) Members of the council shall serve without compensation
202 but may be reimbursed as provided in s. 112.061 for per diem and
203 travel expenses incurred in the performance of their duties

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204 under this section.

205 (3) MEETINGS.—The council shall meet at least twice
206 annually and upon the call of the chair. The council may use any
207 method of telecommunications to conduct its meetings.

208 (4) DUTIES.—The council shall recommend to the agency and
209 the Legislature the standards for quality care of adult and
210 pediatric organ transplant patients, including recommendations
211 on minimum volume of transplants by organ type, personnel,
212 physical plant, equipment, transportation, and data reporting
213 for hospitals that perform organ transplants. The council may
214 further advise the agency and the Legislature regarding research
215 focused on improving overall organ availability. A voting member
216 may vote on standards related to a specific type of organ only
217 if he or she represents a hospital that has a transplant program
218 for that organ.

219 (5) REPORT.—By October 1, 2021, the council shall submit a
220 report of its recommendations to the Governor, the President of
221 the Senate, the Speaker of the House of Representatives, the
222 Secretary of Health Care Administration, and the State Surgeon
223 General.

224 (6) SOVEREIGN IMMUNITY.—Members of the council acting in
225 good faith in the performance of their duties under this section
226 are considered agents of the state for purposes of s. 768.28.

227 (7) AGENCY RULES.—

228 (a) Based on the recommendations of the council, the agency
229 shall develop and adopt rules for organ transplant programs
230 which, at a minimum, include all of the following:

231 1. Quality of care standards for adult and pediatric organ
232 transplants, including minimum volume thresholds by organ type,

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233 personnel, physical plant, equipment, transportation, and data
234 reporting.

235 2. Outcome and survival rate standards that meet or exceed
236 nationally established levels of performance in organ
237 transplantation.

238 3. Specific steps to be taken by the agency and licensed
239 facilities when the facilities do not meet the volume, outcome,
240 or survival rate standards within a specified timeframe that
241 includes the time required for detailed case reviews and the
242 development and implementation of corrective action plans.

243 (b) This subsection is repealed July 1, 2030, unless
244 reviewed and saved from repeal through reenactment by the
245 Legislature.

246 Section 7. Subsection (3) of section 765.543, Florida
247 Statutes, is amended to read:

248 765.543 Organ and Tissue Procurement and Transplantation
249 Advisory Board; creation; duties.—

250 (3) The board shall:

251 (a) Assist the agency, in collaboration with other relevant
252 public or private entities, in the development of necessary
253 professional qualifications, including, but not limited to, the
254 continuing education, training, and performance of persons
255 engaged in the various facets of organ and tissue procurement,
256 processing, preservation, and distribution for transplantation;

257 (b) Assist the agency in monitoring the appropriate and
258 legitimate expenses associated with organ and tissue
259 procurement, processing, and distribution for transplantation
260 and developing methodologies to assure the uniform statewide
261 reporting of data to facilitate the accurate and timely

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262 evaluation of the organ and tissue procurement and
263 transplantation system;

264 (c) Provide assistance to the Florida Medical Examiners
265 Commission in the development of appropriate procedures and
266 protocols to ensure the continued improvement in the approval
267 and release of potential donors by the district medical
268 examiners and associate medical examiners;

269 (d) Develop with and recommend to the agency the necessary
270 procedures and protocols required to assure that all residents
271 of this state have reasonable access to available organ and
272 tissue transplantation therapy and that residents of this state
273 can be reasonably assured that the statewide procurement
274 transplantation system is able to fulfill their organ and tissue
275 requirements within the limits of the available supply and
276 according to the severity of their medical condition and need;
277 and

278 (e) Develop with and recommend to the agency any changes to
279 the laws of this state or administrative rules or procedures to
280 ensure that the statewide organ and tissue procurement and
281 transplantation system is able to function smoothly,
282 effectively, and efficiently, in accordance with the Federal
283 Anatomical Gift Act and in a manner that assures the residents
284 of this state that no person or entity profits from the
285 altruistic voluntary donation of organs or tissues. In addition
286 to the general duties described in this subsection, by September
287 1, 2021, the board shall submit to the agency recommendations
288 that address the following:

289 1. The frequency of communication between patients and
290 organ transplant coordinators.

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291 2. The monitoring of each organ transplantation facility
292 and the annual reporting and publication of relevant information
293 regarding the statewide number of patients placed on waiting
294 lists and the number of patients who receive transplants,
295 aggregated by the facility.

296 3. The establishment of a coordinated communication system
297 between organ transplantation facilities and living organ donors
298 for the purpose of minimizing the cost and time required for
299 duplicative lab tests, including the sharing of lab results
300 between facilities.

301 4. The potential incentives for organ transplantation
302 facilities that may be necessary to increase organ donation in
303 this state.

304 5. The creation of a more efficient regional or statewide
305 living organ donor process.

306 6. The potential opportunities and incentives for organ
307 transplantation research.

308 7. The best practices for organ transplantation facilities
309 and organ procurement organizations which promote the most
310 efficient and effective outcomes for patients.

311 8. The monitoring of organ procurement organizations.

312 Section 8. Section 765.548, Florida Statutes, is created to
313 read:

314 765.548 Duties of the agency; organ donation.—

315 (1) The agency shall:

316 (a) Monitor the operation of each organ transplantation
317 facility and organ procurement organization located in this
318 state.

319 (b) Develop uniform statewide rules regarding organ

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320 donations. The rules must include the requirement that each
321 hospital designate at least one employee or representative of
322 the hospital who is educated on the protocols of the hospital
323 and federal and state regulations regarding organ donation, to
324 provide a clear explanation of such subjects to any patient, or
325 a patient's representative, who is considering posthumous or
326 living organ donation. The rules may also include, but need not
327 be limited to, procedures for maintaining a coordinated system
328 of communication between organ transplantation facilities.

329 (c) Evaluate the current protocols and procedures used by
330 organ transplantation facilities and make recommendations for
331 improving such protocols and procedures.

332 (d) Establish annual reporting requirements for organ
333 transplantation facilities and organ procurement organizations.

334 (e) In consultation with the State Board of Education and
335 the contractor procured by the agency pursuant to s. 765.5155,
336 develop a curriculum for educating high school students
337 regarding the laws of this state relating to organ donation.

338 (2) By December 1, 2021, and each year thereafter, the
339 agency shall publish any data and other relevant information to
340 adequately inform patients and potential donors about organ
341 donation and organ transplantation.

342 Section 9. Paragraph (e) of subsection (2) of section
343 409.815, Florida Statutes, is amended to read:

344 409.815 Health benefits coverage; limitations.—

345 (2) BENCHMARK BENEFITS.—In order for health benefits
346 coverage to qualify for premium assistance payments for an
347 eligible child under ss. 409.810-409.821, the health benefits
348 coverage, except for coverage under Medicaid and Medikids, must

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349 include the following minimum benefits, as medically necessary.

350 (e) *Organ transplantation services.*—Covered services
351 include pretransplant, transplant, and postdischarge services
352 and treatment of complications after transplantation for
353 transplants deemed necessary and appropriate within the
354 guidelines set by the Organ Transplant Technical Advisory
355 Council under s. 765.53 or the Bone Marrow Transplant Advisory
356 Panel under s. 627.4236.

357 Section 10. This act shall take effect July 1, 2020.

S01516

GENERAL BILL/CS by HP, Harrell; (Compare CS/H 01187)

Organ Donation. EFFECTIVE DATE: 07/01/2020.

02/11/20 S CS/CS by Judiciary; YEAS 6 NAYS 0

02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Rules



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL
25th District

January 28, 2020

Senator David Simmons
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Simmons,

I respectfully request that **SB 1516 – Organ Transplant Technical Advisory Council** be placed on the next available agenda for the Judiciary Committee Meeting. **SB 1516** passed its last Committee.

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 cursive script that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20

Meeting Date

1516

Bill Number (if applicable)

Topic ORGAN TRANSPLANT

Amendment Barcode (if applicable)

Name RON WATSON

Job Title HOBBYIST / PRESIDENT WATSON STRATEGIES

Address

Phone

Street

TALL FLA

City

State

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing FLORIDA RENAL ASSOCIATION

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [x] Yes [] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-11-20

Meeting Date

1516

Bill Number (if applicable)

Topic ORGAN TRANSPLANT

Amendment Barcode (if applicable)

Name LOUIS BETZ

Job Title PRESIDENT

Address P.O. BOX 274108

Phone 813.963.2900

Street

TAMPA
City

FL
State

33688
Zip

Email

Speaking: For Against Information

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

Representing MORE TRANSPLANTS MORE LIFE

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)

Feb 11, 2020
Meeting Date

1516
Bill Number (if applicable)

Topic SB 1516 - Organ Donation

Amendment Barcode (if applicable)

Name Missy Timmins (Margaret)

Job Title _____

Address 2910 Kerry Forest Pkwy ^{D4-368} Phone 668-8000
Street

Tall FL 32309 Email missy@timminsconsulting.com
City State Zip

Speaking: For Against Information

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

Representing More Transplants More Life

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)

SB 1516
HB 1187 (2020)
Bill Number (if applicable)

Meeting Date

Topic HB 1187

Amendment Barcode (if applicable)

Name LAWRENCE COCHRAN

Job Title ASST. EXEC. DIRECTOR - LIFEQUEST

Address 8491 NW 39th AVE.
Street

Phone

GAINESVILLE, FL 32606
City State Zip

Email

Speaking: For Against Information

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

Representing LIFEQUEST FLIS 4 OPDs

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)

2/11/20

Meeting Date

1516

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lauren Whritenour

Job Title _____

Address 108 E. Jefferson St.

Street

Phone 850 509 3610

Tall.

City

FL

State

32301

Zip

Email Lauren.Clair-Henderson@gmail.com

Speaking: For Against Information

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

Representing Betz & Associates

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)

2/11/20

Meeting Date

1514

Bill Number (if applicable)

Topic Organ Donation

Amendment Barcode (if applicable)

Name Dr. Bobby Nibhanupudiy

Job Title Advent Health Transplant Surgeon

Address

Phone

Street

City

State

Zip

Email

Speaking: For Against Information

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

Representing Advent Health

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 Banking and Insurance

BILL: CS/SB 1672

INTRODUCER: Judiciary Committee and Senator Broxson

SUBJECT: Protection of Vulnerable Investors

DATE: February 13, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1672 provides additional protections for investors who are specified adults (age 65 years or older) or vulnerable adults who may be victims of suspected financial exploitation. A vulnerable adult is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. In Florida an estimated 20 percent (or 4,129,854) of the population is age 65 or older.¹ Studies show that financial exploitation is the most common form of elder abuse and yet few incidents are reported. Estimates of annual losses to older adults have ranged from \$2.9 billion to \$36.5 billion in the United States.

The bill explicitly requires securities dealers, investment advisers, and associated persons to report knowledge or suspicion of abuse, neglect, or exploitation of vulnerable adults to the Department of Children and Families' central abuse hotline immediately. Current law requires *any person* who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately.

¹ Department of Elder Affairs, *Profile of Older Floridians, 2018 Projections* at http://elderaffairs.state.fl.us/doea/pubs/stats/County_2018_projections/Counties/Florida.pdf (last viewed Jan. 23, 2020).

The bill also allows securities dealers and investment advisers to delay disbursements or transaction of funds or securities from an account of a specified adult or a vulnerable adult if the following conditions apply:

- The dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser provides written notification to all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided on the account, unless the dealer or investment adviser believes that any of the parties are involved in the suspected exploitation. The notice must provide the reason for the delay.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies the Office of Financial Regulation (OFR) of the delay electronically on a form prescribed by commission rule. The notice must identify the dealer or investment adviser that made the delay, the name of the person who authorized the delay, and the date on which the delay was made.
- The dealer or investment adviser immediately initiates an internal review of the facts and circumstances that caused the dealer or investment adviser to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.

A delay in disbursement or transaction of funds or securities expires in 15 business days, and may be extended for an additional 10 business days. A court of competent jurisdiction may shorten or extend the length of any delay.

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any dealer, investment adviser, or associated person who in good faith and exercising reasonable care complies with the provisions of s. 517.34, F.S. The bill does not alter the obligation of a dealer, investment adviser, or associated person to comply with instructions from a client absent a reasonable belief of financial exploitation.

The bill does not create new rights or obligations of a dealer, investment adviser, or associated person under other applicable laws or rules. The bill does not limit the right of a dealer, investment adviser, or associated person to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement.

The bill has indeterminate fiscal impact on the Office of Financial Regulation.

II. Present Situation:

In Florida an estimated 20 percent (or 4,129,854) of the population is age 65 or older.² Since 2013, financial institutions have reported to the federal government over 180,000 suspicious activities targeting older adults, involving a total of more than \$6 billion. These

² Department of Elder Affairs, *Profile of Older Floridians, 2018 Projections* at http://elderaffairs.state.fl.us/does/pubs/stats/County_2018_projections/Counties/Florida.pdf (last viewed Jan. 23, 2020).

reports indicate that financial exploitation of older adults by scammers, family members, caregivers, and others is widespread in the United States.³ Studies show that financial exploitation is the most common form of elder abuse and yet few incidents are reported.⁴ Estimates of annual losses to older adults have ranged from \$2.9 billion to \$36.5 billion.⁵ Financial exploitation occurs when a person misuses or takes the assets of a vulnerable adult for his or her own personal benefit. This frequently occurs without the knowledge or consent of a senior or disabled adult, depriving him or her of financial resources for personal needs. Assets are taken commonly by deception, false pretenses, coercion, harassment, duress and threats. The following is a list of commonly reported forms of financial exploitation reported to adult protective services in the United States:⁶

- Investment - includes investments made without knowledge or consent and may include high-fee funds (front or back-loaded) or excessive trading activity to generate commissions for financial advisors.
- Theft - involves taking assets without knowledge, consent or authorization and may include taking of cash, valuables, medications, or other personal property.
- Fraud - involves acts of dishonesty by persons entrusted to manage assets and may include falsification of records, forgeries, unauthorized check-writing, and Ponzi-type financial schemes.
- Real Estate - involves unauthorized sales, transfers or changes to property, and may include unauthorized or invalid changes to estate documents.
- Contractor - includes building contractors who receive payment for building repairs, but fail to initiate or complete the project and may include invalid liens by contractors.
- Lottery scams - involves payments to collect unclaimed property or “prizes” from lotteries or sweepstakes.
- Electronic - includes “phishing” e-mail messages to trick persons into unwittingly surrendering bank passwords and may include faxes, wire transfers, telephonic communications.
- Mortgage - includes financial products, which are unaffordable or out-of-compliance with regulatory requirements and may include loans issued against property by unauthorized parties.
- Insurance - involves sales of inappropriate products, such as a 30-year annuity for an elderly person and may include unauthorized trading of life insurance policies.

Social isolation and mental impairment have been identified as two factors that make older adults vulnerable to abuse. Recent studies show that nearly half of those with dementia experienced abuse or neglect. Interpersonal violence also occurs at disproportionately higher rates among adults with disabilities.⁷

³ Consumer Financial Protection Bureau, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends* (Feb. 2019) at https://files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf (last viewed Jan. 18, 2020).

⁴ *Id.*

⁵ *Id.*

⁶ National Adult Protective Services Association website, see <http://www.napsa-now.org/get-informed/what-is-financial-exploitation/> (last viewed Jan. 20, 2020). Definitions of financial exploitation vary from jurisdiction to jurisdiction.

⁷ National Council on Aging, *Elder Abuse Facts*, at <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/> (last viewed Jan. 23, 2020).

Mandatory Reporting for Abuse or Exploitation of Vulnerable Adults in Florida

The Adult Protective Services Act (ch. 415, F.S.) defines abuse as any willful act or threatened act by a relative, caregiver, or household member, which harms or is likely to harm a vulnerable adult's physical, mental, or emotional health.⁸ The Adult Protective Services program is located within the Department of Children and Families, and is responsible for investigating allegations of abuse, neglect or exploitation, as provided in the Adult Protective Services Act.⁹ Section 415.1034, F.S., requires any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately. Any person reporting or that participates in a judicial proceeding is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any civil or criminal liability that otherwise might be incurred or imposed.¹⁰

For purposes of the Adult Protective Services Act, the following terms apply:

- A “vulnerable adult” is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.¹¹
- “Exploitation” means a person who:¹²
 - Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
 - Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.
- “Exploitation” may include, but is not limited to:¹³
 - Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
 - Unauthorized taking of personal assets;
 - Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or
 - Intentional or negligent failure to effectively use a vulnerable adult's income and assets for the necessities required for that person's support and maintenance.

⁸ Section 415.102, F.S.

⁹ Sections 415.101-415.113, F.S.

¹⁰ Section 415.1036, F.S.

¹¹ See s. 415.102(28), F.S.

¹² See s. 415.102(8), F.S.

¹³ *Id.*

Once a person reports to the central abuse hotline, the department must initiate a protective investigation within 24 hours.¹⁴ If a caregiver refuses to allow the department to begin a protective investigation or interferes with the investigation, the department can contact the appropriate law enforcement agency for assistance. If, during the course of the investigation, the department has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney must be notified. The department shall make a preliminary written report to the law enforcement agencies within 5 working days after the oral report and complete the investigation within 60 days.¹⁵

Regulation of Securities

Federal Oversight

The Securities and Exchange Commission (SEC), created by the federal Securities Act of 1934 ('34 Act), has broad authority over all aspects of the securities industry, including the power to register, regulate, and oversee broker-dealers, brokerage firms, transfer agents, and clearing agencies, as well as the nation's securities self-regulatory organizations (SROs).¹⁶ The '34 Act broadly defined "broker" as "any person engaged in the business of effecting transactions in securities for the account of others," which the SEC has interpreted to persons involved in any of the key aspects of a securities transaction, such as solicitation, negotiation, and execution.¹⁷ A "dealer" is "any person engaged in the business of buying and selling securities ... for such person's own account through a broker or otherwise."¹⁸ In addition to being registered with the SEC, broker-dealers must comply with state registration requirements.

The Financial Industry Regulatory Authority (FINRA) is a SRO. Most broker-dealers in the United States are members of FINRA. As members, such broker-dealers are subject to FINRA rules and examination by FINRA. In an effort to address financial exploitation of seniors, FINRA implemented rules to provide a safe harbor for a FINRA member to place temporary holds on disbursements of funds or securities held in accounts of specified adults where there is a reasonable belief of financial exploitation of these customers is occurring, has been attempted, or will be attempted.¹⁹

The FINRA Rule 2165²⁰ defines a specified adult as:

¹⁴ Section 415.104, F.S.

¹⁵ *Id.*

¹⁶ 15 U.S.C. ss. 78c(4) and 78o; U.S. SECURITIES AND EXCHANGE COMMISSION, *Guide to Broker-Dealer Registration*, <http://www.sec.gov/divisions/marketreg/bdguide.htm#II> (last visited Feb. 19, 2018).

¹⁷ *Id.*

¹⁸ 15 U.S.C. s. 78c(5). Certain entities in the securities industry are referred to as "broker-dealers" because the institution is a "broker" when executing trades on behalf of a customer, but is a "dealer" when executing trades for its own account.

¹⁹ See Supplementary Material, Rule 2165.01, *Applicability of Rule*. This rule provides members and their associated persons with a safe harbor from FINRA Rules 2010, 2150, and 11870 when members exercise discretion in placing temporary holds on disbursements of funds or securities from the accounts of specified adults consistent with the requirements of this rule. This rule does not require members to place temporary holds on disbursements of funds or securities from the accounts of specified adults. See also Rule 4512, *Customer Account Information*.

²⁰ FINRA, Financial Exploitation of Specified Adults, Rule 2165, at http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=12784 and FINRA, Frequently Asked Questions Regarding FINRA Rules Relating to Financial Exploitation of Seniors, available at

- A natural person age 65 and older; or
- A natural person age 18 and older who the member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests.²¹

Further, the rule defines the term, “financial exploitation” to mean:

- The wrongful or unauthorized taking, withholding, appropriation, or use of a specified adult's funds or securities; or
- Any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a specified adult, to:
 - Obtain control, through deception, intimidation or undue influence, over the Specified Adult's money, assets or property; or
 - Convert the specified adult's money, assets or property.²²

The rules provide that a FINRA member has the ability to contact a customer's designated trusted contact person and, when appropriate, place a temporary hold on a disbursement of funds or securities from a customer's account.²³ The temporary hold expires after 15 business days, but the FINRA member may extend the hold by up to an additional 10 business days if the member's internal review of facts and circumstances supports its reasonable belief that the financial exploitation has occurred, is occurring, has been attempted, or will be attempted.²⁴ Rule 2165 became effective February 5, 2018. However, the rule does not apply to broker-dealers and investment advisers who are not members of FINRA.

Florida Oversight

In addition to federal securities laws, “Blue Sky Laws” are state laws that protect the investing public through registration requirements for both broker-dealers and securities offerings, merit review of offerings, and various investor remedies for fraudulent sales practices and activities.²⁵

In Florida, the Office of Financial Regulation (OFR)²⁶ administers the Securities and Investor Protection Act, ch. 517, F.S., (act). The OFR regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms in accordance with the act. There are 2,577 dealers, 6,307 investment advisers, 10,479 branches, and 325,939 associated persons (or stockbrokers) registered in Florida.²⁷

<http://www.finra.org/industry/frequently-asked-questions-regarding-finra-rules-relating-financial-exploitation-seniors> (last viewed Jan. 19, 2020).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ U.S. Securities and Exchange Commission, *Blue Sky Laws*, <http://www.sec.gov/answers/bluesky.htm> (last visited Feb. 19, 2018).

²⁶ The OIR reports to the Financial Services Commission, which is comprised of the Governor, Attorney General, Chief Financial Officer, and the Commissioner of Agriculture and Consumer Services. Section 20.121, F.S.

²⁷ Office of Financial Regulation, *Fast Facts* (2018 Edition) at <https://www.flofr.com/sitePages/documents/FastFacts.pdf> (last viewed Jan. 20, 2020).

The act requires the following individuals or businesses to be registered with the OFR under s. 517.12, F.S., in order to sell or offer to sell any securities in or from offices in this state, or to sell securities to persons in this state from offices outside this state:²⁸

- “Dealer,” includes any person, other than an associated person registered under ch. 517, F.S., who engages, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person. The term, “Dealer,” also includes any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities, which are issued or are proposed to be issued by the issuer.²⁹
- “Investment adviser,” includes any person who receives compensation, directly or indirectly, and engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.³⁰ The term, does not include a “federal covered adviser.”³¹
- “Associated persons,” with respect to a federal covered adviser, includes any person who is an investment adviser representative and who has a place of business in this state, and with respect to a dealer or investment adviser, includes any of the following:
 - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
 - Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
 - Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in s. 517.021, F.S.³²

North American Securities Administrators Association

The North American Securities Administrators Association (NASAA) is an international organization devoted to investor protection. Its membership consists of securities administrators. The NASAA adopted the Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation (Model Act) on January 22, 2016.³³ The Model Act focuses on the reporting and prevention of senior financial exploitation. The Model Act contains the following:

²⁸ Section 517.12(1), F.S.

²⁹ Section 517.021(6)(a), F.S. The term “dealer,” as defined under Florida law, encompasses the definitions of “broker” and “dealer” under federal law. See also s. 517.12(22)(a)1., F.S.

³⁰ Section 517.021(14)(a), F.S.

³¹ Section 517.021(9) and (14)(b)9., F.S. A federal covered adviser must be registered under federal law and must provide a notice filing to the OFR. Sections 517.021 and 517.1201, F.S.

³² Section 517.021(2), F.S.

³³ *NASAA Adopt Model Act to Protect Seniors and Vulnerable Adults* at <http://serveourseniors.org/about/policy-makers/nasaa-model-act/> (last viewed Jan. 20, 2020).

- Mandatory reporting to the state securities regulator and state adult protective services agency when a qualified individual³⁴ has a reasonable belief that financial exploitation of an eligible adult has been attempted or occurred of broker-dealers and investment advisers;
- Notification to third-parties of potential financial exploitation with advance consent of the investor;
- Authority to temporarily delay disbursement of funds;
- Immunity from civil and administrative liability for a qualified individual, broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with the reporting, notification, and delay disbursement provisions; and
- Mandatory sharing of records related to exploitation with law enforcement and state adult protective services agencies.

As of January 1, 2019, 25 states have adopted legislation or regulations consistent with the Model Act.³⁵

III. Effect of Proposed Changes:

Mandatory Reporting of Suspected Financial Exploitation

Section 1 amends s. 415.1034, F.S., to specify that a dealer, an investment adviser, or an associated person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report such information or suspicion to Adult Protective Services within the Department of Children and Families through the central abuse hotline. Currently, s. 415.1034, F.S., requires *any person* who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately.

Conditions for Delaying a Disbursement or Transaction of Funds or Securities

Section 2 creates s. 517.34, F.S., to allow a dealer or investment adviser to delay a disbursement or transaction of funds or securities from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner.

The bill defines the following terms:

- A “specified adult” is an individual who is age 65 or older or who meets the definition of “vulnerable adult” pursuant to s. 415.1034, F.S., the Adult Protective Services Act.
- “Financial exploitation” means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:

³⁴ A “qualified individual” means any agent, investment adviser representative or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser. *See* Section 2 of the Model Act.

³⁵ NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation Update Center at <http://serveourseniors.org/about/policy-makers/nasaa-model-act/update/> (last viewed Jan. 22, 2020).

- Obtain control over the specified adult's money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or
- Convert the specified adult's money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.
- "Trusted contact" means a natural person 18 years of age or older who the account owner has expressly identified and who is recorded in the books and records of a dealer or an investment adviser as the person who may be contacted about the account.

An investment adviser or dealer may delay a disbursement or transaction if the following conditions are met:

- The dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies in writing all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided on the account, unless the dealer or investment adviser believes that any of the parties are involved in the suspected exploitation. The notice, which may be provided electronically, must provide the reason for the delay.
- No later than 3 business days after the date on which the delay was first placed, the dealer or investment adviser notifies the OFR of the delay electronically on a form prescribed by commission rule. The notice must identify the dealer or investment adviser that made the delay, the name of the person who authorized the delay, and the date on which the delay was made.
- The dealer or investment adviser immediately initiates an internal review of the facts and circumstances that caused the dealer or investment adviser to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.

Such a delay in a disbursement or transaction expires within 15 business days after the date on which the delay was first placed. However, the delay may be extended for up to 10 additional business days if the dealer's or investment adviser's review of the available facts or circumstances continues to support such dealer's or investment adviser's reasonable belief that financial exploitation of the specified adult has occurred. A dealer or broker must notify the OFR of any extension of a delay. A court of competent jurisdiction may shorten or extend the length of any delay.

Legislative Findings and Intent

The Legislature finds that many persons in this state, because of age or disability, are at increased risk of financial exploitation and loss of their assets, funds, investments, and investment accounts. The Legislature further finds that senior investors in this state are at a statistically higher risk of being targeted for financial exploitation, regardless of diminished capacity or other disability, because of their accumulation of substantial assets and wealth compared to younger age groups. In enacting this section, the Legislature recognizes the freedom of specified adults to manage their assets, make investment choices, and spend their funds, and

intends that such rights may not be infringed absent a reasonable belief of financial exploitation as provided in this section.

The Legislature therefore intends to provide for the prevention of financial exploitation of such persons. The Legislature intends to encourage the constructive involvement of securities dealers, investment advisers, and associated persons who take action based upon the reasonable belief that specified adults with investment accounts have been or are the subject of financial exploitation, and to provide securities dealers, investment advisers, and associated persons immunity from liability for taking actions as authorized by the bill. The Legislature intends to balance the rights of specified adults to direct and control their assets, funds, and investments and exercise their constitutional rights consistent with due process with the need to provide securities dealers, investment advisers, and associated persons the ability to place narrow, time-limited restrictions on these rights in an effort to decrease specified adults' risk of loss due to abuse, neglect, or financial exploitation.

Immunity

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any dealer, investment adviser, or associated person who in good faith and exercising reasonable care complies with the provisions of s. 517.34, F.S. This provision does not supersede or diminish any immunity granted under ch. 415, F.S.

Obligations and Rights of a Dealer, Investment Adviser, or an Associated Person

The bill does not alter the obligation of a dealer, an investment adviser, or an associated person to comply with instructions from a client absent a reasonable belief of financial exploitation. The bill does not create new rights or obligations of a dealer, investment adviser, or associated person under other applicable laws or rules. The bill does not limit the right of a dealer, investment adviser, or associated person to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement.

Training, Policies, and Procedures

Prior to placing a delay on a disbursement or transaction, a dealer or investment adviser must comply with the following:

- Develop training policies or programs reasonably designed to educate associated persons on issues pertaining to financial exploitation;
- Conduct training for all associated persons at least annually and maintain a written record of all trainings conducted; and
- Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

Effective Date

Section 3 provides the bill takes effect 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:

Indeterminate. However, the bill will provide additional tools for dealers, investment advisers, and associated persons to protect individuals 65 years of age or older and vulnerable adults from alleged financial exploitation in a more effective and expedient manner.

C. Government Sector Impact:

The fiscal impact to the OFR is indeterminate and depends on the number of reports of delays or extensions received from OFR licensees. The OIR will review these delays to determine whether they are proper and whether the delays comply with the requirements of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 415.1034 of the Florida Statutes.

This bill creates section 517.34 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 Judiciary on February 11, 2020:

The committee substitute differs from the underlying bill by:

- Specifying the form and necessary information required for a notice filed when a dealer delays a transaction due to a suspected exploitation.

- B. **Amendments:**

None.



158696

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Broxson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 109 - 170
and insert:
financial exploitation, and to provide securities dealers,
investment advisers, and associated persons immunity from
liability for taking actions as authorized herein. The
Legislature intends to balance the rights of specified adults to
direct and control their assets, funds, and investments and
exercise their constitutional rights consistent with due process
with the need to provide securities dealers, investment



158696

12 advisers, and associated persons the ability to place narrow,
13 time-limited restrictions on these rights in an effort to
14 decrease specified adults' risk of loss due to abuse, neglect,
15 or financial exploitation.

16 (3) A dealer or investment adviser may delay a disbursement
17 or transaction of funds or securities from an account of a
18 specified adult or an account for which a specified adult is a
19 beneficiary or beneficial owner if all of the following apply:

20 (a) The dealer or investment adviser reasonably believes
21 that financial exploitation of the specified adult has occurred,
22 is occurring, has been attempted, or will be attempted in
23 connection with the disbursement or transaction.

24 (b) Not later than 3 business days after the date on which
25 the delay was first placed, the dealer or investment adviser
26 notifies in writing all parties authorized to transact business
27 on the account and any trusted contact on the account, using the
28 contact information provided for the account, with the exception
29 of any party the dealer or investment adviser reasonably
30 believes has engaged in, is engaging in, has attempted to engage
31 in, or will attempt to engage in the suspected financial
32 exploitation of the specified adult. The notice, which may be
33 provided electronically, must provide the reason for the delay.

34 (c) Not later than 3 business days after the date on which
35 the delay was first placed, the dealer or investment adviser
36 notifies the office of the delay electronically on a form
37 prescribed by commission rule. The form must be consistent with
38 the purposes of this section and may include only the following
39 information:

40 1. The date the notification is submitted to the office.



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- 41 2. The date on which the delay was first placed.
- 42 3. The following information about the specified adult:
- 43 a. Gender.
- 44 b. Age.
- 45 c. Zip code of residence address.
- 46 4. The following information about the dealer or investment
- 47 adviser who placed the delay:
- 48 a. Name.
- 49 b. Title.
- 50 c. Firm name.
- 51 d. Business address.
- 52 5. A section with the following questions for which the
- 53 only allowable responses are "Yes" or "No":
- 54 a. Is financial exploitation of a specified adult suspected
- 55 in connection with a transaction or disbursement?
- 56 b. Are funds currently at risk of being lost?
- 57
- 58 The form must contain substantially the following statement in
- 59 conspicuous type: "The office may take disciplinary action
- 60 against any person making a knowing and willful
- 61 misrepresentation on this form."
- 62 (d) The dealer or investment adviser immediately initiates
- 63 an internal review of the facts and circumstances that caused
- 64 the dealer or investment adviser to reasonably believe that the
- 65 financial exploitation of the specified adult has occurred, is
- 66 occurring, has been attempted, or will be attempted.
- 67 (4) A delay on a disbursement or transaction under
- 68 subsection (3) expires 15 business days after the date on which
- 69 the delay was first placed. However, the dealer or investment



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70 adviser may extend the delay for up to 10 additional business
71 days if the dealer's or investment adviser's review of the
72 available facts and circumstances continues to support such
73 dealer's or investment adviser's reasonable belief that
74 financial exploitation of the specified adult has occurred, is
75 occurring, has been attempted, or will be attempted. A dealer or
76 investment adviser that extends a delay shall notify the office
77 on a form prescribed by commission rule not later than 3
78 business days after the date on which the extension was applied.
79 The notice must identify the dealer or investment adviser that
80 extended the delay and the date on which the delay was
81 originally made. The length of the delay may be shortened or
82 extended at any time by a court of competent jurisdiction. This
83 subsection does not prevent a dealer or investment adviser from
84 terminating a delay after communication with the parties
85 authorized to transact business on the account and any trusted
86 contact on the account.

87 (5) A dealer or investment adviser must make available to
88 the office, upon request, all records relating to a delay placed

89
90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Between lines 17 and 18

93 insert:

94 specifying required information in the form for such
95 notice;

By Senator Broxson

1-00955B-20

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1 A bill to be entitled
2 An act relating to the protection of vulnerable
3 investors; amending s. 415.1034, F.S.; requiring
4 securities dealers, investment advisers, and
5 associated persons to immediately report knowledge or
6 suspicion of abuse, neglect, or exploitation of
7 vulnerable adults to the Department of Children and
8 Families' central abuse hotline; creating s. 517.34,
9 F.S.; defining terms; providing legislative findings
10 and intent; authorizing dealers and investment
11 advisers to delay disbursements or transactions of
12 funds or securities from certain accounts associated
13 with specified adults if certain conditions are met;
14 specifying the expiration of a delay; authorizing
15 dealers and investment advisers to extend delays under
16 certain circumstances; providing requirements for
17 notifying the Office of Financial Regulation;
18 authorizing a court of competent jurisdiction to
19 shorten or extend a delay; requiring dealers and
20 investment advisers to make certain records available
21 to the office upon request; providing for
22 administrative and civil immunity for dealers,
23 investment advisers, and associated persons;
24 specifying training and written procedures
25 requirements for dealers and investment advisers
26 before they may place a delay; providing for
27 rulemaking by the Financial Services Commission;
28 providing construction; providing an effective date.
29

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

31
32 Section 1. Paragraph (a) of subsection (1) of section
33 415.1034, Florida Statutes, is amended to read:

34 415.1034 Mandatory reporting of abuse, neglect, or
35 exploitation of vulnerable adults; mandatory reports of death.-

36 (1) MANDATORY REPORTING.-

37 (a) Any person, including, but not limited to, any:

38 1. Physician, osteopathic physician, medical examiner,
39 chiropractic physician, nurse, paramedic, emergency medical
40 technician, or hospital personnel engaged in the admission,
41 examination, care, or treatment of vulnerable adults;

42 2. Health professional or mental health professional other
43 than one listed in subparagraph 1.;

44 3. Practitioner who relies solely on spiritual means for
45 healing;

46 4. Nursing home staff; assisted living facility staff;
47 adult day care center staff; adult family-care home staff;
48 social worker; or other professional adult care, residential, or
49 institutional staff;

50 5. State, county, or municipal criminal justice employee or
51 law enforcement officer;

52 6. Employee of the Department of Business and Professional
53 Regulation conducting inspections of public lodging
54 establishments under s. 509.032;

55 7. Florida advocacy council or Disability Rights Florida
56 member or a representative of the State Long-Term Care Ombudsman
57 Program; ~~or~~

58 8. Bank, savings and loan, or credit union officer,

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59 trustee, or employee; or

60 9. Dealer, investment adviser, or associated person under
61 chapter 517,

62
63 who knows, or has reasonable cause to suspect, that a vulnerable
64 adult has been or is being abused, neglected, or exploited must
65 ~~shall~~ immediately report such knowledge or suspicion to the
66 central abuse hotline.

67 Section 2. Section 517.34, Florida Statutes, is created to
68 read:

69 517.34 Protection of specified adults.-

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

71 (a) "Financial exploitation" means the wrongful or
72 unauthorized taking, withholding, appropriation, or use of
73 money, assets, or property of a specified adult; or any act or
74 omission by a person, including through the use of a power of
75 attorney, guardianship, or conservatorship of a specified adult,
76 to:

77 1. Obtain control over the specified adult's money, assets,
78 or property through deception, intimidation, or undue influence
79 to deprive him or her of the ownership, use, benefit, or
80 possession of the money, assets, or property; or

81 2. Convert the specified adult's money, assets, or property
82 to deprive him or her of the ownership, use, benefit, or
83 possession of the money, assets, or property.

84 (b) "Specified adult" means a natural person 65 years of
85 age or older, or a vulnerable adult as defined in s. 415.102.

86 (c) "Trusted contact" means a natural person 18 years of
87 age or older who the account owner has expressly identified and

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88 who is recorded in a dealer's or investment adviser's books and
89 records as the person who may be contacted about the account.

90 (2) The Legislature finds that many persons in this state,
91 because of age or disability, are at increased risk of financial
92 exploitation and loss of their assets, funds, investments, and
93 investment accounts. The Legislature further finds that senior
94 investors in this state are at a statistically higher risk of
95 being targeted for financial exploitation, regardless of
96 diminished capacity or other disability, because of their
97 accumulation of substantial assets and wealth compared to
98 younger age groups. In enacting this section, the Legislature
99 recognizes the freedom of specified adults to manage their
100 assets, make investment choices, and spend their funds, and
101 intends that such rights may not be infringed absent a
102 reasonable belief of financial exploitation as provided in this
103 section. The Legislature therefore intends to provide for the
104 prevention of financial exploitation of such persons. The
105 Legislature intends to encourage the constructive involvement of
106 securities dealers, investment advisers, and associated persons
107 who take action based upon the reasonable belief that specified
108 adults with investment accounts have been or are the subject of
109 exploitation, and to provide securities dealers, investment
110 advisers, and associated persons immunity from liability for
111 taking actions as authorized herein. The Legislature intends to
112 balance the rights of specified adults to direct and control
113 their assets, funds, and investments and exercise their
114 constitutional rights consistent with due process with the need
115 to provide securities dealers, investment advisers, and
116 associated persons the ability to place narrow, time-limited

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117 restrictions on these rights in an effort to decrease specified
118 adults' risk of loss due to abuse, neglect, or exploitation.

119 (3) A dealer or investment adviser may delay a disbursement
120 or transaction of funds or securities from an account of a
121 specified adult or an account for which a specified adult is a
122 beneficiary or beneficial owner if all of the following apply:

123 (a) The dealer or investment adviser reasonably believes
124 that financial exploitation of the specified adult has occurred,
125 is occurring, has been attempted, or will be attempted in
126 connection with the disbursement or transaction.

127 (b) Not later than 3 business days after the date on which
128 the delay was first placed, the dealer or investment adviser
129 notifies in writing all parties authorized to transact business
130 on the account and any trusted contact on the account, using the
131 contact information provided for the account, with the exception
132 of any party the dealer or investment adviser reasonably
133 believes engaged or is engaging in the suspected financial
134 exploitation of the specified adult. The notice, which may be
135 provided electronically, must provide the reason for the delay.

136 (c) Not later than 3 business days after the date on which
137 the delay was first placed, the dealer or investment adviser
138 notifies the office of the delay by telephone using a number
139 designated by the office for such purpose or electronically on a
140 form prescribed by commission rule. The notice must identify the
141 dealer or investment adviser that made the delay, the name of
142 the person who authorized the delay, and the date on which the
143 delay was made.

144 (d) The dealer or investment adviser immediately initiates
145 an internal review of the facts and circumstances that caused

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146 the dealer or investment adviser to reasonably believe that the
147 financial exploitation of the specified adult has occurred, is
148 occurring, has been attempted, or will be attempted.

149 (4) A delay on a disbursement or transaction under
150 subsection (3) expires 15 business days after the date on which
151 the delay was first placed. However, the dealer or investment
152 adviser may extend the delay for up to 10 additional business
153 days if the dealer's or investment adviser's review of the
154 available facts and circumstances continues to support such
155 dealer's or investment adviser's reasonable belief that
156 financial exploitation of the specified adult has occurred, is
157 occurring, has been attempted, or will be attempted. A dealer or
158 investment adviser who extends a delay shall notify the office
159 in accordance with paragraph (3) (c) not later than 3 business
160 days after the date on which the extension was applied. The
161 notice must identify the dealer or investment adviser that
162 extended the delay and the date on which the delay was
163 originally made. The length of the delay may be shortened or
164 extended at any time by a court of competent jurisdiction. This
165 subsection does not prevent a dealer or investment adviser from
166 terminating a delay after communication with the parties
167 authorized to transact business on the account and any trusted
168 contact on the account.

169 (5) A dealer or investment adviser must make available to
170 the office, upon request, all records relating to a delay made
171 by the dealer or investment adviser pursuant to this section, as
172 prescribed by commission rule.

173 (6) A dealer, an investment adviser, or an associated
174 person who in good faith and exercising reasonable care complies

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175 with this section is immune from any administrative or civil
176 liability that might otherwise arise from such delay in a
177 disbursement or transaction in accordance with this section.
178 This subsection does not supersede or diminish any immunity
179 granted under chapter 415.

180 (7) Before placing a delay on a disbursement or transaction
181 pursuant to this section, a dealer or an investment adviser
182 shall do all of the following:

183 (a) Develop training policies or programs reasonably
184 designed to educate associated persons on issues pertaining to
185 financial exploitation.

186 (b) Conduct training for all associated persons at least
187 annually and maintain a written record of all trainings
188 conducted.

189 (c) Develop, maintain, and enforce written procedures
190 regarding the manner in which suspected financial exploitation
191 is reviewed internally, including, if applicable, the manner in
192 which suspected financial exploitation is required to be
193 reported to supervisory personnel.

194 (8) Absent a reasonable belief of financial exploitation as
195 provided in this section, this section does not alter a
196 dealer's, an investment adviser's, or an associated person's
197 obligation to comply with instructions from a client to buy or
198 sell securities, disburse funds or transfer securities from an
199 account, close an account, or transfer an account to another
200 dealer, investment adviser, or associated person.

201 (9) This section does not create new rights for or impose
202 new obligations on a dealer, an investment adviser, or an
203 associated person under other applicable law. This section does

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204 not limit the right of a dealer, an investment adviser, or an
205 associated person to otherwise refuse or place a delay on a
206 disbursement or transaction under other applicable law or under
207 an applicable customer agreement.

