Tab 1	**SB 408** by **Grall;** Identical to H 00339 Advertisement of a Harmful Vaccine

Tab 2	**SB 986** by **Gruters (CO-INTRODUCERS) Rodriguez, Mayfield;** Similar to H 00389 Smoking in Public Places

Tab 3	**SB 678** by **Mayfield (CO-INTRODUCERS) Gaetz;** Similar to H 01137 Deductions for Certain Losses of Alcoholic Beverages

105254	D	S	RCS	RI, Mayfield	Delete everything after	01/20 12:15 PM

Tab 4	**SB 800** by **Mayfield;** Identical to H 00839 Engineering

209924	A	S	RCS	RI, Mayfield	Delete L.45 - 70:	01/20 12:15 PM

Tab 5	**SB 1050** by **Calatayud;** Similar to CS/CS/H 00089 Veterinary Prescription Disclosure

Tab 6	**SB 484** by **Avila;** Compare to H 01517 Data Centers

Tab 7	**SB 1118** by **Avila;** Public Records/Data Centers

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Bradley, Chair
Senator Pizzo, Vice Chair

MEETING DATE: Tuesday, January 20, 2026
TIME: 9:30—11:30 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Pizzo, Vice Chair; Senators Bernard, Boyd, Bracy Davis, Brodeur, Burgess, Calatayud, and Mayfield

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 408** Grall (Identical H 339)	Advertisement of a Harmful Vaccine; Defining the term “advertise”; providing manufacturer liability under certain circumstances; authorizing an individual to file a cause of action under certain circumstances within a specified timeframe, etc. RI 01/20/2026 Favorable HP RC	Favorable Yeas 5 Nays 3
2	**SB 986** Gruters (Similar H 389)	Smoking in Public Places; Defining the term “public place”; revising the definition of the terms “smoking” and “vape” or “vaping”; prohibiting smoking or vaping a marijuana product in public places in this state, with exceptions, etc. RI 01/20/2026 Favorable AEG RC	Favorable Yeas 7 Nays 0
3	**SB 678** Mayfield (Similar H 1137)	Deductions for Certain Losses of Alcoholic Beverages; Authorizing deductions against excise taxes for alcoholic beverages if they are unsalable; authorizing a distributor of vinous, spirituous, or malted beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified for vinous, spirituous, or malt beverages, etc. RI 01/20/2026 Fav/CS FT AP	Fav/CS Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 800** Mayfield (Identical H 839)	Engineering; Providing penalties for persons found to have repeatedly engaged in the unlicensed practice of engineering; establishing the Engineering Student Loan Assistance Program; providing for the program's management by the Florida Engineers Management Corporation; providing the purpose of the program, etc. RI 01/20/2026 Fav/CS AEG FP	Fav/CS Yeas 7 Nays 0
5	**SB 1050** Calatayud (Similar CS/CS/H 89)	Veterinary Prescription Disclosure; Requiring a veterinarian or authorized member of veterinary staff to inform a client of the right to receive a written prescription to be filled at a pharmacy of the client's choice or the option to have the prescription filled at the veterinary establishment; requiring that the disclosure include an acknowledgement signed by the client; providing that such acknowledgement be documented in the patient's medical records, etc. RI 01/20/2026 Favorable AEG RC	Favorable Yeas 7 Nays 0
6	**SB 484** Avila (Compare H 1517, Linked S 1118)	Data Centers; Prohibiting an agency from entering into a nondisclosure agreement or other contract that restricts the agency from disclosing certain information to the public; specifying that local governments maintain authority to exercise power and responsibility over comprehensive planning and land development regulations related to large load customers; requiring the Florida Public Service Commission to develop minimum tariff and service requirements for large load customers; prohibiting the governing board of a water management district or the Department of Environmental Protection from issuing a permit for the consumptive use of water to a large-scale data center under certain circumstances, etc. RI 01/20/2026 Favorable CA RC	Favorable Yeas 8 Nays 0
7	**SB 1118** Avila (Linked S 484)	Public Records/Data Centers; Providing an exemption from public records requirements for information relating to the plans, intentions, or interest of a person to locate a data center; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. RI 01/20/2026 Favorable CA RC	Favorable Yeas 7 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	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 Regulated Industries

BILL:	SB 408
INTRODUCER:	Senator Grall
SUBJECT:	Advertisement of a Harmful Vaccine
DATE:	January 20, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	**Favorable**
2.			HP	
3.			RC	

I. Summary:

SB 408 establishes a new cause of action for those who are injured or harmed by a vaccine manufacturer who advertises their products in Florida.

The bill updates the term "advertise" within ch. 499, F.S., to mean a media communication, including, but not limited to, television, radio, print, the Internet, digital or electronic media, product placement, promotion by an influencer in exchange for compensation, or any other manner of paid promotion, that a vaccine manufacturer purchases to promote the manufacturer's vaccine.

It does not include any discussion between a health care provider and his or her patient or written materials regarding vaccines, or any promotional materials concerning vaccines displayed in a health care facility.

The bill provides that an injured individual may bring an action within 3 years following the accrual of the cause of action.

Finally, the bill provides that a court shall award a claimant who prevails in an action brought under this section actual damages, court costs, and reasonable attorney fees.

The bill has an effective date of July 1, 2026.

II. Present Situation:

State and Federal Regulation of Drugs, Devices, and Cosmetics

The regulation of drugs and cosmetics is addressed in ch. 499, F.S., which regulates drugs, devices, and cosmetics by the Department of Business and Professional Regulation (DBPR).[1] The Florida Drug and Cosmetic Act (the act)[2] is intended to safeguard public health and promote public welfare by protecting against injuries and merchandising deceit involving drugs, devices, and cosmetics or the use of such products. The Division of Drugs, Devices, and Cosmetics (the division) under the DBPR handles Florida regulations. Within the division, s. 499.01211, F.S., created the Drug Wholesale Distributor Advisory Council that provides input to the division and the DBPR regarding all proposed rules regarding the distribution of drugs.

Administration of the act must conform to the Federal Food, Drug, and Cosmetic Act[3] and the applicable portions of the Federal Trade Commission Act[4] which prohibit the false advertising of drugs, devices, and cosmetics. The Florida Drug and Cosmetic Act conforms to the United States Food and Drug Administration's (FDA) drug laws and regulations and authorizes the DBPR to issue permits to Florida drug manufacturers and wholesale distributors and register drugs manufactured, packaged, repackaged, labeled, or relabeled in Florida.[5] The FDA preempts the state of Florida from regulating certain areas regarding drugs and cosmetics, including generally, the pre-market approval of drugs and the post-market surveillance of cosmetics, in both instances monitoring for safety issues for the American people.