208 Section 3. This act shall take effect July 1, 2020.

S01672

GENERAL BILL by Broxson; (CO-INTRODUCERS) Baxley; (Similar CS/CS/H 00813)

Protection of Vulnerable Investors. EFFECTIVE DATE: 07/01/2020.

02/11/20 S CS by Judiciary; YEAS 6 NAYS 0

02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 30, 2020

I respectfully request that **Senate Bill #1672**, relating to Protection of Vulnerable Investors, be placed on the:

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

Senator Doug Broxson
Florida Senate, District 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2020

Meeting Date

1672

Bill Number (if applicable)

158696

Amendment Barcode (if applicable)

Topic Protection of Vulnerable Investors

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place
Street

Phone 509-8022

TLH
City

FL
State

32308
Zip

Email greg@waypointstrat.com

Speaking: For Against Information

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

Representing Elder 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)

02/11/2020

Meeting Date

1672

Bill Number (if applicable)

Topic Protection of Vulnerable Investors

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Securities Industry & Financial Markets Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/11/2020

Meeting Date

SB 1672

Bill Number (if applicable)

Topic Protection of Vulnerable Investors

Amendment Barcode (if applicable)

Name Zayne smith

Job Title Associate State Director

Address 215 South Monroe Suite 603

Phone 850.228.4243

Street

Tallahassee

FL

32301

Email zsmith@aarp.org

City

State

Zip

Speaking: For Against Information

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

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20
Meeting Date

SB 1672
Bill Number (if applicable)

Topic SB 1672

Amendment Barcode (if applicable)

Name Jon "John" Conley

Job Title Director of state Affairs

Address 325 John Knox Road
Street

Phone 850 696 0826

Tallahassee FL 32301
City State Zip

Email jconley@alz.org

Speaking: For Against Information

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

Representing Alzheimer's 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)

2/11

Meeting Date

1672

Bill Number (if applicable)

Topic Protection of Vulnerable Investors

Amendment Barcode (if applicable)

Name Chase Mitchell

Job Title Senior Management Analyst

Address PL 11, The Capitol

Phone (850) 413-2890

Street

Tallahassee

FL

State

32399

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing CFO Jimmy Patronis

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 11, 2020
Meeting Date

1672
Bill Number (if applicable)

Topic Vulnerable Investors

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title VP of Govt. Affairs

Address 1001 Thomasville Rd

Phone 224-2245

Tallahassee FL 32303
City State Zip

Email adimarco@floridabankers.com

Speaking: For Against Information

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

Representing Florida Bankers 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)

2/11/2020
Meeting Date

1672
Bill Number (if applicable)

Topic Protection of Vulnerable Investors

Amendment Barcode (if applicable)

Name Abigail Vail

Job Title Chief of Staff

Address 101 E. Gaines St.
Street

Phone 850-410-9819

Jalananasse FL 32399
City State Zip

Email abby.vail@flafr.com

Speaking: For Against Information

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

Representing Office of Financial Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1672

Bill Number (if applicable)

Meeting Date

Topic Vulnerable Investors

Amendment Barcode (if applicable)

Name Sean Stafford

Job Title

Address 115 E. Park
Street

Phone 727-5000

City

State

Zip

Email

Speaking: For Against Information

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

Representing Financial Services Institute / FSDA

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 Judiciary

BILL: CS/CS/SB 1564

INTRODUCER: Judiciary Committee, Banking and Insurance Committee, and Senator Stargel

SUBJECT: Use of Genetic Information

DATE: February 13, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1564 provides that a life insurer or long-term care insurer may not cancel, limit, or deny insurance coverage or establish different insurance rates based on the “genetic information” of applicants. This same prohibition applies to health insurers under current law.

The bill expressly provides that a statute regulating the use of genetic information for insurance purposes does not prevent life insurers from accessing an applicant’s medical record as part of an application exam and does not prevent life insurers from considering medical diagnoses included in the medical record.

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

II. Present Situation:

Use of Genetic Information for Insurance Purposes – Florida Requirements

Insurance policies for life, disability income, and long-term care¹ are exempt from s. 627.4301, F.S., which provides standards for the use of genetic information by health insurers. Health

¹ Section 627.4301(2)(c), F.S. Other types of insurance that are wholly exempt from the statute are accident-only policies, hospital indemnity or fixed indemnity policies, dental policies, and vision policies.

insurers² may not, in the absence of a diagnosis of a condition related to genetic information, use such information to cancel, limit, or deny coverage, or establish differentials in premium rates. Health insurers are also prohibited from requiring or soliciting genetic information, using genetic test results, or considering a person's decisions or actions relating to genetic testing in any manner for any insurance purpose.

Section 627.4031, F.S., defines "genetic information" to mean information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual's genetic material or genes that are:

- Scientifically or medically believed to cause a disease disorder, or syndrome, or are associated with a statistically increased risk of developing a disease; or
- Associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is producing or showing no symptoms at the time of testing.

Genetic testing, for purposes of s. 627.4031, F.S., does not include routine physical examinations or chemical, blood, or urine analysis, unless specifically conducted to obtain genetic information, or questions regarding family history.

Prohibition of Unfair Discrimination Between Individuals

Insurance policy forms for insurance sold in Florida must be filed and approved by the Office of Insurance Regulation (OIR).³ The Unfair Insurance Trade Practices Act prohibits "knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class and expectation of life, in the rates charged for a life insurance or annuity contract, in the dividends or other benefits payable thereon, or in any other term or condition of such contract."⁴ Similarly, the act prohibits knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class, as determined at the time of initial issuance of the coverage, and essentially the same hazard, in the amount of premium, policy fees, or rates charged for a policy or contract of disability insurance, in benefits payable, in the terms or conditions of the contract, or in any other manner.⁵ Genetic information used in the underwriting and pricing of life insurance, long-term care insurance, and disability income insurance must meet these requirements.

Genetic Testing – Informed Consent and Privacy Requirements

Section 760.40, F.S., provides that the results of DNA analysis are the exclusive property of the person tested. Accordingly, DNA analysis may be performed only with the informed consent of the person to be tested. The results of DNA analysis, whether held by a public or private entity, are confidential, and may not be disclosed without the consent of the person tested. DNA analysis held by a public entity must be held confidential and exempt from public disclosure.

² Section 627.4301(1)(b), F.S., defines health insurer to mean, "an authorized insurer offering health insurance as defined in s. 624.603, F.S., a self-insured plan as defined in s. 624.031, F.S., a multiple-employer welfare arrangement as defined in s. 624.437, F.S., a prepaid limited health service organization as defined in s. 636.003, F.S., a health maintenance organization as defined in s. 641.19, F.S., a prepaid health clinic as defined in s. 641.402, F.S., a fraternal benefit society as defined in s. 632.601, F.S., or any health care arrangement whereby risk is assumed."

³ Section 624.410, F.S.

⁴ Section 626.9541(1)(g)1., F.S.

⁵ Section 626.9541(1)(g)2., F.S.

Violation of these requirements is a first degree misdemeanor punishable by up to 1 year imprisonment and a fine of up to \$1,000. DNA analysis, for purposes of the statute, is the medical and biological examination and analysis of a person to identify the presence and composition of genes in that person's body, and includes DNA typing and genetic testing.

The law also requires any person who performs DNA analysis or receives records, results, or findings of DNA analysis to provide the person tested with notice that the analysis was performed or the information was received. The notice must state that, upon the request of the person tested, the information will be made available to his or her physician. Further, the notice must state whether the information was used in any decision to grant or deny any insurance, employment, mortgage, loan, credit, or educational opportunity. If such information was used in a denial of the foregoing, the analysis must be repeated to verify the accuracy of the first analysis, and if the first analysis is found to be inaccurate, the denial must be reviewed.

Federal Laws on the Use of Genetic Information for Insurance Purposes

Federal law generally prohibits health insurers from soliciting genetic information and using such information for underwriting purposes. Federal law does not apply these prohibitions to life insurance, disability insurance, or long-term care insurance.

Genetic Information Nondiscrimination Act of 2008

The Genetic Information Nondiscrimination Act of 2008 (GINA) amended a number of existing federal laws to prohibit health insurers from using genetic information for underwriting purposes.⁶ The act does not apply to life insurance, long-term care insurance, or disability insurance.

Title I of GINA provides protections against discrimination by health insurers on the basis of genetic information.⁷ GINA prohibits health insurers and health plan administrators from using genetic information to make rating or coverage decisions.⁸ These decisions include eligibility for coverage and setting premium or contribution amounts.

GINA generally prohibits health insurers and health plan administrators from requesting or requiring genetic information of an individual or the individual's family members,⁹ nor may such information be requested, required or purchased for underwriting purposes.¹⁰ Underwriting purposes include rules for eligibility, determining coverage or benefits, cost-sharing mechanisms, calculating premiums or contribution amounts, rebates, payments in kind, pre-existing condition exclusions, and other activities related to the creation, renewal, or replacement of health insurance or health benefits. Underwriting purposes does not include determining medical appropriateness where an individual seeks a health benefit under a plan, coverage, or

⁶ Pub. Law No. 110-233, s. 122 Stat. 881-921 (2008), <https://www.gpo.gov/fdsys/pkg/PLAW-110publ233/pdf/PLAW-110publ233.pdf> (last accessed January 24, 2020).

⁷ 110th Congress, *Summary: H.R.493 Public Law* (May 21, 2008) (last accessed January 24, 2020).

⁸ See 29 USC 1182; 42 USC 300gg-1; and 42 USC 300gg-53.

⁹ Department of Health and Human Services, "*GINA*" *The Genetic Information Nondiscrimination Act of 2008: Information for Researchers and Health Care Professionals*, (April 6, 2009). <https://www.genome.gov/Pages/PolicyEthics/GeneticDiscrimination/GINAInfoDoc.pdf> (last accessed January 27, 2020).

¹⁰ See 29 USC 1182(d); 42 USC 300gg-4(d); and 42 USC 300gg-53(e).

policy.¹¹ Genetic information may be used by an insurer to make a determination regarding the payment of benefits, for example, as the basis of a diagnosis that then would lead to benefits being provided under the insurance policy.

The protections in GINA apply to the individual and group health markets, including employer sponsored plans under the Employee Retirement Income Security Act of 1974 (ERISA).¹² GINA generally expanded many of the genetic information protections in the Health Insurance Portability and Accountability Act of 1996¹³ (HIPAA) and applied them to the individual, group and Medicare supplemental marketplaces.¹⁴ The protections enacted in GINA do not apply to Medicare or Medicaid because both programs bar the use of genetic information as a condition of eligibility.¹⁵ GINA also prohibits employment discrimination on the basis of genetic information.¹⁶

States may provide stronger protections than GINA, which provides a baseline level of protection against prohibited discrimination on the basis of genetic information.

Health Insurance Portability and Accountability Act of 1996

HIPAA establishes national standards to ensure the privacy and nondisclosure of personal health information. The rule applies to “covered entities” which means a health plan, health care clearinghouse, other health care providers, and their business associates.¹⁷ HIPAA provides standards for the use and disclosure of protected health information and generally prohibits covered entities and their business associates from disclosing protected health information, except as otherwise permitted or required.¹⁸ Covered entities generally may not sell protected health information.¹⁹ HIPAA, as modified by GINA, also prohibits health plans from using or disclosing protected health information that is genetic information for underwriting purposes.²⁰

Patient Protection and Affordable Care Act of 2010

The Patient Protection and Affordable Care Act of 2010 (ACA) requires all individual and group health plans to enroll applicants regardless of their health status, age, gender, or other factors that might predict the use of health services.²¹ These guaranteed issue and guaranteed renewability requirements apply to genetic testing.

¹¹ See 45 CFR 164.502(a)(5)(i)(4)(B).

¹² Perry W. Payne, Jr. et al, *Health Insurance and the Genetic Information Nondiscrimination Act of 2008: Implications for Public Health Policy and Practice*, Public Health Rep., Vol. 124 (March-April 2009), 328, 331.

¹³ Codified 42 USC 300gg, 29 USC 1181 et seq., and 42 USC 1320d et seq.

¹⁴ See Payne fn. 12 at pg. 329.

¹⁵ See *id.*

¹⁶ See 29 CFR 1635(a), which prohibits the use of genetic information in employment decision making; restricts employers and other entities from requesting, requiring, or purchasing genetic information; requires that genetic information be maintained as a confidential medical record, and places strict limits on disclosure of genetic information; and provides remedies for individuals whose genetic information is acquired, used, or disclosed in violation of GINA.

¹⁷ See 45 CFR 160.103.

¹⁸ See 45 CFR 164.502(a).

¹⁹ See 45 CFR 164.502(a)(5)(ii)(A).

²⁰ See 45 CFR 164.502(a)(5)(i).

²¹ See 42 USC 300gg-1 and 42 USC 300gg-2.

Use of Genetic Information for Insurance Purposes – Requirements in Other States and Canada

Federal law under GINA applies to all states and provides a baseline level of protection that states may exceed. The NIH has identified 106 state statutes addressing health insurance nondiscrimination across 48 states and the District of Columbia.²² Fewer states address genetic testing regarding other lines of insurance such as life insurance, disability insurance, and long-term care insurance.²³

Examples of such statutes include Oregon, which requires informed consent to conduct testing, prohibits the use of genetic information for underwriting or ratemaking for any policy for hospital and medical expense, and prohibits using the genetic information of a blood relative for underwriting purposes regarding any insurance policy.²⁴ Informed consent when an insurer requests genetic testing for life or disability insurance is required in California, New Jersey, and New York.²⁵ Massachusetts prohibits unfair discrimination based on genetic information or a genetic test and prohibits requiring an applicant or existing policyholder to undergo genetic testing.²⁶ Arizona prohibits the use of genetic information for underwriting or rating disability insurance in the absence of a diagnosis, and life and disability insurance policies may not use genetic information for underwriting or ratemaking unless supported by the applicant's medical condition, medical history, and either claims experience or actuarial projections.²⁷

Canadian Genetic Non-Discrimination Act

In 2017, the Canadian Parliament passed a Genetic Non-Discrimination Act²⁸ (Canadian Act). The Canadian Act prohibits requiring an individual to undergo a genetic test, or disclose the results of a genetic test, as a condition of providing goods or services to that individual, entering into or continuing a contract or agreement with that individual, or offering or continuing specific terms or conditions in a contract or agreement with that individual. Thus, an insurer could not require an applicant provide genetic testing results. The Canadian Act also requires an individual's written consent prior to using or disclosing the results of a genetic test. The Canadian Act exempts physicians and other health care practitioners in respect to an individual to whom they are providing health services and persons conducting medical, pharmaceutical, or scientific research in respect of an individual who is a participant in the research. Violations of the act are punishable under the criminal law. The Canadian Act is currently being challenged before the Supreme Court of Canada.²⁹

²² National Institutes of Health, *Genome Statute and Legislation Database Search*.

<https://www.genome.gov/policyethics/legdatabase/pubsearch.cfm> (database search for "state statute," "health insurance nondiscrimination" performed by Committee on Banking and Insurance professional staff on January 24, 2020).

²³ *See id.* (database search for "state statute," "other lines of insurance nondiscrimination" performed by Committee on Banking and Insurance professional staff on January 24, 2020).

²⁴ Section 746.135, O.R.S.

²⁵ *See* Cal. Ins. Code s. 10146 et seq.; s. 17B:30-12, N.J.S.; and ISC s. 2615, N.Y.C.L.

²⁶ Chapter 175 sections 108I and 120E, M.G.L.

²⁷ Section 20-448, A.R.S.

²⁸ Statutes of Canada 2017, c. 3. <https://laws-lois.justice.gc.ca/eng/acts/G-2.5/page-1.html#h-1> (last accessed January 27, 2020).

²⁹ *Canadian Coalition for Genetic Fairness v. Attorney General of Quebec, et. al*, Docket No. 38478 <https://www.scc-csc.ca/case-dossier/info/sum-som-eng.aspx?cas=38478> (last accessed January 27, 2020); Leslie MacKinnon, *Genetic Non-Discrimination Bill Passed by Parliament, But Challenged by Government at Top Court*, iPolitics, (Oct 10, 2019)

Genetic Testing

Genetic testing includes a number of medical tests that identify and examine chromosomes, genes, or proteins for the purpose of obtaining genetic information.³⁰ Genetic testing is often used for medical or genealogical purposes.

Medical Genetic Testing

Genetic testing can be done to diagnose a genetic disorder, to predict the possibility of future illness, and predict a patient's response to therapy.³¹ More than 2,000 genetic tests are currently available and more tests are constantly being developed.³² The National Institutes of Health³³ (NIH) have identified the following available types of medical genetic testing:³⁴

- *Diagnostic testing* identifies or rules out a specific genetic or chromosomal condition, and is often used to confirm a diagnosis when a particular condition is suspected based on the individual's symptoms. For example, a person experiencing abnormal muscle weakness may undergo diagnostic testing that screens for various muscular dystrophies.
- *Predictive and pre-symptomatic testing* is used to detect gene mutations associated with disorders that appear after birth, often later in life. This testing is often used by people who are asymptomatic, but have a family member with a genetic disorder. Predictive testing can identify mutations that will result in a genetic disorder, or that increase a person's risk of developing disorders with a genetic basis, such as cancer.
- *Carrier testing* identifies people who carry one copy of a gene mutation that, when present in two copies, causes a genetic disorder. This test is often used by parents to determine their risk of having a child with a genetic disorder.
- *Preimplantation testing* is used to detect genetic changes in embryos developed by assisted reproductive techniques such as in-vitro fertilization. Small numbers of cells are taken from the embryos and tested for genetic changes prior to implantation of a fertilized egg.
- *Prenatal testing* detects changes in a baby's genes or chromosomes before birth. Such testing is often offered if there is an increased risk the baby will have a genetic or chromosomal disorder.
- *Newborn screening* is performed shortly after birth to identify genetic disorders that can be treated early in life. Florida screens for 31 disorders recommended by the United States Department of Health and Human Services Recommended Uniform Screening Panel and 22 secondary disorders, unless a parent objects in writing.³⁵

<https://ipolitics.ca/2019/10/10/genetic-non-discrimination-bill-passed-by-parliament-but-challenged-by-government-at-top-court/>

³⁰ National Institutes of Health, *Genetic Testing*, pg. 3 (January 30, 2018). Available for download at <https://ghr.nlm.nih.gov/primer/testing/uses> (last accessed January 27, 2020).

³¹ Francis S. Collins, *A Brief Primer on Genetic Testing* (January 24, 2003). <https://www.genome.gov/10506784/a-brief-primer-on-genetic-testing/> (last accessed January 24, 2020).

³² See Ohio State University Wexner Medical Center, *Facts About Testing*. <https://wexnermedical.osu.edu/genetics/facts-about-testing/> (last accessed January 24, 2020).

³³ The National Institutes of Health is the medical research agency of the United States federal government. The NIH is part of the United States Department of Health and Human Services. The NIH is made of 27 different Institutes and Centers, each having a specific research agenda.

³⁴ See National Institutes of Health, fn. 30, at pgs. 5-6.

³⁵ Florida Department of Health, *Newborn Screening*. <http://www.floridahealth.gov/programs-and-services/childrens-health/newborn-screening/index.html> (last accessed January 24, 2020).

Genetic testing is often used for research purposes. For example, genetic testing may be used to discover genes or increase understanding of genes that are newly discovered or not well understood.³⁶ Testing results as part of a research study are usually not available to patients or health care providers.³⁷

The Human Genome Project, which in April 2003, successfully sequenced and mapped all of the genes of humans, and a variety of other genetic testing, has led to multiple medical advances. For example, genetic testing identified that the reason the drug Plavix, which is commonly used to prevent blood clots in patients at risk for heart attacks and strokes, does not work for approximately 30 percent of the United States population because variations in the CYP2C19 gene account for the lack of a response.³⁸ Thus, genetic testing can identify persons for whom the drug will not be effective.

The American Medical Association supports broad protections against genetic discrimination because it believes genetic testing and genetic information is essential to advancements in medical knowledge and care.³⁹ Accordingly, the organization supports comprehensive federal protection against genetic discrimination because “patients remain at-risk of discrimination in a broad array of areas such as life, long-term care, and disability insurance as well as housing, education, public accommodations, mortgage lending, and elections.”

Methods of genetic testing used for medical purposes include:

- Molecular genetic tests (Gene tests) that study single genes or short lengths of DNA to identify variations or mutations that lead to a genetic disorder.
- Chromosomal genetic tests that analyze whole chromosomes or long lengths of DNA to see if there are large genetic changes, such as an extra copy of a chromosome, that cause a genetic condition.
- Biochemical genetic tests that study the amount or activity level of proteins; abnormalities in either can indicate changes to the DNA that result in a genetic disorder.

Genetic Ancestry Testing

Genetic ancestry testing, also called genetic genealogy, is used to identify relationships between families and identify patterns of genetic variation that are often shared among people of particular backgrounds.⁴⁰ According to the NIH, genetic ancestry testing results may differ between providers because they compare genetic information to different databases. The tests can yield unexpected results because human populations migrate and mix with other nearby groups. Scientists can use large numbers of genetic ancestry test results to explore the history of populations. Three common types of genetic ancestry testing include:⁴¹

³⁶ See Ohio State University Wexner Medical Center, fn. 32.

³⁷ See National Institutes of Health, fn. 30, at pg. 24.

³⁸ Francis S. Collins, Perspectives on the Human Genome Project, pg. 50 (June 7, 2010).

https://www.genome.gov/Pages/Newsroom/Webcasts/2010ScienceReportersWorkshop/Collins_NHGRISciencewriters060710.pdf (last accessed January 27, 2020).

³⁹ American Medical Association, *Genetic Discrimination – Appendix II. AMA Legislative Principles on Genetic Discrimination and Surreptitious Testing*, (March 2013) <https://www.ama-assn.org/sites/default/files/media-browser/public/genetic-discrimination-policy-paper.pdf> (last accessed January 24, 2020).

⁴⁰ See National Institutes of Health, fn. 30, at pg. 25.

⁴¹ See National Institutes of Health, fn. 30, at pg. 26.

- Single nucleotide polymorphism testing to evaluate large numbers of variations across a person's entire genome. The results are compared with those of others who have taken the tests to provide an estimate of a person's ethnic background.
- Mitochondrial DNA testing to identify genetic variations in mitochondrial DNA, which provides information about the direct female ancestral lines.
- Y chromosome testing, performed exclusively on males, often used to investigate whether two families with the same surname are related.

Direct to Consumer Genetic Testing

Traditionally, genetic testing was available only through health care providers.⁴² Direct-to-consumer genetic testing provides access to genetic testing outside the health care context. Generally, the consumer purchases a genetic testing kit from a vendor that mails the kit to the consumer. The consumer collects a DNA sample and mails it back to the vendor. The vendor uses a laboratory to conduct the test. The consumer is then notified of the test results.

Direct-to-consumer genetic testing has primarily been used for genealogical purposes, but increasing numbers of products now provide medical information. For example, the vendor 23andME offers, with FDA approval, genetic testing that examines the consumer's risks for certain diseases including Parkinson's disease, celiac disease, and late-onset Alzheimer's disease.⁴³

Direct to consumer genetic testing is increasing in popularity, with one company reporting having sold approximately 1.5 million genetic testing kits from November 24, 2017, through November 27, 2017.⁴⁴ The increased proliferation of such testing is accompanied by increased concerns about the privacy of such information. The privacy protections of HIPAA usually do not apply to direct-to-consumer genetic testing because the vendors selling such tests are often not "covered entities" and thus not subject to HIPAA. The Federal Trade Commission has recently warned consumers to consider the privacy implications of genetic testing kits.⁴⁵

Direct-to-consumer genetic testing is being used by law enforcement agencies to identify suspects in crimes.⁴⁶ To do so, law enforcement agencies test crime scene DNA samples for DNA markers that in many cases are shared with blood relatives. The DNA markers can then be uploaded to a free online database, GEDmatch, which is used by the public to search for relatives. The DNA database identifies relatives that match the DNA markers, information which can then be used to focus on an individual suspect.

⁴² See National Institutes of Health, fn. 30, at pg. 11.

⁴³ 23andMe, *Find Out What Your DNA Says About Your Health, Traits and Ancestry* <https://www.23andme.com/dna-health-ancestry/> (last accessed January 24, 2020).

⁴⁴ Megan Molteni, *Ancestry's Genetic Testing Kits Are Heading For Your Stocking This Year*, Wired, (December 1, 2017) <https://www.wired.com/story/ancestrys-genetic-testing-kits-are-heading-for-your-stocking-this-year/> (last accessed January 24, 2020).

⁴⁵ Federal Trade Commission, *DNA Test Kits: Consider the Privacy Implications*, (December 12, 2017). <https://www.consumer.ftc.gov/blog/2017/12/dna-test-kits-consider-privacy-implications> (last accessed January 24, 2020).

⁴⁶ Jocelyn Kaiser, *We Will Find You: DNA Search Used to Nab Golden State Killer Can Home In On About 60% of White Americans*, Science (October 11, 2018) <https://www.sciencemag.org/news/2018/10/we-will-find-you-dna-search-used-nab-golden-state-killer-can-home-about-60-white> (last accessed January 27, 2020).

Concerns Over Direct-to-Consumer Genetic Testing Privacy and Fraud

The use of genetic information to identify other family members has public policy implications that are not limited to criminal law. A 2018 study estimated that a genetic database would need to cover only 2 percent of the target population to provide a third-cousin match to nearly any person.⁴⁷ The authors of the study noted that genetic information and the use of genetic databases that are publicly available could be used for harmful purposes, such as re-identifying research subjects from their genetic data.

Chief Financial Officer Jimmy Patronis issued a consumer alert on August 15, 2019, warning Floridians of genetic testing scams that purport to offer free genetic testing to Medicare beneficiaries, but are actually attempts to obtain personal information for identity theft or Medicare information for fraudulent billing purposes.⁴⁸ The consumer alert noted that the Better Business Bureau had started receiving reports of the genetic testing scams, which occurred through telemarketing calls, booths at public events, health fairs, and door-to-door visits.⁴⁹

A Department of Defense memorandum issued December 20, 2019, advised military personnel to refrain from the purchase or use of direct-to-consumer genetic testing. The department noted that direct-to-consumer genetic tests “are largely unregulated and could expose personal and genetic information, and potentially create unintended security consequences and increased risk to the joint force and mission.”⁵⁰ The memorandum stated that many direct-to-consumer genetic tests that provide health information vary in their validity and are not reviewed by the Food and Drug Administration, and thus are not independently reviewed to verify the claims of the seller.⁵¹ The memorandum also noted that “there is increased concern in the scientific community that outside parties are exploiting the use of genetic data for questionable purposes, including mass surveillance and the ability to track individuals without their authorization or awareness.”⁵²

Life Insurance, Disability Insurance, and Long-Term Care Insurance

Forms of Life Insurance

Life insurance is the insurance of human lives.⁵³ Life insurance can be purchased in the following forms:⁵⁴

⁴⁷ Yaniv Erlich et al., *Identify Inference of Genomic Data Using Long-Range Familial Searches*, Science Vol. 362, Issues 6415, Pgs. 690-694 (November 9, 2018) <https://science.sciencemag.org/content/362/6415/690/tab-pdf> (last accessed January 27, 2020).

⁴⁸ Florida Department of Financial Services, *Consumer Alert CFO Jimmy Patronis: Beware of Door to Door Genetic Testing Scams Targeting Seniors*, (August 15, 2019) <https://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?ID=5357> (last accessed January 27, 2020).

⁴⁹ Better Business Bureau, *BBB Warning: Beware of Genetic Testing Scam Hitting Florida*, (August 2, 2019). <https://www.bbb.org/article/news-releases/20457-bbb-warning-beware-of-genetic-testing-scam-hitting-florida> (last accessed January 27, 2020).

⁵⁰ Department of Defense, *Memorandum on Direct-to-Consumer Genetic Testing Advisory for Military Members*, (Dec 20, 2019) https://www.scribd.com/document/440727436/DOD-memo-on-DNA-testing#download&from_embed (last accessed January 27, 2019).

⁵¹ See *id.*

⁵² See *id.*

⁵³ Section 624.602, F.S.

⁵⁴ National Association of Insurance Commissioners, *Life Insurance – Considerations for All Life Situations*, http://www.insureuonline.org/insureu_type_life.htm (last accessed January 24, 2020).

- Term life insurance provides coverage for a set term of years and pays a death benefit if the insured dies during the term.⁵⁵
- Permanent life insurance remains in place if the insured pays premiums, and the coverage pays a death benefit. Such policies have an actual cash value component that increases over time and from which the policy owner may borrow. There are four types of permanent life insurance:
 - Whole life insurance offers a fixed premium, guaranteed annual cash value growth and a guaranteed death benefit. It does not provide investment flexibility and the policy coverage, once established, may not be changed.
 - Universal life insurance allows the policyholder to determine the amount and timing of premium payments within certain limits. The coverage level may be adjusted. It guarantees certain levels of annual cash value growth but not investment flexibility.
 - Variable life insurance allows allocation of investment funds, but does not guarantee minimum cash value because of fluctuations in the value of investments.
 - Variable universal life insurance combines variable and universal life insurance.⁵⁶

Life Insurance Underwriting and Risk Classification

Life insurance underwriters seek to identify and classify the risk represented by a proposed insured and then classify those risks into pools of similar mortality or morbidity risk.⁵⁷ Mortality risk is the risk of death whereas morbidity risk is the risk of being unhealthy or having a disease. Insureds within the same risk classification pay the same premiums, which must be adequate to ensure solvency, pay claims, and provide the insurer (with investment income) a reasonable rate of return. Accurate risk assessment is important in life insurance because misclassification of risk results in severe consequences because the life insurance contract is often in place for long periods of time, as in the case of long-term and whole life policies.⁵⁸

A 2019 paper in the *Journal of Insurance Regulation* of the National Association of Insurance Commissioners noted that more than 5,000 genes have been identified as relating to a particular disease, many of which have predictive value in estimating the probability in developing a genetic disease that has consequences for mortality.⁵⁹ Examples of genetic tests with informational value for life insurance underwriting include:

- Breast cancer – BRCA1 or BRCA 2;
- Hypertrophic cardiomyopathy;
- Dilated cardiomyopathy;
- Arrhythmogenic right ventricular cardiomyopathy;
- Long QT syndrome;
- Brugada syndrome;
- Huntington’s disease;

⁵⁵ National Association of Insurance Commissioners, *Life Insurance FAQs*, http://www.insureuonline.org/consumer_life_faqs.htm (last accessed January 24, 2020).

⁵⁶ See “What are the different types of permanent life insurance policies?” available at <https://www.iii.org/article/what-are-different-types-permanent-life-insurance-policies> (last accessed March 26, 2019).

⁵⁷ American Council of Life Insurers, *Life Insurer Issues*. (On file with the Senate Committee on Banking and Insurance).

⁵⁸ Patricia Born, *Genetic Testing in Underwriting: Implications for Life Insurance Markets*, *Journal of Insurance Regulation* Vol. 38, No. 5 (2019), https://www.naic.org/prod_serv/JIR-ZA-38-05-EL.pdf (last accessed January 27, 2020).

⁵⁹ See Born fn. 58 at pg. 5.

- Polycystic kidney disease;
- Myotonic muscular dystrophy – DM1 or DM2;
- Alzheimer’s disease early onset, autosomal dominance;
- Hereditary nonpolyposis colorectal cancer;
- Marfan Syndrome; and
- Catecholaminergic polymorphic ventricular tachycardia.

When a policyholder has access to information about their mortality risk which the life insurer lacks, two problems arise for the life insurer. The first problem is that the policy may be underpriced, which can result in inadequate premium dollars to pay death benefits.⁶⁰ The second problem is that consumers with knowledge of their increased mortality risk will be more likely to keep their policy in-force, which also has an impact on proper pricing of life insurance as premiums are calculated using assumptions that a certain percentage of policyholders will allow the insurance contract to lapse.⁶¹

The American Council of Life Insurers has expressed concerns that the proliferation of genetic testing could increase adverse selection and impact the availability and affordability of products over time.⁶² Studies addressing whether genetic testing leads to adverse selection have reached varying conclusions. Studies of women tested for the BRCA1 gene mutation (linked to breast cancer risk)⁶³ and adults tested for Alzheimer’s risk⁶⁴ found little evidence of adverse selection in the life insurance market. However, the study regarding Alzheimer’s risk found evidence of adverse selection for long-term care insurance, as 17 percent of those who tested positive subsequently changed their LTC policy in the year after testing positive of Alzheimer’s risk, in comparison with 2 percent of those who tested negative and 4 percent of those who did not receive test results.⁶⁵

Annuities

Life insurance also encompasses annuities and disability policies.⁶⁶ An annuity is a contract between a customer and an insurer wherein the customer makes a lump-sum payment or a series of payments to an insurer that in return agrees to make periodic payments to the annuitant at a future date, either for the annuitant’s life or a specified period. Disability insurance pays a weekly or monthly income for a set period if the insured becomes disabled and cannot continue working or obtain work.

⁶⁰ See Born fn. 58 at pg. 10.

⁶¹ See *id.*

⁶² Gina Kolata, *New Gene Tests Pose a Threat to Insurers*, New York Times (May 12, 2017), <https://www.nytimes.com/2017/05/12/health/new-gene-tests-pose-a-threat-to-insurers.html> (last accessed January 24, 2020).

⁶³ Cathleen D. Zick, et. al., *Genetic Testing, Adverse Selection, and the Demand for Life Insurance*, pgs. 29-39 American Journal of Medical Genetics (July 2000) (Abstract provided by NIH at <https://www.ncbi.nlm.nih.gov/pubmed/10861679> (last accessed January 24, 2020)).

⁶⁴ Cathleen D. Zick, *Genetic Testing For Alzheimer’s Disease And Its Impact on Insurance Purchasing Behavior*, pgs. 483-490, Health Affairs vol. 23, no. 2 (March/April 2005), <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.24.2.483> (last accessed January 24, 2020).

⁶⁵ See Zick fn. 64 at pgs. 487-488.

⁶⁶ Section 624.602, F.S.

Disability Insurance

Disability insurance compensates the insured for a portion of income lost because of a disabling injury or illness.⁶⁷ There are two types of disability insurance: short-term and long-term. A short-term policy typically replaces a portion of lost income from 3 to 6 months following the disability. Long-term policies generally begin 6 months after the disability and can last a set number of years or until retirement age. Disability insurance is sometimes offered by life insurers.

Long-Term Care Insurance

Long-term care (LTC) insurance covers the costs of nursing homes, assisted living, home health care, and other long-term care services. A long-term care insurance policy provides coverage for medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance or personal care services provided in a setting other than an acute care unit of a hospital.⁶⁸ Long-term care insurance usually pays fixed-dollar amounts or the actual costs of care, often subject to a maximum daily benefit amount.⁶⁹

The LTC insurance market provides an example of the negative effects of insurers not accurately projecting their underwriting risk. LTC insurers made incorrect assumptions when selling the coverage, particularly in the 1980s and 1990s.⁷⁰ The LTC insurers overestimated the number of people that would cancel their coverage or allow it to lapse, underestimated the life span of insureds and the time span of the treatment they would receive, and overestimated earnings on LTC premiums which were negatively affected by dropping interest rates.⁷¹ As a result, long-term care insurance premiums have been rising, often substantially, for the past decade.⁷²

In response to substantial LTC premium increases, Florida law prohibits LTC rate increases that would result in a premium in excess of that charged on a newly issued policy, except to reflect benefit differences.⁷³ If the insurer is not writing new LTC policies, the rate cannot exceed the new business rate of insurers representing 80 percent of the carriers in the marketplace. In January 2017, the OIR issued consent orders allowing two of the state's largest LTC insurers, Metropolitan Life Insurance Company and Unum Life Insurance Company of America, to

⁶⁷ See National Association of Insurance Commissioners, *A Worker's Most Valuable Asset: Protecting Your Financial Future with Disability Insurance*

http://www.naic.org/documents/consumer_alert_protecting_financial_future_disability_insurance.htm (last accessed January 24, 2020).

⁶⁸ Section 627.9404(1), F.S.

⁶⁹ Florida Department of Financial Services, *Long-Term Care: A Guide for Consumers*, pg. 5.

<https://www.myfloridacfo.com/division/consumers/UnderstandingCoverage/Guides/documents/LTCGuide.pdf> (last accessed January 24, 2020).

⁷⁰ See Leslie Scism, *Millions Bought Insurance to Cover Retirement Health Costs. Now They Face an Awful Choice*, Wall Street Journal (January 17, 2018), <https://www.wsj.com/articles/millions-bought-insurance-to-cover-retirement-health-costs-now-they-face-an-awful-choice-1516206708> (last accessed January 24, 2020).

⁷¹ See Office of Insurance Regulation, *Long-Term Care Public Rate Hearings*. (The Internet page references a rate filing decision made by the OIR on Jan. 12, 2017, related to LTC products for two insurers), <https://www.floir.com/Sections/LandH/LongTermCareHearing.aspx> (last accessed January 24, 2020); See Scism at fn. 70.

⁷² See Scism at fn. 70; See Office of Insurance Regulation at fn. 71.

<https://www.floir.com/Sections/LandH/LongTermCareHearing.aspx> (last accessed January 24, 2020).

⁷³ Section 627.9407(7)(c), F.S.

substantially raise LTC monthly premiums, phased in over 3 years.⁷⁴ Many insurers that write LTC insurance have taken substantial losses. In January 2018, General Electric announced a \$6.2 billion charge against earnings and a \$15 billion shortfall in insurance reserves related to LTC insurance obligations.⁷⁵

Prohibition of Unfair Discrimination Between Individuals

Insurance policy forms for insurance sold in Florida must be filed and approved by the Office of Insurance Regulation (OIR).⁷⁶ The Unfair Insurance Trade Practices Act prohibits “knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class and expectation of life, in the rates charged for a life insurance or annuity contract, in the dividends or other benefits payable thereon, or in any other term or condition of such contract.”⁷⁷ Similarly, the act prohibits knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class, as determined at the time of initial issuance of the coverage, and essentially the same hazard, in the amount of premium, policy fees, or rates charged for a policy or contract of disability insurance, in benefits payable, in the terms or conditions of the contract, or in any other manner.⁷⁸

III. Effect of Proposed Changes:

Section 1 amends s. 627.4301, F.S., stating that life insurers and long-term care insurers may not cancel, limit, or deny coverage or establish different insurance rates based on the “genetic information” of applicants. Currently, only health insurers are expressly barred from basing coverage decisions on genetic information.

Florida law currently provides that life insurance and long-term care insurance policies are incontestable and may not be cancelled except for nonpayment of premium after 2 years in force.⁷⁹ For life insurance and long-term care insurance contracts, the prohibition on cancellations based solely on genetic information would only be relevant during the first 2 years the contract is in force. The prohibition would be relevant throughout the time a disability income policy is in-force because provisions in an insurance policy relating to disability benefits may, at the option of the insurer, be exempt from the 2-year incontestability period.

The bill defines:

⁷⁴ See Office of Insurance Regulation, *Consent Order In the Matter of: Metropolitan Life Insurance Company*, Case No. 200646-16-CO (Jan. 12, 2017), <https://www.floir.com/siteDocuments/MetLife200646-16-CO.pdf> (last accessed January 24, 2020); Office of Insurance Regulation, *Consent Order In The Matter of Unum Life Insurance Company of America*, Case No. 200879-16-CO (Jan. 12, 2017), <https://www.floir.com/siteDocuments/Unum200879-16-CO.pdf> (last accessed January 24, 2020).

⁷⁵ Sonali Basak, Katherine Chiglinsky, et al, *GE’s Surprise \$15 Billion Shortfall Was 14 Years in the Making*, Chicago Tribune, (January 25, 2018), <http://www.chicagotribune.com/business/ct-biz-ge-general-electric-accounting-20180125-story.html> (last accessed January 24, 2020); Steve Lohr and Chad Bray, *At G.E., \$6.2 Billion Charge for Finance Unit Hurts C.E.O.’s Turnaround Push*, New York Times, (January 16, 2018), <https://www.nytimes.com/2018/01/16/business/dealbook/general-electric-ge-capital.html> (last accessed January 24, 2020).

⁷⁶ Section 624.410, F.S.

⁷⁷ Section 626.9541(1)(g)1., F.S.

⁷⁸ Section 626.9541(1)(g)2., F.S.

⁷⁹ See ss. 627.455, F.S., and 627.94076, F.S.

- “Life insurer” to have the same meaning as provided in s. 624.602, F.S.;⁸⁰ and to include an insurer issuing life insurance contracts that grant additional benefits in the event of an insured’s disability;
- “Long-term care insurer” as an insurer issuing long-term care insurance policies as described in s. 627.9404, F.S.⁸¹

Section 2 states that the provisions of the bill apply prospectively to policies entered into or renewed on or after January 21, 2021.

Section 3 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.

⁸⁰ Section 624.602, F.S., defines a life insurer as an insurer engaged in the business of issuing life insurance contracts, including contracts of combined life and health and accident insurance. Life insurance is defined as the insurance of human lives, transactions of which include annuity contracts, granting endowment benefits, providing additional benefits in the event of death or dismemberment by accident or accidental means, additional benefits in the event of the insured’s disability.

⁸¹ Section 627.9404, F.S., defines a long-term care insurance policy to mean any insurance policy or rider advertised, marketed, offered, or designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventative, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. The definition specifies various coverages that are not long-term care insurance such as Medicare supplement coverage, disability income coverage, and others.

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 627.4301, 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 Judiciary on February 11, 2020:

The committee substitute differs from the underlying bill by:

- Extending the restrictions on the use of genetic information to life insurers and long-term care insurers.
- Clarifying that the bill does not prevent life insurers from accessing an applicant's medical record as part of an application exam and does not prevent life insurers from considering medical diagnoses included in the medical record.
- Stating that the bill applies prospectively to policies entered into or renewed on or after January 21, 2021.

CS by Banking and Insurance on January 28, 2020:

The CS provides conditions under which life insurers, long-term care insurers, and disability income insurers may use genetic information, including direct-to-consumer genetic testing, in underwriting. The CS requires companies that provide direct-to-consumer genetic testing must obtain written consent from the consumer prior to sharing genetic information or personally identifiable information about a consumer with a life insurer or health insurer.

Previously, the bill prohibited such insurers from using genetic information to cancel, limit, or deny coverage, or establish differentials in premium rates, nor could such insurers require or solicit genetic information, use genetic test results, or consider a person's decisions regarding genetic testing in any manner for any insurance purpose.

B. Amendments:

None.