The FDA process for new or innovative drugs is rigorous and requires an extensive series of clinical trials, first on animals and then on humans, before the new drug application can be formally filed with the FDA.[6] The company then sends the FDA the evidence from these trials to prove the drug is safe and effective for its intended use. The FDA's physicians, statisticians, chemists, pharmacologists, and other scientists review the company's data and proposed labeling. The FDA will only approve a new drug application if it determines that the drug is safe and effective for its proposed use and that the benefits of the drug appear to outweigh the known risks.[7]

The DBPR has broad authority to inspect and discipline permittees for violations of state or federal laws and regulations, which can include seizure and condemnation of adulterated or misbranded drugs or suspension or revocation of a permit.[8]

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[1] The Drug, Device, and Cosmetic program was transferred to the Department of Business and Professional Regulation from the Department of Health effective November 1, 2012. See ch. 2012-184, Law of Fla., s. 122, at http://laws.flrules.org/2012/184 (last visited January 12, 2026).
[2] See ss. 499.001-499.081, F.S.
[3] Section 499.003(20), F.S., defines the federal act referencing 21 U.S.C. ss. 301 *et seq.* and 52 Stat. 1040 *et seq*.
[4] *See* 15 U.S.C. ss. 41-58, as amended.
[5] Section 499.01, F.S.
[6] U.S. Food & Drug Administration, New Drug Application (NDA), https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/NewDrugApplicationNDA/default.htm (last visited January 15, 2026).
[7] *Id*.
[8] Sections 499.051, 499.062, 499.065, 499.066, 499.0661, and 499.067, F.S.

Drugs and Devices

General Prohibitions

The act prohibits any person from:[9]

- Offering for sale any drug, device, or cosmetic, that is adulterated or misbranded.
- Disseminating any false or misleading advertisement of a drug, device, or cosmetic.
- Refusing to allow the DBPR to enter or inspect an establishment in which drugs, devices, or cosmetics are manufactured, processed, repackaged, sold, brokered, or held.
- Committing any act that causes a drug, device, or cosmetic to be a counterfeit drug, device, or cosmetic; or selling, dispensing, or holding for sale a counterfeit drug, device, or cosmetic.
- Committing an alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a drug, device, or cosmetic, or the doing of any other act with respect to a drug, device, or cosmetic, if the act is done while the drug, device, or cosmetic is held for sale and the act results in the drug, device, or cosmetic being misbranded.
- Forging, counterfeiting, simulating, falsely representing any drug, device, or cosmetic, or without the authority of the manufacturer, using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this part.
- Using, on the labeling of any drug or in any advertisement relating to such drug, any representation or suggestion that an application of the drug is effective when it is not or that the drug complies with this part when it does not.
- Possessing any drug in violation of part I, ch. 499, F.S.
- Failing to maintain records as required by law and rules adopted under ch. 499, F.S.
- Providing the DBPR with false or fraudulent records, or making false or fraudulent statements, regarding any matter within the provisions of the act.
- Failing to obtain a permit or registration, or operating without a valid permit when a permit or registration is required by the act for that activity.
- Obtaining or attempting to obtain a prescription drug or device by fraud, deceit, misrepresentation or subterfuge, or engaging in misrepresentation or fraud in the distribution of a drug or device.

Some of these prohibitions will raise to the level of criminal acts under s. 499.0051, F.S.

General Regulation of Vaccines

The Advisory Committee on Immunization Practices (ACIP) develops recommendations on the use of vaccines in the United States.[10] The ACIP is comprised of medical and public health experts, and works with professional organizations, such as the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Obstetricians

[9] *See* Section 499.005, F.S.

[10] Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *General Committee-Related Information*, available at https://www.cdc.gov/vaccines/acip/committee/index.html (last visited January 15, 2026). Established under Title 42 U.S.C. § 217a, ACIP members are appointed by the Secretary of the U.S. Department of Health and Human Services and consist of a mix of medical and public health experts from private industry and the public sector. There are 15 voting members (14 are industry experts and one consumer member), 6 non-voting, ex-officio members consisting of specific federal government employees, and 30 non-voting representatives from professional health care organizations.

and Gynecologists, and the American College of Physicians to develop annual childhood and adult immunization schedules.[11]

The Centers for Disease Control and Prevention (CDC) reviews the ACIP's recommendations; once approved by the CDC Director and the U.S. Department of Health and Human Services, they are published as the CDC's official recommendations for immunizations of the U.S. population.[12] New vaccines are considered for addition to the schedule after licensure by the FDA.[13]

The FDA oversees the safety, effectiveness, and quality of vaccines used in the United States. Once a vaccine is developed, the pre-clinical phase begins, which consists of laboratory research and testing on animals. If the pre-clinical phase shows the vaccine is likely to be safe and work well in humans, it is tested on humans through clinical trials. While clinical trials are underway, the FDA assesses the manufacturing process to ensure that the vaccine can be produced reliably and consistently. Once a manufacturing process is developed and pre-clinical and clinical trials are successfully completed, developers submit a Biologics License Application to the FDA, which includes details on the manufacturing process and data from pre-clinical and clinical trials. The FDA evaluates the application and decides whether to license the vaccine for use in the United States. The FDA continues to monitor and regulate vaccines and manufacturers after licensing.[14]

All vaccines must be licensed (approved) by the FDA in order to be marketed in the United States.[15] However, during public health emergencies, the FDA may authorize vaccines for emergency use, which speeds up the process of bringing a vaccine to market.[16]

Liability for Vaccine Manufacturers

In the 1980s Congress passed the National Childhood Vaccine Injury Act (NCVIA) in response to vaccine supply shortages and a destabilization of childhood immunization.[17] The NCVIA preserved the right for vaccine injured persons to bring a lawsuit in the court system *if* federal compensation is denied or is not sufficient or when there was evidence a drug company could

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[11] Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *ACIP Recommendations*, available at https://www.cdc.gov/vaccines/acip/recommendations.html (last visited January 15, 2026).
[12] *Id*.
[13] College of Physicians of Philadelphia, *The History of Vaccines: The Development of the Immunization Schedule,* available at http://www.historyofvaccines.org/content/articles/development-immunization-schedule (last visited January 16, 2026).
[14] U.S. Food and Drug Administration, *Vaccine Development – 101,* available at https://www.fda.gov/vaccines-blood-biologics/development-approval-process-cber/vaccine-development-101 (last visited January 15, 2026).
[15] U.S. Food and Drug Administration, *Ensuring the Safety of Vaccines in the United States,* available at https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/Ensuring-the-Safety-of-Vaccines-in-the-United-States.pdf (last visited January 15, 2026).
[16] Food and Drug Administration, *Emergency Use Authorization*, available at https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization (last visited January 15, 2026). Medical countermeasures are FDA-regulated products (biologics, drugs, and devices) that may be used in the event of a public health emergency.
[17] National Childhood Vaccine Injury Act, 42 U.S.C. §§300aa-1-34 (1986).

have made a vaccine safe.[18] Under the NCVIA, individuals are generally prohibited from filing a civil lawsuit against a vaccine manufacturer in state or federal court without first exhausting their remedies by filing a petition in the U.S. Court of Federal Claims.[19]

Within the NCVIA the National Vaccine Injury Compensation Program (VICP) was created as an alternative to traditional products liability and medical malpractice litigation for persons injured by their receipt of one or more of the standard childhood vaccines.[20] The VICP is designed to encourage vaccination by providing a streamlined system for compensation where an injury results from vaccination.[21]

The NCVIA significantly restricts the ability to sue by granting manufacturers broad immunity from liability for injuries resulting from unavoidable side effects, provided the vaccine was properly prepared and accompanied by proper directions and warnings.[22] There is a presumption that a vaccine manufacturer can't be held liable for punitive damages unless the plaintiff shows that the manufacturer:[23]

- Failed to exercise due care by clear and convincing evidence;
- Engaged in fraud or intentional wrongful withholding of information during any phase of a proceeding for approval of the vaccine;
- Engaged in intentional and wrongful withholding of information relating to the safety or efficacy of the vaccine after its approval; or
- Engaged in other criminal or illegal activity relating to the safety and effectiveness of vaccines.