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



370850

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.4301, Florida Statutes, is amended
to read:

627.4301 Genetic information for insurance purposes.—

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

(a) "Genetic information" means information derived from
genetic testing to determine the presence or absence of
variations or mutations, including carrier status, in an



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12 individual's genetic material or genes that are scientifically
13 or medically believed to cause a disease, disorder, or syndrome,
14 or are associated with a statistically increased risk of
15 developing a disease, disorder, or syndrome, which is
16 asymptomatic at the time of testing. Such testing does not
17 include routine physical examinations or chemical, blood, or
18 urine analysis, unless conducted purposefully to obtain genetic
19 information, or questions regarding family history.

20 (b) "Health insurer" means an authorized insurer offering
21 health insurance as defined in s. 624.603, a self-insured plan
22 as defined in s. 624.031, a multiple-employer welfare
23 arrangement as defined in s. 624.437, a prepaid limited health
24 service organization as defined in s. 636.003, a health
25 maintenance organization as defined in s. 641.19, a prepaid
26 health clinic as defined in s. 641.402, a fraternal benefit
27 society as defined in s. 632.601, or any health care arrangement
28 whereby risk is assumed.

29 (c) "Life insurer" has the same meaning as in s. 624.602
30 and includes an insurer issuing life insurance contracts that
31 grant additional benefits in the event of the insured's
32 disability.

33 (d) "Long-term care insurer" means an insurer that issues
34 long-term care insurance policies as described in s. 627.9404.

35 (2) USE OF GENETIC INFORMATION.—

36 (a) In the absence of a diagnosis of a condition related to
37 genetic information, ~~no~~ health insurers, life insurers, and
38 long-term care insurers ~~insurer~~ authorized to transact insurance
39 in this state may not cancel, limit, or deny coverage, or
40 establish differentials in premium rates, based on such



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41 information.

42 (b) Health insurers, life insurers, and long-term care
43 insurers may not require or solicit genetic information, use
44 genetic test results, or consider a person's decisions or
45 actions relating to genetic testing in any manner for any
46 insurance purpose.

47 (c) This section does not apply to the underwriting or
48 issuance of an a life insurance policy, disability income
49 policy, long-term care policy, accident-only policy, hospital
50 indemnity or fixed indemnity policy, dental policy, or vision
51 policy or any other actions of an insurer directly related to an
52 a life insurance policy, disability income policy, long-term
53 care policy, accident-only policy, hospital indemnity or fixed
54 indemnity policy, dental policy, or vision policy.

55 (d) Nothing in this section shall be construed as
56 preventing a life insurer from accessing an individual's medical
57 record as part of an application exam. Nothing in this section
58 prohibits a life insurer from considering a medical diagnosis
59 included in an individual's medical record, even if a diagnosis
60 was made based on the results of a genetic test.

61 Section 2. This act applies to policies entered into or
62 renewed on or after January 1, 2021.

63 Section 3. This act shall take effect July 1, 2020.

64
65 ===== T I T L E A M E N D M E N T =====

66 And the title is amended as follows:

67 Delete everything before the enacting clause
68 and insert:

69 A bill to be entitled



370850

70 An act relating to genetic information for insurance
71 purposes; amending s. 627.4301, F.S.; providing
72 definitions; prohibiting life insurers and long-term
73 care insurers from canceling, limiting, or denying
74 coverage or establishing differentials in premium
75 rates based on genetic information under certain
76 circumstances; prohibiting such insurers from taking
77 certain actions relating to genetic information for
78 any insurance purpose; providing construction and
79 applicability; providing an effective date.

By the Committee on Banking and Insurance; and Senator Stargel

597-02767-20

20201564c1

1 A bill to be entitled
2 An act relating to the use of genetic information;
3 amending s. 627.4301, F.S.; revising the definition of
4 the term "genetic information"; defining the terms
5 "life insurer" and "long-term care insurer";
6 specifying criteria that must be met before a life
7 insurer, long-term care insurer, or disability income
8 insurer may use genetic information for underwriting
9 purposes; specifying prohibited acts by such insurers
10 relating to genetic information; amending s. 760.40,
11 F.S.; prohibiting companies providing direct-to-
12 consumer commercial genetic testing from sharing
13 certain information about a consumer with a life
14 insurer or health insurer unless the company obtains
15 the consumer's prior written consent; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 627.4301, Florida Statutes, is amended
21 to read:

22 627.4301 Genetic information for insurance purposes.—

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

24 (a) "Genetic information" means information derived from
25 genetic testing to determine the presence or absence of
26 variations or mutations, including carrier status, in an
27 individual's genetic material or genes that are scientifically
28 or medically believed to cause a disease, disorder, or syndrome,
29 or are associated with a statistically increased risk of

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20201564c1

30 developing a disease, disorder, or syndrome, which is
31 asymptomatic at the time of testing. Such testing does not
32 include routine physical examinations or chemical, blood, or
33 urine analysis, unless conducted purposefully to obtain genetic
34 information, or questions regarding family history. Genetic
35 information includes the results of direct-to-consumer
36 commercial genetic testing.

37 (b) "Health insurer" means an authorized insurer offering
38 health insurance as defined in s. 624.603, a self-insured plan
39 as defined in s. 624.031, a multiple-employer welfare
40 arrangement as defined in s. 624.437, a prepaid limited health
41 service organization as defined in s. 636.003, a health
42 maintenance organization as defined in s. 641.19, a prepaid
43 health clinic as defined in s. 641.402, a fraternal benefit
44 society as defined in s. 632.601, or any health care arrangement
45 whereby risk is assumed.

46 (c) "Life insurer" has the same meaning as provided in s.
47 624.602 and includes an insurer issuing life insurance contracts
48 that grant additional benefits in the event of the insured's
49 disability.

50 (d) "Long-term care insurer" means an insurer that issues
51 long-term care insurance policies as defined in s. 627.9404.

52 (2) USE OF GENETIC INFORMATION.—

53 (a) In the absence of a diagnosis of a condition related to
54 genetic information, no health insurer authorized to transact
55 insurance in this state may cancel, limit, or deny coverage, or
56 establish differentials in premium rates, based on such
57 information.

58 (b) Health insurers may not require or solicit genetic

597-02767-20

20201564c1

59 information, use genetic test results, or consider a person's
60 decisions or actions relating to genetic testing in any manner
61 for any insurance purpose.

62 (c) A life insurer, long-term care insurer, or disability
63 income insurer may use genetic information for underwriting
64 purposes only if all of the following criteria are met:

65 1. The genetic information is contained in the medical
66 record.

67 2. The use of any genetic testing results is limited to
68 what is in the medical record.

69 3. The genetic information is relevant to a potential
70 medical condition that impacts mortality or morbidity risk.

71 4. The genetic information is related to expected mortality
72 or morbidity based on sound actuarial principles or reasonably
73 expected experience.

74 (d) A life insurer, long-term care insurer, or disability
75 income insurer may not:

76 1. Cancel coverage based solely on genetic information;

77 2. Require an applicant to take a genetic test as a
78 condition of insurability; or

79 3. Obtain, request, or otherwise require the complete
80 genome sequence of an applicant's DNA.

81 (e) This section does not apply to the underwriting or
82 issuance of ~~an a life insurance policy, disability income~~
83 ~~policy, long-term care policy,~~ accident-only policy, a hospital
84 indemnity or fixed indemnity policy, a dental policy, or a
85 vision policy or any other actions of an insurer directly
86 related to ~~an a life insurance policy, disability income policy,~~
87 ~~long-term care policy,~~ accident-only policy, a hospital

597-02767-20

20201564c1

88 indemnity or fixed indemnity policy, a dental policy, or a
89 vision policy.

90 Section 2. Subsection (4) is added to section 760.40,
91 Florida Statutes, to read:

92 760.40 Genetic testing; informed consent; confidentiality;
93 penalties; notice of use of results.—

94 (4) A company providing direct-to-consumer commercial
95 genetic testing may not share any genetic information or
96 personally identifiable information about a consumer with a life
97 insurer or health insurer unless the company obtains prior
98 written consent from the consumer.

99 Section 3. This act shall take effect July 1, 2020.

S01564

GENERAL BILL/CS by BI, Stargel; (Compare H 01189)

Use of Genetic Information. EFFECTIVE DATE: 07/01/2020.

02/11/20 S CS/CS by Judiciary; YEAS 6 NAYS 0

02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Rules



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Education, *Chair*
Appropriations
Education
Ethics and Elections
Finance and Tax
Judiciary
Rules

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL
22nd District

February 3, 2020

The Honorable David Simmons
Senate Committee on Judiciary, Chair
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I respectfully request that SB 1564, related to *Use of Genetic Information*, be placed on the Judiciary meeting agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Tom Cibula/Staff Director
Joyce Butler/AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/11/2020

Meeting Date

1564

Bill Number (if applicable)

370850

Amendment Barcode (if applicable)

Topic Genetics ; Insurance

Name Robert Gleason MD.

Job Title Medical Consultant

Address 9705 N. Lake Dr.

Street

Phone 414 331 7462

Milwaukee

City

WI

State

53217

Zip

Email drbobgleason@msn.com

Speaking: [] For [x] Against [] Information

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

Representing American Council of Life Insurers

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] 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)

Meeting Date

1564
Bill Number (if applicable)

370 850
Amendment Barcode (if applicable)

Topic

Name TIM MEENAN

Job Title

Address 300 S. Duval St.

Tallahassee FL 32312
City State Zip

Phone (850) 425-4000

Email TIM@MEENANFIRM.COM

Speaking: For Against Information

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

Representing Florida Insurance Council.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2020

Meeting Date

SB 1564

Bill Number (if applicable)

Topic Use of Genetic Information

Amendment Barcode (if applicable)

Name Zayne smith

Job Title Associate State Director

Address 215 South Monroe Suite 603

Phone 850.228.4243

Street

Tallahassee

FL

32301

Email zsmith@aarp.org

City

State

Zip

Speaking: For Against Information

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

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 1746

INTRODUCER: Judiciary Committee and Senator Stargel

SUBJECT: Florida Virtual Education

DATE: February 13, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1746 modifies the operations and governance of Florida Virtual School (FLVS), expands access to virtual charter schools, and provides school districts flexibility in implementing Virtual Instruction Program (VIP) options for the purpose of improving virtual education for students. Specifically, the bill:

- Establishes FLVS as a state agency and modifies a number of school operation and governance provisions.
- Expands upon the populations FLVS must prioritize for enrollment.
- Authorizes virtual charter schools to provide part-time virtual instruction.
- Removes the requirement for certain school districts to provide three VIP options.
- Expands the conditional approval of a VIP provider to 2 years.
- Gives the board of trustees of the Florida Virtual School discretion to use certain revenues to support the school's marketing; previously.
- Clarifies that academic and administrative personnel employed the FLVS board of trustees are entitled to an annual written contract made pursuant to the board's rules and provides that contracts for nonacademic personnel may also be determined by a board policy.

The bill does not require the appropriation of additional state funds.

The bill takes effect on July 1, 2020.

II. Present Situation:

Virtual learning is a rapidly growing space in education policy, seeking to maximize potential for instructional innovation, prepare students for life in the digital age and meet students' unique needs.¹ Virtual learning takes a variety of forms, including full-time virtual schools, supplemental course offerings and blended learning programs. Virtual schools, including charters, single-district schools and statewide programs, have emerged as educational options for students and parents seeking flexibility and individualized learning. Full-time virtual schools enrolled nearly 300,000 students across 35 states in the 2017-2018 school year, with a majority of those students enrolled in virtual charter schools.²

During the 2016-2017 fiscal year, state virtual schools in 23 states collectively served over 420,000 students with nearly 1 million supplemental online course enrollments.³ State virtual schools are entities created by legislation or by state-level agencies. Most state virtual schools do not grant diplomas and are not responsible for many of the functions generally performed by schools (such as administration of state assessments, state and federal reporting, counseling, etc.). Instead, they supply online courses and related services to schools, and students are usually enrolled with district approval. State virtual schools may be administered by a state education agency, or may be separate nonprofit organizations, charter schools, higher education institutions, or regional service agencies contracted by the state education agency.⁴ For example:

- Georgia Virtual School, Oregon Academy of Online Learning, and Virtual Virginia, are part of their state departments of education.
- Idaho Digital Learning is a governmental entity separate from the state education agency, and was created by legislation with a Board of Directors responsible for oversight.
- Montana Digital Academy is administered by the state university system.
- Michigan Virtual receives legislative funding, but is a nonprofit organization with a Board of Directors providing oversight.
- Illinois Virtual School is administered through the Peoria County Regional Office of Education, which was awarded the Illinois State Board of Education contract to manage and operate the state virtual school.
- New Hampshire's state virtual school, Virtual Learning Academy Charter School, was created through charter school rules.

Although state virtual schools have different organizational and governance structures, most share similar characteristics.⁵ They provide teacher-led online courses, have administrative staff, enroll students, hire and train teachers, and maintain technology infrastructure to deliver and

¹ Education Commission of the States, *Virtual School Policies December 2019*, available at <https://www.ecs.org/wp-content/uploads/Virtual-School-Policies.pdf>.

² Education Commission of the States, *Virtual School Policies December 2019* (2019), available at <https://www.ecs.org/wp-content/uploads/Virtual-School-Policies.pdf>.

³ Digital Learning Collaborative, *Snapshot 2019 A review of K-12 online, blended, and digital learning April 2019* (2019), available at: <https://static1.squarespace.com/static/5a98496696d4556b01f86662/t/5df14341d5d15f7ed7bf8c93/1576092485377/DLC-KP-Snapshot2019.pdf> at 18.

⁴ *Id.*

⁵ *Id.*

support online courses. They may create their own online course content, license content from vendors, use open educational resources, or combine content from various sources.⁶

Digital Learning Now Act

In 2011, the Florida Legislature created the Digital Learning Now Act to provide all kindergarten through grade 12 students with access to multiple high quality part-time and full-time digital learning options, including:⁷

- Full-time virtual charter school instruction.
- Florida Virtual School (FLVS).
- School district operated part-time and full-time virtual instruction program (VIP) options.
- Other online and blended courses.

Virtual Charter Schools

Virtual charter schools are charter schools that are full-time public virtual schools. Students access the curriculum and instruction, and interact with teachers, outside of a traditional school setting, usually from home.⁸ An existing charter school that is seeking to become a virtual charter school must amend its charter or submit a new application to become a virtual charter school.⁹ An approved virtual charter school may provide full-time virtual instruction for students in kindergarten through grade 12 by:¹⁰

- Contracting with FLVS.
- Contracting with an approved provider.
- Entering into a VIP agreement with a school district.

Virtual charter schools enrolled 3,456 students in the 2018-2019 school year,¹¹ and currently 4,374 students are enrolled in seven virtual charter schools for the 2019-2020 school year.¹²

Florida Virtual School (FLVS)

FLVS was established to develop and deliver online and distance learning education,¹³ and is part of the Florida public school system.¹⁴ The Commissioner of Education (commissioner) is charged with monitoring FLVS.¹⁵ Current law requires FLVS to serve any student in the state who meets the profile for success, giving priority to:¹⁶

- Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools.

⁶ *Id.*

⁷ Section 1002.321(4) and Section 1002.455, F.S.

⁸ Florida Department of Education, *General Information on Virtual Charter Schools*, <http://www.fldoe.org/schools/school-choice/virtual-edu/virtual-charter-school/vcs-info.stml> (last visited Jan. 22, 2020).

⁹ Section 1002.33(1), F.S.

¹⁰ Section 1002.45(1), F.S.

¹¹ Florida Department of Education, *Fact Sheet, Office of Independent Education and Parental Choice* (2019), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

¹² Email, Florida Department of Education (Jan. 22, 2020).

¹³ Section 1002.37(1), F.S.

¹⁴ Section 1000.04(4), F.S.

¹⁵ Section 1002.37(1)(a), F.S.

¹⁶ *Id.*

- Students seeking accelerated access in order to obtain a high school diploma at least one semester early.
- Students who are children of an active duty member of the United States Armed Forces whose home of record or state of legal residence is Florida.

During the 2018-2019 school year, FLVS served more than 215,000 students in Florida through full- and part-time instruction, including 5,540 full-time students and 209,965 part-time students, who completed a total of 518,045 semester courses.¹⁷

FLVS Global

FLVS Global provides instruction courseware, training, and expertise to online and blended programs for schools, districts, states, and international agencies.¹⁸ FLVS Global School serves middle and high school students around the nation and world through tuition-based instruction. During the 2018-2019 school year, FLVS Global School served 3,316 students in 50 states and over 100 countries and territories, who completed 6,832 semester courses.¹⁹

FLVS Governance

FLVS is governed by a Board of Trustees (BOT), comprised of seven members appointed by the Governor to 4-year staggered terms that must:

- Meet at least four times each year.
- Be responsible for the development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and self-sufficient.
- Aggressively seek avenues to generate revenue to support future endeavors. Any funds realized must be used to support the school's marketing and research and development activities in order to improve courseware and services to students.
- Be responsible for the administration and control of all local school funds.
- Administer and maintain personnel programs for all employees.
- Establish priorities for student enrollment.
- Establish and distribute to school districts and high schools procedures for enrollment.
- Establish criteria defining the elements of an approved franchise.
- Submit to the State Board of Education (SBE) enrollment and course completion data.
- Provide for the content and custody of student and employee personnel records.
- Maintain financial records and accounts.

The BOT must submit an annual report to the Governor, the Legislature, the commissioner, and the SBE that addresses:

- The operations and accomplishments of FLVS and FLVS Global;

¹⁷ FLVS Global served 3,316 students in 50 states and over 100 countries and territories in 2018-2019. Florida Department of Education, *Recommendations Regarding the Governance, Operation and Organization of the Florida Virtual School* (2019), available at <http://www.fldoe.org/core/fileparse.php/18826/urlt/FLVSReport.pdf>.

¹⁸ FLVS Global, *About us*, <https://www.flvsglobal.net/about-us/> (last visited Jan. 22, 2020).

¹⁹ Florida Department of Education, *Recommendations Regarding the Governance, Operation and Organization of the Florida Virtual School* (2019), available at <http://www.fldoe.org/core/fileparse.php/18826/urlt/FLVSReport.pdf>.

- The marketing and operational plan for FLVS and FLVS Global;
- The assets and liabilities of FLVS and FLVS Global at the end of the fiscal year;
- Recommendations regarding the unit cost of providing services to students through FLVS and FLVS Global; and
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by FLVS and FLVS Global.²⁰

Recent operational and governance related issues at FLVS prompted a temporary change in governance in ch. 2019-116, Laws of Fla., the implementing bill for the 2019 General Appropriations Act,²¹ while the condition of FLVS could be assessed. Identified issues include:²²

- A data breach in 2018;
- Leadership instability;
- Questionable hiring practices;
- Perceptions of “self-dealing” behaviors;
- Inappropriate work climate;
- Improper purchasing and contracting;
- Employees conducting work on FLVS time unrelated to FLVS; and
- Billing FLVS for travel unrelated to FLVS.

Ch. 2019-116, Laws of Fla., requires the SBE to serve as the BOT of FLVS. The SBE sitting as the BOT of FLVS must appoint an executive director, who reports directly to the commissioner. The executive director must competitively award a contract for an independent third-party consulting firm to conduct financial, operational, or performance audits, and the Office of the Inspector General of the DOE must oversee the audit. The DOE must provide recommendations regarding the governance, operation, and organization of FLVS to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2019.²³

The DOE submitted its required recommendations on November 1, 2019. These recommendations were developed around the following three goals:²⁴

- Ensuring stakeholders’ confidence – FLVS needs to operate ethically, with efficacy and transparency.
- Setting the bar for excellence – FLVS should be the model for accessible and high-quality virtual education.
- Giving students the best possible conditions for success – virtual education in Florida should be a competitive marketplace that is held accountable by ensuring that parents and students have consumable information to make great choices.

²⁰ Section 1002.37(6), F.S.

²¹ Section 12, ch. 2019-116, Law of Fla.

²² Florida Department of Education, *Recommendations Regarding the Governance, Operation and Organization of the Florida Virtual School* (2019), available at <http://www.fldoe.org/core/fileparse.php/18826/urlt/FLVSReport.pdf>.

²³ *Id.*

²⁴ *Id.*

Virtual Instruction Program (VIP)

A VIP is defined as a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.²⁵ Each VIP is required to:²⁶

- Align virtual course curriculum and course content to the state standards.
- Offer instruction designed to enable a student to gain proficiency in each course of study.
- Provide each student enrolled with all necessary instructional materials.
- Provide qualified²⁷ full-time students with equipment and Internet access.
- Not require tuition or student registration fees.

Smaller school districts receiving the sparsity supplement²⁸ are required to offer at least one full-time and part-time VIP option²⁹ and schools districts not receiving the sparsity supplement are required to offer at least three options.³⁰

In order to provide students the opportunity to participate in VIP options, a school district may:³¹

- Contract with FLVS or establish an FLVS franchise.³²
- Contract with an approved provider.³³
- Enter into an agreement with other school districts.
- Establish school district operated part-time or full-time VIP options.
- Enter into an agreement with a virtual charter school.

The DOE is tasked with annually publishing a list of providers approved to offer VIP options.³⁴ To be approved, a provider must document that the provider possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by student learning gains in each grade level subject provided for consideration.³⁵

²⁵ Section 1002.45(1)(a)2., F.S.

²⁶ Section 1002.45(3), F.S.

²⁷ Any student who qualifies for free or reduced-price school lunches under the National School Lunch Act, or who is on the direct certification list, and who does not have a computer or Internet access in his or her home. Section 1002.45 (3)(d), F.S.

²⁸ School districts having a student population between 17,000 and 24,000 full-time equivalent students may receive additional funding through the sparsity supplement as determined through a statutory formula and provided in the General Appropriations Act. Florida Department of Education, *2019-20 Funding for Florida School Districts* (2019), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> at 18.

²⁹ Florida Department of Education, *District Virtual Options for Students*, <http://www.fldoe.org/schools/school-choice/virtual-edu/parent-resources/district-virtual-options.stml> (last visited Jan. 23, 2020).

³⁰ Section 1002.45(1)(b), F.S.

³¹ Section 1002.45(1)(c), F.S.

³² FLVS, *County Virtual Schools*, <https://www.flvs.net/florida-school-solutions/county-virtual-schools> (last visited Jan. 22, 2020).

³³ Approved providers include a provider that is approved by the DOE, FLVS, a franchise of FLVS, or a Florida College System institution. Section 1002.45(1)(a)1., F.S., and Rule 6A-6.0981, F.A.C.

³⁴ Section 1002.45(2)(a), F.S.

³⁵ Section 1002.45(2)(a)5., F.S.

Once approved, a VIP provider retains its status for 3 years.³⁶ However, for a provider without sufficient prior, successful experience offering online courses, the DOE may conditionally approve the provider to offer courses for one school year.³⁷

More than 11,000 students participated in school district VIP options during the 2018-2019 school year.³⁸

III. Effect of Proposed Changes:

The bill modifies the operations and governance of Florida Virtual School (FLVS), expands access to virtual charter schools, and provides school districts flexibility in implementing Virtual Instruction Program (VIP) options for the purpose of improving virtual education for students. Specifically the bill:

- Establishes FLVS as a state agency and modifies a number of school operation and governance provisions such as:
 - Reducing the number of Board of Trustees (BOT) members from seven to five.
 - Requiring term limits for BOT members.
 - Requiring the BOT to establish an Office of the Inspector General (OIG).
 - Expanding upon the populations FLVS must prioritize for enrollment.
- Authorizes virtual charter schools to provide part-time virtual instruction.
- Removes the requirement for certain districts to provide three VIP options.
- Expands the conditional approval of a VIP provider to two years.

Florida Virtual School (FLVS)

The bill modifies the governance and operations of FLVS in a number of ways.

The bill adds new requirements to establish FLVS as a state agency and require the BOT to establish an OIG within the school just like other state agencies. The OIG provides a central point of coordination and is responsible for activities that promote accountability, integrity and efficiency in state government.³⁹ The OIG is required to investigate allegations or reports of possible fraud or abuse against the school, staff or students.

The bill modifies a number of requirements that may bring greater accountability and transparency to the school such as, reducing the number of BOT members to five, limiting members to two consecutive 4-year terms, and restricting a BOT member from having any business relations or pecuniary interest in FLVS while serving on the board or for 6 years after leaving the board.

The bill expands the mission of the FLVS by adding English language learners, students having exceptionalities including gifted students, and students who are in an alternative setting or a

³⁶ Section 1002.45(2)(b), F.S.

³⁷ *Id.*

³⁸ Florida Department of Education, *Fact Sheet, Office of Independent Education and Parental Choice* (2019), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

³⁹ Florida Department of State, *Inspector General*, <https://dos.myflorida.com/offices/inspector-general/> (last visited Jan. 29, 2020).

Department of Juvenile Justice program as priority populations for enrollment. Expanding the mission may provide more students opportunities to enroll in FLVS courses.

The bill gives the board of trustees discretion to use revenues from patents, copyrights, trademarks, or licenses to support FLVS's marketing. Previously, such funds were required to be used for that purpose.

The bill clarifies that academic and administrative personnel employed the FLVS board of trustees are entitled to an annual written contract made pursuant to the board's rules and provides that contracts for nonacademic personnel may also be determined by a board policy.

Finally, the bill removes the requirement that FLVS market its services in Florida, removes the annual reporting requirements for marketing FLVS and FLVS Global, and removes the requirement for FLVS Global to include its operational plan in the annual report. This change may remove competitive barriers for FLVS and other approved virtual instruction providers in Florida.

Virtual Charter Schools

The bill authorizes virtual charter schools to offer part-time virtual instruction if the school has provided full-time instruction for at least 1 year. This change may provide more options to students and increase competition between virtual instruction providers.

Virtual Instruction Program (VIP)

The bill modifies s. 1002.45, F.S., to remove the requirement for school districts not eligible for the sparsity supplement to offer at least three part-time and full-time VIP options. The proposed bill requires all school districts to offer part-time and full-time VIP options without specifying a number. Removing the requirement may provide school districts flexibility to customize virtual instruction options based on student need.

The bill authorizes the DOE to conditionally approve a VIP provider for two school years based on the provider's success in other states, which may create more competition between virtual instruction providers and provide additional options for students.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1002.37, and 1002.45.

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 Judiciary on February 11, 2020:

The committee substitute differs from the underlying bill by stating that funds received by the Florida Virtual School board of trustees may be used to support the school's marketing; previously, the bill required such funds be used for that purpose.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 164 - 232
and insert:
internal funds ~~as provided in s. 1011.07~~. Such funds may ~~shall~~
be used to support the school's marketing and research and
development activities in order to improve courseware and
services to its students.

5.-(d) The board of trustees shall be responsible for the
administration and control of all internal and local school
funds derived from all activities or sources and shall prescribe



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12 the principles and procedures to be followed in administering
13 these funds.

14 6.(e) The Florida Virtual School may accrue supplemental
15 revenue from a direct-support organization in accordance with s.
16 1001.453. The Florida Virtual School may also accrue
17 ~~supplemental~~ revenue from supplemental support organizations,
18 which include, but are not limited to, alumni associations,
19 ~~foundations,~~ parent-teacher associations, and booster
20 associations. However, a member of the governing body of such an
21 organization may not have a business relationship with or
22 pecuniary interest in the Florida Virtual School. The governing
23 body of each ~~supplemental support~~ organization shall recommend
24 the expenditure of moneys collected or generated by it ~~the~~
25 ~~organization~~ for the benefit of the school. Such expenditures
26 shall be contingent upon the review and approval of the
27 executive director of the Florida Virtual School. ~~The executive~~
28 ~~director may override any proposed expenditure of the~~
29 ~~organization that would violate Florida law or breach sound~~
30 ~~educational management.~~

31 7.(f) In accordance with law and rules of the State Board
32 of Education, the board of trustees shall administer and
33 maintain personnel programs for all employees of the board of
34 trustees and the Florida Virtual School. The board of trustees
35 may adopt ~~rules,~~ ~~policies,~~ ~~and procedures~~ related to the
36 appointment, employment, and removal of personnel.

37 a.1. The board of trustees shall determine the
38 compensation, including salaries and fringe benefits, and other
39 conditions of employment for such personnel.

40 b.2. The board of trustees may establish and maintain a



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41 personnel loan or exchange program by which persons employed by
42 the board of trustees for the Florida Virtual School as academic
43 administrative and instructional staff may be loaned to, or
44 exchanged with persons employed in like capacities by, public
45 agencies either within or without this state, or by private
46 industry. With respect to public agency employees, the program
47 authorized by this subparagraph shall be consistent with the
48 requirements of part II of chapter 112. The salary and benefits
49 of board of trustees personnel participating in the loan or
50 exchange program shall be continued during the period of time
51 they participate in a loan or exchange program, and such
52 personnel shall be deemed to have no break in creditable or
53 continuous service or employment during such time. The salary
54 and benefits of persons participating in the personnel loan or
55 exchange program who are employed by public agencies or private
56 industry shall be paid by the originating employers of those
57 participants, and such personnel shall be deemed to have no
58 break in creditable or continuous service or employment during
59 such time.

60 c.3. The employment of all Florida Virtual School ~~academic~~
61 ~~administrative and instructional~~ personnel shall be subject to
62 ~~rejection for cause by the board of trustees, and shall be~~
63 ~~subject to~~ policies of the board of trustees relative to
64 certification, ~~tenure~~, leaves of absence, sabbaticals,
65 remuneration; subject to, and such other conditions of
66 employment as the board of trustees deems necessary and proper;
67 and consistent, not inconsistent with law, including s.
68 1001.42(5), (6), and (7).

69 d.4. All academic administrative and instructional



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70 personnel employed by ~~Each person employed by the board of~~
71 ~~trustees in an academic administrative or instructional capacity~~
72 ~~with~~ the Florida Virtual School are ~~shall be~~ entitled to an
73 annual, written ~~a~~ contract as provided by rules of the board of
74 trustees. Employment contracts for nonacademic personnel may be
75 determined by board of trustees policy.

76
77 ===== T I T L E A M E N D M E N T =====

78 And the title is amended as follows:

79 Delete lines 34 - 35

80 and insert:

81 employees are subject to specified policies; revising
82 requirements for the use of certain employment
83 contracts;



225780

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Stargel) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 446 and 447
insert:

(3) VIRTUAL INSTRUCTION PROGRAM REQUIREMENTS.—Each virtual instruction program under this section must:

(a) Align virtual course curriculum and course content to the Sunshine State Standards under s. 1003.41.

(b) Offer instruction that is designed to enable a student to gain proficiency in each virtually delivered course of study.

(c) Provide each student enrolled in the program with all



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12 the necessary instructional materials.

13 (d) Provide each full-time student enrolled in the program
14 who qualifies for free or reduced-price school lunches under the
15 National School Lunch Act, or who is on the direct certification
16 list, and who does not have a computer or Internet access in his
17 or her home with:

18 1. All equipment necessary for participants in the virtual
19 instruction program, including, but not limited to, a computer,
20 computer monitor, and printer, if a printer is necessary to
21 participate in the program; and

22 2. Access to or reimbursement for all Internet services
23 necessary for online delivery of instruction.

24 (e) Not require tuition or student registration fees.

25
26 A school district must cap out-of-district, full-time equivalent
27 student membership in the district virtual instruction program
28 at no more than the full-time equivalent student membership in
29 virtual program classes within the district for a program
30 provided by a State Board of Education approved provider.

31 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

32 And the directory clause is amended as follows:

33 Delete lines 320 - 322

34 and insert:

35 Section 3. Paragraphs (b) and (d) of subsection (1),
36 paragraph (a) of subsection (2), and subsection (3) of section
37 1002.45, Florida Statutes, are amended to read:

38
39 ===== T I T L E A M E N D M E N T =====

40 And the title is amended as follows:



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41 Delete line 54
42 and insert:
43 provider for 2 years, rather than 1 year; requiring
44 that a school district cap out-of-district, full-time
45 equivalent student membership at a certain level;
46 providing an exception; providing an

By Senator Stargel

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1 A bill to be entitled
2 An act relating to Florida virtual education; amending
3 s. 1002.33, F.S.; conforming provisions to changes
4 made by the act; amending s. 1002.37, F.S.; providing
5 that certain employees of the Florida Virtual School
6 are entitled to sovereign immunity; revising the
7 students given priority by the Florida Virtual School;
8 revising the number of members appointed to the board
9 of trustees of the Florida Virtual School; providing
10 term limits for members of the board; providing that
11 the board members are governed by a specified code of
12 ethics; prohibiting members of the board and any
13 member of a governing body for a direct-support
14 organization or supplemental support organization
15 associated with the Florida Virtual School from having
16 specified business relationships or interest in the
17 Florida Virtual School; requiring the board to appoint
18 an executive director; providing duties of the
19 executive director; requiring the board of trustees to
20 meet at the call of the executive director;
21 authorizing, rather than requiring, the board of
22 trustees to participate in specified marketing
23 activities; requiring the board of trustees to be
24 responsible for all internal funds of the school;
25 authorizing the Florida Virtual School to accrue
26 supplemental revenue from a specified organization;
27 requiring the executive director of the Florida
28 Virtual School to review and approve specified
29 expenditures; deleting a provision authorizing the

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30 executive director to override such expenditures under
31 certain circumstances; deleting provisions authorizing
32 the board of trustees to adopt certain rules and
33 procedures; providing that all Florida Virtual School
34 employees are subject to specified policies; requiring
35 all the employees to receive a specified contract;
36 deleting a requirement that the board of trustees
37 distribute certain procedures to high schools in this
38 state; requiring student records held by the school to
39 meet specified provisions; providing requirements for
40 meetings of the board of trustees; revising the
41 requirements for a specified plan; deleting a
42 requirement that the Florida Virtual School board of
43 trustees submit specified information to certain
44 entities for the Florida Virtual School Global;
45 requiring the board to establish an Office of
46 Inspector General within the school; providing duties
47 and responsibilities of the office; amending s.
48 1002.45, F.S.; deleting a requirement that certain
49 school districts provide a specified number of virtual
50 instruction options; authorizing a virtual charter
51 school to provide part-time instruction under certain
52 circumstances; authorizing the Department of Education
53 to conditionally approve a virtual instruction
54 provider for 2 years, rather than 1 year; providing an
55 effective date.

56

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

58

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59 Section 1. Subsection (1) of section 1002.33, Florida
60 Statutes, is amended to read:

61 1002.33 Charter schools.—

62 (1) AUTHORIZATION.—All charter schools in Florida are
63 public schools and shall be part of the state's program of
64 public education. A charter school may be formed by creating a
65 new school or converting an existing public school to charter
66 status. A charter school may operate a virtual charter school
67 pursuant to s. 1002.45(1)(d) to provide full-time or part-time
68 online instruction to students, pursuant to s. 1002.455, in
69 kindergarten through grade 12. The school district in which the
70 student enrolls in the virtual charter school shall report the
71 student for funding pursuant to s. 1011.61(1)(c)1.b.(VI), and
72 the home school district shall not report the student for
73 funding. An existing charter school that is seeking to become a
74 virtual charter school must amend its charter or submit a new
75 application pursuant to subsection (6) to become a virtual
76 charter school. A virtual charter school is subject to the
77 requirements of this section; however, a virtual charter school
78 is exempt from subsections (18) and (19), paragraph (20)(c), and
79 s. 1003.03. A public school may not use the term charter in its
80 name unless it has been approved under this section.

81 Section 2. Paragraphs (a) and (b) of subsection (1),
82 subsections (2) and (4), and paragraph (b) of subsection (7) of
83 section 1002.37, Florida Statutes, are amended, and subsection
84 (12) is added to that section, to read:

85 1002.37 The Florida Virtual School.—

86 (1)(a) The Florida Virtual School is an agency of the state
87 established for the development and delivery of world-class

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88 online and distance learning education. The Florida Virtual
89 School, its board of trustees, officers, and employees are
90 entitled to sovereign immunity pursuant to s. 768.28. The
91 Commissioner of Education shall monitor the school's performance
92 and report its performance to the State Board of Education and
93 the Legislature.

94 (b) The mission of the Florida Virtual School is to provide
95 students with technology-based educational opportunities to gain
96 the knowledge and skills necessary to succeed. The school shall
97 serve any student in the state who meets the profile for success
98 in this educational delivery context and shall give priority to:

99 1. Students who need expanded access to courses in order to
100 meet their educational goals, such as home education students,
101 ~~and~~ students in inner-city and rural areas ~~high schools~~ who do
102 not have access to higher-level courses, English language
103 learners, students with exceptionalities who currently do not
104 have access to higher-level courses, including gifted students.

105 2. Students seeking accelerated access in order to obtain a
106 high school diploma at least one semester early.

107 3. Students who are children of an active duty member of
108 the United States Armed Forces who is not stationed in this
109 state and whose home of record or state of legal residence is
110 Florida.

111 4. Students who are in an alternative setting or a
112 Department of Juvenile Justice program.

113
114 The board of trustees of the Florida Virtual School shall
115 identify appropriate performance measures and standards based on
116 student achievement that reflect the school's statutory mission

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117 and priorities, and shall implement an accountability system for
118 the school that includes assessment of its effectiveness and
119 efficiency in providing quality services that encourage high
120 student achievement, seamless articulation, and maximum access.

121 (2) (a) The Florida Virtual School shall be governed by a
122 board of trustees comprised of five ~~seven~~ members appointed by
123 the Governor to 4-year staggered terms. A member may not serve
124 more than two consecutive 4-year terms on the board. The ~~board~~
125 ~~of trustees shall be a public agency entitled to sovereign~~
126 ~~immunity pursuant to s. 768.28,~~ and board members shall be
127 public officers who shall bear fiduciary responsibility for the
128 Florida Virtual School. The board of trustees shall be governed
129 by the code of ethics for public officers and employees as set
130 forth in part III of chapter 112. A member of the board of
131 trustees may not have any business relationship with or
132 pecuniary interest in the Florida Virtual School while serving
133 on the board or for 6 years after serving on the board.

134 (b) The board of trustees shall have the following powers
135 and duties:

136 1. The board of trustees shall appoint an executive
137 director. The executive director is responsible for executing
138 the Florida Virtual School's mission, vision, and goals; for
139 proposing policies and policy revisions to the board of
140 trustees; and for the day-to-day operations of the Florida
141 Virtual School.

142 2.a. ~~(a)1.~~ The board of trustees shall meet at least 4 times
143 each year, upon the call of the chair or executive director, or
144 at the request of a majority of the board membership.

145 b.2. The fiscal year for the Florida Virtual School shall

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146 be the state fiscal year as provided in s. 216.011(1)(o).

147 ~~3.(b)~~ The board of trustees shall be responsible for the
148 Florida Virtual School's development of a state-of-the-art
149 technology-based education delivery system that is cost-
150 effective, educationally sound, marketable, and capable of
151 sustaining a self-sufficient delivery system through the Florida
152 Education Finance Program.

153 ~~4.(e)~~ The board of trustees shall aggressively seek avenues
154 to generate revenue to support its future endeavors, and shall
155 enter into agreements with distance learning providers. The
156 board of trustees may acquire, enjoy, use, and dispose of
157 patents, copyrights, and trademarks and any licenses and other
158 rights or interests thereunder or therein. Ownership of all such
159 patents, copyrights, trademarks, licenses, and rights or
160 interests thereunder or therein shall vest in the state, with
161 the board of trustees having full right of use and full right to
162 retain the revenues derived therefrom. Any funds realized from
163 patents, copyrights, trademarks, or licenses shall be considered
164 internal funds ~~as provided in s. 1011.07~~. Such funds shall be
165 used to support the school's marketing, if the school chooses to
166 participate in any marketing, and research and development
167 activities in order to improve courseware and services to its
168 students.

169 ~~5.(d)~~ The board of trustees shall be responsible for the
170 administration and control of all internal and local school
171 funds derived from all activities or sources and shall prescribe
172 the principles and procedures to be followed in administering
173 these funds.

174 ~~6.(e)~~ The Florida Virtual School may accrue supplemental

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175 revenue from a direct-support organization in accordance with s.
176 1001.453. The Florida Virtual School may also accrue
177 ~~supplemental~~ revenue from supplemental support organizations,
178 which include, but are not limited to, alumni associations,
179 ~~foundations,~~ parent-teacher associations, and booster
180 associations. However, a member of the governing body of such an
181 organization may not have a business relationship with or
182 pecuniary interest in the Florida Virtual School. The governing
183 body of each ~~supplemental support~~ organization shall recommend
184 the expenditure of moneys collected or generated by it the
185 ~~organization~~ for the benefit of the school. Such expenditures
186 shall be contingent upon the review and approval of the
187 executive director of the Florida Virtual School. ~~The executive~~
188 ~~director may override any proposed expenditure of the~~
189 ~~organization that would violate Florida law or breach sound~~
190 ~~educational management.~~

191 7.(f) In accordance with law and rules of the State Board
192 of Education, the board of trustees shall administer and
193 maintain personnel programs for all employees of the board of
194 trustees and the Florida Virtual School. The board of trustees
195 may adopt ~~rules, policies, and procedures~~ related to the
196 appointment, employment, and removal of personnel.

197 a.1. The board of trustees shall determine the
198 compensation, including salaries and fringe benefits, and other
199 conditions of employment for such personnel.

200 b.2. The board of trustees may establish and maintain a
201 personnel loan or exchange program by which persons employed by
202 the board of trustees for the Florida Virtual School as academic
203 administrative and instructional staff may be loaned to, or

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204 exchanged with persons employed in like capacities by, public
205 agencies either within or without this state, or by private
206 industry. With respect to public agency employees, the program
207 authorized by this subparagraph shall be consistent with the
208 requirements of part II of chapter 112. The salary and benefits
209 of board of trustees personnel participating in the loan or
210 exchange program shall be continued during the period of time
211 they participate in a loan or exchange program, and such
212 personnel shall be deemed to have no break in creditable or
213 continuous service or employment during such time. The salary
214 and benefits of persons participating in the personnel loan or
215 exchange program who are employed by public agencies or private
216 industry shall be paid by the originating employers of those
217 participants, and such personnel shall be deemed to have no
218 break in creditable or continuous service or employment during
219 such time.

220 c.3. The employment of all Florida Virtual School ~~academic~~
221 ~~administrative and instructional~~ personnel shall be subject to
222 ~~rejection for cause by the board of trustees, and shall be~~
223 ~~subject to~~ policies of the board of trustees relative to
224 certification, tenure, leaves of absence, sabbaticals,
225 remuneration; subject to, and such other conditions of
226 employment as the board of trustees deems necessary and proper;
227 and consistent, ~~not inconsistent~~ with law, including s.
228 1001.42 (5), (6), and (7).

229 d.4. Each person employed by ~~the board of trustees in an~~
230 ~~academic administrative or instructional capacity with the~~
231 Florida Virtual School shall be entitled to an annual, written a
232 contract as provided by policies ~~rules~~ of the board of trustees.