This protection for vaccine manufacturers was further solidified by the U.S. Supreme Court in *Bruesewitz v. Wyeth*, 562 U.S. 223 (2011), which ruled that the NCVIA preempts all state-law "design-defect" claims against vaccine manufactures by plaintiffs who seek compensation for injury or death caused by vaccine side effects.

Effectively, the NCVIA prevents most standard lawsuits like those for design defects or failure to warn against vaccine manufacturers for covered vaccines.

VICP Statistics

According to the Center for Disease Control and Prevention, from 2006 to 2023 over 5 billion doses of covered vaccines were distributed in the U.S. For petitions filed in this time period, 13,948 petitions were adjudicated by the Court of Federal Claims, and of those 10,193 were

[18] National Vaccine Information Center, *The National Childhood Vaccine Injury Act of 1986* (February 19, 2024), available at https://www.nvic.org/law-policy-federal/vaccine-injury-compensation/1986-national-childhood-vaccine-injury-act (last visited January 15, 2026).
[19] 42 U.S.C. §300aa-11(a)(2).
[20] Department of Justice Civil Division, *Vaccine Injury Compensation Program* (updated January 25, 2023), available at https://www.justice.gov/civil/vicp (last visited January 15, 2026).
[21] *Id*.
[22] 42. U.S.C. §300aa-22(b)(1).
[23] *Id*.

compensated.[24] Since 1988, over 29,460 petitions have been filed with the VICP.[25] Over that time period, 25,652 petitions have been adjudicated, with 12,588 of those determined to be compensable, while 13,064 were dismissed.[26]

Total compensation paid over the life of the program is approximately $5.5 billion.[27]

Advertising of Vaccines

In 2025, healthcare and pharma digital ad spending is estimated to reach $24.8 billion, while traditional ad spending is estimated to be about $7.9 billion.[28] This highlights a shift from traditional advertising methods to direct to consumer digital methods that consumers will see on their social media platforms as well as internet browsers. Section 499.0054(1)(a), F.S., prohibits the dissemination of false or misleading advertisements for any drug or device.

First Amendment Protections for Vaccine Advertising

The United States Supreme Court has established that commercial speech, including pharmaceutical advertising, is afforded significant protection under the First Amendment.[29] Under the *Central Hudson* framework, the government generally may not prohibit or unduly burden truthful, non-misleading advertisements for lawful products unless the regulation is narrowly tailored to serve a substantial government interest.[30]

III. Effect of Proposed Changes:

The bill amends s. 499.0054, F.S., defining the term "advertise" to mean a media communication, including, but not limited to, television, radio, print, the Internet, digital or electronic media, product placement, promotion by an influencer in exchange for compensation, or any other manner of paid promotion, that a vaccine manufacturer purchases to promote the manufacturer's vaccine.

"Advertise" does not include:

- Any discussion between a health care provider and the provider's patient or any written materials that a health care provider provides to a patient concerning a vaccine; or
- Any posters, decorations, or other materials or promotional items concerning a vaccine that are displayed in or made available by a health care facility, health care provider's office, or other clinical setting.

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[24] Health Resources & Services Administration, *HRSA Data and Statistics January 2026*, available at https://www.hrsa.gov/sites/default/files/hrsa/vicp/vicp-stats-01-01-26.pdf (last visited January 20, 2026).
[25] *Id*.
[26] *Id*.
[27] *Id*.
[28] Andrea Park, Fierce Pharma, *2026 forecast: Pharma ad dollars will continue shifting away from traditional TV* (December 19, 2025), available at https://www.fiercepharma.com/marketing/2026-forecast-pharma-ad-dollars-will-continue-shifting-away-traditional-tv (last visited January 1, 2026).
[29] *Virginia State Board of Pharmacy v. Viriginia Citizens Consumer Council*, 425 U.S. 748 (1976).
[30] *Central Hudson Gas & Elec. Corp v. Public Service Commission*, 447 U.S. 557 (1980).

The bill provides that a vaccine manufacturer **is liable** to an individual if the manufacturer advertises a vaccine in this state and the advertised vaccine causes harm or injury to an individual.

Notwithstanding any other law, to the contrary, an individual may bring an action under this section within **3 years** following the accrual of the cause of action.

A court shall award a claimant who prevails in an action brought under this section actual damages, court costs, and reasonable attorney fees.

The bill provides for an effective date of July 1, 2026.

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:

While the bill seeks to carve out a new cause of action strictly based on advertising, there likely could be arguments made that state laws dealing with vaccines are preempted by federal law.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 499.0054 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Grall

29-00511-26 2026408__

A bill to be entitled

An act relating to the advertisement of a harmful vaccine; amending s. 499.0054, F.S.; defining the term "advertise"; providing manufacturer liability under certain circumstances; authorizing an individual to file a cause of action under certain circumstances within a specified timeframe; providing that a prevailing party is entitled to actual damages, court costs, and reasonable attorney fees; providing an effective date.

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

Section 1. Subsection (4) is added to section 499.0054, Florida Statutes, to read:

499.0054 Advertising and labeling of drugs, devices, and cosmetics; exemptions.—

(4)(a) As used in this subsection, the term "advertise" means a media communication, including, but not limited to, television, radio, print, the Internet, digital or electronic media, product placement, promotion by an influencer in exchange for compensation, or any other manner of paid promotion, that a vaccine manufacturer purchases to promote the manufacturer's vaccine. The term does not include:

1. Any discussion between a health care provider and the provider's patient or any written materials that a health care provider provides to a patient concerning a vaccine; or

2. Any posters, decorations, or other materials or promotional items concerning a vaccine that are displayed in or

29-00511-26 2026408__

made available by a health care facility, health care provider's office, or other clinical setting.

(b) A manufacturer is liable to an individual if the manufacturer advertises a vaccine in this state and the advertised vaccine causes harm or injury to an individual.

(c) Notwithstanding any other law to the contrary, an individual may bring an action under this section within 3 years following the accrual of the cause of action.

(d) A court shall award a claimant who prevails in an action brought under this section actual damages, court costs, and reasonable attorney fees.

Section 2. This act shall take effect July 1, 2026.