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233 e.5 All employees except temporary, seasonal, and student
234 employees may be state employees for the purpose of being
235 eligible to participate in the Florida Retirement System and
236 receive benefits. The classification and pay plan, including
237 terminal leave and other benefits, and any amendments thereto,
238 shall be subject to review and approval by the Department of
239 Management Services and the Executive Office of the Governor
240 prior to adoption.

241 8.(g) The board of trustees shall establish priorities for
242 admission of students in accordance with paragraph (1)(b).

243 9.(h) The board of trustees shall establish and distribute
244 to all school districts ~~and high schools~~ in the state procedures
245 for enrollment of students in courses offered by the Florida
246 Virtual School.

247 10.(i) The board of trustees shall establish criteria
248 defining the elements of an approved franchise. The board of
249 trustees may enter into franchise agreements with Florida
250 district school boards and may establish the terms and
251 conditions governing such agreements. The board of trustees
252 shall establish the performance and accountability measures and
253 report the performance of each school district franchise to the
254 Commissioner of Education.

255 11.(j) The board of trustees shall submit to the State
256 Board of Education both forecasted and actual enrollments and
257 credit completions for the Florida Virtual School, according to
258 procedures established by the State Board of Education. At a
259 minimum, such procedures must include the number of public,
260 private, and home education students served by program and by
261 county of residence.

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262 12.~~(*)~~ The board of trustees shall provide for the content
263 and custody of student and employee personnel records. Student
264 records shall be subject to the provisions of ss. s. 1002.22,
265 1002.221, and 1002.222. Employee records shall be subject to the
266 provisions of s. 1012.31.

267 13.~~(1)~~ The financial records and accounts of the Florida
268 Virtual School shall be maintained under the direction of the
269 board of trustees and under rules adopted by the State Board of
270 Education for the uniform system of financial records and
271 accounts for the schools of the state.

272 14. The meetings of the board of trustees shall be
273 conducted and noticed pursuant to s. 1001.372(1), (3), and (4).

274
275 The Governor shall designate the initial chair of the board of
276 trustees to serve a term of 4 years. Members of the board of
277 trustees shall serve without compensation, but may be reimbursed
278 for per diem and travel expenses pursuant to s. 112.061. The
279 board of trustees shall be a body corporate with all the powers
280 of a body corporate and such authority as is needed for the
281 proper operation and improvement of the Florida Virtual School.
282 The board of trustees is specifically authorized to adopt ~~rules,~~
283 ~~policies, and procedures,~~ consistent with law and rules of the
284 State Board of Education related to governance, personnel,
285 budget and finance, administration, programs, curriculum and
286 instruction, travel and purchasing, technology, students,
287 contracts and grants, and property as necessary for optimal,
288 efficient operation of the Florida Virtual School. Tangible
289 personal property owned by the board of trustees shall be
290 subject to the provisions of chapter 273.

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291 (4) School districts operating a virtual school that is an
292 approved franchise of the Florida Virtual School may count full-
293 time equivalent students, as provided in paragraph (3)(a), if
294 such school has been certified as an approved franchise by the
295 Commissioner of Education based on criteria established by the
296 board of trustees pursuant to subparagraph (2)(b)10. ~~paragraph~~
297 ~~(2)(i).~~

298 (7) The board of trustees shall annually submit to the
299 Governor, the Legislature, the Commissioner of Education, and
300 the State Board of Education the audit report prepared pursuant
301 to subsection (6) and a complete and detailed report setting
302 forth:

303 (b) The ~~marketing and operational plan for the Florida~~
304 ~~Virtual School and Florida Virtual School Global,~~ including
305 recommendations regarding methods for improving the delivery of
306 digital education through the Internet and other distance
307 ~~learning technology.~~

308 (12) The board of trustees shall establish an Office of the
309 Inspector General within the school using existing resources and
310 funds. The office is responsible for promoting accountability,
311 efficiency, and effectiveness and detecting fraud and abuse
312 within the school. If there are substantiated allegations made
313 by any person relating to waste, fraud, or financial
314 mismanagement within the school, the office shall conduct,
315 coordinate, or request investigations into such substantiated
316 allegations. The office shall investigate allegations or reports
317 of possible fraud or abuse against the school or its staff or
318 students. The office shall have access to all information and
319 personnel necessary to perform its duties.

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320 Section 3. Paragraphs (b) and (d) of subsection (1) and
321 paragraph (a) of subsection (2) of section 1002.45, Florida
322 Statutes, are amended to read:

323 1002.45 Virtual instruction programs.—

324 (1) PROGRAM.—

325 (b) Each school district ~~that is eligible for the sparsity~~
326 ~~supplement pursuant to s. 1011.62(7)(a) and (b)~~ shall provide
327 all enrolled public school students within its boundaries the
328 option of participating in part-time and full-time virtual
329 instruction programs and. ~~Each school district that is not~~
330 ~~eligible for the sparsity supplement pursuant to s.~~
331 ~~1011.62(7)(a) and (b) shall provide at least three options for~~
332 ~~part-time and full-time virtual instruction. All school~~
333 ~~districts~~ must provide parents with timely written notification
334 of at least one open enrollment period for full-time students of
335 90 days or more which ends 30 days before the first day of the
336 school year. The purpose of the program is to make quality
337 virtual instruction available to students using online and
338 distance learning technology in the nontraditional classroom. A
339 school district virtual instruction program shall consist of the
340 following:

341 1. Full-time and part-time virtual instruction for students
342 enrolled in kindergarten through grade 12.

343 2. Full-time or part-time virtual instruction for students
344 enrolled in dropout prevention and academic intervention
345 programs under s. 1003.53, Department of Juvenile Justice
346 education programs under s. 1003.52, core-curricula courses to
347 meet class size requirements under s. 1003.03, or Florida
348 College System institutions under this section.

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349 (d) A virtual charter school may provide full-time virtual
350 instruction for students in kindergarten through grade 12 if the
351 virtual charter school has a charter approved pursuant to s.
352 1002.33 authorizing full-time virtual instruction. A virtual
353 charter school may provide part-time virtual instruction for
354 such students if the school has provided full-time instruction
355 for at least 1 school year. A virtual charter school may:

- 356 1. Contract with the Florida Virtual School.
- 357 2. Contract with an approved provider under subsection (2).
- 358 3. Enter into an agreement with a school district to allow
359 the participation of the virtual charter school's students in
360 the school district's virtual instruction program. The agreement
361 must indicate a process for reporting of student enrollment and
362 the transfer of funds required by paragraph (7) (e).

363 (2) PROVIDER QUALIFICATIONS.—

364 (a) The department shall annually publish online a list of
365 providers approved to offer virtual instruction programs. To be
366 approved by the department, a provider must document that it:

- 367 1. Is nonsectarian in its programs, admission policies,
368 employment practices, and operations;
- 369 2. Complies with the antidiscrimination provisions of s.
370 1000.05;

- 371 3. Locates an administrative office or offices in this
372 state, requires its administrative staff to be state residents,
373 requires all instructional staff to be Florida-certified
374 teachers under chapter 1012 and conducts background screenings
375 for all employees or contracted personnel, as required by s.
376 1012.32, using state and national criminal history records;
- 377 4. Provides to parents and students specific information

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378 posted and accessible online that includes, but is not limited
379 to, the following teacher-parent and teacher-student contact
380 information for each course:

381 a. How to contact the instructor via phone, e-mail, or
382 online messaging tools.

383 b. How to contact technical support via phone, e-mail, or
384 online messaging tools.

385 c. How to contact the administration office via phone, e-
386 mail, or online messaging tools.

387 d. Any requirement for regular contact with the instructor
388 for the course and clear expectations for meeting the
389 requirement.

390 e. The requirement that the instructor in each course must,
391 at a minimum, conduct one contact via phone with the parent and
392 the student each month;

393 5. Possesses prior, successful experience offering online
394 courses to elementary, middle, or high school students as
395 demonstrated by quantified student learning gains in each
396 subject area and grade level provided for consideration as an
397 instructional program option. However, for a provider without
398 sufficient prior, successful experience offering online courses,
399 the department may conditionally approve the provider to offer
400 courses measured pursuant to subparagraph (8) (a)2. Conditional
401 approval shall be valid for 1 school year only and, based on the
402 provider's experience in offering the courses, the department
403 shall determine whether to grant approval to offer a virtual
404 instruction program. However, the department may conditionally
405 approve a provider for 2 school years at its discretion based on
406 the provider's success in other states;

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- 407 6. Is accredited by a regional accrediting association as
408 defined by State Board of Education rule;
- 409 7. Ensures instructional and curricular quality through a
410 detailed curriculum and student performance accountability plan
411 that addresses every subject and grade level it intends to
412 provide through contract with the school district, including:
- 413 a. Courses and programs that meet the standards of the
414 International Association for K-12 Online Learning and the
415 Southern Regional Education Board.
- 416 b. Instructional content and services that align with, and
417 measure student attainment of, student proficiency in the Next
418 Generation Sunshine State Standards.
- 419 c. Mechanisms that determine and ensure that a student has
420 satisfied requirements for grade level promotion and high school
421 graduation with a standard diploma, as appropriate;
- 422 8. Publishes for the general public, in accordance with
423 disclosure requirements adopted in rule by the State Board of
424 Education, as part of its application as a provider and in all
425 contracts negotiated pursuant to this section:
- 426 a. Information and data about the curriculum of each full-
427 time and part-time program.
- 428 b. School policies and procedures.
- 429 c. Certification status and physical location of all
430 administrative and instructional personnel.
- 431 d. Hours and times of availability of instructional
432 personnel.
- 433 e. Student-teacher ratios.
- 434 f. Student completion and promotion rates.
- 435 g. Student, educator, and school performance accountability

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436 outcomes;

437 9. If the provider is a Florida College System institution,
438 employs instructors who meet the certification requirements for
439 instructional staff under chapter 1012; and

440 10. Performs an annual financial audit of its accounts and
441 records conducted by an independent certified public accountant
442 which is in accordance with rules adopted by the Auditor
443 General, is conducted in compliance with generally accepted
444 auditing standards, and includes a report on financial
445 statements presented in accordance with generally accepted
446 accounting principles.

447 Section 4. This act shall take effect July 1, 2020.

S01746
GENERAL BILL by Stargel; (Similar CS/H 01335)
Florida Virtual Education. EFFECTIVE DATE: 07/01/2020.
02/11/20 S CS by Judiciary; YEAS 6 NAYS 0
02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Appropriations



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Education, *Chair*
Appropriations
Education
Ethics and Elections
Finance and Tax
Judiciary
Rules

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR KELLI STARGEL
22nd District

February 5, 2020

The Honorable David Simmons
Senate Committee on Judiciary Chair
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I respectfully request that SB 1746, related to *Florida Virtual Education* be placed on the Judiciary meeting agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Tom Cibula/Staff Director
Joyce Butler/AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20

Meeting Date

1746

Bill Number (if applicable)

Topic VIRTUAL SCHOOL

Amendment Barcode (if applicable)

Name MIKE MILLER

Job Title EXTERWAL AFFAIRS

Address 245 METROCENTER BLVD

Phone 321-356-0843

Street

ORLANDO FL

City

State

Zip

Email

Speaking: For Against Information

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

Representing FLORIDA VIRTUAL SCHOOL

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 Judiciary

BILL: CS/CS/SB 1794

INTRODUCER: Judiciary Committee; Ethics and Elections Committee; and Senator Hutson

SUBJECT: Constitutional Amendments Proposed by Initiative

DATE: February 13, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1794 modifies the process for amending the State Constitution. Most of the bill's changes apply only to citizen initiative amendments, including where the bill:

- Expands the scope of Florida Supreme Court review to include facial validity of the proposal under the U.S. Constitution.
- Narrows the role of the Financial Impact Estimating Conference (FIEC) to estimating the proposal's financial impact on state and local governments and the state budget (removing impacts to the local governments and *economies*).
- Statutorily authorizes the Senate President and House Speaker to direct legislative staff to analyze any other impacts of the proposal.
- Increases the number of petition signatures that must be verified before the Secretary of State refers the proposal to the Attorney General and the FIEC.
- Creates a cause of action for citizens to challenge a petition circulator's registration.
- Provides that petition signatures are valid until the next February 1 of an even-numbered year, which prevents signatures from being held over for a subsequent election.
- Requires a supervisor of elections to charge the actual cost for verifying a petition signature in lieu of the current rule of the lesser of 10 cents/signature or the actual cost, and requiring the Department of State to determine the cost (which may not exceed \$1/signature) annually by rule.
- Providing that a signature obtained illegally, including by an unregistered paid petition circulator, is invalid.

- Allowing the Division of Elections or a supervisor of elections to provide a petition form in PDF format, with printing costs to be borne by the sponsor.
- Requiring the ballot for a citizen initiative include a bold-font statement that the FIEC:
 - Estimates a positive financial impact;
 - Estimates an indeterminate financial impact;
 - Estimates a net negative impact on the state budget or cannot reach a consensus, along with indicating the *possible* negative tax and government services impacts.

Additionally, the bill requires every proposed constitutional amendment—not just one originating as a citizen initiative—to be reviewed by the FIEC and requires the ballot for every amendment to include a financial impact statement.

The bill is effective upon becoming a law and, by its express terms, applies to 2020 ballot initiatives, though it *does not* “affect the validity of any petition form gathered before the effective date of this act or any contract entered into before the effective date of this act.”

II. Present Situation:

The Florida Constitution may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.¹ A citizen initiative must embrace only one subject (unless it concerns limiting the power of government to raise revenue),² but proposals originating from the other sources are not so limited.³

Citizen Initiative Process

The Constitution requires the sponsor of an amendment proposed by citizen initiative to obtain a specified number of signatures on a petition to place the proposal on the ballot.⁴ The petition must contain the signatures of a number of voters equal to eight percent of the votes cast in the state in the preceding presidential election as well as eight percent of the vote cast in that election in each of at least half of the congressional districts of the state.⁵ The number of signatures required for placement on the 2018 or 2020 ballot is 766,200, with a specified number of that total required to come from at least 14 of the state’s congressional districts.⁶

Before gathering signatures for an amendment proposed by citizen initiative, the sponsor of the proposed amendment must register as a Florida political committee.⁷ The sponsor must then gather the required number of signatures. The sponsor must present each signature to the appropriate supervisor of elections (supervisor) where the signee resides within 30 days after gathering the signature for validation.⁸

¹ FLA. CONST. art. XI.

² FLA. CONST. art. XI.

³ FLA. CONST. art. XI, ss. 1, 2, 4, 6.

⁴ FLA. CONST. art. XI, s. 3.

⁵ *Id.*

⁶ Florida Dep’t of State, *2018 Initiative Petition Handbook*, <https://dos.myflorida.com/media/697659/initiative-petitionhandbook-2018-election-cycle-eng.pdf> (last visited Feb. 6, 2020) [hereinafter DOS, *Initiative Petition Handbook*].

⁷ Sections 100.371(2) and 106.03, F.S.

⁸ Section 100.371(7), F.S.

If the sponsor uses a paid petition circulator to gather signatures, the circulator must register with the Secretary before collecting signatures.⁹ Failure of a paid petition circulator to register before collecting petition forms is a second degree misdemeanor.¹⁰ The paid petition circulator must provide to the Secretary:

- His or her name, permanent address, temporary address, and date of birth.
- A Florida address where the circulator will accept service of process.
- A statement that the circulator consents to the jurisdiction of Florida courts.
- Any information required by the Secretary to verify the circulator's identity or address.¹¹

In addition, a paid petition circulator must provide an affidavit with each petition form gathered. The affidavit must include the circulator's name and permanent address and a signed statement verifying, under penalties of perjury, that the petition was signed in the circulator's presence.¹²

The date when the elector signs the petition is presumed to be the date of collection.¹³ The sponsor incurs a fine of \$50 for each petition form submitted to the supervisor more than 30 days after the elector signed the petition. The sponsor incurs a fine of \$500 for each petition form not submitted to the supervisor at all. If the sponsor acted willfully, the fines are raised to \$250 and \$1,000 per petition, respectively.¹⁴ The sponsor can avoid fines if it shows that failure to deliver the petitions was due to *force majeure*¹⁵ or impossibility of performance.¹⁶ If the Secretary believes these provisions have been violated, the Secretary may refer the matter to the Attorney General for enforcement.¹⁷

The supervisor of elections or the Division of Elections (division) within the Department of State must provide printed petition forms to registered paid petition circulators.¹⁸ The forms must contain information identifying the paid petition circulator.¹⁹ The division must maintain a database of registered paid petition circulators and petition forms assigned to each, updating the database daily with respect to petition forms.²⁰ The supervisor must provide to the division information relating to petition forms assigned to and received from paid petition circulators.²¹ When a sponsor delivers the collected signatures to the supervisor, the supervisor must check²² each signature to ensure that the:

- Elector's original signature is recorded.

⁹ Section 100.371(3), F.S.

¹⁰ Section 104.187, F.S. *See also* s. 104.186, F.S. (making it a first-degree misdemeanor to compensate a petition circulator based on the number of petitions gathered).

¹¹ Section 100.371(4), F.S.

¹² Section 100.371(5), F.S.

¹³ Section 100.371(10), F.S.

¹⁴ Section 100.371(7)(a), F.S.

¹⁵ "*Force majeure*" refers to circumstances that cannot be foreseen or controlled, which prevent a person from completing a legal obligation. *See Black's Law Dictionary* 673 (8th ed. 2004).

¹⁶ Section 100.371(7)(b), F.S.

¹⁷ Section 100.371(8), F.S.

¹⁸ Section 100.371(6), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² The sponsor is required to pay the supervisor the sum of 10 cents per signature checked or the actual cost of checking the signatures, whichever is less. Section 99.097(4), F.S.

- Elector accurately recorded the date on which he or she signed the form.
- Elector is a qualified and registered Florida voter.
- Form on which the signature is recorded contains the elector's name, address, city, county, and voter registration number or date of birth.²³

A petition form is invalid if any of these requirements is not met.²⁴ The supervisors submit their total numbers of valid signatures to the Secretary of State (Secretary).²⁵ Once a sponsor obtains verified signatures equal to 10 percent of the statewide requirement in at least 25 percent of Florida's congressional districts,²⁶ the Secretary must send the petition to the:

- Financial Impact Estimating Conference²⁷ to complete an analysis on the proposed amendment's fiscal impact within 75 days.²⁸
- Attorney General, who in turn petitions the Florida Supreme Court for an advisory opinion as to whether:
 - The proposed amendment complies with the single-subject requirement; and
 - The ballot title and summary are clear, unambiguous, and otherwise comply with s. 101.161, F.S.²⁹

Fiscal Impact Estimating Conference (FIEC)

After it receives a proposed citizen initiative amendment from the Secretary, the FIEC estimates the proposal's projected impacts on the costs and revenues of state and local governments, the state and local economies, and the state budget. The FIEC must complete two documents: a financial impact statement and an initiative financial information statement.³⁰

The financial impact statement is placed on the ballot to inform voters of the financial impacts the proposed amendment will have.³¹ The supervisor must include a copy of the FIEC's financial information summaries in the publication or mailing for sample ballots.

In addition, if the financial impact statement estimates that the proposal will cause increased costs, decreased revenues, a negative impact on the economy, or an indeterminate fiscal impact, the ballot must include a statement indicating such effect in **bold font**.³²

²³ Section 100.371(11), F.S.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 15.21(3), F.S. For the 2018 and 2020 elections, the number is 76,632 and must come from at least seven congressional districts. DOS, *Initiative Petition Handbook*.

²⁷ The Florida Constitution provides that the Legislature must provide by general law for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative. FLA. CONST. art. XI, s. 5(c). The legislature created the FIEC to review, analyze, and estimate the fiscal impact of constitutional amendments proposed by citizen initiative. It consists of four persons:

one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research or a designee; one professional Senate staffer; and one professional House staffer. Section 100.371(13)(c)1., F.S.

²⁸ See s. 100.371(13), F.S. (providing for the 75-day timeframe, which is tolled when the Legislature is in session).

²⁹ *Advisory Opinion to the Attorney General Re: Citizenship Requirements to Vote in Florida Elections*, 2020 WL 238555 (Fla. 2020).

³⁰ Section 100.371(13), F.S.

³¹ Section 100.371(13)(a), F.S.

³² Section 100.371(13)(d), F.S.

The Secretary of State and the Office of Economic and Demographic Research must place the lengthier initiative financial information statement on their respective websites.³³ Each supervisor must include in the publication and mailing of sample ballots the internet addresses where the FIEC's full information statements can be viewed and a summary of the statements.³⁴ The supervisors also must place a summary of the information statements at each polling place, at the main office of the supervisor, upon request, and on the supervisor's website.³⁵

Ballot Placement and Passage

If the Secretary determines that the sponsor has collected the required number of verified signatures by February 1 of the election year,³⁶ he or she assigns an amendment number and certifies the proposed amendment's ballot position.³⁷ When the proposal is printed on the ballot, the ballot must also include:

- A ballot summary not exceeding 75 words summarizing the proposal's purpose.
- A ballot title having a caption that does not exceed 15 words describing the proposal.
- The financial impact statement prepared by the FIEC.³⁸

At the general election, if at least 60 percent of the voters voting on the proposed amendment vote yes,³⁹ the proposed amendment is incorporated into the Florida Constitution.⁴⁰ The amendment becomes effective on the first Tuesday after the first Monday in January following the election or on a different date if specified in the amendment.⁴¹

III. Effect of Proposed Changes:

Regarding proposed citizen initiative amendments, the bill changes the deadline for gathering signatures, the Fiscal Impact Estimating Conference (FIEC) analysis process, the ballot language requirements, and the requirements for supervisors of elections. The bill also subjects every proposed amendment—not just those originating as citizen initiatives—to review by the FIEC.

Petition Circulators and Petition Form Signatures

The bill creates a cause of action in circuit court for citizens to challenge a petition circulator's registration, and requires the court to enjoin a respondent not in compliance from collecting signatures or initiative petitions for compensation until such person is lawfully registered. Further, the bill invalidates any illegally-obtained signature, including ones that are collected by paid petition circulators who were not validly registered at the time they collected the signature.

³³ Section 100.371(13)(e)5., F.S.

³⁴ Sections 100.371(13)(e)5. and 101.20, F.S.

³⁵ Section 100.371(13)(e), F.S.

³⁶ FLA. CONST. art. XI, s. 5(b).

³⁷ Sections 100.371(12) and 101.161, F.S.

³⁸ Section 101.161(1), F.S.

³⁹ FLA. CONST. art. XI, s. 5(e).

⁴⁰ *Id.*

⁴¹ *Id.*

The bill also provides that a signature on a petition form is valid only until February 1 of the next even-numbered year instead of for two years from the date signed. This change ties the current two-year signature validity period to the Secretary's ballot designation deadline.

Analysis of the Projected Impacts of Proposed Amendments

The bill changes the process for the Secretary of State to refer a proposed citizen initiative amendment for further analysis by increasing the number of verified signatures required to trigger the referral of a citizen initiative. Current law requires that the verified signatures equal 10 percent of the signatures required to place an initiative on the ballot. Moreover, the signatures must be comprised of at least 10 percent of the electors⁴² in each of one-eighth of the congressional districts. The bill requires that the verified signatures equal 33 percent of the signatures required to place an initiative on the ballot. The bill also requires that this threshold be met in each of at least one-third of the state's congressional districts.

Once the threshold for referral is met, the bill requires the Secretary to refer the proposed citizen initiative amendment to the Senate President and House Speaker in addition to the Attorney General and the FIEC.

The Senate President and House Speaker are authorized by the bill to direct legislative staff to conduct an analysis of a citizen initiative proposal, which may include, but is not limited to, whether the proposal:

- Has undefined terms;
- Conflicts with an existing provision of the Florida Constitution; or,
- Will cause unintended consequences or economic impacts.

Finally, the bill requires the Attorney General, upon petitioning the Florida Supreme Court to review the legality of a proposed citizen initiative amendment, to ask the Court whether it is facially invalid under the United States Constitution.

All Amendments Subjected to (Modified) FIEC Review

The bill subjects *all* proposed amendments⁴³—not just those originating as citizen initiatives—to FIEC analysis, which the bill modifies. Particularly, the FIEC is no longer required to estimate the proposal's projected impacts on the state and local economies. The FIEC must still produce a financial impact statement estimating the proposal's:

- Effect on increasing or decreasing revenues or costs to state or local governments; and,
- Overall impact to the state budget.

⁴² For this purpose, the number of electors is the number that voted in the last presidential election.

⁴³ The other sources from which an amendment may originate are the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, and a constitutional convention.

Ballot Requirements – Financial Impact Estimation

As the bill subjects all proposed amendments to FIEC review, it also requires the ballot for any amendment to include a financial impact statement. Additionally, the ballot for any amendment must include a statement in bold capital font indicating that the FIEC:

- Estimates that the proposal will have a net negative impact on the state budget;
- Cannot determine the proposal’s financial impact due to ambiguities and uncertainties surrounding the amendment’s impact;
- Is unable to reach a consensus on the proposal’s financial impact; or
- Estimates that the proposal will have a positive impact on the state budget which may result in generating additional revenue.

If the first or third statement is included on the ballot, the statement must declare that the amendment “may result in higher taxes or a loss of government services in order to maintain a balanced State budget as required by the constitution.”

Supervisors of Elections

The bill requires a supervisor of elections to:

- Verify signatures within 60 days after receipt of the petition forms and the required fees, instead of within 30 days as under current law.
- Provide a copy of the proposed amendment text in each in a designated area of each polling location as determined by the supervisor. The Department of State is required to print and furnish each supervisor with a sufficient number of copies of the amendment in either poster or booklet form.
- Charge the actual cost for checking a petition form, as opposed to charging the lesser of the actual cost or 10 cents per signature. But the Department of State must determine the actual per-signature cost (which may not exceed \$1), promulgate the cost by rule in the Florida Administrative Code, and update the cost determination annually.

Severability Clause and Effective Date

The bill provides that if any provision contained within the bill is held invalid, the remaining portion of the bill, “to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application.

The bill is effective upon becoming a law, and its changes apply to all initiative amendments proposed for the 2020 ballot. However, nothing in the bill affects the validity of a:

- Petition form gathered before the effective date.
- Contract entered into before the effective date.

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:

Initiative Petition Sponsors/Paid-Petition Gatherers

Allowing a supervisor to provide petition forms to initiative sponsors in PDF format instead of providing printed forms will likely increase a sponsor's printing costs. The costs are indeterminate at this time, and will vary from election-to-election and by county, based on the county's size and the number of initiatives/petitions involved.

Further, requiring initiative sponsors to remit to supervisors the *actual* cost of signature verification (in lieu of the current rule: the lesser of the actual cost or 10 cents per signature) may result in additional costs or additional savings to sponsors, depending on how efficient each county is at performing this task and the approach of the Department of State rule determining the actual costs.

C. Government Sector Impact:

State***Recurring Costs***

Additionally, the court system is anticipated to incur additional costs for proceedings challenging a petition circulator's registration status and Supreme Court proceedings to determine whether a proposed amendment facially invalid under the U.S. Constitution.⁴⁴ As the bill requires the FIEC to review of all proposed constitutional amendments, the costs associated with the reviews might increase.

⁴⁴ See Office of the State Courts Administrator, *2020 Judicial Impact Statement for SB 1794*, Jan. 26, 2020 (analyzing the original version of the bill).

Recurring Savings

The bill provides an indeterminate positive impact on state government by: limiting the FIEC's role in analyzing a proposed amendment and delaying formal review of the proposed initiative until the collection of additional verified signatures.

*Local**Recurring Savings*

Allowing county supervisor of elections the option to provide petition forms to initiative sponsors in PDF format instead of requiring that the supervisor print the forms could reduce a supervisors printing costs. The cost savings is indeterminate at this time, and will vary from election-to-election and by county.

Recurring Costs

The additional ballot statements that the bill mandates with respect to proposed amendments could lengthen the ballot, resulting in greater printing costs. As this situation will vary from county-to-county, the cost is indeterminate at this time.

Recurring Savings/Costs

Requiring initiative petition sponsors to remit to supervisors the actual cost of signature verification (in lieu of the current rule: the lesser of the actual cost or 10 cents per signature) may result in additional costs or additional savings, depending on how efficient each county is at performing this task and the approach of the Department of State rule governing the actual costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.21, 16.061, 100.371, 101.161, 101.171, and 106.07.

The bill creates section 101.162 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 Judiciary on February 11, 2020:

The committee substitute changes the underlying bill by:

- Decreasing the overall number of signatures that a citizen initiative must receive to trigger a review by the Supreme Court and the FIEC, but requiring that more congressional districts each meet a certain threshold in order to trigger the review;
- Capping the fee that can be charged to verify a citizen initiative petition at \$1;
- Requiring the ballot to state, when applicable, that the FIEC expects an amendment to have a positive net impact on the state budget;
- Removing the requirement that a copy of a proposed constitutional amendment be placed in each voting booth;
- Removing the requirement that a political committee supporting a citizen initiative report the percentage of its total contributions from in-state persons;
- Removing the requirement that a ballot include the name of a citizen initiative's sponsor, the percentage of contributions received from in-state persons, and whether out-of-state petition circulators were used;
- Subjecting all proposed amendments to the same FIEC review that is required of only citizen initiative amendments in the underlying bill; and
- Requiring the ballot on which any amendment appears to include the financial impact statement currently required for citizen initiative amendments.

CS by Ethics and Elections on January 27, 2020:

The CS adopts verbatim HB 7037, *sans* some technical changes. Substantively, the CS is very similar to the original bill with the following major differences:

- Restores current law requiring the Florida Impact Estimating Conference (FIEC) to consider impacts on *local* governments when drafting the financial impact statement, as opposed to *State-only* impacts.
- Pares back the additional Supreme Court review authority that the original SB granted, expanding current law to include *only* an additional facial *federal* constitutional review.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FC	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 15.21, Florida Statutes, is amended to
read:

15.21 Initiative petitions; s. 3, Art. XI, State
Constitution.—The Secretary of State shall immediately submit an
initiative petition to the Attorney General, the President of
the Senate, and the Speaker of the House of Representatives ~~and~~
~~to the Financial Impact Estimating Conference~~ if the sponsor



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12 has:

13 (1) Registered as a political committee pursuant to s.
14 106.03;

15 (2) Submitted the ballot title, substance, and text of the
16 proposed revision or amendment to the Secretary of State
17 pursuant to ss. 100.371 and 101.161; and

18 (3) Obtained a letter from the Division of Elections
19 confirming that the sponsor has submitted to the appropriate
20 supervisors for verification, and the supervisors have verified,
21 forms signed and dated equal to 33 ~~40~~ percent of the number of
22 electors statewide and in at least two-thirds ~~one-fourth~~ of the
23 congressional districts required by s. 3, Art. XI of the State
24 Constitution.

25 Section 2. Subsection (1) of section 16.061, Florida
26 Statutes, is amended to read:

27 16.061 Initiative petitions.—

28 (1) The Attorney General shall, within 30 days after
29 receipt of a proposed revision or amendment to the State
30 Constitution by initiative petition from the Secretary of State,
31 petition the Supreme Court, requesting an advisory opinion
32 regarding the compliance of the text of the proposed amendment
33 or revision with s. 3, Art. XI of the State Constitution,
34 whether the proposed amendment is facially invalid under the
35 United States Constitution, and the compliance of the proposed
36 ballot title and substance with s. 101.161. The petition may
37 enumerate any specific factual issues that the Attorney General
38 believes would require a judicial determination.

39 Section 3. Subsections (3), (6), (11), and (13) of section
40 100.371, Florida Statutes, are amended to read:



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41 100.371 Initiatives; procedure for placement on ballot.-

42 (3) (a) A person may not collect signatures or initiative
43 petitions for compensation unless the person is registered as a
44 petition circulator with the Secretary of State.

45 (b) A citizen may challenge a petition circulator's
46 registration under this section by filing a petition in circuit
47 court. If the court finds that the respondent is not a
48 registered petition circulator, the court may enjoin the
49 respondent from collecting signatures or initiative petitions
50 for compensation until she or he is lawfully registered.

51 (6) The division or the supervisor of elections shall make
52 hard copy petition forms or electronic portable document format
53 petition forms available to registered petition circulators. All
54 such forms must contain information identifying the petition
55 circulator to which the forms are provided. The division shall
56 maintain a database of all registered petition circulators and
57 the petition forms assigned to each. Each supervisor of
58 elections shall provide to the division information on petition
59 forms assigned to and received from petition circulators. The
60 information must be provided in a format and at times as
61 required by the division by rule. The division must update
62 information on petition forms daily and make the information
63 publicly available.

64 (11) An initiative petition form circulated for signature
65 may not be bundled with or attached to any other petition. Each
66 signature shall be dated when made and shall be valid until the
67 next February 1 occurring in an even-numbered year for the
68 purpose of the amendment appearing on the ballot for the general
69 election occurring in that same year ~~for a period of 2 years~~



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70 ~~following such date~~, provided all other requirements of law are
71 met. The sponsor shall submit signed and dated forms to the
72 supervisor of elections for the county of residence listed by
73 the person signing the form for verification of the number of
74 valid signatures obtained. If a signature on a petition is from
75 a registered voter in another county, the supervisor shall
76 notify the petition sponsor of the misfiled petition. The
77 supervisor shall promptly verify the signatures within 60 ~~30~~
78 days after receipt of the petition forms and payment of a ~~the~~
79 fee for the actual cost of signature verification incurred by
80 the supervisor required by s. 99.097. The Department of State
81 shall adopt rules to set the cost to verify a petition under
82 this subsection and shall update the cost annually; however, the
83 actual cost to verify a petition may not exceed \$1 per petition.
84 The supervisor shall promptly record, in the manner prescribed
85 by the Secretary of State, the date each form is received by the
86 supervisor, and the date the signature on the form is verified
87 as valid. The supervisor may verify that the signature on a form
88 is valid only if:

89 (a) The form contains the original signature of the
90 purported elector.

91 (b) The purported elector has accurately recorded on the
92 form the date on which he or she signed the form.

93 (c) The form sets forth the purported elector's name,
94 address, city, county, and voter registration number or date of
95 birth.

96 (d) The purported elector is, at the time he or she signs
97 the form and at the time the form is verified, a duly qualified
98 and registered elector in the state.



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99 (e) The signature was obtained legally, including that if a
100 paid petition circulator was used, the circulator was validly
101 registered under subsection (3) when the signature was obtained.
102

103 The supervisor shall retain the signature forms for at least 1
104 year following the election in which the issue appeared on the
105 ballot or until the Division of Elections notifies the
106 supervisors of elections that the committee that circulated the
107 petition is no longer seeking to obtain ballot position.

108 (13) (a) At the same time the Secretary of State submits an
109 initiative petition to the Attorney General, the President of
110 the Senate, and the Speaker of the House of Representatives
111 pursuant to s. 15.21, the secretary shall submit a copy of the
112 initiative petition to the Financial Impact Estimating
113 Conference. Within 75 days after receipt of a proposed revision
114 or amendment to the State Constitution by initiative petition
115 from the Secretary of State, the Financial Impact Estimating
116 Conference shall complete an analysis and financial impact
117 statement to be placed on the ballot of the estimated increase
118 or decrease in any revenues or costs to state or local
119 governments, ~~estimated economic impact on the state and local~~
120 ~~economy,~~ and the overall impact to the state budget resulting
121 from the proposed initiative. The 75-day time limit is tolled
122 when the Legislature is in session. The Financial Impact
123 Estimating Conference shall submit the financial impact
124 statement to the Attorney General and Secretary of State.

125 (b) Immediately upon receipt of a proposed revision or
126 amendment from the Secretary of State, the coordinator of the
127 Office of Economic and Demographic Research shall contact the



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128 person identified as the sponsor to request an official list of
129 all persons authorized to speak on behalf of the named sponsor
130 and, if there is one, the sponsoring organization at meetings
131 held by the Financial Impact Estimating Conference. All other
132 persons shall be deemed interested parties or proponents or
133 opponents of the initiative. The Financial Impact Estimating
134 Conference shall provide an opportunity for any representatives
135 of the sponsor, interested parties, proponents, or opponents of
136 the initiative to submit information and may solicit information
137 or analysis from any other entities or agencies, including the
138 Office of Economic and Demographic Research.

139 (c) All meetings of the Financial Impact Estimating
140 Conference shall be open to the public. The President of the
141 Senate and the Speaker of the House of Representatives, jointly,
142 shall be the sole judge for the interpretation, implementation,
143 and enforcement of this subsection.

144 1. The Financial Impact Estimating Conference is
145 established to review, analyze, and estimate the financial
146 impact of amendments to or revisions of the State Constitution
147 proposed by initiative. The Financial Impact Estimating
148 Conference shall consist of four principals: one person from the
149 Executive Office of the Governor; the coordinator of the Office
150 of Economic and Demographic Research, or his or her designee;
151 one person from the professional staff of the Senate; and one
152 person from the professional staff of the House of
153 Representatives. Each principal shall have appropriate fiscal
154 expertise in the subject matter of the initiative. A Financial
155 Impact Estimating Conference may be appointed for each
156 initiative.



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157 2. Principals of the Financial Impact Estimating Conference
158 shall reach a consensus or majority concurrence on a clear and
159 unambiguous financial impact statement, no more than 150 words
160 in length, and immediately submit the statement to the Attorney
161 General. Nothing in this subsection prohibits the Financial
162 Impact Estimating Conference from setting forth a range of
163 potential impacts in the financial impact statement. Any
164 financial impact statement that a court finds not to be in
165 accordance with this section shall be remanded solely to the
166 Financial Impact Estimating Conference for redrafting. The
167 Financial Impact Estimating Conference shall redraft the
168 financial impact statement within 15 days.

169 3. ~~If the members of the Financial Impact Estimating~~
170 ~~Conference are unable to agree on the statement required by this~~
171 ~~subsection, or if the Supreme Court has rejected the initial~~
172 ~~submission by the Financial Impact Estimating Conference and no~~
173 ~~redraft has been approved by the Supreme Court by 5 p.m. on the~~
174 ~~75th day before the election, the following statement shall~~
175 ~~appear on the ballot pursuant to s. 101.161(1): "The financial~~
176 ~~impact of this measure, if any, has not been cannot be~~
177 ~~reasonably~~ determined at this time."

178 (d) The financial impact statement must be separately
179 contained and be set forth after the ballot summary as required
180 in s. 101.161(1).

181 1. If the financial impact statement projects a net
182 ~~estimates increased costs, decreased revenues, a negative impact~~
183 ~~on the state budget or local economy, or an indeterminate impact~~
184 ~~for any of these areas, the ballot must include the a statement~~
185 ~~required by s. 101.161(1)(b) indicating such estimated effect in~~



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186 ~~bold font.~~

187 2. If the financial impact statement projects a net
188 positive impact on the state budget, the ballot must include the
189 statement required by s. 101.161(1)(c).

190 3. If the financial impact statement estimates an
191 indeterminate financial impact, the ballot must include the
192 statement required by s. 101.161(1)(d).

193 4. If the members of the Financial Impact Estimating
194 Conference are unable to agree on the statement required by this
195 subsection, the ballot must include the statement required by s.
196 101.161(1)(e).

197 (e)1. Any financial impact statement that the Supreme Court
198 finds not to be in accordance with this subsection shall be
199 remanded solely to the Financial Impact Estimating Conference
200 for redrafting, provided the court's advisory opinion is
201 rendered at least 75 days before the election at which the
202 question of ratifying the amendment will be presented. The
203 Financial Impact Estimating Conference shall prepare and adopt a
204 revised financial impact statement no later than 5 p.m. on the
205 15th day after the date of the court's opinion.

206 2. If, by 5 p.m. on the 75th day before the election, the
207 Supreme Court has not issued an advisory opinion on the initial
208 financial impact statement prepared by the Financial Impact
209 Estimating Conference for an initiative amendment that otherwise
210 meets the legal requirements for ballot placement, the financial
211 impact statement shall be deemed approved for placement on the
212 ballot.

213 3. In addition to the financial impact statement required
214 by this subsection, the Financial Impact Estimating Conference



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215 shall draft an initiative financial information statement. The
216 initiative financial information statement should describe in
217 greater detail than the financial impact statement any projected
218 increase or decrease in revenues or costs that the state or
219 local governments would likely experience ~~and the estimated~~
220 ~~economic impact on the state and local economy~~ if the ballot
221 measure were approved. If appropriate, the initiative financial
222 information statement may include both estimated dollar amounts
223 and a description placing the estimated dollar amounts into
224 context. The initiative financial information statement must
225 include both a summary of not more than 500 words and additional
226 detailed information that includes the assumptions that were
227 made to develop the financial impacts, workpapers, and any other
228 information deemed relevant by the Financial Impact Estimating
229 Conference.

230 4. The Department of State shall have printed, and shall
231 furnish to each supervisor of elections, a copy of the summary
232 from the initiative financial information statements. The
233 supervisors shall have the summary from the initiative financial
234 information statements available at each polling place and at
235 the main office of the supervisor of elections upon request.

236 5. The Secretary of State and the Office of Economic and
237 Demographic Research shall make available on the Internet each
238 initiative financial information statement in its entirety. In
239 addition, each supervisor of elections whose office has a
240 website shall post the summary from each initiative financial
241 information statement on the website. Each supervisor shall
242 include a copy of each summary from the initiative financial
243 information statements and the Internet addresses for the



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244 information statements on the Secretary of State's and the
245 Office of Economic and Demographic Research's websites in the
246 publication or mailing required by s. 101.20.

247 (f) When the Secretary of State submits a proposed
248 initiative petition to the President of the Senate and the
249 Speaker of the House of Representatives pursuant to s. 15.21,
250 the President of the Senate and the Speaker of the House of
251 Representatives may direct legislative staff to prepare an
252 analysis of the petition. Such analysis may include, but is not
253 limited to, whether the amendment has undefined terms, conflicts
254 with an existing provision of the State Constitution, or will
255 cause unintended consequences or economic impacts.