The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 19, 2025

I respectfully request that **Senate Bill #408**, relating to Advertisement of a Harmful Vaccine, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

1/20/26

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 408

Bill Number or Topic

Amendment Barcode (if applicable)

Name Leslie Dughi

Phone 8505193903

Address 119 South Monroe Street, Suite 200

Street

Email leslie.dughi@mhdfirm.com

City *State* 32301 *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Assn of Family Physicians

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

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January 20, 2026
Meeting Date

Regulated Industries
Committee

SB 408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 850-521-1200

Address 136 S Bronough St
Street

Email Cjohnson@flchamber.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
The FL Chamber

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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1/20/26
Meeting Date

Regulated Industries
Committee

SB 408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jason D. Winn

Phone 850/222-5702

Address 106 E. College Ave Suite 1500
Street

Email jwinn@llw-law.com

Tall. FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Osteopathic Medical Assoc.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/26
Meeting Date

Regulated Industries
Committee

SB 408
Bill Number or Topic

Amendment Barcode (if applicable)

Name George Feijoo ("Fay-Joo") Phone 305 720 7099

Address 108 S. Monroe St. Email grfeijoo@flapartners.com
Street

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: U.S. Chamber - Institute for Legal Reform

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

1/20/26
Meeting Date

Regulated Industries
Committee

408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Basford

Phone 8502247173

Address 516 N Adams St
Street

Email abasford@aif.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Associated Industries of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1.20.26
Meeting Date

Regulated Industries
Committee

408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patricia Campbell-Smith

Phone 443.604.0938

Address 7302 Birch Avenue
Street

Email patricia.a.campbell.smith@yahoo.com

Takoma Park MD 20912
City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Biotechnology Innovation Organization

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/26
Meeting Date

Regulated Industries
Committee

SB408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cary Silverman

Phone 202-783-8400

Address 1800 K Street NW, Ste 1000
Street

Email csilverman@shb.com

Washington DC 20006
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
American Tort Reform Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

DUPLICATE

The Florida Senate

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01.20.26
Meeting Date

Regulated Industries
Committee

408
Bill Number or Topic

Amendment Barcode (if applicable)

Name William Large

Phone 8502220170

Address 215 South Monroe Street - Ste 140
Street

Email William@fljustice.org

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Justice Reform Institute

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/26
Meeting Date

Regulated Industries
Committee

SB 408
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Kennedy

Phone 239-671-5733

Address PO Box 697
Street

Email ryan@gofica.org

Marco Island FL 34146
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Citizens Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	SB 986
INTRODUCER:	Senator Gruters
SUBJECT:	Smoking in Public Places
DATE:	January 16, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.			AEG	
3.			RC	

I. Summary:

SB 986 revises the Florida Clean Air Act to prohibit the smoking or vaping of a marijuana product in a public place.

The bill defines the term "public place" to mean "a place to which the public has access, including, but not limited to, streets; sidewalks; highways; public parks; public beaches; and the common areas, both inside and outside, of schools, hospitals, government buildings, apartment buildings, office buildings, lodging establishments, restaurants, transportation facilities, and retail shops."

The bill revises the definition for the term "smoking" to include the inhaling, exhaling, burning, carrying, or possessing any lighted marijuana product, including cigarettes, cigars, and any other lighted marijuana product.

The bill also revises the definition for the term "vape" or "vaping" to include to inhale or exhale vapor 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 marijuana product.

The bill prohibits the smoking or vaping of marijuana in a customs smoking room at any time. Under current law, smoking tobacco and vaping a nicotine product or any other substance is allowed in a designated custom room of an airport.

Under current law, individuals who violate the Florida Clean Air Act may be fined not more than $100 for a first violation and not more than $500 for a subsequent violation.

The bill takes effect July 1, 2026.

II. Present Situation:

The Florida Clean Indoor Air Act (act) in part II of ch. 386, F.S., regulates vaping and tobacco smoking in Florida. The legislative purpose of the act is to protect the public from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.[1]

Florida Constitution

Tobacco Smoking

On November 5, 2002, the voters of Florida approved Amendment 6 to the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. Codified as s. 20, Art. X, Florida Constitution, the amendment defines an "enclosed indoor workplace," in part, as "anyplace where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers … without regard to whether work is occurring at any given time." The amendment defines "work" as "any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not." The amendment provides limited exceptions for private residences "whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof," retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

The constitutional amendment directed the Legislature to implement the "amendment in a manner consistent with its broad purpose and stated terms." The amendment required that implementing legislation have an effective date of no later than July 1, 2003, and required that implementing legislation provide civil penalties for violations, provide for administrative enforcement, and require and authorize agency rules for implementation and enforcement. The amendment further provided that the Legislature may enact legislation more restrictive of tobacco smoking than that provided in the Florida Constitution.

Vaping

On November 6, 2018, the voters of Florida approved Amendment 9 to the Florida Constitution, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces.[2] The use of e-cigarettes is commonly referred to as vaping.

Amendment 9 adds vapor-generating electronic devices to the current prohibition against tobacco smoking in enclosed indoor workplaces. The amendment makes exceptions for the same enclosed indoor workplace locations where tobacco smoking is permitted and further permits tobacco smoking and the use of vapor-generating electronic devices in a "vapor-generating electronic device retailer."

The amendment defines a "vapor-generating electronic device retailer" to mean "any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic

[1] Section 386.202, F.S.
[2] Amendment 9 also bans offshore oil and natural gas drilling on lands beneath state waters. See FLA. CONST. art II, s. 7.

devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental."

A vapor-generating electronic device is defined as "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." The definition includes electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, and other similar devices or products, replacement cartridges for such devices, and other containers of a solution or other substance intended to be used with or within the devices.

Section 20, Art. X, Florida Constitution, as amended, directs the Legislature to implement the "amendment in a manner consistent with its broad purpose and stated terms." The implementing legislation must have an effective date of no later than July 1 of the year following approval (July 1, 2019). The implementing legislation must also provide civil penalties for violations, provide for administrative enforcement, and require and authorize agency rules for implementation and enforcement. The Legislature may enact legislation more restrictive of tobacco smoking or vaping than that provided in the State Constitution.

Under the amendment, local governments may adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

Florida's Clean Indoor Air Act

The Legislature implemented the smoking ban by enacting ch. 2003-398, Laws of Fla., which amended the act in part II of ch. 386, F.S., and created s. 561.695, F.S., of the Beverage Law. During the 2019 Regular Session, the Legislature amended part II of ch. 386, F.S., to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces.[3]

The act implements the constitutional amendment's prohibition. Specifically, s. 386.204, F.S., prohibits smoking or vaping in an enclosed indoor workplace unless the act provides an exception. The act adopts and implements the amendment's definitions and adopts the amendment's exceptions for private residences whenever not being used for certain commercial purposes;[4] stand-alone bars;[5] designated smoking rooms in hotels and other public lodging establishments;[6] and retail tobacco shops, including businesses that manufacture, import, or distribute tobacco products and tobacco loose leaf dealers.[7]

The act permits smoking in a customs smoking room designated by the person in charge of an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security. A customs smoking room may be designated only in an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland

[3] See ch. 2019-14, Laws of Fla.
[4] Section 386.2045(1), F.S. See also definition of the term "private residence" in s. 386.203(1), F.S.
[5] Section 386.2045(4), F.S. See also definition of the term "stand-alone bar" in s. 386.203(11), F.S.
[6] Section 386.2045(3), F.S. See also definition of the term "designated guest smoking room" in s. 386.203(4), F.S.
[7] Section 386.2045(2), F.S. See also definition of the term "retail tobacco shop" in s. 386.203(8), F.S.

Security, and may not be designated in an elevator, restroom, or any common area as defined by s. 386.203, F.S.

Section 386.203(11), F.S., defines the term smoking to mean inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

Section 386.203(13), F.S., defines the term "vape" or "vaping" to mean:

> …to inhale or exhale vapor 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.

Section 386.203(14), F.S., defines the term "vapor" to mean 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 386.203(15), F.S., defines the term "vapor-generating electronic device" to mean:

> …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 within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

Section 386.207, F.S., provides for enforcement of the act by the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) within each department's specific areas of regulatory authority. Sections 386.207(1) and 386.2125, F.S., grant rulemaking authority to the DOH and the DBPR and require that the departments consult with the State Fire Marshal during the rulemaking process.

Section 386.207(3), F.S., provides penalties for violations of the act by proprietors or persons in charge of an enclosed indoor workplace.[8] The penalty for a first violation is a fine of not less than $250 and not more than $750. The act provides fines for subsequent violations in the amount of not less than $500 and not more than $2,000.

Penalties for individuals who violate the act are provided in s. 386.208, F.S., which provides for a fine of not more than $100 for a first violation and not more than $500 for a subsequent violation.

[8] The applicable penalties for violations by designated stand-alone bars are set forth in s. 561.695(8), F.S.

Smoking and Vaping Prohibited Near School Property

Section 386.212(1), F.S., prohibits smoking and vaping by any person under 21 years of age in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. The prohibition does not apply to any person occupying a moving vehicle or within a private residence.

Any person issued a citation for a violation of this prohibition must be charged with a civil infraction punishable by a maximum civil penalty not to exceed $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco or anti-vaping "alternative to suspension" program.

Regulation of Smoking Preempted to State

Section 386.209, F.S., provides that the act expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

As an exception to the state's preemption of smoking regulation, s. 386.209, F.S., permits:
- Counties and municipalities to restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars;
- Municipalities to further restrict smoking within the boundaries of public beaches and public parks that are within its jurisdiction but are owned by the county, unless such restriction conflicts with a county ordinance, except that they may not further restrict the smoking of unfiltered cigars; and
- School districts to further restrict smoking by persons on school district property.

Section 386.209, F.S., adopts and implements the Florida Constitution's grant of authority to local governments to adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

Marijuana Smoking and Possession

Criminal Prohibitions

Section 893.02(3), F.S., defines the term "cannabis" to mean all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

The term "cannabis" does not include "marijuana," as defined in s. 381.986, F.S., relating to the medical use of marijuana, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986, F.S. The term also does not include hemp as defined in s. 581.217, F.S., or industrial hemp as defined in s. 1004.4473, F.S.

Cannabis is a "Schedule I" controlled substance.[9] A person who possesses cannabis commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.[10]

However, a person who possesses of 20 grams or less of cannabis commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.[11]

A law enforcement officer may arrest without warrant any person who the officer has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.[12]

Medical Marijuana

On November 4, 2016, Amendment 2 was approved by the statewide electorate and established Article X, section 29 of the Florida Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

- Qualifying patients who medically use marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and
- Medical Marijuana Treatment Centers (MMTCs) and their agents and employees for actions or conduct under the amendment and in compliance with rules promulgated by the DOH.

Subsequently, the Legislature passed SB 8-A in Special Session A of 2017.[13] The bill revised the Compassionate Medical Cannabis Act of 2014[14] in s. 381.986, F.S., to implement Article X, section 29 of the State Constitution.

For the purpose of the authorized medical use of marijuana under s. 381.986, F.S., the term "marijuana" is defined to mean:

> …all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

Section 381.986(1)(k), F.S., provides that the "medical use" of marijuana means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:

- Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana treatment center.

---

[9] Section 893.03(1)(c)7., F.S.
[10] Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed $5,000. Section 775.084, F.S., provides additional penalties for habitual felony offenders.
[11] Section 893.13(2)(a)2., F.S.
[12] Section 893.13(6)(e), F.S.
[13] Chapter 2017-232, Laws of Florida.
[14] Chapter 2014-157, Laws of Florida.

- Possession, use, or administration of marijuana in the form of commercially produced food items other than edibles or of marijuana seeds.
- Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician's directions or physician certification.
- Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient's caregiver on behalf of the qualified patient.
- Use or administration of marijuana in the following locations:
  - On any form of public transportation, except for low-THC cannabis not in a form for smoking.
  - In any public place, except for low-THC cannabis not in a form for smoking.
  - In a qualified patient's place of employment, except when permitted by his or her employer.
  - In a state correctional institution, as defined in s. 944.02, F.S., or a correctional institution, as defined in s. 944.241, F.S.
  - On the grounds of a preschool, primary school, or secondary school, except as provided in s. 1006.062, F.S.
  - In a school bus, a vehicle, an aircraft, or a motorboat, except for low-THC cannabis not in a form for smoking.
- The smoking of marijuana in an enclosed indoor workplace as defined in s. 386.203(5), F.S.

Section 381.986(12)(c), F.S., provides that a qualified patient[15] who uses marijuana, not including low-THC cannabis, or a caregiver who administers marijuana, not including low-THC cannabis, in plain view of or in a place open to the general public; in a school bus, a vehicle, an aircraft, or a boat; or on the grounds of a school except as provided in s. 1006.062, F.S.,[16] commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.[17]

III. Effect of Proposed Changes:

Legislative Intent

The bill amends s. 386.202, F.S., relating to the legislative intent of the Florida Clean Air Act to provide that it is the intent of part II of ch. 386, F.S., to protect people from the hazards of secondhand marijuana smoke and vapor.

Definitions

The bill amends s. 386.203, F.S., to define the term “public place” to mean:

> …a place to which the public has access, including, but not limited to, streets; sidewalks; highways; public parks; public beaches; and the common areas, both inside and outside, of schools, hospitals, government

[15] Section 381.986(1)(m), F.S.
[16] Section 1006.062, F.S., relates to the administration of medication and provision of medical services by district school board personnel.
[17] Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S., provides that a misdemeanor of the first degree is punishable by a fine not to exceed $1,000.

buildings, apartment buildings, office buildings, lodging establishments, restaurants, transportation facilities, and retail shops.

The bill revises the definition for the term "smoking" in s. 386.203(12), F.S., to include the inhaling, exhaling, burning, carrying, or possessing any lighted marijuana product, including cigarettes, cigars, and any other lighted marijuana product.

The bill revises the definition for the term "vape" or "vaping" in s. 386.203(14), F.S., to include to inhale or exhale vapor 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 marijuana product.

Prohibitions

The bill amends s. 386.204, F.S., to prohibit the smoking or vaping of a marijuana product in a public place.

The bill creates s. 386.205(6), F.S., to prohibit the smoking or vaping of marijuana in a customs smoking room as any time.