256 Section 4. Subsection (1) of section 101.161, Florida
257 Statutes, is amended to read:

258 101.161 Referenda; ballots.—

259 (1) Whenever a constitutional amendment or other public
260 measure is submitted to the vote of the people, a ballot summary
261 of such amendment or other public measure shall be printed in
262 clear and unambiguous language on the ballot after the list of
263 candidates, followed by the word "yes" and also by the word
264 "no," and shall be styled in such a manner that a "yes" vote
265 will indicate approval of the proposal and a "no" vote will
266 indicate rejection. The ballot summary of the amendment or other
267 public measure and the ballot title to appear on the ballot
268 shall be embodied in the constitutional revision commission
269 proposal, constitutional convention proposal, taxation and
270 budget reform commission proposal, or enabling resolution or
271 ordinance. The ballot summary of the amendment or other public
272 measure shall be an explanatory statement, not exceeding 75



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273 words in length, of the chief purpose of the measure. In
274 addition, for every constitutional amendment proposed by
275 initiative, the ballot shall include, following the ballot
276 summary, in the following order:

277 (a) A separate financial impact statement concerning the
278 measure prepared by the Financial Impact Estimating Conference
279 in accordance with s. 100.371(13) ~~s. 100.371(5).~~

280 (b) If the financial impact statement projects a net
281 negative impact on the state budget, the following statement in
282 bold print:

283
284 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO
285 HAVE A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS
286 IMPACT MAY RESULT IN HIGHER TAXES OR A LOSS OF
287 GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED
288 STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

289
290 (c) If the financial impact statement projects a net
291 positive impact on the state budget, the following statement in
292 bold print:

293
294 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO
295 HAVE A NET POSITIVE IMPACT ON THE STATE BUDGET. THIS
296 IMPACT MAY RESULT IN GENERATING ADDITIONAL REVENUE.

297
298 (d) If the financial impact statement is indeterminate, the
299 following statement in bold print:

300
301 THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE



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302 DETERMINED DUE TO AMBIGUITIES AND UNCERTAINTIES
303 SURROUNDING THE AMENDMENT'S IMPACT.

304
305 (e) If the members of the Financial Impact Estimating
306 Conference are unable to agree on the financial impact
307 statement, the following statement in bold print:

308
309 THE FINANCIAL IMPACT ESTIMATING CONFERENCE WAS UNABLE
310 TO AGREE ON THE FINANCIAL IMPACT OF THIS PROPOSED
311 CONSTITUTIONAL AMENDMENT. THIS AMENDMENT MAY RESULT IN
312 HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER
313 TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE
314 CONSTITUTION.

315
316 The ballot title shall consist of a caption, not exceeding 15
317 words in length, by which the measure is commonly referred to or
318 spoken of. This subsection does not apply to constitutional
319 amendments or revisions proposed by joint resolution.

320 Section 5. Section 101.171, Florida Statutes, is amended to
321 read:

322 101.171 Copy of constitutional amendment to be available at
323 voting locations.—Whenever any amendment to the State
324 Constitution is to be voted upon at any election, the Department
325 of State shall have printed and shall furnish to each supervisor
326 of elections a sufficient number of copies of the amendment
327 either in poster or booklet form, and the supervisor shall
328 provide have a copy in a designated area of each polling
329 location as determined by the supervisor thereof conspicuously
330 posted or available at each polling room or early voting area



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331 ~~upon the day of election.~~

332 Section 6. The provisions of this act apply to all
333 revisions or amendments to the State Constitution by initiative
334 that are proposed for the 2020 election ballot and each ballot
335 thereafter; provided, however, that nothing in this act affects
336 the validity of any petition form gathered before the effective
337 date of this act or any contract entered into before the
338 effective date of this act. Petition forms gathered before the
339 effective date of this act shall be governed by the laws
340 existing at the time that the form was initially gathered.

341 Section 7. If any provision of this act or its application
342 to any person or circumstance is held invalid for any reason,
343 the remaining portion of this act, to the fullest extent
344 possible, shall be severed from the void portion and given the
345 fullest possible force and application.

346 Section 8. This act shall take effect upon becoming a law.

347
348 ===== T I T L E A M E N D M E N T =====

349 And the title is amended as follows:

350 Delete everything before the enacting clause
351 and insert:

352 A bill to be entitled
353 An act relating to constitutional amendments proposed
354 by initiative; amending s. 15.21, F.S.; requiring the
355 Secretary of State to submit an initiative petition to
356 the Legislature when a certain amount of signatures
357 are obtained and verified; amending s. 16.061, F.S.;
358 requiring the Attorney General to request the Supreme
359 Court to address in an advisory opinion the facial



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360 validity of the proposed amendment under the United
361 States Constitution; amending s. 100.371, F.S.;

362 providing that a citizen may challenge in circuit
363 court a petition circulator's registration with the
364 Secretary of State; authorizing the Division of
365 Elections or a supervisor of elections to provide
366 petition forms in a certain electronic format;

367 revising the length of time that a signature on a
368 petition form is valid; revising the timeframe within
369 which the supervisor must verify petition forms;

370 requiring the supervisor to charge the actual cost of
371 verifying petition forms; requiring the Department of
372 State to adopt certain rules; providing a limitation
373 on the cost of signature verification; revising the
374 circumstances under which a petition form is deemed
375 valid; requiring the Secretary of State to submit a
376 copy of an initiative petition to the Financial Impact
377 Estimating Conference; revising requirements for the
378 Financial Impact Estimating Conference's analysis of a
379 proposed initiative's economic impact; requiring
380 certain ballot language based on the findings of the
381 Financial Impact Estimating Conference; authorizing
382 the use of legislative staff to analyze the effects of
383 a citizen initiative under certain circumstances;

384 amending s. 101.161, F.S.; requiring that ballots
385 containing constitutional amendments proposed by
386 initiative include certain disclosures and statements;

387 amending s. 101.171, F.S.; revising requirements
388 regarding the availability of copies of constitutional



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389 amendments at polling locations; providing
390 applicability; providing for severability; providing
391 an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FC	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gibson) recommended the following:

1 **Senate Amendment to Amendment (920890)**

2

3 Delete lines 311 - 314

4 and insert:

5 CONSTITUTIONAL AMENDMENT.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Hutson) recommended the following:

1 **Senate Substitute for Amendment (920890) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 15.21, Florida Statutes, is amended to
7 read:

8 15.21 Initiative petitions; s. 3, Art. XI, State
9 Constitution.—The Secretary of State shall immediately submit an
10 initiative petition to the Attorney General, the President of
11 the Senate, and the Speaker of the House of Representatives and



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12 ~~to the Financial Impact Estimating Conference~~ if the sponsor
13 has:

14 (1) Registered as a political committee pursuant to s.
15 106.03;

16 (2) Submitted the ballot title, substance, and text of the
17 proposed revision or amendment to the Secretary of State
18 pursuant to ss. 100.371 and 101.161; and

19 (3) Obtained a letter from the Division of Elections
20 confirming that the sponsor has submitted to the appropriate
21 supervisors for verification, and the supervisors have verified,
22 forms signed and dated equal to 33 ~~40~~ percent of the number of
23 electors statewide and in at least two-thirds ~~one-fourth~~ of the
24 congressional districts required by s. 3, Art. XI of the State
25 Constitution.

26 Section 2. Subsection (1) of section 16.061, Florida
27 Statutes, is amended to read:

28 16.061 Initiative petitions.—

29 (1) The Attorney General shall, within 30 days after
30 receipt of a proposed revision or amendment to the State
31 Constitution by initiative petition from the Secretary of State,
32 petition the Supreme Court, requesting an advisory opinion
33 regarding the compliance of the text of the proposed amendment
34 or revision with s. 3, Art. XI of the State Constitution,
35 whether the proposed amendment is facially invalid under the
36 United States Constitution, and the compliance of the proposed
37 ballot title and substance with s. 101.161. The petition may
38 enumerate any specific factual issues that the Attorney General
39 believes would require a judicial determination.

40 Section 3. Subsections (3), (6), (11), and (13) of section



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41 100.371, Florida Statutes, are amended to read:

42 100.371 Initiatives; procedure for placement on ballot.—

43 (3) (a) A person may not collect signatures or initiative
44 petitions for compensation unless the person is registered as a
45 petition circulator with the Secretary of State.

46 (b) A citizen may challenge a petition circulator's
47 registration under this section by filing a petition in circuit
48 court. If the court finds that the respondent is not a
49 registered petition circulator, the court may enjoin the
50 respondent from collecting signatures or initiative petitions
51 for compensation until she or he is lawfully registered.

52 (6) The division or the supervisor of elections shall make
53 hard copy petition forms or electronic portable document format
54 petition forms available to registered petition circulators. All
55 such forms must contain information identifying the petition
56 circulator to which the forms are provided. The division shall
57 maintain a database of all registered petition circulators and
58 the petition forms assigned to each. Each supervisor of
59 elections shall provide to the division information on petition
60 forms assigned to and received from petition circulators. The
61 information must be provided in a format and at times as
62 required by the division by rule. The division must update
63 information on petition forms daily and make the information
64 publicly available.

65 (11) An initiative petition form circulated for signature
66 may not be bundled with or attached to any other petition. Each
67 signature shall be dated when made and shall be valid until the
68 next February 1 occurring in an even-numbered year for the
69 purpose of the amendment appearing on the ballot for the general



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70 election occurring in that same year for a period of 2 years
71 following such date, provided all other requirements of law are
72 met. The sponsor shall submit signed and dated forms to the
73 supervisor of elections for the county of residence listed by
74 the person signing the form for verification of the number of
75 valid signatures obtained. If a signature on a petition is from
76 a registered voter in another county, the supervisor shall
77 notify the petition sponsor of the misfiled petition. The
78 supervisor shall promptly verify the signatures within 60 ~~30~~
79 days after receipt of the petition forms and payment of a ~~the~~
80 fee for the actual cost of signature verification incurred by
81 the supervisor required by s. 99.097. The Department of State
82 shall adopt rules to set the cost to verify a petition under
83 this subsection and shall update the cost annually; however, the
84 actual cost to verify a petition may not exceed \$1 per petition.
85 The supervisor shall promptly record, in the manner prescribed
86 by the Secretary of State, the date each form is received by the
87 supervisor, and the date the signature on the form is verified
88 as valid. The supervisor may verify that the signature on a form
89 is valid only if:
90 (a) The form contains the original signature of the
91 purported elector.
92 (b) The purported elector has accurately recorded on the
93 form the date on which he or she signed the form.
94 (c) The form sets forth the purported elector's name,
95 address, city, county, and voter registration number or date of
96 birth.
97 (d) The purported elector is, at the time he or she signs
98 the form and at the time the form is verified, a duly qualified



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99 and registered elector in the state.

100 (e) The signature was obtained legally, including that if a
101 paid petition circulator was used, the circulator was validly
102 registered under subsection (3) when the signature was obtained.

103

104 The supervisor shall retain the signature forms for at least 1
105 year following the election in which the issue appeared on the
106 ballot or until the Division of Elections notifies the
107 supervisors of elections that the committee that circulated the
108 petition is no longer seeking to obtain ballot position.

109 (13) (a) At the same time the Secretary of State submits an
110 initiative petition to the Attorney General, the President of
111 the Senate, and the Speaker of the House of Representatives
112 pursuant to s. 15.21, the secretary shall submit a copy of the
113 initiative petition to the Financial Impact Estimating
114 Conference. Within 75 days after receipt of a proposed revision
115 or amendment to the State Constitution by initiative petition
116 from the Secretary of State, the Financial Impact Estimating
117 Conference shall complete an analysis and financial impact
118 statement to be placed on the ballot of the estimated increase
119 or decrease in any revenues or costs to state or local
120 governments, ~~estimated economic impact on the state and local~~
121 ~~economy,~~ and the overall impact to the state budget resulting
122 from the proposed initiative. The 75-day time limit is tolled
123 when the Legislature is in session. The Financial Impact
124 Estimating Conference shall submit the financial impact
125 statement to the Attorney General and Secretary of State.

126 (b) Immediately upon receipt of a proposed revision or
127 amendment from the Secretary of State, the coordinator of the



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128 Office of Economic and Demographic Research shall contact the
129 person identified as the sponsor to request an official list of
130 all persons authorized to speak on behalf of the named sponsor
131 and, if there is one, the sponsoring organization at meetings
132 held by the Financial Impact Estimating Conference. All other
133 persons shall be deemed interested parties or proponents or
134 opponents of the initiative. The Financial Impact Estimating
135 Conference shall provide an opportunity for any representatives
136 of the sponsor, interested parties, proponents, or opponents of
137 the initiative to submit information and may solicit information
138 or analysis from any other entities or agencies, including the
139 Office of Economic and Demographic Research.

140 (c) All meetings of the Financial Impact Estimating
141 Conference shall be open to the public. The President of the
142 Senate and the Speaker of the House of Representatives, jointly,
143 shall be the sole judge for the interpretation, implementation,
144 and enforcement of this subsection.

145 1. The Financial Impact Estimating Conference is
146 established to review, analyze, and estimate the financial
147 impact of amendments to or revisions of the State Constitution
148 proposed by initiative. The Financial Impact Estimating
149 Conference shall consist of four principals: one person from the
150 Executive Office of the Governor; the coordinator of the Office
151 of Economic and Demographic Research, or his or her designee;
152 one person from the professional staff of the Senate; and one
153 person from the professional staff of the House of
154 Representatives. Each principal shall have appropriate fiscal
155 expertise in the subject matter of the initiative. A Financial
156 Impact Estimating Conference may be appointed for each



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157 initiative.

158 2. Principals of the Financial Impact Estimating Conference
159 shall reach a consensus or majority concurrence on a clear and
160 unambiguous financial impact statement, no more than 150 words
161 in length, and immediately submit the statement to the Attorney
162 General. Nothing in this subsection prohibits the Financial
163 Impact Estimating Conference from setting forth a range of
164 potential impacts in the financial impact statement. Any
165 financial impact statement that a court finds not to be in
166 accordance with this section shall be remanded solely to the
167 Financial Impact Estimating Conference for redrafting. The
168 Financial Impact Estimating Conference shall redraft the
169 financial impact statement within 15 days.

170 3. If ~~the members of the Financial Impact Estimating~~
171 ~~Conference are unable to agree on the statement required by this~~
172 ~~subsection, or if~~ the Supreme Court has rejected the initial
173 submission by the Financial Impact Estimating Conference and no
174 redraft has been approved by the Supreme Court by 5 p.m. on the
175 75th day before the election, the following statement shall
176 appear on the ballot pursuant to s. 101.161(1): "The financial
177 impact of this measure, if any, has not been ~~cannot be~~
178 ~~reasonably~~ determined at this time."

179 (d) The financial impact statement must be separately
180 contained and be set forth after the ballot summary as required
181 in s. 101.161(1).

182 1. If the financial impact statement projects a net
183 ~~estimates increased costs, decreased revenues, a negative impact~~
184 on the state budget ~~or local economy, or an indeterminate impact~~
185 ~~for any of these areas,~~ the ballot must include the ~~a~~ statement



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186 required by s. 101.161(1)(b) indicating such estimated effect in
187 bold font.

188 2. If the financial impact statement projects a net
189 positive impact on the state budget, the ballot must include the
190 statement required by s. 101.161(1)(c).

191 3. If the financial impact statement estimates an
192 indeterminate financial impact, the ballot must include the
193 statement required by s. 101.161(1)(d).

194 4. If the members of the Financial Impact Estimating
195 Conference are unable to agree on the statement required by this
196 subsection, the ballot must include the statement required by s.
197 101.161(1)(e).

198 (e)1. Any financial impact statement that the Supreme Court
199 finds not to be in accordance with this subsection shall be
200 remanded solely to the Financial Impact Estimating Conference
201 for redrafting, provided the court's advisory opinion is
202 rendered at least 75 days before the election at which the
203 question of ratifying the amendment will be presented. The
204 Financial Impact Estimating Conference shall prepare and adopt a
205 revised financial impact statement no later than 5 p.m. on the
206 15th day after the date of the court's opinion.

207 2. If, by 5 p.m. on the 75th day before the election, the
208 Supreme Court has not issued an advisory opinion on the initial
209 financial impact statement prepared by the Financial Impact
210 Estimating Conference for an initiative amendment that otherwise
211 meets the legal requirements for ballot placement, the financial
212 impact statement shall be deemed approved for placement on the
213 ballot.

214 3. In addition to the financial impact statement required



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215 by this subsection, the Financial Impact Estimating Conference
216 shall draft an initiative financial information statement. The
217 initiative financial information statement should describe in
218 greater detail than the financial impact statement any projected
219 increase or decrease in revenues or costs that the state or
220 local governments would likely experience ~~and the estimated~~
221 ~~economic impact on the state and local economy~~ if the ballot
222 measure were approved. If appropriate, the initiative financial
223 information statement may include both estimated dollar amounts
224 and a description placing the estimated dollar amounts into
225 context. The initiative financial information statement must
226 include both a summary of not more than 500 words and additional
227 detailed information that includes the assumptions that were
228 made to develop the financial impacts, workpapers, and any other
229 information deemed relevant by the Financial Impact Estimating
230 Conference.

231 4. The Department of State shall have printed, and shall
232 furnish to each supervisor of elections, a copy of the summary
233 from the initiative financial information statements. The
234 supervisors shall have the summary from the initiative financial
235 information statements available at each polling place and at
236 the main office of the supervisor of elections upon request.

237 5. The Secretary of State and the Office of Economic and
238 Demographic Research shall make available on the Internet each
239 initiative financial information statement in its entirety. In
240 addition, each supervisor of elections whose office has a
241 website shall post the summary from each initiative financial
242 information statement on the website. Each supervisor shall
243 include a copy of each summary from the initiative financial



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244 information statements and the Internet addresses for the
245 information statements on the Secretary of State's and the
246 Office of Economic and Demographic Research's websites in the
247 publication or mailing required by s. 101.20.

248 (f) When the Secretary of State submits a proposed
249 initiative petition to the President of the Senate and the
250 Speaker of the House of Representatives pursuant to s. 15.21,
251 the President of the Senate and the Speaker of the House of
252 Representatives may direct legislative staff to prepare an
253 analysis of the petition. Such analysis may include, but is not
254 limited to, whether the amendment has undefined terms, conflicts
255 with an existing provision of the State Constitution, or will
256 cause unintended consequences or economic impacts.

257 Section 4. Subsection (1) and paragraph (a) of subsection
258 (3) of section 101.161, Florida Statutes, are amended to read:
259 101.161 Referenda; ballots.—

260 (1) Whenever a constitutional amendment or other public
261 measure is submitted to the vote of the people, a ballot summary
262 of such amendment or other public measure shall be printed in
263 clear and unambiguous language on the ballot after the list of
264 candidates, followed by the word "yes" and also by the word
265 "no," and shall be styled in such a manner that a "yes" vote
266 will indicate approval of the proposal and a "no" vote will
267 indicate rejection. The ballot summary of the amendment or other
268 public measure and the ballot title to appear on the ballot
269 shall be embodied in the constitutional revision commission
270 proposal, constitutional convention proposal, taxation and
271 budget reform commission proposal, or enabling resolution or
272 ordinance. The ballot summary of the amendment or other public



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273 measure shall be an explanatory statement, not exceeding 75
274 words in length, of the chief purpose of the measure. In
275 addition, for every constitutional amendment ~~proposed by~~
276 ~~initiative~~, the ballot shall include, following the ballot
277 summary, in the following order:

278 (a) A separate financial impact statement concerning the
279 measure prepared by the Financial Impact Estimating Conference
280 in accordance with s. 100.371(13) or s. 101.162, as applicable
281 s. 100.371(5).

282 (b) If the financial impact statement projects a net
283 negative impact on the state budget, the following statement in
284 bold print:

285
286 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO
287 HAVE A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS
288 IMPACT MAY RESULT IN HIGHER TAXES OR A LOSS OF
289 GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED
290 STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

291
292 (c) If the financial impact statement projects a net
293 positive impact on the state budget, the following statement in
294 bold print:

295
296 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO
297 HAVE A NET POSITIVE IMPACT ON THE STATE BUDGET. THIS
298 IMPACT MAY RESULT IN GENERATING ADDITIONAL REVENUE.

299
300 (d) If the financial impact statement is indeterminate, the
301 following statement in bold print:



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THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE DETERMINED DUE TO AMBIGUITIES AND UNCERTAINTIES SURROUNDING THE AMENDMENT'S IMPACT.

(e) If the members of the Financial Impact Estimating Conference are unable to agree on the financial impact statement, the following statement in bold print:

THE FINANCIAL IMPACT ESTIMATING CONFERENCE WAS UNABLE TO AGREE ON THE FINANCIAL IMPACT OF THIS PROPOSED CONSTITUTIONAL AMENDMENT. THIS AMENDMENT MAY RESULT IN HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. Except as otherwise specifically provided in paragraph (3) (a), this subsection does not apply to constitutional amendments or revisions proposed by joint resolution.

(3) (a) Each joint resolution that proposes a constitutional amendment or revision shall include one or more ballot statements set forth in order of priority. Each ballot statement shall consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language. If



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331 a joint resolution that proposes a constitutional amendment or
332 revision contains only one ballot statement, the ballot summary
333 may not exceed 75 words in length. If a joint resolution that
334 proposes a constitutional amendment or revision contains more
335 than one ballot statement, the first ballot summary, in order of
336 priority, may not exceed 75 words in length. In addition, a
337 constitutional amendment or revision proposed by joint
338 resolution must include a financial impact statement following
339 the ballot summary when appearing on the ballot in accordance
340 with paragraphs (1) (a)-(e).

341 Section 5. Section 101.162, Florida Statutes, is created to
342 read:

343 101.162 Financial impact statements.-

344 (1) Upon filing or certification of a constitutional
345 amendment or revision with the Department of State, the
346 Secretary of State shall transmit the amendment or revision
347 proposed by joint resolution, the Constitution Revision
348 Commission, the Taxation and Budget Reform Commission, or
349 constitutional convention to the Financial Impact Estimating
350 Conference. Within 75 days after receipt of a proposed revision
351 or amendment to the State Constitution from the Secretary of
352 State, the Financial Impact Estimating Conference shall complete
353 an analysis and financial impact statement to be placed on the
354 ballot of the estimated increase or decrease in any revenues or
355 costs to state or local governments and the overall impact to
356 the state budget resulting from the amendment or revision. The
357 75-day time limit is tolled when the Legislature is in session.
358 The Financial Impact Estimating Conference shall submit the
359 financial impact statement to the Attorney General and Secretary



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360 of State.

361 (2) Immediately upon receipt of a proposed amendment or
362 revision from the Secretary of State, the coordinator of the
363 Office of Economic and Demographic Research may notify any
364 interested parties or proponents or opponents of the amendment
365 or revision. The Financial Impact Estimating Conference shall
366 provide an opportunity for any interested parties or proponents
367 or opponents of the amendment or revision to submit information
368 and may solicit information or analysis from any other entities
369 or agencies, including the Office of Economic and Demographic
370 Research.

371 (3) All meetings of the Financial Impact Estimating
372 Conference shall be open to the public. The President of the
373 Senate and the Speaker of the House of Representatives, jointly,
374 shall be the sole judge for the interpretation, implementation,
375 and enforcement of this section.

376 (a) The Financial Impact Estimating Conference, established
377 under s. 100.371(13), shall review, analyze, and estimate the
378 financial impact of amendments to or revisions of the State
379 Constitution proposed by joint resolution, the Constitution
380 Revision Commission, the Taxation and Budget Reform Commission,
381 or constitutional convention.

382 (b) Principals of the Financial Impact Estimating
383 Conference shall reach a consensus or majority concurrence on a
384 clear and unambiguous financial impact statement, no more than
385 150 words in length, and immediately submit the statement to the
386 Attorney General. Nothing in this section prohibits the
387 Financial Impact Estimating Conference from setting forth a
388 range of potential impacts in the financial impact statement.



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389 Any financial impact statement that a court finds not to be in
390 accordance with this section shall be remanded solely to the
391 Financial Impact Estimating Conference for redrafting. The
392 Financial Impact Estimating Conference shall redraft the
393 financial impact statement within 15 days.

394 (c) If the Supreme Court has rejected the initial
395 submission by the Financial Impact Estimating Conference and no
396 redraft has been approved by the Supreme Court by 5 p.m. on the
397 75th day before the election, the following statement shall
398 appear on the ballot: "The impact of this measure, if any,
399 cannot be reasonably determined at this time."

400 (4) The financial impact statement must be separately
401 contained and be set forth after the ballot summary as required
402 in s. 101.161(1).

403 (a) If the financial impact statement projects a net
404 negative impact on the state budget, the ballot must include the
405 statement required by s. 101.161(1)(b).

406 (b) If the financial impact statement projects a net
407 positive impact on the state budget, the ballot must include the
408 statement required by s. 101.161(1)(c).

409 (c) If the financial impact statement estimates an
410 indeterminate financial impact, the ballot must include the
411 statement required by s. 101.161(1)(d).

412 (d) If the members of the Financial Impact Estimating
413 Conference are unable to agree on the statement required by this
414 subsection, the ballot must include the statement required by s.
415 101.161(1)(e).

416 (5)(a) Any financial impact statement that the Supreme
417 Court finds not to be in accordance with this section shall be



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418 remanded solely to the Financial Impact Estimating Conference
419 for redrafting, provided the court's advisory opinion is
420 rendered at least 75 days before the election at which the
421 question of ratifying the amendment will be presented. The
422 Financial Impact Estimating Conference shall prepare and adopt a
423 revised financial impact statement no later than 5 p.m. on the
424 15th day after the date of the court's opinion.

425 (b) If, by 5 p.m. on the 75th day before the election, the
426 Supreme Court has not issued an advisory opinion on the initial
427 financial impact statement prepared by the Financial Impact
428 Estimating Conference for an amendment that otherwise meets the
429 legal requirements for ballot placement, the financial impact
430 statement shall be deemed approved for placement on the ballot.

431 (6) (a) In addition to the financial impact statement
432 required by this section, the Financial Impact Estimating
433 Conference shall draft a financial information statement. The
434 financial information statement should describe in greater
435 detail than the financial impact statement any projected
436 increase or decrease in revenues or costs that the state or
437 local governments would likely experience if the ballot measure
438 were approved. If appropriate, the financial information
439 statement may include both estimated dollar amounts and a
440 description placing the estimated dollar amounts into context.
441 The financial information statement must include both a summary
442 of not more than 500 words and additional detailed information
443 that includes the assumptions that were made to develop the
444 financial impacts, workpapers, and any other information deemed
445 relevant by the Financial Impact Estimating Conference.

446 (b) The Department of State shall have printed, and shall



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447 furnish to each supervisor of elections, a copy of the summary
448 from the financial information statements. The supervisors shall
449 have the summary from the financial information statements
450 available at each polling place and at the main office of the
451 supervisor of elections upon request.

452 (c) The Secretary of State and the Office of Economic and
453 Demographic Research shall make available on the Internet each
454 financial information statement in its entirety. In addition,
455 each supervisor of elections whose office has a website shall
456 post the summary from each financial information statement on
457 the website. Each supervisor shall include a copy of each
458 summary from the financial information statements and the
459 Internet addresses for the information statements on the
460 Secretary of State's and the Office of Economic and Demographic
461 Research's websites in the publication or mailing required by s.
462 101.20.

463 (7) This section does not apply to constitutional
464 amendments proposed by initiative.

465 Section 6. Section 101.171, Florida Statutes, is amended to
466 read:

467 101.171 Copy of constitutional amendment to be available at
468 voting locations.—Whenever any amendment to the State
469 Constitution is to be voted upon at any election, the Department
470 of State shall have printed and shall furnish to each supervisor
471 of elections a sufficient number of copies of the amendment
472 either in poster or booklet form, and the supervisor shall
473 provide have a copy in a designated area of each polling
474 location as determined by the supervisor thereof conspicuously
475 posted or available at each polling room or early voting area



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476 ~~upon the day of election.~~

477 Section 7. The provisions of this act apply to revisions or
478 amendments to the State Constitution which are proposed for the
479 2020 general election and each election thereafter; provided,
480 however, that nothing in this act affects the validity of any
481 petition form gathered before the effective date of this act or
482 any contract entered into before the effective date of this act.
483 Petition forms gathered before the effective date of this act
484 shall be governed by the laws existing at the time that the form
485 was initially gathered.

486 Section 8. If any provision of this act or its application
487 to any person or circumstance is held invalid for any reason,
488 the remaining portion of this act, to the fullest extent
489 possible, shall be severed from the void portion and given the
490 fullest possible force and application.

491 Section 9. This act shall take effect upon becoming a law.

492

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

494 And the title is amended as follows:

495 Delete everything before the enacting clause
496 and insert:

497 A bill to be entitled
498 An act relating to constitutional amendments; amending
499 s. 15.21, F.S.; requiring the Secretary of State to
500 submit an initiative petition to the Legislature when
501 a certain amount of signatures are obtained and
502 verified; amending s. 16.061, F.S.; requiring the
503 Attorney General to request the Supreme Court to
504 address in an advisory opinion the facial validity of



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505 the proposed amendment under the United States
506 Constitution; amending s. 100.371, F.S.; providing
507 that a citizen may challenge in circuit court a
508 petition circulator's registration with the Secretary
509 of State; authorizing the Division of Elections or a
510 supervisor of elections to provide petition forms in a
511 certain electronic format; revising the length of time
512 that a signature on a petition form is valid; revising
513 the timeframe within which the supervisor must verify
514 petition forms; requiring the supervisor to charge the
515 actual cost of verifying petition forms; requiring the
516 Department of State to adopt certain rules; providing
517 a limitation on the cost of signature verification;
518 revising the circumstances under which a petition form
519 is deemed valid; requiring the Secretary of State to
520 submit a copy of an initiative petition to the
521 Financial Impact Estimating Conference; revising
522 requirements for the Financial Impact Estimating
523 Conference's analysis of a proposed initiative's
524 economic impact; requiring certain ballot language
525 based on the findings of the Financial Impact
526 Estimating Conference; authorizing the use of
527 legislative staff to analyze the effects of a citizen
528 initiative under certain circumstances; amending s.
529 101.161, F.S.; requiring that ballots containing
530 constitutional amendments include certain disclosures
531 and statements, in a specified order; conforming
532 provisions to changes made by the act; creating s.
533 101.162, F.S.; requiring the Secretary of State to



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534 submit constitutional amendments or revisions proposed
535 by specified means to the Financial Impact Estimating
536 Conference; requiring the Financial Impact Estimating
537 Conference to complete an analysis of the amendment or
538 revision within a specified timeframe; requiring the
539 Financial Impact Estimating Conference to submit the
540 completed financial impact statement to the Secretary
541 of State and the Attorney General; requiring the
542 coordinator of the Office of Economic and Demographic
543 Research to provide certain notification to interested
544 parties; prescribing requirements and responsibilities
545 of the Financial Impact Estimating Conference;
546 specifying timeframes and procedures for challenges
547 and redrafting of financial impact statements;
548 prescribing the form of the financial impact
549 statement; requiring the Financial Impact Estimating
550 Conference to draft a financial information statement;
551 specifying requirements for such statements; requiring
552 that financial information statements be available at
553 specified locations and posted on the Internet;
554 providing applicability; amending s. 101.171, F.S.;
555 revising requirements regarding the availability of
556 copies of constitutional amendments at polling
557 locations; providing applicability; providing for
558 severability; providing an effective date.



643500

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Substitute Amendment (817884)

Delete lines 22 - 23

and insert:

forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the



782924

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

1 **Senate Amendment to Substitute Amendment (817884) (with**
2 **directory and title amendments)**

3
4 Between lines 64 and 65
5 insert:

6 (9) The division shall adopt by rule a complaint form for
7 an elector who claims to have had his or her signature
8 misrepresented, forged, or not delivered to the supervisor. The
9 division shall also adopt rules ~~to ensure the integrity of the~~
10 ~~petition form gathering process, including rules~~ requiring



782924

11 sponsors to account for all petition forms used by their agents.
12 Such rules may require a sponsor or petition circulator to
13 provide identification information on each petition form as
14 determined by the department as needed to assist in the
15 accounting of petition forms.

16
17 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

18 And the directory clause is amended as follows:

19 Delete line 40

20 and insert:

21 Section 3. Subsections (3), (6), (9), (11), and (13) of
22 section

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 line 511

27 and insert:

28 certain electronic format; revising the division's
29 rulemaking authority regarding the petition form
30 gathering process; revising the length of time



946112

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment to Substitute Amendment (817884)

Delete lines 67 - 71
and insert:
signature shall be dated when made and shall be valid for a
period of 4 ~~2~~ years following such date, provided all other
requirements of law are



292920

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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	.	
	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment to Substitute Amendment (817884)

Delete lines 313 - 316

and insert:

CONSTITUTIONAL AMENDMENT.



811190

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

- 1 **Senate Amendment to Substitute Amendment (817884)**
- 2
- 3 Delete line 479
- 4 and insert:
- 5 2022 general election and each election thereafter; provided,



385532

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/13/2020	.	
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	.	

The Committee on Judiciary (Gibson) recommended the following:

Senate Amendment

Delete lines 345 - 348
and insert:

CONSTITUTIONAL AMENDMENT.

By the Committee on Ethics and Elections; and Senator Hutson

582-02659-20

20201794c1

1 A bill to be entitled
2 An act relating to constitutional amendments proposed
3 by initiative; amending s. 15.21, F.S.; requiring the
4 Secretary of State to submit an initiative petition to
5 the Legislature when a certain amount of signatures
6 are obtained; amending s. 16.061, F.S.; requiring the
7 Attorney General to request the Supreme Court to
8 address in an advisory opinion the specific validity
9 of the proposed amendment under the United States
10 Constitution; amending s. 100.371, F.S.; providing
11 that a citizen may challenge a petition circulator's
12 failure to register with the Secretary of State;
13 authorizing the Division of Elections or a supervisor
14 of elections to provide petition forms in a certain
15 electronic format; revising the length of time that a
16 signature on a petition form is valid; requiring a
17 supervisor to charge the actual cost of verifying
18 petition forms; requiring the Department of State to
19 adopt certain rules; revising the circumstances under
20 which a petition form is deemed valid; requiring the
21 Secretary of State to submit a copy of an initiative
22 petition to the Financial Impact Estimating
23 Conference; requiring the Financial Impact Estimating
24 Conference to analyze the financial impact to the
25 state of a proposed initiative; requiring certain
26 ballot language based on the findings of the Financial
27 Impact Estimating Conference; authorizing the use of
28 legislative staff to analyze the effects of a citizen
29 initiative under certain circumstances; amending s.

582-02659-20

20201794c1

30 101.161, F.S.; requiring that ballots containing
31 constitutional amendments proposed by initiative
32 include certain disclosures and statements; defining
33 the term "person"; amending s. 101.171, F.S.;
34 requiring that a copy of the amendment text be made
35 available in each voting booth; amending s. 106.07,
36 F.S.; requiring a political committee sponsoring an
37 initiative to disclose certain information in campaign
38 finance reports; defining the term "person"; providing
39 applicability; providing for severability; providing
40 an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 15.21, Florida Statutes, is amended to
45 read:

46 15.21 Initiative petitions; s. 3, Art. XI, State
47 Constitution.—The Secretary of State shall immediately submit an
48 initiative petition to the Attorney General, the President of
49 the Senate, and the Speaker of the House of Representatives ~~and~~
50 ~~to the Financial Impact Estimating Conference~~ if the sponsor
51 has:

52 (1) Registered as a political committee pursuant to s.
53 106.03;

54 (2) Submitted the ballot title, substance, and text of the
55 proposed revision or amendment to the Secretary of State
56 pursuant to ss. 100.371 and 101.161; and

57 (3) Obtained a letter from the Division of Elections
58 confirming that the sponsor has submitted to the appropriate

582-02659-20

20201794c1

59 supervisors for verification, and the supervisors have verified,
60 forms signed and dated equal to 50 ~~40~~ percent of the number of
61 electors statewide and in at least one-fourth of the
62 congressional districts required by s. 3, Art. XI of the State
63 Constitution.

64 Section 2. Subsection (1) of section 16.061, Florida
65 Statutes, is amended to read:

66 16.061 Initiative petitions.—

67 (1) The Attorney General shall, within 30 days after
68 receipt of a proposed revision or amendment to the State
69 Constitution by initiative petition from the Secretary of State,
70 petition the Supreme Court, requesting an advisory opinion
71 regarding the compliance of the text of the proposed amendment
72 or revision with s. 3, Art. XI of the State Constitution,
73 whether the proposed amendment is facially invalid under the
74 United States Constitution, and the compliance of the proposed
75 ballot title and substance with s. 101.161. The petition may
76 enumerate any specific factual issues that the Attorney General
77 believes would require a judicial determination.

78 Section 3. Subsections (3), (6), (11), and (13) of section
79 100.371, Florida Statutes, are amended to read:

80 100.371 Initiatives; procedure for placement on ballot.—

81 (3) (a) A person may not collect signatures or initiative
82 petitions for compensation unless the person is registered as a
83 petition circulator with the Secretary of State.

84 (b) A citizen may challenge a petition circulator's
85 registration under this section by filing a petition in circuit
86 court. If the court finds that the respondent is not a
87 registered petition circulator, the court may enjoin the

582-02659-20

20201794c1

88 respondent from collecting signatures or initiative petitions
89 for compensation until she or he is lawfully registered.

90 (6) The division or the supervisor of elections shall make
91 hard copy petition forms or electronic portable document format
92 petition forms available to registered petition circulators. All
93 such forms must contain information identifying the petition
94 circulator to which the forms are provided. The division shall
95 maintain a database of all registered petition circulators and
96 the petition forms assigned to each. Each supervisor of
97 elections shall provide to the division information on petition
98 forms assigned to and received from petition circulators. The
99 information must be provided in a format and at times as
100 required by the division by rule. The division must update
101 information on petition forms daily and make the information
102 publicly available.

103 (11) An initiative petition form circulated for signature
104 may not be bundled with or attached to any other petition. Each
105 signature shall be dated when made and shall be valid until the
106 next February 1 occurring in an even-numbered year for the
107 purpose of appearing on the ballot for the general election
108 occurring in that same year ~~for a period of 2 years following~~
109 ~~such date~~, provided all other requirements of law are met. The
110 sponsor shall submit signed and dated forms to the supervisor of
111 elections for the county of residence listed by the person
112 signing the form for verification of the number of valid
113 signatures obtained. If a signature on a petition is from a
114 registered voter in another county, the supervisor shall notify
115 the petition sponsor of the misfiled petition. The supervisor
116 shall promptly verify the signatures within 30 days after

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20201794c1

117 receipt of the petition forms and payment of a the fee for the
118 actual cost of signature verification incurred by the supervisor
119 required by s. ~~99.097~~. The Department of State shall adopt rules
120 to set the cost to verify a petition under this subsection and
121 update the cost annually. The supervisor shall promptly record,
122 in the manner prescribed by the Secretary of State, the date
123 each form is received by the supervisor, and the date the
124 signature on the form is verified as valid. The supervisor may
125 verify that the signature on a form is valid only if:

126 (a) The form contains the original signature of the
127 purported elector.

128 (b) The purported elector has accurately recorded on the
129 form the date on which he or she signed the form.

130 (c) The form sets forth the purported elector's name,
131 address, city, county, and voter registration number or date of
132 birth.

133 (d) The purported elector is, at the time he or she signs
134 the form and at the time the form is verified, a duly qualified
135 and registered elector in the state.

136 (e) The signature was obtained legally, including that if a
137 paid petition circulator was used, the circulator was validly
138 registered under subsection (3) when the signature was obtained.

139
140 The supervisor shall retain the signature forms for at least 1
141 year following the election in which the issue appeared on the
142 ballot or until the Division of Elections notifies the
143 supervisors of elections that the committee that circulated the
144 petition is no longer seeking to obtain ballot position.

145 (13) (a) At the same time the Secretary of State submits an

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146 initiative petition to the Attorney General, the President of
147 the Senate, and the Speaker of the House of Representatives
148 pursuant to s. 15.21, the secretary shall submit a copy of the
149 initiative petition to the Financial Impact Estimating
150 Conference. Within 75 days after receipt of a proposed revision
151 or amendment to the State Constitution by initiative petition
152 from the Secretary of State, the Financial Impact Estimating
153 Conference shall complete an analysis and financial impact
154 statement to be placed on the ballot of the estimated increase
155 or decrease in any revenues or costs to state or local
156 governments, ~~estimated economic impact on the state and local~~
157 ~~economy,~~ and the overall impact to the state budget resulting
158 from the proposed initiative. The 75-day time limit is tolled
159 when the Legislature is in session. The Financial Impact
160 Estimating Conference shall submit the financial impact
161 statement to the Attorney General and Secretary of State.

162 (b) Immediately upon receipt of a proposed revision or
163 amendment from the Secretary of State, the coordinator of the
164 Office of Economic and Demographic Research shall contact the
165 person identified as the sponsor to request an official list of
166 all persons authorized to speak on behalf of the named sponsor
167 and, if there is one, the sponsoring organization at meetings
168 held by the Financial Impact Estimating Conference. All other
169 persons shall be deemed interested parties or proponents or
170 opponents of the initiative. The Financial Impact Estimating
171 Conference shall provide an opportunity for any representatives
172 of the sponsor, interested parties, proponents, or opponents of
173 the initiative to submit information and may solicit information
174 or analysis from any other entities or agencies, including the

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175 Office of Economic and Demographic Research.

176 (c) All meetings of the Financial Impact Estimating
177 Conference shall be open to the public. The President of the
178 Senate and the Speaker of the House of Representatives, jointly,
179 shall be the sole judge for the interpretation, implementation,
180 and enforcement of this subsection.

181 1. The Financial Impact Estimating Conference is
182 established to review, analyze, and estimate the financial
183 impact of amendments to or revisions of the State Constitution
184 proposed by initiative. The Financial Impact Estimating
185 Conference shall consist of four principals: one person from the
186 Executive Office of the Governor; the coordinator of the Office
187 of Economic and Demographic Research, or his or her designee;
188 one person from the professional staff of the Senate; and one
189 person from the professional staff of the House of
190 Representatives. Each principal shall have appropriate fiscal
191 expertise in the subject matter of the initiative. A Financial
192 Impact Estimating Conference may be appointed for each
193 initiative.

194 2. Principals of the Financial Impact Estimating Conference
195 shall reach a consensus or majority concurrence on a clear and
196 unambiguous financial impact statement, no more than 150 words
197 in length, and immediately submit the statement to the Attorney
198 General. Nothing in this subsection prohibits the Financial
199 Impact Estimating Conference from setting forth a range of
200 potential impacts in the financial impact statement. Any
201 financial impact statement that a court finds not to be in
202 accordance with this section shall be remanded solely to the
203 Financial Impact Estimating Conference for redrafting. The

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204 Financial Impact Estimating Conference shall redraft the
205 financial impact statement within 15 days.

206 ~~3. If the members of the Financial Impact Estimating~~
207 ~~Conference are unable to agree on the statement required by this~~
208 ~~subsection, or if the Supreme Court has rejected the initial~~
209 ~~submission by the Financial Impact Estimating Conference and no~~
210 ~~redraft has been approved by the Supreme Court by 5 p.m. on the~~
211 ~~75th day before the election, the following statement shall~~
212 ~~appear on the ballot pursuant to s. 101.161(1): "The financial~~
213 ~~impact of this measure, if any, has not been cannot be~~
214 ~~reasonably~~ determined at this time."

215 (d) The financial impact statement must be separately
216 contained and be set forth after the ballot summary as required
217 in s. 101.161(1).

218 1. If the financial impact statement projects a net
219 ~~estimates increased costs, decreased revenues, a negative impact~~
220 ~~on the state budget or local economy, or an indeterminate impact~~
221 ~~for any of these areas, the ballot must include the a statement~~
222 ~~required by s. 101.161(1)(d) indicating such estimated effect in~~
223 ~~bold font.~~

224 2. If the financial impact statement estimates an
225 indeterminate financial impact, the ballot must include the
226 statement required by s. 101.161(1)(e).

227 3. If the members of the Financial Impact Estimating
228 Conference are unable to agree on the statement required by this
229 subsection, the ballot must include the statement required by s.
230 101.161(1)(f).

231 (e)1. Any financial impact statement that the Supreme Court
232 finds not to be in accordance with this subsection shall be

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233 remanded solely to the Financial Impact Estimating Conference
234 for redrafting, provided the court's advisory opinion is
235 rendered at least 75 days before the election at which the
236 question of ratifying the amendment will be presented. The
237 Financial Impact Estimating Conference shall prepare and adopt a
238 revised financial impact statement no later than 5 p.m. on the
239 15th day after the date of the court's opinion.

240 2. If, by 5 p.m. on the 75th day before the election, the
241 Supreme Court has not issued an advisory opinion on the initial
242 financial impact statement prepared by the Financial Impact
243 Estimating Conference for an initiative amendment that otherwise
244 meets the legal requirements for ballot placement, the financial
245 impact statement shall be deemed approved for placement on the
246 ballot.

247 3. In addition to the financial impact statement required
248 by this subsection, the Financial Impact Estimating Conference
249 shall draft an initiative financial information statement. The
250 initiative financial information statement should describe in
251 greater detail than the financial impact statement any projected
252 increase or decrease in revenues or costs that the state or
253 local governments would likely experience ~~and the estimated~~
254 ~~economic impact on the state and local economy~~ if the ballot
255 measure were approved. If appropriate, the initiative financial
256 information statement may include both estimated dollar amounts
257 and a description placing the estimated dollar amounts into
258 context. The initiative financial information statement must
259 include both a summary of not more than 500 words and additional
260 detailed information that includes the assumptions that were
261 made to develop the financial impacts, workpapers, and any other

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262 information deemed relevant by the Financial Impact Estimating
263 Conference.

264 4. The Department of State shall have printed, and shall
265 furnish to each supervisor of elections, a copy of the summary
266 from the initiative financial information statements. The
267 supervisors shall have the summary from the initiative financial
268 information statements available at each polling place and at
269 the main office of the supervisor of elections upon request.

270 5. The Secretary of State and the Office of Economic and
271 Demographic Research shall make available on the Internet each
272 initiative financial information statement in its entirety. In
273 addition, each supervisor of elections whose office has a
274 website shall post the summary from each initiative financial
275 information statement on the website. Each supervisor shall
276 include a copy of each summary from the initiative financial
277 information statements and the Internet addresses for the
278 information statements on the Secretary of State's and the
279 Office of Economic and Demographic Research's websites in the
280 publication or mailing required by s. 101.20.

281 (f) When the Secretary of State submits a proposed
282 initiative petition to the President of the Senate and the
283 Speaker of the House of Representatives pursuant to s. 15.21,
284 the President of the Senate and the Speaker of the House of
285 Representatives may direct legislative staff to prepare an
286 analysis of the petition. Such analysis may include, but is not
287 limited to, whether the amendment has undefined terms, conflicts
288 with an existing provision of the State Constitution, or will
289 cause unintended consequences or economic impacts.

290 Section 4. Subsection (1) of section 101.161, Florida

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291 Statutes, is amended to read:

292 101.161 Referenda; ballots.—

293 (1) Whenever a constitutional amendment or other public
294 measure is submitted to the vote of the people, a ballot summary
295 of such amendment or other public measure shall be printed in
296 clear and unambiguous language on the ballot after the list of
297 candidates, followed by the word "yes" and also by the word
298 "no," and shall be styled in such a manner that a "yes" vote
299 will indicate approval of the proposal and a "no" vote will
300 indicate rejection. The ballot summary of the amendment or other
301 public measure and the ballot title to appear on the ballot
302 shall be embodied in the constitutional revision commission
303 proposal, constitutional convention proposal, taxation and
304 budget reform commission proposal, or enabling resolution or
305 ordinance. The ballot summary of the amendment or other public
306 measure shall be an explanatory statement, not exceeding 75
307 words in length, of the chief purpose of the measure. In
308 addition, for every constitutional amendment proposed by
309 initiative, the ballot shall include, following the ballot
310 summary, in the following order:

311 (a) The name of the initiative's sponsor and the percentage
312 of total contributions obtained by the sponsor from in-state
313 persons. For purposes of this subparagraph, "person" has the
314 same meaning as provided in s. 106.011(14), except that the term
315 does not include a political party, an affiliated party
316 committee, or a political committee.

317 (b) Whether out-of-state petition circulators were used to
318 obtain signatures for ballot placement.

319 (c) A separate financial impact statement concerning the

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320 measure prepared by the Financial Impact Estimating Conference
 321 in accordance with s. 100.371(13) ~~s. 100.371(5)~~.

322 (d) If the financial impact statement projects a net
 323 negative impact on the state budget, the following statement in
 324 bold print:

325
 326 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO
 327 HAVE A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS
 328 IMPACT MAY RESULT IN HIGHER TAXES OR A LOSS OF
 329 GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED
 330 STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

331
 332 (e) If the financial impact statement is indeterminate, the
 333 following statement in bold print:

334
 335 THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE
 336 DETERMINED DUE TO AMBIGUITIES AND UNCERTAINTIES
 337 SURROUNDING THE AMENDMENT'S IMPACT.

338
 339 (f) If the members of the Financial Impact Estimating
 340 Conference are unable to agree on the financial impact
 341 statement, the following statement in bold print:

342
 343 THE FINANCIAL IMPACT ESTIMATING CONFERENCE WAS UNABLE
 344 TO AGREE ON THE FINANCIAL IMPACT OF THIS PROPOSED
 345 CONSTITUTIONAL AMENDMENT. THIS AMENDMENT MAY RESULT IN
 346 HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER
 347 TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE
 348 CONSTITUTION.

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349

350 The ballot title shall consist of a caption, not exceeding 15
351 words in length, by which the measure is commonly referred to or
352 spoken of. This subsection does not apply to constitutional
353 amendments or revisions proposed by joint resolution.

354 Section 5. Section 101.171, Florida Statutes, is amended to
355 read:

356 101.171 Copy of constitutional amendment to be available at
357 voting locations.—Whenever any amendment to the State
358 Constitution is to be voted upon at any election, the Department
359 of State shall have printed and shall furnish to each supervisor
360 of elections a sufficient number of copies of the amendment
361 either in poster or booklet form, and the supervisor shall
362 provide have a copy in ~~thereof conspicuously posted or available~~
363 at each voting booth ~~polling room or early voting area upon the~~
364 ~~day of election.~~

365 Section 6. Paragraph (a) of subsection (4) of section
366 106.07, Florida Statutes, is amended to read:

367 106.07 Reports; certification and filing.—

368 (4) (a) Except for daily reports, to which only the
369 contributions provisions below apply, and except as provided in
370 paragraph (b), each report required by this section must
371 contain:

372 1. The full name, address, and occupation, if any, of each
373 person who has made one or more contributions to or for such
374 committee or candidate within the reporting period, together
375 with the amount and date of such contributions. For
376 corporations, the report must provide as clear a description as
377 practicable of the principal type of business conducted by the

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378 corporation. However, if the contribution is \$100 or less or is
379 from a relative, as defined in s. 112.312, provided that the
380 relationship is reported, the occupation of the contributor or
381 the principal type of business need not be listed.

382 2. The name and address of each political committee from
383 which the reporting committee or the candidate received, or to
384 which the reporting committee or candidate made, any transfer of
385 funds, together with the amounts and dates of all transfers.

386 3. Each loan for campaign purposes to or from any person or
387 political committee within the reporting period, together with
388 the full names, addresses, and occupations, and principal places
389 of business, if any, of the lender and endorsers, if any, and
390 the date and amount of such loans.

391 4. A statement of each contribution, rebate, refund, or
392 other receipt not otherwise listed under subparagraphs 1.
393 through 3.

394 5. The total sums of all loans, in-kind contributions, and
395 other receipts by or for such committee or candidate during the
396 reporting period. The reporting forms shall be designed to
397 elicit separate totals for in-kind contributions, loans, and
398 other receipts.

399 6. The full name and address of each person to whom
400 expenditures have been made by or on behalf of the committee or
401 candidate within the reporting period; the amount, date, and
402 purpose of each such expenditure; and the name and address of,
403 and office sought by, each candidate on whose behalf such
404 expenditure was made. However, expenditures made from the petty
405 cash fund provided by s. 106.12 need not be reported
406 individually.

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407 7. The full name and address of each person to whom an
408 expenditure for personal services, salary, or reimbursement for
409 authorized expenses as provided in s. 106.021(3) has been made
410 and which is not otherwise reported, including the amount, date,
411 and purpose of such expenditure. However, expenditures made from
412 the petty cash fund provided for in s. 106.12 need not be
413 reported individually. Receipts for reimbursement for authorized
414 expenditures shall be retained by the treasurer along with the
415 records for the campaign account.

416 8. The total amount withdrawn and the total amount spent
417 for petty cash purposes pursuant to this chapter during the
418 reporting period.

419 9. The total sum of expenditures made by such committee or
420 candidate during the reporting period.

421 10. The amount and nature of debts and obligations owed by
422 or to the committee or candidate, which relate to the conduct of
423 any political campaign.

424 11. Transaction information for each credit card purchase.
425 Receipts for each credit card purchase shall be retained by the
426 treasurer with the records for the campaign account.

427 12. The amount and nature of any separate interest-bearing
428 accounts or certificates of deposit and identification of the
429 financial institution in which such accounts or certificates of
430 deposit are located.

431 13. The primary purposes of an expenditure made indirectly
432 through a campaign treasurer pursuant to s. 106.021(3) for goods
433 and services such as communications media placement or
434 procurement services, campaign signs, insurance, and other
435 expenditures that include multiple components as part of the

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436 expenditure. The primary purpose of an expenditure shall be that
437 purpose, including integral and directly related components,
438 that comprises 80 percent of such expenditure.

439 14. If filed by a political committee supporting an
440 initiative, the percentage of total contributions obtained
441 during the reporting period from in-state persons. For purposes
442 of this subparagraph, the term "person" has the same meaning as
443 provided in s. 106.011, except that the term does not include a
444 political party as provided in s. 103.091, an affiliated party
445 committee as provided in s. 103.092, or a political committee as
446 defined in s. 106.011.

447 Section 7. The provisions of this act apply to all
448 revisions or amendments to the State Constitution by initiative
449 that are proposed for the 2020 election ballot and each ballot
450 thereafter; provided, however, that nothing in this act affects
451 the validity of any petition form gathered before the effective
452 date of this act or any contract entered into before the
453 effective date of this act.

454 Section 8. If any provision of this act or its application
455 to any person or circumstance is held invalid for any reason,
456 the remaining portion of this act, to the fullest extent
457 possible, shall be severed from the void portion and given the
458 fullest possible force and application.

459 Section 9. This act shall take effect upon becoming a law.

S01794

GENERAL BILL/CS by EE, Hutson; (Similar CS/H 07037)

Constitutional Amendments Proposed by Initiative. EFFECTIVE DATE: Upon becoming a law.

01/30/20 S Now in Judiciary

02/06/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building

02/11/20 S CS/CS by Judiciary; YEAS 4 NAYS 2



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 6, 2020

I respectfully request that **Senate Bill #1794**, relating to Constitutional Amendments Proposed by Initiative, 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
APPEARANCE RECORD

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

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

560852

Amendment Barcode (if applicable)

Topic Amendments

Name Tabitha Burress

Job Title Communications Director

Address 4320 Bandall Blvd

Street

Naples

City

State

Zip

Phone 239-272-2257

Email tabitha.burress@

fican.org

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing Florida Cannabis 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
APPEARANCE RECORD

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

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Const. Amendment

782924
Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing New Florida majority & Organize 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)

2/11/20
Meeting Date

1794
Bill Number (if applicable)

Topic Initiatives

946 112
Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone _____

Tallahassee FL 32304
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida AFL-CIO

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)

2/11/2020
Meeting Date

1794

Bill Number (if applicable)

946112

Amendment Barcode (if applicable)

Topic Const. Amendment

Name Ida V. Eskamani

Job Title Public Policy

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing New Florida Majority + Organize Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2010

Meeting Date

1794

Bill Number (if applicable)

292920

Amendment Barcode (if applicable)

Topic Const. Amendments

Name Ida V. Eskamani

Job Title Public Policy

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing New Florida Majority + Organize Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2020
Meeting Date

1794

Bill Number (if applicable)

643500

Amendment Barcode (if applicable)

Topic Const. Amendment

Name Ida V. Fskamani

Job Title Public Policy

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing New Florida Majority + Organize Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/20

Meeting Date

1794

Bill Number (if applicable)

643500

Amendment Barcode (if applicable)

Topic Initiatives

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Street

Tallahassee

City

FL

State

32304

Zip

Phone 850-224-8926

Email _____

Speaking: For Against Information

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

Representing Florida AFL-CIO

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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments

811190
Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing New Florida Majority + Organize 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)

2/11/20

Meeting Date

1794

Bill Number (if applicable)

811190

Amendment Barcode (if applicable)

Topic Initiatives

Name Dr. Rick Templin

Job Title _____

Address 135 S. Monroe

Street

Phone _____

Tallahassee

City

FL

State

32304

Zip

Email _____

Speaking: For Against Information

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

Representing Florida AFL-CIO

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)

11-16-2020

Meeting Date

1794

Bill Number (if applicable)

920890

Amendment Barcode (if applicable)

Topic Democracy

Name Jodi James

Job Title Chair

Address 1375 Cypress Ave

Street

Phone 321 890 7302

Melbourne FL 32935

City

State

Zip

Email jodi@flcans.org

Speaking: For Against Information

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

Representing Floridians for freedom

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)

2-11-2020

Meeting Date

1794

Bill Number (if applicable)

Democracy

920850

Amendment Barcode (if applicable)

Topic Tanya Barley

Name Tanya Barley

Job Title Veteran Liaison

Address 132 Lagoon Rd

Street

Phone 757-788-9496

City

Winter Haven, FL 33884

State

Zip

Email barley.tanya@gmail.com

Speaking: For Against Information

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

Representing

~~Freedom For Veterans~~ Voices of Veterans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

1794

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

2/11/20

Meeting Date

~~7794~~

Bill Number (if applicable)

920890

Amendment Barcode (if applicable)

Topic Constitutional Amendment 5

Name Melissa Villar

Job Title Executive Director

Address PORBOY 11254

Street

TLH

City

FL

State

32302

Zip

Phone (850) 354-8424

Email NORML.Tellahesse
@gmail.com

Speaking: For Against Information

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

Representing NORML Tellahesse

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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Amendment

510852
Amendment Barcode (if applicable)

Name Tanya Bailey

Job Title legislative veteran liason

Address 132 Lagoon Rd
Street

Phone 757-788-9496

Winter Haven FL 33884
City State Zip

Email bailey.tanyam@gmail.com

Speaking: For Against Information

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

Representing Florida Cannabis 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.

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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)

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

560852

Amendment Barcode (if applicable)

Topic Amendments

Name Jodi James

Job Title Chair

Address 1375 Cypress Ave

Street

Phone 321 890 7302

Melbourne FL 32935

City

State

Zip

Email JJamesFlorida@gmail

Speaking: For, Against Information

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

Representing Floridian For Freedom

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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)
817884
Amendment Barcode (if applicable)

Topic Amendments

Name Jodi James

Job Title Chair

Address 1375 Cypress
Street

Phone 321 890 7302

Melbourne Fl 32935
City State Zip

Email jodi@flcan.org

Speaking: For Against Information

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

Representing Floridians for Freedom

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)

2-11-2020

Meeting Date

61794

Bill Number (if applicable)

643500

Amendment Barcode (if applicable)

Topic Amendments

Name Jodi James

Job Title Chair

Address 1375 Cypress Street

Phone 321-890-7302

Melbourne, FL 32935

Email jodi@flcan.org

Speaking: [X] For [] Against [] Information

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

Representing PPP

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)

2-11-2020
Meeting Date

1794
Bill Number (if applicable)

Topic Citizens Initiative

Amendment Barcode (if applicable)

Name Tanya Bailey

Job Title Veteran Liaison

Address 132 Lagoon Rd
Street

Phone 757-788-9496

Winter Haven FL 33884
City State Zip

Email bailey.tanyam@gmail.com

Speaking: For Against Information

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

Representing Voices of Veterans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

2/11/20

Meeting Date

1794

Bill Number (if applicable)

Topic Undermining Citizen Initiative Process

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufl.org

City

State

Zip

Speaking: For Against Information

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

Representing American Civil Liberties Union 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)

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments Proposed by Initiatives

Amendment Barcode (if applicable)

Name Rev. Joe Parramore

Job Title Florida's Leadership Council

Address 6099 Pat Thomas Parkway

Phone 850-510-0584

Street

Quincy

FL

32351

Email revjoeparramore@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Faith In Public Life

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)

2/11/20

Meeting Date

1794

Bill Number (if applicable)

Topic Undermining Citizen Initiative Process

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufl.org

City

State

Zip

Speaking: For Against Information

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

Representing American Civil Liberties Union of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments Proposed by Initiatives

Amendment Barcode (if applicable)

Name Rev. Joe Parramore

Job Title Florida's Leadership Council

Address 6099 Pat Thomas Parkway

Phone 850-510-0584

Street

Quincy

City

FL

State

32351

Zip

Email revjoeparramore@gmail.com

Speaking: For Against Information

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

Representing Faith In Public Life

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)

2/11/20

Meeting Date

1794

Bill Number (if applicable)

Topic CONSTITUTIONAL Amendment Proposed by Initiative

Amendment Barcode (if applicable)

Name KEVIN DALY

Job Title TEACHER

Address 13422 Heald Ln #9

Phone

Street

FORT MYERS

FL

33908

City

State

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing Myself

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

2/11/20

Meeting Date

1794

Bill Number (if applicable)

Topic Ballot initiatives

Amendment Barcode (if applicable)

Name Bro. Matt Dailey

Job Title Legislative Assistant

Address 134 Northcutt Ter

Phone 850-602-4167

Tallahassee FL 32317
City State Zip

Email matt@daileyconsulting.us

Speaking: For Against Information

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

Representing Faith in Public Life

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)

2/11/20

Meeting Date

SB 1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name THEO PARSONS

Job Title _____

Address 221 Maplecrest Cir
Street

Phone 561-346-5241

Jupiter FL 33458
City State Zip

Email ted@cybercast.com

Speaking: For Against Information

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

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Policy Director

Address P.O. Box 10788

Phone 334-224-4309

Tallahassee FL 32302
City State Zip

Email Scott.McCoy@spic.org

Speaking: For Against Information

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

Representing Southern Poverty Law Center Action Fund

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)

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Karen Woodell

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee, FL 32301

Email fctep@yahoo.com

Speaking: [] For [] Against [] Information

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

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] 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)

2/11/20

Meeting Date

SB 1794

Bill Number (if applicable)

Topic Initiatives

Amendment Barcode (if applicable)

Name Dr. Rick Templin

Job Title _____

Address 135 S. Monroe

Phone 850 - 224 - 6926

Street

Tallahassee

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 AFL-CIO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

2/11/2020
Meeting Date

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

1794
Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Laura Hernández

Job Title _____

Address _____
Street

Phone 786-547-0087

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Alliance of Planned Parenthood Affiliates

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

2/11/2020

Meeting Date

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

1794

SB ~~1794~~

Bill Number (if applicable)

Topic Restrictions on Petitions

Amendment Barcode (if applicable)

Name Kim Porteous

Job Title President of FL NOW

Address 1416 Crenshaw Dr.

Phone 706-669-8192

Street

Orlando FL 32835

City

State

Zip

Email Kim4FLNOW@gmail.com

Speaking: For Against Information

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

Representing FL NOW

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)

2/14/20

Meeting Date

1-794

Bill Number (if applicable)

Topic Citizens Inmates

Amendment Barcode (if applicable)

Name Rev Russell Meyer

Job Title Exec Dir

Address 6015 Southampton Cir

Phone 813 435 5335

Street

Tampa

State

33647

Zip

Email

Speaking: For Against Information

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

Representing FL Council of Churches

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)

Feb. 11, 2020 Meeting Date

1794 Bill Number (if applicable)

Topic Constitutional Amendments Proposed by Initiative

Amendment Barcode (if applicable)

Name Keith L. Mackey

Job Title

Address 285 Weatherlane Way Street

Phone

Ocoee FL 34761 City State Zip

Email

Speaking: For Against Information

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

Representing Myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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)

Feb. 11th '20
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments Proposed by Initiative Amendment Barcode (if applicable)

Name Roxanne Stasuk

Job Title _____

Address 331 Allison Ave Phone _____
Street

Davenport Fl. 33897 Email _____
City State Zip

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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N Mills Ave ~~Orlando~~

Phone 407 376 4801

Orlando FL 32801

Email ida.eskamani@gmail.com

Speaking: For Against Information

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

Representing New Florida Majority + Organize 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)

2/11/2020

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 156 S. Bonouge Street

Phone

JL4 City

FL State

32081 Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [X] 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: [X] Yes [] No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/11/2020

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

1794

Meeting Date

Bill Number (if applicable)

Topic Constitutional Initiatives

Amendment Barcode (if applicable)

Name Melissa Villar

Job Title Executive Director

Address PO Box 11254

Phone (850) 354-8474

Street
THH FL 32302
City State Zip

Email NORMLTallahassee@gmail.com

Speaking: For Against Information

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

Representing NORML Tallahassee

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)

1794
Bill Number (if applicable)

Meeting Date _____

Amendment Barcode (if applicable) _____

Topic _____

Name Jermane Miller

Job Title Candidate for Tallahassee City Commission

Address 1790 Balkin road Apt 2 Phone _____
Street

Tallahassee FL 32305 Email _____
City State Zip

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)

02/11/2020

Meeting Date

SB1794

Bill Number (if applicable)

Ammendments

Topic

~~Immigration~~ Constitutional

Amendment Barcode (if applicable)

Name

Taylor Aguilera

Job Title

Address

132 N. Pointe Dr

Phone

863 262 8183

Street

Auburndale

FL

33823

Email

tayaguilera94@gmail.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

self

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)

2-11-20

Meeting Date

SB 1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Omar Karim

Job Title Labor

Address 3037 Barrymore Ct

Phone

Street

Orlando FL 32835

Email

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing Myself

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] 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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Citizen Amendment Process

Amendment Barcode (if applicable)

Name Ann Macmillan

Job Title _____

Address 112 1/2 Herbert St
Street
Tallahassee FL 32303
City State Zip

Phone 850.508.2424

Email annmacmillan@yahoo.com

Speaking: For Against Information

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

Representing the Florida Public!

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)

2-11-2020
Meeting Date

5B 1794
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Ash

Job Title _____

Address PO Box 11201
Street
Tallahassee FL 32302
City State Zip

Phone 850-251-0985

Email _____

Speaking: For Against Information

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

Representing Common Cause FL

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)

2/11/2020

Meeting Date

S.B. 1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Robert McKinnon

Job Title Florida Director for Faith in Public Life

Address 1225 Lamboll Ave.

Phone 843.364.4403

Street

Jacksonville

FL

State

32205

Zip

Email rmckinnon@faithinpubliclife.org

Speaking: For Against Information

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

Representing Faith in Public Life

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)

2/11/20

Meeting Date

SB 1794

Bill Number (if applicable)

Topic CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE

Amendment Barcode (if applicable)

Name GLENDA ABBOTT (PRONOUNCED ABBOTT)

Job Title SERVICES TECHNICIAN

Address 4305 SW 98th AVE.

Phone 786-376-1181

Street

MIAMI, FL.

33165

Email GLENDA.ABBOTT@GMAIL.COM

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing SELF

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Consultant

Address 2024 Shangri La Lane
Street

Phone 850 322 3317

Tally FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing League of Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

JDC 1105
2500

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20
Meeting Date

1794
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 104-2 Coast St
Street

Phone 941-323-2406

12th FL 32309
City State Zip

Email dcullen@sea.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

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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2/11/2020 Meeting Date

1794 Bill Number (if applicable)

Topic Citizen's Initiative

Amendment Barcode (if applicable)

Name Tabitha Burress

Job Title Self

Address 4320 Randall Blvd

Phone 239-272-2257

Street Naples FL 34120

Email tabitha.burress@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

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2-11-20

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendment by Initiative
Name Barbara DeVane Petition

Amendment Barcode (if applicable)

Job Title Ms

Address 625 E Brevard St
Tallahassee FL 32308
Street City State Zip

Phone 251-4280
Email barbadevane1@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

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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2/11/2020

Meeting Date

1744

Bill Number (if applicable)

Topic Constitutional Amendments by Initiative

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 S. Monroe Street

Phone 850-425-1344

Street

Tallahassee FL 32301

City

State

Zip

Email Teglobby@aol.com

Speaking: For Against Information

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

Representing Florida State Conference of NAACP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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2/11/2020

1794

Meeting Date

Bill Number (if applicable)

Topic Constitutional Amendments Proposed by Initiatives

Amendment Barcode (if applicable)

Name Rev. Joe Parramore

Job Title Florida's Leadership Council

Address 6099 Pat Thomas Parkway

Phone 850-510-0584

Street

Quincy

FL

32351

Email revjoeparramore@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Faith In Public Life

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
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2/11/20
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional amendment

Amendment Barcode (if applicable)

Name Zaire Kekahuna-Samedi

Job Title _____

Address 1903 24th Street
Street

Phone 941-587-6890

Sarasota FL 34234
City State Zip

Email zairekekahuna@gmail.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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2/11/20
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendment

Amendment Barcode (if applicable)

Name Emmie Strang

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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2-11-20

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Gwyn Petersen

Job Title Student

Address 4437 Conchfish Ln
Street

Phone ~~931~~

Osprey FL 34229
City State Zip

Email _____

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/11/20 Meeting Date

1794 Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Dylan Black

Job Title

Address Street

Phone

City State Zip

Email

Speaking: For Against Information

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

Representing Self

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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2-11-20

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional amendments

Amendment Barcode (if applicable)

Name Elliot Gardner

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Self

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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2-11-20

Meeting Date

1714

Bill Number (if applicable)

Topic Constitutional amendments

Amendment Barcode (if applicable)

Name Carlton Leffler

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing 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)

2/11/20
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional amendment

Amendment Barcode (if applicable)

Name Paola Ferst

Job Title Educator

Address 2276 NOXUS Street

Phone 941.549.1641

Street

Sarasota

City

FL

State

34237

Zip

Email paola.ferst@ppawcf.org

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/10/2020

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

1794

Meeting Date

Bill Number (if applicable)

Topic Citizen Initiatives

Amendment Barcode (if applicable)

Name Aliki (a-LEE-key)

Job Title Executive Director

Address 1700 N. Monroe St

Phone 8506294686

Street

Tallahassee FL

32303

Email Contact@fvoters.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Conservation Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

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2/11
Meeting Date

1794
Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516
Street

Phone bbevis@ca2

City State Zip

Email

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
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2/11/2020
Meeting Date

1794
Bill Number (if applicable)

Topic Democracy Bill

Amendment Barcode (if applicable)

Name Jodi James

Job Title Chair

Address 1375 Cypress Ave

Phone 321-890-7302

Street

Melbourne

City

FL

State

32935

Zip

Email jodi@fican.org

Speaking: For Against Information

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

Representing Floridians For Freedom

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)

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2/11/2020

Meeting Date

1794

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name MARCOS DIXON

Job Title EXECUTIVE DIRECTOR

Address 2881 Corporate Way

Phone (305) 720-1627

Street

Miami

FL

33025

City

State

Zip

Email Marcos.Dixon@seiufl.org

Speaking: For Against Information

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

Representing SEIU 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

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
2/6/20	SM	Report Submitted
2/10/20	JU	Pre-meeting
	ATD	
	AP	

February 6, 2020

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

Re: **SB 16** – Senator Simmons
HB 6517 – Representative Williamson
Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard
Maybin by the Department of Highway Safety and Motor Vehicles

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR GENERAL REVENUE FUNDS IN THE AMOUNT OF \$17,715,000. THIS AMOUNT IS THE REMAINING BALANCE OF AN \$18,000,000 SETTLEMENT AGREEMENT REGARDING ALLEGED NEGLIGENCE OF TROOPER RAUL UMANA AND THE FLORIDA HIGHWAY PATROL, A DIVISION OF THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.

FINDINGS OF FACT:

The Accident

On May 18, 2014, at approximately 9:25 p.m., Florida Highway Patrol (FHP) Trooper Raul Umana, traveling north on I-75 in a 2007 Crown Victoria patrol vehicle, attempted to turn around using a crossover gap in the median. Trooper Umana had been on the far right shoulder assisting with a disabled vehicle and then made two lane changes with a maximum speed of 45 miles per hour as he crossed to the far left northbound lane and approached the crossover gap.¹ He entered the median too quickly to properly negotiate the turn

¹ Florida Highway Patrol Vehicle/Personnel Crash Investigation Report (FHP Report), 25 (Aug. 29, 2014).

and hit the median barrier at a speed of 20 miles per hour before entering the southbound lane.²

Ms. Christeia Jones was traveling in the southbound lane with her three children in the backseat (Logan Grant, 2 years old; Lanard Maybin, 5 years old; and Denard Maybin, Jr., 7 years old).

Once entering the southbound lane at nine miles an hour, Trooper Umana's vehicle struck the 2014 Nissan Altima driven by Ms. Jones as well as a Mercedes traveling behind Ms. Jones. Ms. Jones had been traveling at 88 miles per hour, applied brakes and steered right (away from Trooper Umana's vehicle) and was traveling at 62 miles per hour at the time of impact with Trooper Umana's vehicle.³

After being struck by Trooper Umana's vehicle and applying brakes, Ms. Jones's Altima slowed to 16.94 miles an hour, and remained in the traveling lanes 179.5 feet from the initial collision.⁴ A tractor-trailer truck then collided with the Mercedes immediately behind Ms. Jones's vehicle; and then the tractor-trailer truck hit Ms. Jones's vehicle while traveling at 69 miles per hour. The collision with the tractor-trailer truck accelerated the speed of Ms. Jones's car to 58.33 miles per hour as her vehicle was pushed toward the shoulder of the highway.⁵ After both vehicles left the roadway and Ms. Jones's vehicle rotated 270 degrees, the tractor-trailer truck hit Ms. Jones's vehicle a second time and Ms. Jones's vehicle came to rest after hitting a tree. The engine compartment then caught fire.⁶

Ms. Jones was able to exit the vehicle but emergency personnel had to extract her three children who were trapped inside of the car after the rear seat was crushed by impact from the tractor-trailer truck. The FHP report describes damage to the vehicle in great detail⁷ and notes the driver of the tractor trailer did not fully apply the brakes until after

² *Id.* at 33.

³ *Id.* at 25.

⁴ *Id.* at 27.

⁵ *Id.*

⁶ *Id.* at 28.

⁷ *Id.* at 15. The report includes a description of the extensive crushing and damage to the back of the vehicle.

"The rear center and left headrest [were] crushed forward to the back of the driver's seat. The front right seat was twisted to the left by the back seat." *Id.* at 16.

colliding with the Mercedes, which was inconsistent with a statement made by the driver during the investigation.⁸

FHP Report

The FHP report noted no known distractions, adverse weather conditions, or evasive actions that would have contributed to the causation of the crash.⁹

Restraints

The FHP report provides both Lanard (5) and Denard (7) were “unrestrained at the time of the crash and suffered critical injuries,” and Logan (2) was restrained in a forward facing child seat and suffered critical injuries as a result of the incident.¹⁰

Ms. Jones confirmed Logan (2) was secured in a forward facing car seat; however, she testified both Lanard (5) and Denard (7) were wearing seatbelts when they began the ride.¹¹ Additionally, the FHP report includes information from Ms. Jones’s grandmother, Marilyn Lilly, who told the investigating officer the two older boys were wearing seatbelts when Ms. Jones left her house.¹² Ms. Jones does not have knowledge of the boys unbuckling themselves during the course of the ride.¹³

Counsel for claimants indicated there was no expert testimony presented suggesting the seatbelts would have made a difference for Lanard and Denard. Counsel noted the one child who was restrained, Logan, was the most severely injured. Counsel suggested if seatbelts were not used by the two older boys—not wearing the belts may have saved their lives.¹⁴

Speed

The posted speed limit of the highway where the incident occurred was 70 miles per hour.¹⁵ Information gathered during

⁸ *Id.* at 28.

⁹ *Id.* at 5.

¹⁰ *Id.* at 6-7. “The rear left and center seatbelts were locked in the retracted position. The rear right seat belt appeared to have been cut in two places. The child restraint seat was cracked and the metal seatbelt clip was bent.” *Id.* at 16.

¹¹ Deposition, Christeia Jones, 87 (Jan. 18, 2018); Deposition, Trooper Crocker 7:20–7:30.

¹² FHP Report at 22.

¹³ Special Master Hearing at 3:28:43-3:29:45.

¹⁴ *Id.* at 14:45-15:58.

¹⁵ FHP Report at 5.

the FHP's investigation demonstrated Ms. Jones was driving at a speed exceeding the limits and made efforts to slow down just before impact with Trooper Umana's vehicle.

FHP investigators were able to obtain information from the event data recorder in Ms. Jones's vehicle. Prior to Trooper Umana's vehicle hitting Ms. Jones's vehicle, Ms. Jones was traveling at 88 miles per hour; which counsel for the claimants noted as going with the flow of traffic.¹⁶ The FHP report indicates about 1.5-2 seconds prior to impact, speed was reduced to 86 miles per hour. By one second before impact, Ms. Jones was traveling at 79 miles per hour; .5 second before impact, she was traveling at 69 miles per hour; and, at impact, she was traveling at 62 miles per hour.¹⁷

Medical Injuries

Ms. Jones is not seeking relief for herself through the claim bill. She seeks relief only for her children. Information regarding injuries to the three children was provided at the special master hearing. The submitted information includes evaluations, for each child, by medical professionals, vocational rehabilitation, and life care planning professionals.

Logan Grant

Logan suffered from a severe traumatic brain injury, orbital fractures, lung contusions, and a left subdural hematoma in his brain. He was hospitalized at UF Health Shands Hospital for a month before going to a rehabilitation hospital for another two weeks.¹⁸

As of November 2017, Logan could walk on his own with fewer falls when wearing a brace on one foot; fatigued easily; was able to dress himself if clothing did not have fasteners; had limited strength and coordination with his left hand; and had cognitive-behavioral impairment. He was receiving occupational, physical, speech, and behavioral therapy.¹⁹ The

¹⁶ Special Master Hearing at 51:20-51:30. See also FHP Report at 13 (noting none of three witnesses, who were truck drivers, indicated Ms. Jones, the vehicle behind her, nor the tractor-trailer truck were speeding). Counsel for claimants highlighted this information in support of Ms. Jones, who, although speeding, was traveling with the flow of traffic. Special Master hearing at 52:20-53:06.

¹⁷ FHP Report at 18.

¹⁸ Special Master Hearing at 16:00-16:30; see Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 13 -15 (Nov. 22, 2017).

¹⁹Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 8-10 (Nov. 22, 2017).

doctor evaluating Logan found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash” and anticipated his deficits are permanent and will require continued multidisciplinary care.²⁰ The evaluating doctor believes, due to cognitive and communication impairments, Logan is not expected to be able to live alone as an adult, and will require guardianship and attendant care to assist with activities of daily living.²¹

A doctor examining Logan on behalf of the respondent came to similar conclusions with regard to Logan’s abilities and future needs. The doctor found Logan had cognitive deficits with regard to executive functioning and his ability to control behaviors, regulate emotions, and stay on task.²² This doctor also found Logan will likely need some assistance in making major life and financial decisions; and he is likely to be able to perform labor-oriented work.²³

A doctor hired by the claimants conducted a vocational rehabilitation evaluation, which included the finding that he “will not be capable of securing and maintaining competitive employment.”²⁴ The doctor found it reasonable to assume he would have previously been capable of graduating from high school and earning a college degree.²⁵ The same doctor, in coordination with others, evaluated Logan’s needs and developed a life care plan.²⁶ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs which are identified later in this report.

Lanard Maybin

Lanard, who was found in the front of the car under the dashboard, suffered facial lacerations, a left shoulder fracture, a major neurocognitive disorder and behavioral disturbance

²⁰ *Id.* at 14.

²¹ *Id.* at 15.

²² Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Logan Grant, 9 (Aug. 23, 2018).

²³ *Id.* at 10.

²⁴ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Logan Eduardo Grant, 30 (June 25, 2018). This finding is based upon a reasonable degree of vocational rehabilitation probability. *Id.* *But see* Kelderman, Ph.D. ABPP, Jill, Pediatric Neuropsychological Evaluation, 10 (Aug. 23, 2018) (concluding Logan will likely need some level of supervision throughout adulthood with regard to major life and financial decisions but noting he is likely to be able to work labor-related jobs).

²⁵ *Id.* at 31.

²⁶ Shahnasarian, Ph.D., Michael, 1st Update–Life Care Plan Prepared for Logan Eduardo Grant (Aug. 2, 2018).

related to a traumatic brain injury, attention deficit disorder related to traumatic brain injury, and possible post-traumatic stress disorder.²⁷

In September 2019, a doctor providing an opinion about Lanard's functional status and needs noted his "level of function and quality of life has markedly diminished" as a result of his injuries. The doctor also noted ongoing neurocognitive and behavioral impairments that impact daily life at home and in school, which will require ongoing multidisciplinary care. The doctor believes these impairments will negatively impact Lanard's future vocational potential and his level of independence; however, the doctor is not certain if Lanard will be able to achieve gainful employment in the competitive job market or live alone as an adult.²⁸

In 2019, a doctor conducted a vocational rehabilitation evaluation of Lanard. In reviewing medical records, the doctor noted neuropsychological diagnoses of 1) a major cognitive disorder likely from traumatic brain injury with behavior disturbance; 2) post-traumatic stress disorder; and 3) nocturnal enuresis. Additionally, Lanard indicated difficulty focusing and has ongoing nightmares and accident-related thoughts. His facial scarring is described as "prominent."²⁹ The same doctor, in coordination with others, evaluated Lanard's needs and developed a life care plan.³⁰ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Denard Maybin

²⁷ Kornberg, M.D., Paul, Comprehensive Medical Evaluation of Lanard Maybin, 11 (Sept. 11, 2019); Shands at the University of Florida, Department of Pediatric Surgery Discharge Note Re: Lanard Maybin (May 23, 2014).

²⁸ Kornberg at 11.

²⁹ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Lanard Maybin, 26 (Aug. 14, 2019).

³⁰ Shahnasarian, Ph.D., Michael, 1st Update—Life Care Plan Prepared for Lanard Maybin (Nov. 4, 2019). During his testimony at the special master hearing, Dr. Shanasarian indicated one needed change to page 19 of his original report. He noted it should read, "to be determined" as to whether Lanard would require a live-in personal care attendant after the age of 22. See Shanasarian, Life Care Plan Prepared for Lanard Maybin (Oct. 18, 2019). The correction was at the request of Dr. Gorman, a neuropsychologist, who could not state, with probability, the ongoing need beyond age 21. Special Master Hearing at 1:29:40-1:30:06. Counsel for claimants submitted a revised life care plan and a revised economic loss analysis report regarding Lanard in November of 2019, as cited above.

Denard suffered from a traumatic brain injury, right subdural hematoma, and diffuse axonal injury.³¹ A 2015 follow-up MRI showed scarring and shrinking of the brain in some areas; and an old hemorrhage in the bilateral front lobes (which are responsible for executive functioning and emotional regulation).³²

In 2017, a doctor evaluated Denard for the purpose of providing an opinion about his functional status and future needs. The doctor found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash.”³³ The evaluation noted mild right lower extremity weakness with motor perceptual, communication, and cognitive impairments, which are anticipated to be permanent.³⁴ As a result of cognitive and functional impairments, the evaluating doctor believes Denard will require ongoing multidisciplinary care and is not expected to attain gainful employment in the competitive job market.³⁵

A doctor examining Denard on behalf of the respondent found Denard has “significant weaknesses” with regard to executive functioning, “remarkable deficits” with regard to organization, “significant difficulties with fine motor skills,” as well as visual-spatial deficits.³⁶ With regard to Denard’s abilities and future needs, the doctor found Denard is unlikely to attain a standard high school diploma and notes he will likely require some level of assistance and supervision with major life and financial decisions.³⁷ However, he is “unlikely to require a personal care attendant as he will be able to care for his personal needs.”³⁸ This doctor also believes Denard will be able to perform labor-oriented work.³⁹

³¹ Special Master Hearing at 16:32-16:58; see Kornberg, M.D., Paul B, Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation–Denard Maybin, 2-3 (Nov. 22, 2017).

³² Kornberg at 6; see Special Master Hearing at 2:19:00-2:20:45.

³³ Kornberg at 12.

³⁴ *Id.* at 12.

³⁵ *Id.* at 12; see also Shahnasarian, Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

³⁶ Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Denard Maybin, Jr., 9 (Aug. 22, 2018).

³⁷ *Id.* at 10.

³⁸ *Id.* at 10. This is notable as the life care plan and costs of future life care needs includes the cost of a live-in personal care attend with a present value cost of \$4,195,226; as well as an item listed as “additional cost for live-in care,” which has a present value of \$208,692. Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Maybin, Jr., Denard vs. Florida Highway Patrol, Table 2 (Oct. 31, 2018).

³⁹ Kelderman at 10.

In 2018, a doctor provided a vocational rehabilitation evaluation for Denard as requested by the claimants.⁴⁰ The doctor's findings included academic and medical difficulties since the accident, and multifaceted neuropsychological difficulties. These difficulties include reasoning ability, memory, processing speed, motor skills, emotional disturbance, and anxiety among other findings.⁴¹ The doctor concluded Denard is not likely to be capable of attaining competitive employment.⁴²

The same doctor, in coordination with others, evaluated Denard's needs and developed a life care plan.⁴³ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Caretaking

Ms. Jones is the primary caretaker for Logan, Lanard, and Denard and takes them to all of their appointments. She testified she takes them to speech, physical, and occupational therapy appointments two days a week (2-3 hours each of those days). In addition, she takes them to appointments with specialists and their primary care physician. Ms. Jones works as a substitute teacher 1-3 days a week (depending upon appointments), which allows her to have a schedule flexible enough to get her children to their doctors and therapists. She would like to work fulltime using her bachelor's in criminal justice and seek a master's and a law degree.⁴⁴

Estimated Economic Losses

Claimants submitted economic loss analyses⁴⁵ with regard to the children based upon medical assessments and expected needs and limitations.