Effective Date

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

- None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 386.202, 386.203, 386.204, 386.205, 561.695.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Gruters

22-00705B-26 2026986__

A bill to be entitled

An act relating to smoking in public places; amending s. 386.202, F.S.; revising legislative intent; amending s. 386.203, F.S.; defining the term "public place"; revising the definition of the terms "smoking" and "vape" or "vaping"; amending s. 386.204, F.S.; prohibiting smoking or vaping a marijuana product in public places in this state, with exceptions; amending s. 386.205, F.S.; revising requirements for customs smoking rooms to prohibit smoking and vaping of marijuana products at any time; amending s. 561.695, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 386.202, Florida Statutes, is amended to read:

386.202 Legislative intent.—The purpose of this part is to protect people from the health hazards of secondhand tobacco and marijuana smoke and vapor and to implement the Florida health initiative in s. 20, Art. X of the State Constitution. It is the intent of the Legislature to not inhibit, or otherwise obstruct, medical or scientific research, or smoking or vaping cessation programs approved by the Department of Health.

Section 2. Present subsections (9) through (17) of section 386.203, Florida Statutes, are redesignated as subsections (10) through (18), respectively, a new subsection (9) is added to that section, and present subsections (11) and (13) of that

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

22-00705B-26 2026986__

section are amended, to read:

386.203 Definitions.—As used in this part:

(9) "Public place" means a place to which the public has access, including, but not limited to, streets; sidewalks; highways; public parks; public beaches; and the common areas, both inside and outside, of schools, hospitals, government buildings, apartment buildings, office buildings, lodging establishments, restaurants, transportation facilities, and retail shops.

(12) ~~(11)~~ "Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco or marijuana product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco or marijuana product.

(14) ~~(13)~~ "Vape" or "vaping" means to inhale or exhale vapor 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 or marijuana product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

Section 3. Section 386.204, Florida Statutes, is amended to read:

386.204 Prohibition.—A person may not smoke or vape in an enclosed indoor workplace or smoke or vape a marijuana product in a public place, except as otherwise provided in s. 386.2045.

Section 4. Subsection (6) is added to section 386.205, Florida Statutes, to read:

386.205 Customs smoking rooms.—A customs smoking room may

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

be designated by the person in charge of an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security. A customs smoking room may be designated only in an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security. A customs smoking room may not be designated in an elevator, restroom, or any common area as defined by s. 386.203. Each customs smoking room must conform to the following requirements:

(6) Smoking or vaping of marijuana products is prohibited in the customs smoking room at any time.

Section 5. Paragraph (a) of subsection (5) of section 561.695, Florida Statutes, is amended to read:

561.695 Stand-alone bar enforcement; qualification; penalties.—

(5) After the initial designation, to continue to qualify as a stand-alone bar, the licensee must provide to the division annually, on or before the licensee's annual renewal date, an affidavit that certifies, with respect to the preceding 12-month period, the following:

(a) No more than 10 percent of the gross revenue of the business is from the sale of food consumed on the licensed premises as described ~~defined~~ in s. 386.203(13) ~~s. 386.203(12)~~.

The division shall establish by rule the format of the affidavit required by this subsection. A licensed vendor shall not knowingly make a false statement on the affidavit required by this subsection. In addition to the penalties provided in

subsection (7), a licensed vendor who knowingly makes a false statement on the affidavit required by this subsection may be subject to suspension or revocation of the vendor's alcoholic beverage license under s. 561.29.

Section 6. This act shall take effect July 1, 2026.

The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 14, 2026

I respectfully request that **Senate Bill #986**, relating to Smoking in Public Places, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Joe Gruters
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

Datres, Susan

From: Brill, Victoria
Sent: Thursday, January 15, 2026 5:18 PM
To: Datres, Susan; Hill, Mandy; Miller, Jeremy
Subject: RE: agenda request letter for SB 986 - pls send ASAP
Attachments: 986 Committee Agenda.docx

Hi Susan,

Please find attached SB 986, Smoking in Public Places for Tuesday's meeting. Senator Gruters is unable to present his bill at the moment so Senator Rodriguez will present in his place.

Please let me know if you have any questions.

Thank you,
Vickie

Vickie Brill Keller, MBA
Chief Legislative Aide
Sen. Joe Gruters – SD 22
941-378-6309
850-487-5022

From: Datres, Susan <DATRES.SUSAN@flsenate.gov>
Sent: Thursday, January 15, 2026 5:01 PM
To: Brill, Victoria <Brill.Victoria@flsenate.gov>; Hill, Mandy <Hill.Mandy@flsenate.gov>; Miller, Jeremy <Miller.Jeremy@flsenate.gov>
Subject: agenda request letter for SB 986 - pls send ASAP
Importance: High

I need to get an agenda request letter for SB 986, Smoking in Public Places, which is on our agenda Tuesday morning.

Please send as soon as possible, as I must publish the **meeting packet by 9:30 Friday morning (tomorrow)!!**

Susan Datres
Senate Committee on Regulated Industries
Suite 525 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399
850-487-5957

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/20/2026
Meeting Date

Regulated Industries
Committee

SB 986
Bill Number or Topic

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone (850) 224-2250

Address 230 S. Adams Street
Street

Email spadgett@FRLA.org

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Restaurant & Lodging Assoc.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/20/26
Meeting Date

Regulated Industries
Committee

986
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jodi James

Phone 321 890 7302

Address 1389 Cypress Ave Suite 108
Street

Email jodi@flcan.org

Melbourne FL 32935
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: FLCAN

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 678
INTRODUCER:	Regulated Industries Committee and Senators Mayfield and Gaetz
SUBJECT:	Deductions for Certain Losses of Alcoholic Beverages
DATE:	January 20, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 678 allows alcoholic beverage distributors to deduct certain losses of unsalable products from the excise taxes they owe. Under the bill, distributors may deduct losses caused by warehouse breakage, spoliation, evaporation, expiration, or products becoming unfit for consumption, as follows:

- Vinous beverages (wine): 0.49 percent of gross tax.
- Spirituous beverages (liquor): 0.15 percent of gross tax.
- Malt beverages (beer): 0.20 percent of gross tax or the amount of actual breakage or spoliation.

For malt beverages, distributors must annually elect whether to use the percentage method or actual breakage or spoliation amount. The election is binding for the calendar year unless the license is transferred or 100 percent of inventory is sold to a new owner.

Distributors handling multiple alcohol types must calculate deductions separately under each category's rules.

The bill allows distributors to also deduct the actual gallonage of "extraordinary losses," defined as unusual losses from acts of God or nature not expected to recur, accidents during shipment between manufacturers, distributors, or retailers, or manufacturer recalls that require destruction.

Extraordinary losses do not include normal on-premises evaporation, breakage, or spoliation beyond the standard deduction limits. When an extraordinary loss occurs, distributors must immediately notify the Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation and provide proof, such as an accident or incident reports for transit losses. They must also submit a statement confirming destruction, dumping, or recycling of the product, and other information specified in the bill such as the gallonage and tax category of alcohol destroyed. Additionally, distributors must certify that the excise tax was not recovered elsewhere and provide insurance claim documentation upon request.