⁴⁰ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

⁴¹ *Id.*

⁴² *Id.*

⁴³ Shahnasarian, Ph.D., Michael, Life Care Plan Prepared for Denard Maybin (July 5, 2018).

⁴⁴ Special Master Hearing at 3:15:09-3:18:10. Ms. Jones testified about her worries for her children as well as her desire to make sure they are healthy and prepare them as much as possible to live without her. *Id.* at 3:31:30-3:32:00 and 3:38:50-3:39:00.

⁴⁵ See Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Mr. Lanard Maybin 2nd Revised Report (Nov. 7, 2019); Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Grant, Logan vs. Florida Highway Patrol Report (Nov. 2, 2018); Raffa, Economic Loss Analysis Re: Denard.

The estimated economic losses with regard to future earning capacities in difference scenarios were as follows:

Earning Capacity: Assuming Pre-Incident Employment with No Further Degree Beyond High School	
	Present Value
Logan	\$1,543,014
Lanard	\$1,690,822
Denard	\$1,592,738

Earning Capacity: Assuming Pre-Incident Employment and Additional Schooling	
	Present Value
Logan (with a bachelor’s degree)	\$2,810,754
Lanard (with technical school training)	\$1,834,473
Denard (with a bachelor’s degree)	\$2,906,356

The estimated cost of future life care needs for each child is as follows:

Cost of Future Life Care Needs	
	Present Value
Logan ⁴⁶	\$6,702,555 or \$6,738,094
Lanard ⁴⁷	\$2,126,572
Denard ⁴⁸	\$5,818,550

In summary, the estimated economic loss and cost of future care at present value⁴⁹ for each child is as follows:

- Logan \$8,245,569–\$9,548,848
- Lanard \$3,817,394–\$3,961,045
- Denard⁵⁰ \$7,411,288–\$8,724,906

⁴⁶ Two options were listed for Logan’s Life Care Plan depending upon what is used to assist him with ambulating (Option 1: Walkaide and Options 2: Bioness L300).

⁴⁷ The values for Lanard include adjusting for the correction to the life care plan evaluation (indicating the need for a live-in attendant after the age of 21 is yet to be determined by professionals).

⁴⁸ If the medical opinion of the respondent’s evaluating doctor is applied (that Denard will not require live-in care), the values for Denard’s future life care needs would likely be reduced by the values listed for a live-in care attendant (\$4,195,226) and “additional cost for live-in care” (\$208,692). If he no longer required housekeeping, that would further reduce his future life care needs by \$70,761. See Raffa Economic Loss Analysis Re: Denard at Table 2.

⁴⁹ Raffa Economic Loss Analysis Re: Logan at Tables 3A and 3B; Raffa 2nd Revised Economic Loss Analysis Re: Lanard at Tables 3A and 3B; and Raffa Economic Loss Analysis Re: Denard at Tables 3A and 3B.

⁵⁰ See *supra* n. 48.

Combined, the estimated economic loss ranges for all three children is \$19,474,251–\$22,234,799.⁵¹

Trooper Raul Umana

During a deposition related to this matter, Trooper Umana stated he was going to pull into the median and wait until it was safe to turn around; however, he admitted he approached too quickly. He said his “lack of experience there really kicked in.”⁵² He said “there was too close of [a] range for me to get across and turn around.”⁵³ Trooper Umana agreed it was part of his training to turn around in the safest area.⁵⁴ Although he did not know the speed at which he entered the median, his opinion was it “was too fast.”⁵⁵

The FHP report indicates Trooper Umana received a traffic citation for careless driving pursuant to section 316.1935, of the Florida Statutes,⁵⁶ which he states he paid.⁵⁷ He did not receive any discipline from FHP.⁵⁸

Other Vehicles Involved in Incident

In addition to Trooper Umana’s and Ms. Jones’s vehicles, there were two other vehicles involved in this incident. There was a vehicle directly behind Ms. Jones’s vehicle involved, as well as a tractor-trailer truck.

The Vehicle Behind Ms. Jones’s Vehicle

The vehicle behind Ms. Jones, according to the FHP report, was following too closely behind her.⁵⁹ Although this vehicle did not come into contact with Ms. Jones’s vehicle, the insurer of this vehicle opted to provide \$20,000 in a settlement agreement.

The Tractor-Trailer Truck

Two possible issues arose with regard to the tractor-trailer truck. The first potential issue was with regard to speed. Although the tractor-trailer truck did not have a recording of

⁵¹ Although respondent’s doctor does not believe Denard will require live-in care after the age of 21, these amounts include such live-in care.

⁵² Trooper Raul Umana, Deposition, 22 lines 19–12 (July 17, 2017).

⁵³ *Id.* at 22 line 25–23 line 5.

⁵⁴ *Id.* at 26 lines 1–4.

⁵⁵ *Id.* at 32 lines 6–11.

⁵⁶ FHP Report at 59.

⁵⁷ Trooper Raul Umana, Deposition, 53 lines 17–20.

⁵⁸ *Id.* at 53 line 14–54 line 10 (July 17, 2017).

⁵⁹ FHP Report at 26.

data like Ms. Jones's Altima had, a responding trooper originally noted the driver of the tractor-trailer truck was following too closely because the driver had stated he did not have time to react after vehicles in front of him were involved in the initial crash.⁶⁰ The significant damage to the back of Ms. Jones's vehicle, which crushed the back seat where her children were located, was from impact of the tractor-trailer truck. The second potential issue was with regard to the driver's time on duty and whether he exceeded the limit regarding driving hours.⁶¹ Evidence was not submitted to confirm whether the driver of the tractor-trailer truck had been following too closely or driving for too many hours at the time of the crash.

Litigation History and Settlement

Two cases were filed by Ms. Jones in Orange County seeking relief as a result of this incident. One case was filed by Ms. Jones on behalf of her three children⁶²; and the other was filed regarding Ms. Jones's personal injury claims.⁶³ Prior to trial, the parties arrived at a mediated settlement agreement⁶⁴ and both cases were subsequently closed.

Settlement

Counsel for claimants believed the potential jury verdict value of this matter would be \$40-50 million.⁶⁵ The mediated settlement agreement notes claimants and respondent (FHP) acknowledged "a jury could reasonably award damages to the minor Plaintiffs in the amount of [\$18 million]."⁶⁶ Counsel for the claimants stated the settlement amount was less than the amount claimants believe is the full value because of issues relating to speed and whether the use of seatbelts would have been of concern for a jury. Counsel noted there was no information suggesting Ms. Jones could have avoided the incident, but conceded the issue of the seatbelts could have affected a jury's verdict.⁶⁷

⁶⁰ Sworn Audio Statement, Trooper Shawn Crocker, 13:30-13:59 (June 9, 2014).

⁶¹ Special Master Hearing at 1:06:20-1:07:06.

⁶² Jones on behalf of Grant, et al. v. Fla Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.).

⁶³ Jones v. Fla. Highway Patrol, Case No. 2018-CA-004258-O (Fla. 9th Circ. Ct.).

⁶⁴ Special Master Hearing at 16:59-17:25.

⁶⁵ *Id.* at 20:22-20:37.

⁶⁶ Mediation Settlement Agreement, Jones on behalf of Grant, et al. v. Fla. Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.), 2 (Nov. 30, 2018); Special Master Hearing at 4:02:30-4:03:56.

⁶⁷ Special Master hearing at 21:00-21:54.

The respondent did not admit liability or responsibility for the incident but did reach a mediated settlement agreement of \$18,000,000.⁶⁸ As part of the agreement, the respondent agreed to be silent on the claim bill, not support or oppose the bill, and did not present a case or argument at the special master hearing.⁶⁹

Funds Received by Claimants

Pursuant to settlement agreements, claimants have received funds from FHP, the insurer of the tractor-trailer truck, and the insurer of the Mercedes.

Respondent's Payment Pursuant to the Statutory Cap

The claimants received the remaining amount (\$285,000)⁷⁰ of the respondent's statutory limit (\$300,000 per incident) from the Division of Risk Management and seek the remaining balance of the settlement (\$17,715,000) through this claim bill. From payment of the limit, claimants' net proceeds were \$142,999.14, and the following disbursements were made⁷¹:

- Christeia Jones \$49,999.14
- Logan Grant Special Needs Trust (SNT) \$25,000.00
- Denard Maybin, Jr. SNT \$25,000.00
- Lanard Maybin SNT \$50,000.00

Settlement Funds from other Insurance Policies

In addition to the respondent's payment, the children received funds from settlements with insurers of two other vehicles involved in the accident.⁷²

Each of the children recovered funds from the tractor-trailer truck's insurance company, and Ms. Jones recovered a portion of each of those amount, as well. The total recovery from the tractor-trailer truck's insurance company was \$965,984.33. After payment of attorney fees and costs and liens, the distributions were as follows:

- Christeia Jones \$15,000
- Logan Grant SNT \$185,031.80

⁶⁸ Order on Petition for Approval of Personal Injury Settlement of Minors Logan Grant, Denard Maybin, Jr., and Lanard Maybin, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.) (June 24, 2019).

⁶⁹ Mediation Settlement Agreement at 2.

⁷⁰ The first \$15,000 of respondent's limit went to the driver of the tractor-trailer truck. Correspondence from Kenneth McKenna, Attorney for Claimants (Nov. 12, 2019).

⁷¹ Closing Statement, Recovery from FHP (June 27, 2018); see Affidavit of Attorney for Claimants Attorney (Oct. 16, 2019).

⁷² Affidavit of Attorney for Claimants at 2.

- (from total recovery of \$482,992.17)
- Denard Maybin, Jr. SNT \$154,191.15
- (from total recovery of \$386,393.73)
- Lanard Maybin SNT \$41,535.42
- (from total recovery of \$96,598.43)

Claimants recovered \$20,000 from an insurer of the Mercedes traveling behind Ms. Jones that was involved in the incident. From this settlement, proceeds to claimants totaled \$5,644.22, which was distributed as follows:

- Logan Grant SNT \$1,881.41
- Denard Maybin, Jr. SNT \$1,881.41
- Lanard Maybin SNT \$1,881.40

Balance of Each Child's Special Needs Trust

As of fall 2019, the balance of each child's special needs trust is as follows⁷³:

- Logan Grant SNT \$205,368.83
- Denard Maybin, Jr. SNT \$170,415.51
- Lanard Maybin SNT \$80,817.50

Liens

Florida Medicaid had asserted liens on each claimant though HMS/Conduent, which have been paid in full.⁷⁴

WellCare has asserted a lien of \$49,767.42 regarding Logan Grant; \$22,869.40 on Denard Maybin, Jr.; and \$8,485.71 on Lanard Maybin.⁷⁵ Counsel for claimants indicated funds are being held in trust for payment of these liens; however, there is disagreement with regard to how much is to be paid.⁷⁶

CONCLUSIONS OF LAW:

A *de novo* hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Section 768.28, Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all

⁷³ Information is as of September 12, 2019 for all accounts.

⁷⁴ First Updated Affidavit of Attorney for Claimants, 2 (Nov. 12, 2019).

⁷⁵ Affidavit of Attorney for Claimants at 3. Special Master Hearing at 2:50:30-2:54:30.

⁷⁶ First Updated Affidavit of Attorney for Claimants, 3 (Nov. 12, 2019).

claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, the claimants allege negligence on behalf of Trooper Umana. The State is liable for a negligent act committed by an employee acting within the scope of employment. Trooper Umana was operating his patrol vehicle while on duty and was within the scope of his employment with Florida Highway Patrol (a division of the Department of Highway Safety and Motor Vehicles). Therefore, his employer, ultimately the State, is liable for negligent acts committed by him pursuant to the statutory sovereign immunity waiver.

Negligence

There are four elements to a negligence claim: (1) duty—where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach—which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation—where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages—actual harm.⁷⁷

Duty

Statute and case law describe the duty of care placed upon motorists. Florida's statute regarding careless driving provides:

Any person operating a vehicle upon the streets or highways within the state shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section.⁷⁸

Case law provides motorists have a duty to use reasonable care to avoid accidents and injury to themselves and others.⁷⁹ The driver of an automobile, a "dangerous instrumentality," is responsible for maintaining control of the vehicle, commensurate with the setting, and being "prepared to meet

⁷⁷ Williams v. Davis, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

⁷⁸ Section 316.1925(1), Fla. Stat.

⁷⁹ Nelson v. Ziegler, 89 So.2d 780, 783 (Fla. 1956).

the exigencies of an emergency within reason and consistent with reasonable care and caution.”⁸⁰

Breach

The undersigned finds Trooper Umana breached the duties described above when he approached the median too quickly, as he admitted himself, and attempted to turn around in the center median.

Causation

Trooper Umana’s breach of duty in approaching the median too quickly caused him to hit the guardrail and travel into oncoming traffic where he made impact with other vehicles, including the Jones’s Altima. The collision with Trooper Umana’s vehicle pushed the Jones’s vehicle into the path of the tractor-trailer truck traveling in the middle lane. Impact with the tractor-trailer truck caused significant damage to the back of the vehicle and injured the children in the backseat.

Case law provides, when injury results “directly and in ordinary natural sequence from a negligent act without the intervention of any independent efficient cause,” where the sequence “should be regarded as a probable, not a mere possible, result of the negligent act, [the injured person] is entitled to recover damages as compensation.”⁸¹ The undersigned finds it probable, not merely possible, the Jones’s vehicle would be hit by another vehicle after being hit by Trooper Umana’s vehicle on a three-lane highway. The damages sustained by the Joneses are the natural result of the sequence of events set in motion by Trooper Umana.

Damages

As a result of the collision, doctors indicated all three children suffered traumatic brain injuries as well as the medical injuries previously described in this report. The total amount of damages provided by claimant’s economic analyst is \$19,474,251–\$22,234,799.

As noted previously, the doctor examining the children for the respondent does not believe Denard will require live-in assistance. If Denard does not require live-in care after the age of 21, the economic loss for him may be significantly

⁸⁰ Nelson, 89 So.2d at 783.

⁸¹ Loftin et al. v. McCrainie, 47 So.2d 298, 301 (Fla. 1950).

reduced. However, claimants' experts provide Denard will need such care and have calculated live-in care into the economic loss analysis. Given the claimants' submissions from various experts collaborating to create the life care plan, the undersigned finds the preponderance of evidence demonstrates Denard's estimated future need of live-in care should remain in the calculation.

Respondent and claimants agreed a jury could have awarded \$18,000,000 to the children and settled for that amount—which is less than the calculations provided by the economic analyses.

Comparative Negligence

Comparative negligence “involves the apportionment of the loss among those whose fault contributed to the occurrence” and a claimant cannot recover damages for the percentage of fault for which she is liable.⁸²

Ms. Jones

In this matter, Ms. Jones was exceeding the speed limit by traveling at 88 miles per hour on a highway with a 70 mile per hour speed limit; and two of the children were unbuckled when emergency responders found them.

With regard to Ms. Jones's speed, claimants' counsel did not provide argument of negligence on behalf of Ms. Jones for which damages apportioned to the respondent should be reduced, and respondent remained silent pursuant to the settlement agreement. The data recorder clearly provides evidence Ms. Jones had breached her duty to drive the speed limit. However, information was not provided demonstrating her speed specifically contributed to the causation of the damages suffered.

With regard to seatbelts, “a claim that a plaintiff failed to wear a seat belt and that such failure was a contributing cause of plaintiff's damages should be raised as an affirmative defense of comparative negligence.”⁸³ Testimony and information (provided by Ms. Jones and her grandmother) was consistent that Ms. Jones had buckled her three children, as well as herself, before she started

⁸² Hoffman v. Jones, 280 So.2d 431, 436 (Fla. 1973).

⁸³ Ridely v. Safety Kleen Corp., 693 So.2d 934, 935 (Fla. 1996).

driving. Ms. Jones also indicated she did not have knowledge of the children unbuckling themselves; however, Lenard and Denard were both found unbuckled by first responders. Regardless of how the children were unbuckled, a comparative negligence defense would also require demonstration that the breach of a duty contributed to the damages sustained. Here, counsel for claimants argued if Lenard and Denard were unbuckled—it may have saved their lives.

Given the information she had buckled the children before driving; did not have knowledge of the children unbuckling themselves if or when they did; the argument they would have sustained greater injuries if they remained restrained to the back seat which had extensive crush damage (thereby more than likely not contributing to damages); and no argument from respondent with regard to a comparative negligence defense—no contributory⁸⁴ negligence has been demonstrated.

Driver of the Tractor-Trailer Truck

Similarly, although counsel for claimants mentioned there may have been issues explored with regard to the driver of the tractor-trailer truck (potentially exceeding hours he was allowed to work and a trooper noting the driver may have been speeding) there was no demonstration of the elements required to find comparative negligence on behalf of the tractor-trailer truck driver. The only information provided regarding hours of driving was in the FHP report, which indicated five violations in eight days but stated “these violations alone are not likely to cause a fatigue factor.”⁸⁵ General information regarding speed of the truck indicates the driver recalled traveling at 65 miles per hour at the time of the incident and that the truck was traveling between 60 and 80 miles per hour 69% of the time.

Ms. Jones’s vehicle sustained the most significant damage from impact with the tractor-trailer truck. If more information were available regarding potential comparative negligence on behalf of the truck driver, it is possible the respondent’s responsibility for damages would be reduced; however,

⁸⁴ See Section 768.81(2), Fla. Stat., describing contributory fault and its effect as “fault chargeable to the claimant [which] diminishes proportionately the amount awarded as economic and noneconomic damages for an injury attributable to the claimant’s contributory fault, but does not bar recovery.”

⁸⁵ FHP Report at 15.

further information to find comparative negligence on behalf of the tractor-trailer truck driver was not presented by claimants and the respondent remained silent but acknowledged such issues of comparative negligence had been explored.

ATTORNEY FEES:

Language in the bill states attorney fees may not exceed 25 percent of the amount awarded. Counsel for the claimants indicated attorney fees will be 20 percent, and lobbying fees will amount to 5 percent, of the total funds awarded through the claim bill.⁸⁶

RECOMMENDATIONS:

Recommended Amendment(s)

Although the settlement agreement resolved Christeia Jones claims, as well as claims on behalf of her three boys, Ms. Jones is not seeking relief in an individual capacity through this claim bill.⁸⁷

Therefore, the undersigned recommends removing references in the bill identifying Ms. Jones as a claimant, or providing relief to her; or, replacing such portions with clarifying language providing the funds to the special needs trusts of Logan Grant, Denard Maybin, Jr., and Lanard Maybin, which are handled by Ms. Ashley Gonnelli of Guardian Trust Foundation, Inc.⁸⁸

Recommendation on the Merits

The undersigned did not have the benefit of hearing argument from both parties due to the settlement agreement requiring the respondent to remain silent on the claim bill and not support or oppose the bill.⁸⁹ Therefore, the above facts, conclusions of law, and recommendations are the result of argument and information provided by counsel for the claimants.

Based upon the information provided before, during, and after the special master hearing, the undersigned finds claimants have demonstrated negligence on behalf of the

⁸⁶ Affidavit of Attorney for Claimants at 2 (noting outstanding costs of \$15,603.17 with regard to representation of the claimants).

⁸⁷ Affidavit of Attorney for Claimants, 1 (Oct. 16, 2019).

⁸⁸ E-mail Correspondence from Mr. Daniel Smith, Attorney for Claimants (Jan. 16, 2020).

⁸⁹ Special Master Hearing at 22:13-22:18.

respondent and the amount sought is reasonable when compared to analyses provided by claimants' economist.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

By Senator Simmons

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1 A bill to be entitled

2 An act for the relief of Christeia Jones, guardian of
3 Logan Grant, Denard Maybin, Jr., and Lanard Maybin;
4 providing an appropriation to compensate them for
5 injuries and damages sustained as a result of the
6 alleged negligence of Trooper Raul Umana and the
7 Florida Highway Patrol, a division of the Department
8 of Highway Safety and Motor Vehicles; providing that
9 certain payments and the appropriation satisfy all
10 present and future claims related to the alleged acts;
11 providing a limitation on the payment of attorney
12 fees; providing an effective date.

13
14 WHEREAS, shortly before 9:25 p.m. on May 18, 2014, Florida
15 Highway Patrol Trooper Raul Umana attempted to cross through a
16 gap in the median onto the southbound lanes of I-75, south of
17 Ocala, and

18 WHEREAS, Trooper Umana misjudged the turn and his vehicle
19 struck the concrete barrier before shooting out into the
20 southbound lane and striking a car driven by Christeia Jones,
21 and

22 WHEREAS, Christeia Jones was transporting her minor sons,
23 2-year-old Logan Grant, who was secured in a forward-facing
24 infant seat, 7-year-old Denard Maybin, Jr., and 5-year-old
25 Lanard Maybin, in the backseat of the car, and

26 WHEREAS, after being struck by Trooper Umana's vehicle,
27 Christeia Jones's car was struck in the rear by a tractor
28 trailer, and

29 WHEREAS, the impact crushed the trunk and rear seating area

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30 of the car, and

31 WHEREAS, the car was propelled off the road, where it
32 struck a tree and caught fire, and

33 WHEREAS, all three children were transported by helicopter
34 to the University of Florida Health Shands Hospital in
35 Gainesville, and

36 WHEREAS, at the hospital, Logan Grant was diagnosed with a
37 severe traumatic brain injury, extensive facial fractures,
38 pulmonary edema, and respiratory failure, and

39 WHEREAS, Logan Grant remained in the hospital for a month
40 before he was discharged to Brooks Rehabilitation Hospital in
41 Jacksonville for 2 weeks of brain injury rehabilitation, and

42 WHEREAS, Logan Grant continues to receive speech therapy
43 weekly and struggles with expressive and receptive language, and

44 WHEREAS, Logan Grant also exhibits left-side body weakness
45 and behavioral difficulties, and

46 WHEREAS, Logan Grant's past medical bills exceed \$310,000,
47 and Medicaid has asserted a lien of \$135,161.64, and

48 WHEREAS, pediatric physical medicine and rehabilitation
49 specialist Dr. Paul Kornberg has examined Logan Grant and has
50 observed ongoing left hemiparesis with motor, perceptual,
51 communicative, cognitive, and behavioral impairments of a
52 permanent nature which will prevent him from achieving gainful
53 employment, and

54 WHEREAS, Dr. Kornberg reported that Logan Grant is at a
55 high risk for developing seizures in the future, requires
56 ongoing bracing of his left ankle to improve gait, is
57 anticipated to require a scooter for long-distance mobility by
58 the age of 30, is likely to require invasive treatment or

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59 orthopedic surgery in the form of left heel-cord lengthening in
60 the future, and is expected to be unable to live alone as an
61 adult, necessitating guardianship and attendant care, and

62 WHEREAS, Dr. Michael Shahnasarian has estimated Logan
63 Grant's future medical and palliative care needs to be
64 \$6,702,555, and his loss of earning capacity over his lifetime
65 to be between \$1,543,014 and \$2,810,754, and

66 WHEREAS, Lanard Maybin arrived at Shands Hospital with a
67 Glasgow Coma Scale of 7, a head injury, a facial laceration, and
68 a shoulder injury that required surgery, and

69 WHEREAS, a plastic surgeon repaired Lanard Maybin's facial
70 laceration during his stay in the pediatric intensive care unit
71 before he was discharged from the hospital on May 22, 2014, and

72 WHEREAS, since the accident, Lanard Maybin has experienced
73 night terrors, changes in behavior and temperament, and has
74 gained significant weight, and

75 WHEREAS, in early 2019, Dr. Patrick Gorman evaluated Lanard
76 Maybin and diagnosed him as having posttraumatic stress disorder
77 and significant neurocognitive difficulties secondary to
78 traumatic brain injury, and

79 WHEREAS, Lanard Maybin's past medical bills amount to
80 \$35,584.16, and Medicaid has asserted a lien in the amount of
81 \$22,525.66, and

82 WHEREAS, at Shands Hospital, Denard Maybin, Jr., was
83 intubated, was put on mechanical ventilation for a day, and was
84 diagnosed with a severe traumatic brain injury and a
85 subcutaneous soft tissue scalp laceration that required surgery,
86 and

87 WHEREAS, Denard Maybin, Jr., remained hospitalized for 2

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88 weeks before he was transferred to Brooks Rehabilitation Center
89 in Jacksonville for acute inpatient rehabilitation, and

90 WHEREAS, the rehabilitation center noted that Denard
91 Maybin, Jr., had significant cognitive deficits as well as
92 impulsivity and behavioral changes, and

93 WHEREAS, Denard Maybin, Jr., continues to receive
94 occupational therapy, physical therapy, and speech therapy, and

95 WHEREAS, Denard Maybin, Jr.,'s past medical bills exceed
96 \$175,000, and Medicaid has asserted a lien of \$96,833.99, and

97 WHEREAS, specialist Dr. Paul Kornberg has diagnosed Denard
98 Maybin, Jr., with permanent impairment that will prevent him
99 from achieving gainful employment, and

100 WHEREAS, Dr. Kornberg reported that Denard Maybin, Jr., is
101 at a high risk for developing seizures in the future and that he
102 is expected to be unable to live alone as an adult,
103 necessitating guardianship and attendant care, and

104 WHEREAS, Dr. Michael Shahnasarian has estimated Denard
105 Maybin, Jr.,'s future medical and palliative care needs to be
106 \$5,773,129, and his loss of earning capacity over his lifetime
107 to be between \$1,568,817 and \$2,858,577, and

108 WHEREAS, Christeia Jones, as parent and natural guardian of
109 Logan Grant, Denard Maybin, Jr., and Lanard Maybin, through a
110 lawsuit filed in Orange County under case number 2017-CA-00732-
111 O, alleged that the negligence of the Florida Highway Patrol,
112 through its trooper, was the proximate cause of serious injuries
113 to her minor sons, and

114 WHEREAS, Christeia Jones, through a separate lawsuit filed
115 in Orange County under case number 2018-CA-004258-O, alleged
116 that the negligence of the Florida Highway Patrol, through its

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117 trooper, was the proximate cause of her injuries, and

118 WHEREAS, on November 30, 2018, in case number 2017-CA-
119 00732-O, Christeia Jones and the Florida Highway Patrol entered
120 into a settlement agreement regarding the claims of Ms. Jones
121 and her minor sons which arose out of the accident described in
122 this act, including the claims under case number 2018-CA-004258-
123 O, which are to be dismissed with prejudice, and

124 WHEREAS, Christeia Jones and the Florida Highway Patrol
125 acknowledged that if the case had gone to trial, a jury could
126 reasonably have awarded damages to Ms. Jones in the amount of
127 \$18 million, and

128 WHEREAS, the settlement agreement requires the Division of
129 Risk Management of the Department of Financial Services to pay
130 \$285,000 to Christeia Jones in accordance with the statutory
131 limits of liability set forth in s. 768.28, Florida Statutes,
132 and

133 WHEREAS, Christeia Jones seeks satisfaction of the
134 remaining balance of the settlement agreement, which is \$17.715
135 million, NOW, THEREFORE,

136
137 Be It Enacted by the Legislature of the State of Florida:

138
139 Section 1. The facts stated in the preamble to this act are
140 found and declared to be true.

141 Section 2. The sum of \$17.715 million is appropriated from
142 the General Revenue Fund to the Department of Highway Safety and
143 Motor Vehicles for the relief of Christeia Jones as compensation
144 for injuries and damages sustained by her and her minor sons,
145 Logan Grant, Denard Maybin, Jr., and Lanard Maybin.

9-00219-20

202016__

146 Section 3. The Chief Financial Officer is directed to draw
147 a warrant in favor of Christeia Jones in the sum of \$17.715
148 million, minus payments required to satisfy outstanding Medicaid
149 liens relating to the medical expenses and care of her and her
150 minor sons, Logan Grant, Denard Maybin, Jr., and Lanard Maybin,
151 upon funds of the Department of Highway Safety and Motor
152 Vehicles in the State Treasury and to pay the same out of such
153 funds in the State Treasury.

154 Section 4. The amount paid by the Division of Risk
155 Management of the Department of Financial Services in accordance
156 with the statutory limits of liability set forth in s. 768.28,
157 Florida Statutes, and the amount awarded under this act are
158 intended to provide the sole compensation for all present and
159 future claims arising out of the factual situation described in
160 this act which resulted in damages sustained by Christeia Jones
161 and her minor sons, Logan Grant, Denard Maybin, Jr., and Lanard
162 Maybin. The total amount paid for attorney fees relating to this
163 claim may not exceed 25 percent of the amount awarded under this
164 act.

165 Section 5. This act shall take effect July 1, 2020.

S00016
CLAIM/GENERAL by Simmons; (Similar CS/H 06517)
Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor
Vehicles. CLAIM WITH APPROPRIATION: \$17,715,000. EFFECTIVE DATE: 07/01/2020.
02/06/20 S Report Submitted by Special Master on Claim Bills -SJ 239 ; Now in Judiciary; On Committee
agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building --Not Considered

THE FLORIDA SENATE

APPEARANCE RECORD

2/11/2020
Meeting Date

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

SB 16
Bill Number (if applicable)

Topic Relief of Jones

Amendment Barcode (if applicable)

Name Kenneth McKenna

Job Title Attorney for Claimants

Address 719 Vassar St.
Street

Phone 407 2443000

Orlando FL 32804
City State Zip

Email KMCKENNA@DWKCAV.COM

Speaking: For Against Information

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

Representing CLAIMANTS

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 Judiciary

BILL: CS/CS/SB 1286

INTRODUCER: Judiciary Committee, Criminal Justice Committee, and Senator Simmons

SUBJECT: Contraband in Specified Facilities

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1286 revises the list items that are contraband on the grounds of state correctional institutions, county detention facilities, juvenile detention facilities, juvenile commitment programs, and facilities operated by the Department of Children and Families (DCF), and the Agency for Persons with Disabilities (APD).

With respect to all facilities, the category of contraband for controlled substances is revised to expressly include medical marijuana, hemp, and industrial hemp. Moreover, for all facilities, the bill adds vapor-generating electronic devices to the list of contraband items. With respect to facilities operated by APD or DCF, the bill adds cellular telephones and other portable communications devices to the list of contraband items.

As a controlled substance, the introduction of medical marijuana, hemp, or industrial hemp on the grounds of a secure facility is a third degree felony. The intentional and unlawful introduction of a cellular telephone or portable communications device inside the secure perimeter of a DCF or APD facility is a third degree misdemeanor. Finally, it is a first degree misdemeanor to intentionally and unlawfully introduce a vapor-generating electronic device into the secure perimeter of any facility.

The bill ranks the introduction of a firearm or deadly weapon, or a controlled substance, into any of the above listed facilities as a level 4 offense.

The Criminal Justice Impact Conference estimates the House companion to this bill, which is substantively similar, will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). The Legislature’s Office of Economic and Demographic Research preliminarily estimate of this bill is the same as the House companion bill. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2020.

II. Present Situation:

Introduction of contraband is prohibited from certain government operated facilities. Specifically, Florida law prohibits the introduction of contraband into state correctional institutions, county detention facilities, juvenile detention and commitment programs, and facilities operated by the DCF or the APD.¹

Introduction of Contraband at State Correctional Institutions (State Prisons)

Section 944.47, F.S., provides that it is a third degree felony² to introduce into or on the grounds of a state correctional facility, any of the following items:

- Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate.
- Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate.
- Any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution without prior authorization or consent from the officer in charge of such correctional institution.³

A portable communication device is defined under this section as any device carried, worn, or stored which is designed or intended to receive or transmit verbal or written messages, access or store data, or connect electronically to the internet or any other electronic device and which allows communication in any form. Such devices include, but are not limited to, portable two-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDA’s, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the department for investigative or institutional security purposes or for conducting other state business.⁴

Additionally, it is a second degree felony⁵ for a person to introduce into or on the grounds of a state correctional facility, any of the following items:

¹ Sections 916.1085, 944.47, 951.22, and 985.711, F.S.

² A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

³ Section 944.47(1)(a)1., 2., and 6., F.S.

⁴ Section 944.47(1)(a)6., F.S.

⁵ A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

- Any intoxicating beverage or beverage which causes or may cause an intoxicating effect.
- Any controlled substance as defined in s. 893.02(4), F.S., or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.
- Any firearm or weapon of any kind or any explosive substance.⁶

Introduction of Contraband at County Detention Facilities (County Jails)

Section 951.22, F.S., provides that it is a first degree misdemeanor⁷ to introduce into or on the grounds of a county detention facility, any of the following items:

- Any written or recorded communication.⁸
- Any currency or coin.
- Any article of food or clothing.
- Any tobacco products.
- Any cigarette.
- Any cigar.
- Any intoxicating beverage or beverage that causes or may cause an intoxicating effect.⁹

Additionally, it is a third degree felony to introduce into or on the grounds of a county detention facility, one of the following items:

- Any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4), F.S.
- Any firearm or any instrumentality commonly used or intended to be a dangerous weapon.
- Any instrumentality of any nature which may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.
- Any cellular telephone or other portable communication device¹⁰ as described in s. 944.47(1)(a)6., F.S.¹¹

Introduction of Contraband at Juvenile Detention Facilities and Juvenile Commitment Programs

Section 985.711, F.S., provides that it is a third degree felony to introduce into or on the grounds of a juvenile detention facility or a juvenile commitment program, any unauthorized food or clothing.¹²

⁶ Section 944.47(1)(a)3.-5., F.S.

⁷ A first degree misdemeanor is punishable by up to a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

⁸ This does not apply to any document or correspondence exchanged between a lawyer, paralegal, or other legal staff and an inmate at a detention facility if the document or correspondence is otherwise lawfully possessed and disseminated and relates to the legal representation of the inmate. Section 951.22(1)(a), F.S.

⁹ Sections 951.22(1)(a)-(g), F.S.

¹⁰ This does not include any device which has been approved or issued by the sheriff or officer in charge for investigative or institutional security purposes or for conducting official business.

¹¹ Sections 951.22(1)(h)-(k), F.S.

¹² Sections 985.711(1)(a)1., F.S.

Additionally, it is a second degree felony to introduce into or on the grounds of a juvenile detention facility or juvenile commitment program, any of the following items:

- Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
- Any controlled substance as defined in s. 893.02(4), F.S., or any prescription or non-prescription drug that has a hypnotic, stimulating, or depressing effect.
- Any firearm or weapon of any kind or any explosive substance.¹³

Introduction of Contraband at the DCF and the APD Facilities

The DCF and the APD supervise certain criminal defendants who have been found incompetent to proceed or not guilty by reason of insanity.

Section 916.1085, F.S., provides that it is a third degree felony to introduce into or on the grounds of any facility under the supervision or control of the DCF or the APD, any of the following items:

- Any controlled substance as defined in ch. 893, F.S.
- Any firearm or deadly weapon.¹⁴

Additionally, intoxicating beverages or any item determined by the DCF or the APD to be hazardous to the welfare of clients or the operation of the facility are considered contraband.¹⁵ However, a violation of these items is not a criminal offense.

Florida's Controlled Substance Schedules

Section 893.02(4), F.S., defines controlled substance as any substance named or described in Schedules I-V of s. 893.03, F.S. Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”¹⁶ of the substance and whether there is a currently accepted medical use for the substance.

Cannabis, Medical Marijuana, and Hemp

State correctional facilities, county detention facilities, juvenile detention and commitment programs, and facilities operated by the DCF and the APD currently prohibit any controlled substance as defined in ch. 893, F.S., including cannabis.

Section 893.02(3), F.S., defines cannabis as all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

¹³ Section 985.711(1)(a)2.-4., F.S.

¹⁴ Section 916.1085(1)(a), F.S.

¹⁵ Section 916.1085(1)(a), F.S.

¹⁶ Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

Cannabis is prohibited contraband. However, recent changes made by the Legislature make prosecution of cannabis contraband offenses difficult. In 2014, the Legislature amended s. 893.02(3), F.S., to exclude medical marijuana as defined under s. 381.986, F.S.¹⁷ Similarly, in 2019, the Legislature exempted hemp as defined in s. 581.217, F.S., and industrial hemp as defined in s. 1004.4473, F.S., from the definition of cannabis under s. 893.02(3), F.S.¹⁸

Section 381.986(1)(f), F.S., defines marijuana as all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

Section 581.217(3)(d), F.S., defines hemp as the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

Section 1004.4473(1)(c), F.S., defines industrial hemp as all parts and varieties of the *Cannabis sativa* plant, cultivated or possessed by an approved grower under the pilot project, whether growing or not, which contain a tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

Vaping

During the 2019 Legislative Session, CS/SB 7012¹⁹ was adopted, to implement Amendment 9 to the State Constitution, 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.

“Vape” or “vaping” means to inhale or exhale vapor²⁰ produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.²¹

A “vapor-generating electronic device” is any product that employs an electronic, a chemical, or a 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 a solution or other substance intended to be used with or

¹⁷ Chapter 2014-157, L.O.F.

¹⁸ Chapter 2019-132, L.O.F.

¹⁹ See ch. 2019-14, L.O.F. This legislation was approved by the Governor and took effect July 1, 2019.

²⁰ “Vapor” means aerosolized or vaporized nicotine or other aerosolized or vaporized substance produced by a vapor-generating electronic device or exhaled by the person using such a device. Section 386.202(14), F.S.

²¹ Section 386.203(13), F.S.

within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.²²

Criminal Punishment Code

The Criminal Punishment Code²³ (Code) is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.²⁴ Absent mitigation,²⁵ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.²⁶

Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Currently, a felony of the third degree is ranked as a level 1 offense.²⁷

III. Effect of Proposed Changes:

Introduction of Contraband

The bill revises the list items that are contraband on the grounds of state correctional institutions, county detention facilities, juvenile detention facilities, juvenile commitment programs, and facilities operated by the Department of Children and Families (DCF), and the Agency for Persons with Disabilities (APD).

²² Section 386.203(15), F.S. Electronic nicotine delivery systems (ENDS) are “noncombustible tobacco products.” “These products use an ‘e-liquid’ that may contain nicotine, as well as varying compositions of flavorings, propylene glycol, vegetable glycerin, and other ingredients. The liquid is heated to create an aerosol that the user inhales.” “ENDS may be manufactured to look like conventional cigarettes, cigars, or pipes. Some resemble pens or USB flash drives. Larger devices, such as tank systems or mods, bear little or no resemblance to cigarettes.” *Vaporizers, E-Cigarettes, and other Electronic Nicotine Delivery Systems (ENDS)*, U.S. Food and Drug Administration, available at <https://www.fda.gov/tobacco-products/products-ingredients-components/vaporizers-e-cigarettes-and-other-electronic-nicotine-delivery-systems-ends> (last visited January 15, 2020).

²³ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

²⁴ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

²⁵ The court may “mitigate” or “depart downward” from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

²⁶ If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

²⁷ Section 921.0023(1), F.S.

With respect to all facilities, the category of contraband for controlled substances is revised to expressly include medical marijuana, hemp, and industrial hemp. Moreover, for all facilities, the bill adds vapor-generating electronic devices to the list of contraband items. With respect to facilities operated by APD or DCF, the bill adds cellular telephones and other portable communications devices to the list of contraband items.

As a controlled substance, the introduction of medical marijuana, hemp, or industrial hemp on the grounds of a secure facility is a third degree felony. The intentional and unlawful introduction of a cellular telephone or portable communications device inside the secure perimeter of a DCF or APD facility is a third degree misdemeanor. Finally, it is a first degree misdemeanor to intentionally and unlawfully introduce a vapor-generating electronic device into the secure perimeter of any facility.

Criminal Punishment Code

Additionally, this bill amends the Criminal Punishment Code Offense Severity Ranking Chart by ranking the previously unranked offense of introducing a firearm or deadly weapon, or a controlled substance into a facility operated or controlled by the DCF or the APD, as a level 4 offense. Currently this offense is an unranked third degree felony which means it has the “least severe” level 1 offense ranking for sentencing scores.

This bill is effective October 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:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates the House companion (HB 745) to this bill, which is substantively similar, will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).²⁸

Similarly, the Legislature’s Office of Economic and Demographic Research (EDR) preliminarily estimate for this bill is the same as the House companion bill.²⁹

The EDR provides the following information relevant to its preliminary estimate:

Per [Department of Corrections], in FY 18-19, there were 11 new commitments for introducing a controlled substance into a state prison and 132 new commitments for introducing contraband into a county detention facility (type of contraband not defined). There were no commitments for introduction of controlled substances into a DCF or DJJ facility. It is not known how the recent changes to marijuana law impacted contraband offenses prior to this amended language.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 916.1085, 944.47, 951.22, 985.711, and 921.0022.

²⁸ The CJIC meeting at which the House companion bill estimate was made occurred during a meeting of the Criminal Justice Estimating Conference on January 27, 2020. The meeting is available on video on the Florida Channel at <https://thefloridachannel.org/videos/1-27-20-criminal-justice-estimating-conference/> (last visited January 29, 2020).

²⁹ The EDR’s preliminary estimate is on file with the Senate Committee on Criminal Justice.

³⁰ *Id.*

IX. Additional Information:

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

CS/CS by Judiciary on February 11, 2020:

The committee substitute provides that a person is subject to punishment for certain offenses relating to contraband only if those offenses occur in intentional and unlawful manner.

CS by Criminal Justice on January 28, 2020:

The committee substitute changes the language of the statutes so that items are only considered contraband if they are brought into the “secure perimeter” of any facility.

Intoxicating beverages and other items deemed contraband by the DCF and the APD are prohibited in facilities controlled or supervised by those agencies. The committee substitute provides a person who introduces an intoxicating beverage or another item deemed contraband by the DCF or the APD into a facility controlled or supervised by the DCF or the APD commits a first degree misdemeanor.

Additionally, this committee substitute removes the full definition of cannabis and provides the appropriate cross reference to the term. Similarly, the full definition of vapor-generating electronic device is removed, and provides the appropriate cross reference to that term.

- B. **Amendments:**

None.