The bill requires distributors to maintain division-prescribed forms and the division must retain these records for three years.

The provisions of the bill apply retroactively to January 1, 2025.

The bill authorizes the division to adopt rules to implement the bill.

The bill takes effective upon becoming law.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The division administers and enforces[1] the Beverage Law,[2] which regulates the manufacture, distribution, and sale of wine, beer, and liquor, including the:[3]

- Receipt and processing of license applications; and
- Collection and auditing of taxes, surcharges, and fees paid by licensees.

The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

The term "beer" means a brewed beverage that meets the federal definition of beer in 27 C.F.R. s. 25.11 and contains less than 6 percent alcohol by volume. A "malt beverage" means any brewed beverage containing malt. The terms "beer" and "malt beverage" have the same meaning when either term is used in the Beverage Law but do not include alcoholic beverages that require a certificate of label approval by the Federal Government as wine or as distilled spirits.[4]

The term "wine" means:

> all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages,

[1] Section 561.02, F.S.
[2] Section 561.01(6), F.S. (provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.).
[3] *See* s. 561.14, F.S.
[4] Section 563.01, F.S.

> sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.[5]

The term "fortified wine" means all wines containing more than 17.259 percent of alcohol by volume.[6]

The terms "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.[7]

Three Tier System

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages; the distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer.[8]

Excise Taxes

The state of Florida imposes an excise tax on malt beverages containing 0.5 percent or more alcohol by volume that are brought into the state at the following tax rates.

- For malt beverage:
  - Pints at a tax rate of $0.06 per pint;
  - Quarts at a tax rate of $0.12 per quart; and
  - Gallons at a tax rate of $0.48 per gallon.
- For wine:
  - Containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol at a tax rate of $2.25 per gallon;
  - Containing 17.259 percent or more alcohol by volume at the tax rate of $3 per gallon.
- For natural sparkling wines at a tax rate of $3.50 per gallon.
- For cider containing not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume at a tax rate of $0.89 per gallon.
- For wine coolers, which are a combination of wines containing 0.5 percent or more alcohol by volume, carbonated water, and flavors or fruit juices and preservatives and which contain 1 to 6 percent alcohol content by volume, at a tax rate of $2.25 per gallon.
- For alcoholic beverages (liquor) containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, except wines, at the tax rate of $6.50 per gallon

[5] Section 564.01(1), F.S.
[6] Section 564.01(2), F.S.
[7] Section 565.01, F.S.
[8] Section 561.14, F.S.

- For beverages containing more than 55.780 percent of alcohol by volume at the tax rate of $9.53 per gallon.

Excise taxes are not levied upon any alcoholic beverage sold to a post exchange, ship service store, or base exchange located in a military, naval, or air force reservation within this state.[9]

Distributors are required to pay the tax to the division monthly on or before the 10th day of the following month. Distributors may withhold a portion of the tax due for keeping prescribed records, furnishing bond, and properly accounting for and remitting taxes due to the state as follows:[10]

- Distributors of malt beverages may withhold 2.5 percent of the tax due.[11]
- Distributors of wine may withhold 1.9 percent of the tax due.[12]
- Distributors of liquor may withhold 1 percent of the tax due.[13]

However, no allowance shall be granted or permitted when the tax is delinquent at the time of payment.[14]

Monthly Reporting

Each alcoholic beverage manufacturer, distributor, broker, sales agent, importer, and exporter is required to make a full and complete report by the 10th of each month of all product transactions for the previous calendar month. Such report must show the amount of:

- Beverages manufactured or sold within the state and to whom sold;
- Beverages imported from beyond the limits of the state and to whom sold;
- Beverages exported beyond the limits of the state, to whom sold, the place where sold, and the address of the person to whom sold.

Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages

Current law does not authorize alcoholic beverages distributors to deduct from the amount of excise tax remitted to the division an amount for the cost of any breakage or spoilage of alcoholic beverages.

Recently repealed Fla. Admin. Code R. Rule 61A-4.0371 allowed alcoholic beverages distributors to make an excise tax deduction in their monthly tax report for alcoholic beverages which have become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or which have become unfit for human consumption.

[9] *See* s. 563.05, F.S., relating to malt beverages, s. 564.06(8), F.S., relating to wine, and s. 565.12(3), F.S., relating to liquor.
[10] *See* s. 564.06(7), F.S., relating to wine, and s. 565.13, F.S., relating to liquor.
[11] Section 563.07, F.S.
[12] Section 564.06(7), F.S.
[13] Section 565.13, F.S.
[14] Section 563.07, F.S., relating to malt beverages, s. 564.06(7), F.S., relating to wine, and s. 565.13, F.S., relating to liquor.

On July 7, 2025, the division published a notice of intent to repeal Fla. Admin. Code R. Rule 61A-4.0371[15] because the original statutory authority in s. 564.06(5), F.S. (1972) was repealed in 1985.[16] The Joint Administrative Procedures Committee subsequently issued a Notice of Nullification of the rule pursuant to s. 120.536(2)(a), F.S.[17]
Under the repealed rule, distributors could deduct an amount equal to:

- 0.49 percent of gross tax for vinous sales;
- 0.15 percent of gross tax for spirituous beverage sales; and
- 0.20 percent of gross tax for malt beverage sales.

Alternatively, distributors could deduct the actual breakage or spoilage destruction witnessed and documented by the division employee or other authorized person. Distributors were required to annually elect the method of breakage for malt beverages (percentage or actual) and such election will be effective for 1 year unless the license is transferred or 100 percent of the stock is sold to a new owner. [18]

Distributors could also deduct the amount due to extraordinary losses, including losses which are:

- Not expected to recur resulting from acts of God or nature;
- Accidents which occur during interstate or intrastate shipment; or
- Products being recalled by a manufacturer and destroyed by a distributor.

Extraordinary losses do not include losses from evaporation, breakage, or spoilage incurred on the licensed premises in the normal course of business which merely exceed the standard deductions.[19]

Distributors were required show proof of the extraordinary loss occurrence prior to recovery or crediting of any excise tax due on unsaleable alcoholic beverages by providing a copy of a traffic accident investigation or incident report from the investigating agency when the loss occurs in transit, or be witnessed by an authorized division employee where the loss occurs on the premise of the distributor, or other appropriate documentation which clearly and objectively establishes the extraordinary loss.