274472

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 40 - 211

and insert:

to introduce into or upon the grounds of any facility under the supervision or control of the department or agency, or to take or attempt to take or send therefrom, any of the following articles, which are declared to be contraband for the purposes of this section:

1. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect;



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12 2. Any controlled substance as defined in chapter 893,
13 marijuana as defined in s. 381.986, hemp as defined in s.
14 581.217, and industrial hemp as defined in s. 1004.4473;

15 3. Any firearm or deadly weapon; ~~or~~

16 4. Any cellular telephone or other portable communication
17 device as described in s. 944.47(1)(a)6., intentionally and
18 unlawfully introduced inside the secure perimeter of any
19 facility under the operation and control of the department or
20 agency. As used in this subparagraph, the term "portable
21 communication device" does not include any device that has
22 communication capabilities which has been approved or issued by
23 the person in charge of the facility;

24 5. Any vapor-generating electronic device as defined in s.
25 386.203, intentionally and unlawfully introduced inside the
26 secure perimeter of any facility under the operation and control
27 of the department or agency; or

28 ~~6.4.~~ Any other item as determined by the department or the
29 agency, and as designated by rule or by written institutional
30 policies, to be hazardous to the welfare of clients or the
31 operation of the facility.

32 (2)

33 (c)1. A person who violates any provision of subparagraph
34 (1)(a)2. or subparagraph (1)(a)3. commits a felony of the third
35 degree, punishable as provided in s. 775.082, s. 775.083, or s.
36 775.084.

37 2. A person who violates any provision of subparagraph
38 (1)(a)1., subparagraph (1)(a)4., subparagraph (1)(a)5., or
39 subparagraph (1)(a)6. commits a misdemeanor of the first degree,
40 punishable as provided in s. 775.082 or s. 775.083.



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41 Section 2. Paragraph (a) of subsection (1) and paragraph
42 (a) of subsection (2) of section 944.47, Florida Statutes, are
43 amended to read:

44 944.47 Introduction, removal, or possession of contraband;
45 penalty.-

46 (1) (a) Except through regular channels as authorized by the
47 officer in charge of the correctional institution, it is
48 unlawful to introduce into or upon the grounds of any state
49 correctional institution, or to take or attempt to take or send
50 or attempt to send therefrom, any of the following articles
51 which are hereby declared to be contraband for the purposes of
52 this section, to wit:

53 1. Any written or recorded communication or any currency or
54 coin given or transmitted, or intended to be given or
55 transmitted, to any inmate of any state correctional
56 institution.

57 2. Any article of food or clothing given or transmitted, or
58 intended to be given or transmitted, to any inmate of any state
59 correctional institution.

60 3. Any intoxicating beverage or beverage which causes or
61 may cause an intoxicating effect.

62 4. Any controlled substance as defined in s. 893.02(4),
63 marijuana as defined in s. 381.986, hemp as defined in s.
64 581.217, industrial hemp as defined in s. 1004.4473, or any
65 prescription or nonprescription drug having a hypnotic,
66 stimulating, or depressing effect.

67 5. Any firearm or weapon of any kind or any explosive
68 substance.

69 6. Any cellular telephone or other portable communication



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70 device intentionally and unlawfully introduced inside the secure
71 perimeter of any state correctional institution without prior
72 authorization or consent from the officer in charge of such
73 correctional institution. As used in this subparagraph, the term
74 "portable communication device" means any device carried, worn,
75 or stored which is designed or intended to receive or transmit
76 verbal or written messages, access or store data, or connect
77 electronically to the Internet or any other electronic device
78 and which allows communications in any form. Such devices
79 include, but are not limited to, portable two-way pagers, hand-
80 held radios, cellular telephones, Blackberry-type devices,
81 personal digital assistants or PDA's, laptop computers, or any
82 components of these devices which are intended to be used to
83 assemble such devices. The term also includes any new technology
84 that is developed for similar purposes. Excluded from this
85 definition is any device having communication capabilities which
86 has been approved or issued by the department for investigative
87 or institutional security purposes or for conducting other state
88 business.

89 7. Any vapor-generating electronic device as defined in s.
90 386.203, intentionally and unlawfully introduced inside the
91 secure perimeter of any state correctional institution.

92 (2) (a) A person who violates this section as it pertains to
93 an article of contraband described in subparagraph (1) (a)1.,
94 subparagraph (1) (a)2., or subparagraph (1) (a)6. commits a felony
95 of the third degree, punishable as provided in s. 775.082, s.
96 775.083, or s. 775.084. A person who violates this section as it
97 pertains to an article of contraband described in subparagraph
98 (1) (a)7. commits a misdemeanor of the first degree, punishable



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99 as provided in s. 775.082 or s. 775.083. Otherwise, a violation
100 of this section is a felony of the second degree, punishable as
101 provided in s. 775.082, s. 775.083, or s. 775.084.

102 Section 3. Subsection (1) and (2) of section 951.22,
103 Florida Statutes, are amended to read:

104 951.22 County detention facilities; contraband articles.—

105 (1) It is unlawful, except through regular channels as duly
106 authorized by the sheriff or officer in charge, to introduce
107 into or possess upon the grounds of any county detention
108 facility as defined in s. 951.23 or to give to or receive from
109 any inmate of any such facility wherever said inmate is located
110 at the time or to take or to attempt to take or send therefrom
111 any of the following articles, which are contraband:

112 (a) Any written or recorded communication. This paragraph
113 does not apply to any document or correspondence exchanged
114 between a lawyer, paralegal, or other legal staff and an inmate
115 at a detention facility if the document or correspondence is
116 otherwise lawfully possessed and disseminated and relates to the
117 legal representation of the inmate.

118 (b) Any currency or coin.

119 (c) Any article of food or clothing.

120 (d) Any tobacco products as defined in s. 210.25(12).

121 (e) Any cigarette as defined in s. 210.01(1).

122 (f) Any cigar.

123 (g) Any intoxicating beverage or beverage that causes or
124 may cause an intoxicating effect.

125 (h) Any narcotic, hypnotic, or excitative drug or drug of
126 any kind or nature, including nasal inhalators, sleeping pills,
127 barbiturates, marijuana as defined in s. 381.986, hemp as



274472

128 defined in s. 581.217, industrial hemp as defined in s.
129 1004.4473, and controlled substances as defined in s. 893.02(4).

130 (i) Any firearm or any instrumentality customarily used or
131 which is intended to be used as a dangerous weapon.

132 (j) Any instrumentality of any nature which may be or is
133 intended to be used as an aid in effecting or attempting to
134 effect an escape from a county facility.

135 (k) Any cellular telephone or other portable communication
136 device as described in s. 944.47(1)(a)6., intentionally and
137 unlawfully introduced inside the secure perimeter of any county
138 detention facility. The term does not include any device that
139 has communication capabilities which has been approved or issued
140 by the sheriff or officer in charge for investigative or
141 institutional security purposes or for conducting other official
142 business.

143 (l) Any vapor-generating electronic device as defined in s.
144 386.203, intentionally and unlawfully introduced inside the
145 secure perimeter of any county detention facility.

146 (2) A person who violates paragraph (1)(a), paragraph
147 (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e),
148 paragraph (1)(f), ~~or~~ paragraph (1)(g), or paragraph (1)(l)
149 commits a misdemeanor of the first degree, punishable as
150 provided in s. 775.082 or s. 775.083. A person who violates
151 paragraph (1)(h), paragraph (1)(i), paragraph (1)(j), or
152 paragraph (1)(k) commits a felony of the third degree,
153 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

154 Section 4. Paragraph (a) of subsection (1) and subsection
155 (2) of section 985.711, Florida Statutes, are amended to read:

156 985.711 Introduction, removal, or possession of certain



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157 articles unlawful; penalty.-

158 (1) (a) Except as authorized through program policy or
159 operating procedure or as authorized by the facility
160 superintendent, program director, or manager, a person may not
161 introduce into or upon the grounds of a juvenile detention
162 facility or commitment program, or take or send, or attempt to
163 take or send, from a juvenile detention facility or commitment
164 program, any of the following articles, which are declared to be
165 contraband under this section:

166 1. Any unauthorized article of food or clothing.

167 2. Any intoxicating beverage or any beverage that causes or
168 may cause an intoxicating effect.

169 3. Any controlled substance, as defined in s. 893.02(4),
170 marijuana as defined in s. 381.986, hemp as defined in s.
171 581.217, and industrial hemp as defined in s. 1004.4473; ~~or~~ any
172 prescription or nonprescription drug that has a hypnotic,
173 stimulating, or depressing effect.

174 4. Any firearm or weapon of any kind or any explosive
175 substance.

176 5. Any cellular telephone or other portable communication
177 device as described in s. 944.47(1)(a)6., intentionally and
178 unlawfully introduced inside the secure perimeter of any
179 juvenile detention facility or commitment program. As used in
180 this subparagraph, the term "portable communication device" does
181 not include any device that has communication capabilities which
182 has been approved or issued by the facility superintendent,
183 program director, or manager.

184 6. Any vapor-generating electronic device as defined in s.
185 386.203, intentionally and unlawfully introduced inside the



274472

186 secure perimeter of any juvenile detention facility or
187 commitment program.

188
189

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

191 And the title is amended as follows:

192 Delete lines 7 - 23

193 and insert:

194 inside specified facilities of the Department of
195 Children and Families or of the Agency for Persons
196 with Disabilities; providing criminal penalties;
197 amending s. 944.47; prohibiting the introduction of
198 certain cannabis related substances and vapor-
199 generating electronic devices inside a state
200 correctional institution; providing criminal
201 penalties; amending s. 951.22, F.S.; prohibiting the
202 introduction of certain cannabis related substances
203 and vapor-generating electronic devices inside a
204 county detention facility; providing criminal
205 penalties; amending s. 985.711, F.S.; prohibiting the
206 introduction of certain cannabis related substances,
207 cellular telephones and other portable communication
208 devices, and vapor-generating electronic devices
209 inside specified juvenile

By the Committee on Criminal Justice; and Senator Simmons

591-02738-20

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1 A bill to be entitled
2 An act relating to contraband in specified facilities;
3 amending s. 916.1085, F.S.; prohibiting the
4 introduction of certain cannabis related substances,
5 cellular telephones and other portable communication
6 devices, and vapor-generating electronic devices
7 inside the secure perimeter of specified facilities of
8 the Department of Children and Families or of the
9 Agency for Persons with Disabilities; providing
10 criminal penalties; amending s. 944.47; prohibiting
11 the introduction of certain cannabis related
12 substances and vapor-generating electronic devices
13 inside the secure perimeter of a correctional
14 institution; providing criminal penalties; amending s.
15 951.22, F.S.; prohibiting the introduction of certain
16 cannabis related substances and vapor-generating
17 electronic devices inside the secure perimeter of a
18 county detention facility; providing criminal
19 penalties; amending s. 985.711, F.S.; prohibiting the
20 introduction of certain cannabis related substances,
21 cellular telephones and other portable communication
22 devices, and vapor-generating electronic devices
23 inside the secure perimeter of specified juvenile
24 detention facilities or commitment programs; providing
25 criminal penalties; amending s. 921.0022, F.S.;
26 ranking the offense of introducing certain contraband
27 into specified facilities of the Department of
28 Children and Families on level 4 of the offense
29 severity ranking chart; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and paragraph (c) of subsection (2) of section 916.1085, Florida Statutes, are amended to read:

916.1085 Introduction or removal of certain articles unlawful; penalty.—

(1) (a) Except as authorized by law or as specifically authorized by the person in charge of a facility, it is unlawful to introduce inside the secure perimeter of ~~into or upon the grounds of~~ any facility under the supervision or control of the department or agency, or to take or attempt to take or send therefrom, any of the following articles, which are declared to be contraband for the purposes of this section:

1. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect;

2. Any controlled substance as defined in chapter 893, marijuana as defined in s. 381.986, hemp as defined in s. 581.217, and industrial hemp as defined in s. 1004.4473;

3. Any firearm or deadly weapon; ~~or~~

4. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the person in charge of the facility;

5. Any vapor-generating electronic device as defined in s. 386.203; or

6.4. Any other item as determined by the department or the

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59 agency, and as designated by rule or by written institutional
60 policies, to be hazardous to the welfare of clients or the
61 operation of the facility.

62 (2)

63 (c) 1. A person who violates any provision of subparagraph
64 (1)(a)2. or subparagraph (1)(a)3. commits a felony of the third
65 degree, punishable as provided in s. 775.082, s. 775.083, or s.
66 775.084.

67 2. A person who violates any provision of subparagraph
68 (1)(a)1., subparagraph (1)(a)4., subparagraph (1)(a)5., or
69 subparagraph (1)(a)6. commits a misdemeanor of the first degree,
70 punishable as provided in s. 775.082 or s. 775.083.

71 Section 2. Paragraph (a) of subsection (1) and paragraph
72 (a) of subsection (2) of section 944.47, Florida Statutes, are
73 amended to read:

74 944.47 Introduction, removal, or possession of contraband;
75 penalty.—

76 (1)(a) Except through regular channels as authorized by the
77 officer in charge of the correctional institution, it is
78 unlawful to introduce inside the secure perimeter of ~~into or~~
79 ~~upon the grounds of~~ any state correctional institution, or to
80 take or attempt to take or send or attempt to send therefrom,
81 any of the following articles which are hereby declared to be
82 contraband for the purposes of this section, to wit:

83 1. Any written or recorded communication or any currency or
84 coin given or transmitted, or intended to be given or
85 transmitted, to any inmate of any state correctional
86 institution.

87 2. Any article of food or clothing given or transmitted, or

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88 intended to be given or transmitted, to any inmate of any state
89 correctional institution.

90 3. Any intoxicating beverage or beverage which causes or
91 may cause an intoxicating effect.

92 4. Any controlled substance as defined in s. 893.02(4),
93 marijuana as defined in s. 381.986, hemp as defined in s.
94 581.217, industrial hemp as defined in s. 1004.4473, or any
95 prescription or nonprescription drug having a hypnotic,
96 stimulating, or depressing effect.

97 5. Any firearm or weapon of any kind or any explosive
98 substance.

99 6. Any cellular telephone or other portable communication
100 device intentionally and unlawfully introduced inside the secure
101 perimeter of any state correctional institution without prior
102 authorization or consent from the officer in charge of such
103 correctional institution. As used in this subparagraph, the term
104 "portable communication device" means any device carried, worn,
105 or stored which is designed or intended to receive or transmit
106 verbal or written messages, access or store data, or connect
107 electronically to the Internet or any other electronic device
108 and which allows communications in any form. Such devices
109 include, but are not limited to, portable two-way pagers, hand-
110 held radios, cellular telephones, Blackberry-type devices,
111 personal digital assistants or PDA's, laptop computers, or any
112 components of these devices which are intended to be used to
113 assemble such devices. The term also includes any new technology
114 that is developed for similar purposes. Excluded from this
115 definition is any device having communication capabilities which
116 has been approved or issued by the department for investigative

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117 or institutional security purposes or for conducting other state
118 business.

119 7. Any vapor-generating electronic device as defined in s.
120 386.203.

121 (2) (a) A person who violates this section as it pertains to
122 an article of contraband described in subparagraph (1) (a)1.,
123 subparagraph (1) (a)2., or subparagraph (1) (a)6. commits a felony
124 of the third degree, punishable as provided in s. 775.082, s.
125 775.083, or s. 775.084. A person who violates this section as it
126 pertains to an article of contraband described in subparagraph
127 (1) (a)7. commits a misdemeanor of the first degree, punishable
128 as provided in s. 775.082 or s. 775.083. Otherwise, a violation
129 of this section is a felony of the second degree, punishable as
130 provided in s. 775.082, s. 775.083, or s. 775.084.

131 Section 3. Subsection (1) and (2) of section 951.22,
132 Florida Statutes, are amended to read:

133 951.22 County detention facilities; contraband articles.—

134 (1) It is unlawful, except through regular channels as duly
135 authorized by the sheriff or officer in charge, to introduce
136 inside the secure perimeter of ~~into or possess upon the grounds~~
137 ~~of~~ any county detention facility as defined in s. 951.23 or to
138 give to or receive from any inmate of any such facility wherever
139 said inmate is located at the time or to take or to attempt to
140 take or send therefrom any of the following articles, which are
141 contraband:

142 (a) Any written or recorded communication. This paragraph
143 does not apply to any document or correspondence exchanged
144 between a lawyer, paralegal, or other legal staff and an inmate
145 at a detention facility if the document or correspondence is

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146 otherwise lawfully possessed and disseminated and relates to the
147 legal representation of the inmate.

148 (b) Any currency or coin.

149 (c) Any article of food or clothing.

150 (d) Any tobacco products as defined in s. 210.25(12).

151 (e) Any cigarette as defined in s. 210.01(1).

152 (f) Any cigar.

153 (g) Any intoxicating beverage or beverage that causes or
154 may cause an intoxicating effect.

155 (h) Any narcotic, hypnotic, or excitative drug or drug of
156 any kind or nature, including nasal inhalators, sleeping pills,
157 barbiturates, marijuana as defined in s. 381.986, hemp as
158 defined in s. 581.217, industrial hemp as defined in s.
159 1004.4473, and controlled substances as defined in s. 893.02(4).

160 (i) Any firearm or any instrumentality customarily used or
161 which is intended to be used as a dangerous weapon.

162 (j) Any instrumentality of any nature which may be or is
163 intended to be used as an aid in effecting or attempting to
164 effect an escape from a county facility.

165 (k) Any cellular telephone or other portable communication
166 device as described in s. 944.47(1)(a)6. The term does not
167 include any device that has communication capabilities which has
168 been approved or issued by the sheriff or officer in charge for
169 investigative or institutional security purposes or for
170 conducting other official business.

171 (l) Any vapor-generating electronic device as defined in s.
172 386.203.

173 (2) A person who violates paragraph (1)(a), paragraph
174 (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph (1)(e),

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175 paragraph (1)(f), ~~or~~ paragraph (1)(g), or paragraph (1)(l)
176 commits a misdemeanor of the first degree, punishable as
177 provided in s. 775.082 or s. 775.083. A person who violates
178 paragraph (1)(h), paragraph (1)(i), paragraph (1)(j), or
179 paragraph (1)(k) commits a felony of the third degree,
180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

181 Section 4. Paragraph (a) of subsection (1) and subsection
182 (2) of section 985.711, Florida Statutes, are amended to read:

183 985.711 Introduction, removal, or possession of certain
184 articles unlawful; penalty.—

185 (1)(a) Except as authorized through program policy or
186 operating procedure or as authorized by the facility
187 superintendent, program director, or manager, a person may not
188 introduce inside the secure perimeter of ~~into or upon the~~
189 ~~grounds of~~ a juvenile detention facility or commitment program,
190 or take or send, or attempt to take or send, from a juvenile
191 detention facility or commitment program, any of the following
192 articles, which are declared to be contraband under this
193 section:

194 1. Any unauthorized article of food or clothing.

195 2. Any intoxicating beverage or any beverage that causes or
196 may cause an intoxicating effect.

197 3. Any controlled substance~~r~~ as defined in s. 893.02(4), and
198 marijuana as defined in s. 381.986, hemp as defined in s.
199 581.217, and industrial hemp as defined in s. 1004.4473; ~~or~~ any
200 prescription or nonprescription drug that has a hypnotic,
201 stimulating, or depressing effect.

202 4. Any firearm or weapon of any kind or any explosive
203 substance.

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204 5. Any cellular telephone or other portable communication
 205 device as described in s. 944.47(1) (a)6. As used in this
 206 subparagraph, the term "portable communication device" does not
 207 include any device that has communication capabilities which has
 208 been approved or issued by the facility superintendent, program
 209 director, or manager.

210 6. Any vapor-generating electronic device as defined in s.
 211 386.203.

212 (2) (a) Any person who violates this section as it pertains
 213 to an article of contraband described in subparagraph (1) (a)1.
 214 commits a felony of the third degree, punishable as provided in
 215 s. 775.082, s. 775.083, or s. 775.084.

216 (b) Any person who violates this section as it pertains to
 217 an article of contraband described in subparagraph (1) (a)5. or
 218 subparagraph (1) (a)6. commits a misdemeanor of the first degree,
 219 punishable as provided in s. 775.082 or s. 775.083.

220 (c) In all other cases, a person who violates this section
 221 commits a felony of the second degree, punishable as provided in
 222 s. 775.082, s. 775.083, or s. 775.084.

223 Section 5. Paragraph (d) of subsection (3) of section
 224 921.0022, Florida Statutes, is amended to read:

225 921.0022 Criminal Punishment Code; offense severity ranking
 226 chart.—

227 (3) OFFENSE SEVERITY RANKING CHART

228 (d) LEVEL 4

229

Florida	Felony	Description
Statute	Degree	

230

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	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
231	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
232	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
233	517.07 (1)	3rd	Failure to register securities.
234	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
235	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
236	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
237	784.075	3rd	Battery on detention or

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proceedings.

246

787.04 (3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

247

787.07 3rd Human smuggling.

248

790.115 (1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

249

790.115 (2) (b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

250

790.115 (2) (c) 3rd Possessing firearm on school property.

251

800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

252

810.02 (4) (a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

253

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254	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
255	810.06	3rd	Burglary; possession of tools.
256	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
257	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
258	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; specified items.
259	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
260	817.505 (4) (a)	3rd	Patient brokering.
261	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
	817.568 (2) (a)	3rd	Fraudulent use of personal

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identification information.

262

817.625 (2) (a) 3rd Fraudulent use of scanning device, ~~skimming device,~~ or reencoder.

263

817.625 (2) (c) 3rd Possess, sell, or deliver skimming device.

264

828.125 (1) 2nd Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

265

837.02 (1) 3rd Perjury in official proceedings.

266

837.021 (1) 3rd Make contradictory statements in official proceedings.

267

838.022 3rd Official misconduct.

268

839.13 (2) (a) 3rd Falsifying records of an individual in the care and custody of a state agency.

269

839.13 (2) (c) 3rd Falsifying records of the Department of Children and Families.

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277

843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.

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278	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
279	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
280	<u>916.1085(2)(c)1.</u>	<u>3rd</u>	<u>Introduction of specified contraband into certain DCF facilities.</u>
281	918.12	3rd	Tampering with jurors.
282	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
283	944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
284	951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

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285

Section 6. This act shall take effect October 1, 2020.

S01286

GENERAL BILL/CS by CJ, Simmons; (Similar CS/H 00745)

Contraband in Specified Facilities. EFFECTIVE DATE: 10/01/2020.

02/11/20 S CS/CS by Judiciary; YEAS 6 NAYS 0

02/13/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); Now in Rules

THE FLORIDA SENATE
APPEARANCE RECORD

02/11/2020

Meeting Date

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

1286

Bill Number (if applicable)

Topic Contraband in Specified Facilities

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Lobbyist

Address 205 S. Adams St

Phone 931-265-8999

Street

Tallahassee

FL

32301

City

State

Zip

Email lauren@ericksconsultants.com

Speaking: For Against Information

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

Representing Seminole County Sheriff's Office

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)

2-11-2020

Meeting Date

CS/SB 1284

Bill Number (if applicable)

Topic Contraband

Amendment Barcode (if applicable)

Name Tanya Bailey

Job Title Veteran Liaison

Address 132 Lagoon Rd

Street

Phone _____

Winter Haven / FL 33894

City

State

Zip

Email bailey.tanya@gmail.com

Speaking: For Against Information

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

Representing Voices of Veterans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/2020

Meeting Date

1286

Bill Number (if applicable)

274472

Amendment Barcode (if applicable)

Topic Contraband in Special Facilities

Name Melissa Villar

Job Title Executive Director

Address PO Box 11254

Street

Phone (850) 354-8424

TLM FL 32302

City

State

Zip

Email norml.tallahassee@gmail.com

Speaking: [] For [] Against [x] Information

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

Representing NORML Tallahassee

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] 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)

2/11/2020

Meeting Date

12860

Bill Number (if applicable)

Topic Contraband in Specified Facilities

Amendment Barcode (if applicable)

Name Tabitha Burross

Job Title Communication Director

Address 4320 Randall Blvd

Phone 239-272-2257

Street

Naples

FL

State

34120

Zip

Email

Speaking: [] For [X] Against [] Information

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

Representing Florida Cannabis 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.

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 2/11/2020 1:59:43 PM

Ends: 2/11/2020 5:00:26 PM Length: 03:00:44

2:02:26 PM Meeting called to order by Chair Simmons
2:03:26 PM Roll call by AA Joyce Butler
2:03:37 PM Quorum present
2:03:55 PM Comments from Chair Simmons
2:05:30 PM Introduction of Tab 4 by Chair Simmons
2:05:44 PM Explanation of SB 698, Assisted Reproduction Facilities by Senator Book
2:08:39 PM Question from Senator Stargel
2:08:48 PM Response from Senator Book
2:09:43 PM Follow-up question from Senator Stargel
2:09:50 PM Response from Senator Book
2:10:05 PM Follow-up question from Senator Stargel
2:10:15 PM Response from Senator Book
2:10:39 PM Kim Porteous, FL NOW President waives in support
2:11:05 PM Barbara DeVane, FL NOW waives in support
2:11:20 PM Senator Stargel in debate
2:12:00 PM Senator Book in closure
2:12:06 PM Roll call by AA
2:12:28 PM SB 698 reported favorably
2:12:40 PM Introduction of Tab 7 by Chair Simmons
2:13:15 PM Explanation of CS/SB 1516, Organ Donation by Senator Harrell
2:16:30 PM Introduction of Amendment Barcode No. 767912
2:16:55 PM Explanation of Amendment by Senator Harrell
2:18:00 PM Closure waived
2:18:03 PM Amendment adopted
2:18:29 PM Ron Watson, Florida Renal Association waives in support
2:18:43 PM Louis Betz, More Transplants More Life waives in support
2:18:57 PM Speaker Missy Timmons, More Transplants More Life in support
2:21:03 PM Speaker Lawrence Cochran, Lifequest FL's 4 OPOS
2:22:29 PM Lauren Whriteneur, Betz & Associates waives in support
2:22:42 PM Speaker Dr. Bobby Nibhanupuoly, Advent Health in support
2:25:28 PM Senator Harrell in closure
2:25:33 PM Roll call by AA
2:25:40 PM CS/CS/SB 1516 reported favorably
2:26:07 PM Introduction of Tab 2 by Chair Simmons
2:26:34 PM Explanation of CS/SB 410, Growth Management by Senator Perry
2:27:27 PM Speaker Dan Peterson, Coalition for Property Rights in support
2:28:52 PM Cesar Grajales, Americans for Prosperity waives in support
2:29:04 PM David Cruz, Florida League of Cities waives in opposition
2:29:36 PM Senator Perry in closure
2:29:40 PM Roll call by AA
2:30:23 PM CS/SB 410 reported favorably
2:30:35 PM Introduction of Tab 9 by Chair Simmons

2:31:09 PM Explanation of CS/SB 1564, Use of Genetic Information by Senator Stargel
2:31:36 PM Introduction of Amendment Barcode No. 370850 by Chair Simmons
2:31:54 PM Explanation of Amendment by Senator Stargel
2:32:54 PM Speaker Robert Gleason MD, American Council of Life Insurers in opposition
2:35:09 PM Tim Meenan, Florida Insurance Council for information
2:36:20 PM Senator Stargel in closure on Amendment
2:36:33 PM Amendment adopted
2:37:00 PM Question from Senator Gibson
2:37:12 PM Response from Senator Stargel
2:38:37 PM Speaker Tim Meenan, Florida Insurance Council
2:39:42 PM Zayne Smith, AARP waives in support
2:40:05 PM Senator Baxley in debate
2:43:27 PM Senator Gibson in debate
2:44:43 PM Senator Stargel in closure
2:44:53 PM Roll call by AA
2:45:23 PM CS/CS/SB 1564 reported favorably
2:45:40 PM Introduction of Tab 8 by Chair Simmons
2:45:52 PM Explanation of SB 1672, Protection of Vulnerable Investors by Senator Baxley
2:47:44 PM Introduction of Amendment Barcode No. 158696 by Chair Simmons
2:48:04 PM Explanation of Amendment by Senator Baxley
2:48:57 PM Greg Black, Elder Law Section of the Florida Bar waives in support
2:49:27 PM Senator Baxley in closure
2:50:03 PM Amendment adopted
2:50:35 PM Speaker Warren Husband, Securities Industry & Financial Markets Association in support
2:51:11 PM Zayne Smith, AARP waives in support
2:51:23 PM Jon Connelly, Alzheimer's Association waives in support
2:51:36 PM Chase Mitchell, Senior Management Analyst, CFO Jimmy Patronis waives in support
2:51:52 PM Anthony DiMarco, Florida Bankers Association waives in support
2:52:05 PM Abigail Vail, Office of Financial Regulation waives in support
2:52:16 PM Sean Stafford, Financial Services Institute waives in support
2:52:38 PM Senator Baxley in closure
2:52:44 PM Roll call by AA
2:53:04 PM CS/SB 1672 reported favorably
2:53:20 PM Introduction of Tab 10 by Chair Simmons
2:53:41 PM Explanation of SB 1746, Florida Virtual Education by Senator Stargel
2:54:39 PM Amendment Barcode No. 225780 withdrawn by Senator Stargel
2:55:22 PM Introduction of Amendment Barcode No. 919468 by Chair Simmons
2:55:26 PM Explanation of Amendment by Senator Stargel
2:55:57 PM Closure waived
2:55:59 PM Amendment adopted
2:56:29 PM Mike Miller, External Affairs, Florida Virtual School waives in support
2:57:09 PM Closure waived
2:57:12 PM Roll call by AA
2:57:18 PM CS/SB 1746 reported favorably
2:57:31 PM Introduction of Tab 11 by Chair Simmons
2:58:02 PM Explanation of CS/SB 1794, Constitutional Amendments Proposed by Initiative by Senator
2:58:34 PM Introduction of Amendment Barcode No. 817884 by Chair Simmons
2:59:10 PM Explanation of Amendment by Senator Hutson
3:01:59 PM Question from Senator Rodriguez
3:02:10 PM Response from Senator Hutson

3:04:00 PM Follow-up question from Senator Rodriguez
3:04:12 PM Response from Senator Hutson
3:05:44 PM Follow-up question from Senator Rodriguez
3:05:53 PM Response from Senator Hutson
3:07:35 PM Additional question from Senator Rodriguez
3:07:44 PM Response from Senator Hutson
3:08:57 PM Question from Senator Gibson
3:09:02 PM Response from Senator Hutson
3:10:14 PM Follow-up question from Senator Gibson
3:10:23 PM Response from Senator Hutson
3:11:37 PM Follow-up question from Senator Gibson
3:11:44 PM Response from Senator Hutson
3:12:17 PM Additional question from Senator Gibson
3:12:24 PM Response from Senator Hutson
3:13:09 PM Additional question from Senator Gibson
3:13:17 PM Response from Senator Hutson
3:15:15 PM Introduction of Amendment Barcode No. 292920 by Chair Simmons
3:15:54 PM Explanation of Amendment by Senator Gibson
3:17:31 PM Unfriendly Amendment per Senator Hutson
3:18:15 PM Closure by Senator Gibson
3:18:54 PM Amendment not adopted
3:19:14 PM Late-filed Amendment Barcode No. 782924 introduced
3:19:45 PM Explanation of Amendment by Senator Rodriguez
3:21:14 PM Unfriendly Amendment per Senator Hutson
3:21:24 PM Closure by Senator Rodriguez
3:21:47 PM Amendment not adopted
3:22:02 PM Introduction of Amendment Barcode No. 946112 by Chair Simmons
3:23:53 PM Amendment not adopted
3:24:02 PM Introduction of Late-filed Amendment Barcode No. 811190 by Chair Simmons
3:24:31 PM Explanation of Amendment by Senator Rodriguez
3:25:51 PM Ida Eskamani, New Florida Majority & Organize Florida waives in support
3:26:16 PM Dr. Rich Templin, Florida AFL-CIO waives in support
3:27:04 PM Unfriendly Amendment per Senator Hutson
3:27:25 PM Senator Rodriguez in closure
3:27:46 PM Amendment not adopted
3:27:56 PM Introduction of Late-filed Amendment Barcode No. 643500 by Chair Simmons
3:28:26 PM Explanation of Amendment by Senator Rodriguez
3:30:00 PM Ida Eskamani, New Florida Majority & Organize Florida waives in support
3:30:19 PM Dr. Rich Templin, Florida AFL-CIO waives in support
3:30:48 PM Speaker Jodi James, Chair FFF in support
3:33:30 PM Unfriendly Amendment per Senator Hutson
3:33:46 PM Closure by Senator Rodriguez
3:34:37 PM Amendment not adopted
3:35:00 PM Back on Amendment Barcode No. 817884 per Chair Simmons
3:35:42 PM Speaker Jodi James, Chair, Floridians for Freedom in opposition
3:37:26 PM Senator Hutson in closure
3:37:38 PM Amendment Barcode No. 817884 adopted
3:38:43 PM Glenda Albicht waives in opposition
3:38:58 PM Speaker Trish Neeley, League of Women Voters in opposition
3:39:54 PM Speaker David Cullen, Sierra Club Florida in opposition
3:41:19 PM Tabitha Burress, Florida Cannabis Action Network waives in opposition
3:41:27 PM Barbara DeVane, FL NOW waives in opposition

3:41:41 PM Pamela Burch-Fort, Florida State Conference of NAACP waives in opposition
3:41:52 PM Rev. Joe Parramore, Faith in Public Life waives in opposition
3:42:07 PM Speaker Tanya Bailey, Voices for Veterans in opposition
3:43:29 PM Tonya Bailey waives in opposition
3:43:37 PM Carol Gross waives in opposition
3:43:45 PM Rev. Joe Parramore, Faith in Public Life waives in opposition
3:43:59 PM Carol Gross waives in opposition
3:44:06 PM Kevin Daly waives in opposition
3:44:18 PM Matt Dailey, Faith in Public Lite waives in opposition
3:44:25 PM Theo Parsons waives in opposition
3:44:35 PM Scott McCoy, Southern Poverty Law Center Action Fund waives in opposition
3:44:43 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in opposition
3:44:52 PM Dr. Rich Templin, Florida AFL-CIO waives in opposition
3:44:59 PM Laura Hernandez, Florida Alliance of Planned Parenthood waives in opposition
3:45:08 PM Kim Porteous, President, FL NOW waives in opposition
3:45:14 PM Rev. Russell Meyer, Florida Council of Churches waives in opposition
3:45:21 PM Keith Mackey waives in opposition
3:45:27 PM Roxanne Stasuik waives in opposition
3:45:32 PM Ida Eskamani, New Florida Majority & Organize Florida waives in opposition
3:45:39 PM Christopher Emmanuel, Florida Chamber of Commerce waives in support
3:45:46 PM Melissa Villar, NORML Tallahassee waives in opposition
3:45:59 PM Jermaine Miller waives in opposition
3:46:18 PM Taylor Aguilera waives in opposition
3:46:23 PM Omar Karim waives in opposition
3:46:30 PM Ann MacMillian waives in opposition
3:46:34 PM David Ash waives in opposition
3:46:41 PM Robert McKinnon, Florida Director for Faith in Public Life waives in opposition
3:46:47 PM Zaire Kekahuna-Samedi waives in opposition
3:47:01 PM Emme Strong waives in opposition
3:47:05 PM Gwyn Petersen waives in opposition
3:47:08 PM Dylan Black waives in opposition
3:47:12 PM Elliott Gardner waives in opposition
3:47:20 PM Carlton Leffier waives in opposition
3:47:27 PM Paola Ferst waives in opposition
3:47:33 PM Alik, Executive Director, Florida Conservation Voters waives in opposition
3:47:41 PM Brewster Bevis, Associated Industries of Florida waives in support
3:47:46 PM Jodi James, Chair, Floridians for Freedom waives in opposition
3:47:48 PM Marcus Dixon, Executive Director, SEIU Florida waives in opposition
3:48:08 PM Senator Gibson in debate
3:52:27 PM Senator Rodriguez in debate
3:54:21 PM Senator Hutson in closure
3:54:28 PM Roll call by AA
3:55:02 PM CS/CS/SB 1794 reported favorably
3:55:23 PM Introduction of Tab 1 by Chair Simmons
3:56:02 PM Explanation of SB 4, Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office by Senator Flores
3:58:22 PM Question from Senator Hutson
3:58:28 PM Response from Senator Flores
3:58:44 PM Follow-up question from Senator Hutson
3:58:51 PM Response from Senator Flores
3:59:08 PM Comments from Chair Simmons
3:59:14 PM Response from Senator Flores

3:59:40 PM Speaker Jason Unger, Palm Beach County Sheriff's Office in opposition
4:02:21 PM Senator Stargel moves to TP bill
4:03:27 PM Introduction of Tab 6 by Chair Simmons
4:03:37 PM Explanation of SB 1366, Trusts by Senator Gruters
4:04:28 PM Introduction of Amendment Barcode No. 409666 by Chair Simmons
4:04:41 PM Explanation of Amendment by Senator Gruters
4:04:56 PM Martha Edenfield, The Real Property, Probate and Trust Law Section of the Florida Bar waives in support
4:05:11 PM Closure waived
4:05:13 PM Amendment adopted
4:05:27 PM Martha Edenfield waives in support
4:05:46 PM Closure waived
4:05:48 PM Roll call by AA
4:05:52 PM CS/SB 1366 reported favorably
4:06:10 PM Introduction of Tab 5 by Chair Simmons
4:06:24 PM Explanation of SB 1340, Legal Notices by Senator Gruters
4:07:21 PM Introduction of Amendment Barcode No. 190756 by Chair Simmons
4:07:35 PM Explanation of Amendment by Senator Gruters
4:07:48 PM Amendment adopted
4:08:09 PM Question from Senator Gibson
4:08:25 PM Response from Senator Gruters
4:08:40 PM Motion to TP bill by Senator Stargel
4:09:20 PM Introduction of Tab 3 by Chair Simmons
4:09:32 PM Explanation of SB 664, Verification of Employment Eligibility by Senator Lee
4:12:46 PM Chair passed to Senator Stargel
4:13:06 PM Introduction of Amendment Barcode No. 569026 by Chair Stargel
4:13:12 PM Explanation of Amendment by Senator Simmons
4:23:28 PM Question from Senator Rodriguez
4:23:40 PM Response from Senator Simmons
4:25:35 PM Follow-up question from Senator Rodriguez
4:25:44 PM Response from Senator Simmons
4:28:08 PM Follow-up question from Senator Rodriguez
4:28:42 PM Response from Senator Simmons
4:32:44 PM Follow-up question from Senator Rodriguez
4:32:53 PM Response from Senator Simmons
4:34:15 PM Follow-up question from Senator Rodriguez
4:34:24 PM Response from Senator Simmons
4:35:28 PM Additional question from Senator Rodriguez
4:35:40 PM Response from Senator Simmons
4:38:09 PM Question from Senator Gibson
4:38:15 PM Response from Senator Simmons
4:39:26 PM Follow-up question from Senator Gibson
4:39:33 PM Response from Senator Simmons
4:40:19 PM Speaker Gary Hunter, Florida Fruit & Vegetable Association
4:41:32 PM Speaker Christopher Emmanuel, Florida Chamber of Commerce in support
4:42:08 PM Speaker Adam Basford, Florida Farm Bureau
4:42:59 PM Introduction of Amendment Barcode No. 412606 by Chair Stargel
4:43:09 PM Explanation of Amendment by Senator Rodriguez
4:43:30 PM Unfriendly Amendment per Senator Simmons
4:44:22 PM Closure waived
4:44:26 PM Amendment not adopted
4:44:33 PM Introduction of Barcode No. 848944 by Chair Stargel

4:44:38 PM Explanation of Amendment by Senator Rodriguez
4:45:02 PM Unfriendly Amendment per Senator Simmons
4:45:09 PM Closure waived
4:45:11 PM Amendment not adopted
4:45:20 PM Introduction of Amendment Barcode No. 846536 by Chair Stargel
4:45:26 PM Explanation of Amendment by Senator Rodriguez
4:46:05 PM Amendment not adopted
4:46:10 PM Introduction of Amendment Barcode No. 885186 by Chair Stargel
4:46:16 PM Explanation of Amendment by Senator Rodriguez
4:46:45 PM Amendment not adopted
4:46:51 PM Introduction of Amendment Barcode No. 488938 by Chair Stargel
4:46:56 PM Explanation of Amendment by Senator Rodriguez
4:47:43 PM Amendment not adopted
4:47:58 PM Introduction of Amendment Barcode No. 487102 by Chair Stargel
4:48:06 PM Explanation of Amendment by Senator Rodriguez
4:48:39 PM Amendment not adopted
4:49:13 PM Amendment Barcode No. 569026 adopted
4:50:02 PM Ida Eskamini, Florida Immigrant Coalition in opposition
4:50:09 PM Rev. Russell Meyer, Florida Council of Churches waives in opposition
4:50:14 PM Scott McCoy, Southern Poverty Law Action Center waives in opposition
4:50:16 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in opposition
4:50:20 PM Kara Gross, American Civil Liberties Union of Florida in opposition
4:50:23 PM Edgar Fernandez waives in opposition
4:50:29 PM Rev. Joe Parramore, Florida Leadership Council in opposition
4:50:34 PM David Barkey, Anti-Defamation League waives in support
4:50:39 PM J.B. Clark, Florida Electrical Workers Association waives in support
4:50:46 PM Marcus Dixon in opposition
4:51:06 PM Speaker Ingrid Delgado, Florida Conference of Catholic Bishops in opposition
4:51:52 PM Barbara Richards waives in support
4:52:07 PM Petra McCord waives in support
4:52:13 PM Annapola Hansberger waives in support
4:52:23 PM Margaret Dumont waives in support
4:52:33 PM Kathy Bird Carvajal, IMPAC Fund/ABIC waives in opposition
4:52:40 PM David Caulkett waives in support
4:52:44 PM Nicholas Vessio waives in support
4:52:49 PM Speaker Rich Harper for information
4:53:45 PM Kathy Bird Carvajal, IMPAC Fund/ABIC waives in opposition
4:54:22 PM Felicia Bruce waives in opposition
4:54:25 PM Matt Dailey, Faith in Public Life waives in opposition
4:54:26 PM J.B. Clark, Florida Electrical Workers Association waives in support
4:54:38 PM Motion to end debate at 4:58 by Chair Hutson
4:54:55 PM Senator Gibson in debate
4:55:47 PM Senator Rodriguez in debate
4:57:09 PM Senator Lee in closure
4:57:14 PM Roll call by AA
4:57:56 PM CS/SB 664 reported favorably
4:58:11 PM Introduction of Tab 13 by Chair Rodriguez
4:58:29 PM Explanation of CS/SB 1285, Contraband in Specified Facilities by Senator Simmons
4:59:11 PM Introduction of Late-filed Amendment Barcode No. 274472 by Chair Rodriguez
4:59:17 PM Explanation of Amendment by Senator Simmons
4:59:20 PM Amendment adopted
4:59:26 PM Closure waived

4:59:28 PM Roll call by AA
4:59:36 PM CS/CS/SB 1286 reported favorably
4:59:44 PM Senator Baxley would like to be shown as voting in the affirmative on CS/CS/SB 1794
4:59:48 PM Comments from Chair Simmons
4:59:58 PM Meeting adjourned