The distributors were also required to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss occurrence by providing a statement to the division from the distributor's employee responsible for the destruction or recycling. The statement had to include a description of alcoholic beverages, by gallon and tax category, which

[15] *See* Vol. 51 No. 130, July 7, 2025, issue of the Florida Administrative Register.
[16] *See* Section 1, ch. 85-204, Laws of Fla.
[17] *See* Joint Administrative Procedures Committee, *Notice of Nullification of Rule 61A-4.0371, F.A.C.*, dated August 27, 2025 (on file with the Senate Regulated Industries Committee). Section 120.536(2)(a), F.S., provides that, if a law is repealed, any administrative rule created solely to implement that specific law is automatically rendered null and void. Whenever a notice of the nullification of a rule is received from the Joint Administrative Procedures Committee, the Department of State must remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.
[18] Fla. Admin. Code R. Rule 61A-4.0371(1)
[19] Fla. Admin. Code R. Rule 61A-4.0371(2)

have been destroyed or recycled, the location of the extraordinary loss occurrence, and the location of the site of destruction or recycling.[20]

Distributors were required to notify the division to witness the remaining undamaged, invoiced inventory which is utilized by the distributor. The distributor who reported extraordinary breakage, spoilage or evaporation was required to furnish proof that Florida Excise Taxes have not been recovered from any other source.[21]

III. Effect of Proposed Changes:

The bill creates s. 561.1215, F.S., to allow alcoholic beverage distributors to deduct against any excise taxes due under s. 563.05, F.S., 564.06, F.S., or s. 565.12, F.S., for unsalable alcoholic beverages due to warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption. Distributors may deduct:

- For vinous sales, 0.49 percent of gross tax.
- For spirituous beverage sales, 0.15 percent of gross tax.
- For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

For malt beverages, the distributor must annually elect the method for determining breakage by either percentage or actual gallonage. The chosen method is effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

Distributors that distribute more than one type of alcoholic beverage must deduct the gross taxes for their products as prescribed by the bill for vinous, spirituous, or malt beverages.

The bill also allows distributors to deduct extraordinary losses of vinous, spirituous, or malt beverages. Under the bill, an "extraordinary loss" means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a manufacturer and destroyed by a distributor. The term does not include a loss from evaporation, breakage, or spoliation incurred on the licensed premises in the normal course of business which exceeds the standard deductions prescribed in the bill.

Distributors immediately notify the division when an extraordinary loss occurs. Distributors may deduct the actual gallonage of the extraordinary loss and must show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages by:

- Providing a copy of a traffic accident investigation report or an incident report from the investigating agency when the loss occurs in transit;
- Having the extraordinary loss witnessed or documented by an authorized division employee when the extraordinary loss occurs on the premises of the distributor; or
- Clearly and objectively establishing the extraordinary loss through appropriate documentation as determined by the division.

[20] *Id.*
[21] Fla. Admin. Code R. Rule 61A-4.0371(3)

Distributors must show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss by providing a statement to the division from the distributor, or the distributor's authorized employee or agent, evidencing such destruction, dumping, or recycling. The statement must include:

- A description of the location of the extraordinary loss;
- The alcoholic beverages, by gallonage and tax category, which have been destroyed, dumped, or recycled; and
- The location of the site where the alcoholic beverages were destroyed, dumped, or recycled.

Additionally, distributors reporting extraordinary losses must furnish proof that the excise tax has not been recovered from any other source and must provide the division with copies of all insurance claims and receipts of payment upon request by the division.

Distributors must record on forms prescribed by the division the actual gallonage of breakage, spoliation, or evaporation of alcoholic beverages and the date of product destruction, quantity destroyed by tax classification, and a statement signed by the distributor, or the distributor's authorized employee or agent, that the product was destroyed.

The bill requires the division to retain all completed forms for 3 years.

The bill authorizes the division to adopt rules to implement the provisions of the bill.

The provisions of the bill apply retroactively to January 1, 2025.

The bill takes effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Distributors of alcoholic beverages will be able to deduct a percentage, as specified in the bill, from the amount of gross excise tax due to the division for breakage and spoliation of alcoholic beverages.

C. Government Sector Impact:

The Revenue Estimating Conference has not performed a fiscal analysis for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 561.1215 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 Regulated Industries on January 20, 2026:
The committee substitute:

- Revises s. 561.1215(1)(a), F.S., for clarity;
- Deletes the provision requiring that breakage and spoliation must be documented by an employee of the division or other authorized person; and
- Provides that the bill applies retroactively to January 1, 2025.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2026	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 561.1215, Florida Statutes, is created to read:

561.1215 Deductions for breakage, spoliation, evaporation, expiration, and extraordinary losses.—

(1)(a) Distributors of vinous, spirituous, or malt beverages may make deductions against any excise tax due under

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s. 563.05, s. 564.06, or s. 565.12 on their monthly tax report for alcoholic beverages that have become unsellable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption, in an amount equal to the following:

1. For vinous sales, 0.49 percent of gross tax.

2. For spirituous beverage sales, 0.15 percent of gross tax.

3. For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

(b) The method of determining breakage for malt beverages, either percentage or actual gallonage, must be elected annually and will be effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

(c) Distributors that distribute more than one type of alcoholic beverage shall deduct the gross taxes for their products as prescribed in this subsection for vinous, spirituous, or malt beverages.

(2)(a) Extraordinary losses of vinous, spirituous, or malt beverages are excluded from the deductions in subsection (1). For purposes of this section, the term "extraordinary loss" means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a manufacturer and destroyed by a distributor. The term does not include a loss from evaporation, breakage, or spoliation incurred on the licensed premises in the normal course of

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business which exceeds the standard deductions prescribed in subsection (1).

(b) A distributor shall immediately notify the division when an extraordinary loss occurs. A distributor may deduct the actual gallonage of the extraordinary loss. The distributor shall show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages by:

1. Providing a copy of a traffic accident investigation report or an incident report from the investigating agency when the loss occurs in transit;

2. Having the extraordinary loss witnessed or documented by an authorized division employee when the extraordinary loss occurs on the premises of the distributor; or

3. Clearly and objectively establishing the extraordinary loss through appropriate documentation as determined by the division.

(c) The distributor shall show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss by providing a statement to the division from the distributor, or the distributor's authorized employee or agent, evidencing such destruction, dumping, or recycling. The statement must include a description of the location of the extraordinary loss; the alcoholic beverages, by gallonage and tax category, which have been destroyed, dumped, or recycled; and the location of the site where the alcoholic beverages were destroyed, dumped, or recycled.

(3)(a) Upon notification by a distributor, the division shall inspect any remaining undamaged invoiced inventory

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intended to be distributed.

(b)1. A distributor reporting extraordinary losses must furnish proof that the excise tax has not been recovered from any other source. The distributor shall provide the division with copies of all insurance claims and receipts of payment upon request by the division.

2. The distributor shall record on forms prescribed by the division the actual gallonage of breakage, spoliation, or evaporation of alcoholic beverages; the date of product destruction; the quantity destroyed, by tax classification; and a statement signed by the distributor, or the distributor's authorized employee or agent, that the product was destroyed.

3. The division shall retain all completed forms for 3 years.

(4) The division may adopt rules and forms to implement this section.

(5) This section applies retroactively to January 1, 2025.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to deductions for certain losses of alcoholic beverages; creating s. 561.1215, F.S.; authorizing a distributor of vinous, spirituous, or malt beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have

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become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; specifying the percentage a distributor may deduct for such alcoholic beverages; requiring that the method of determining breakage for malt beverages be elected annually; providing that the method is effective for a specified timeframe; providing an exception; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified in a specified manner; excluding extraordinary losses of vinous, spirituous, or malt beverages from such deductions; defining the term "extraordinary loss"; requiring a distributor to immediately notify the Division of Alcoholic Beverages and Tobacco when an extraordinary loss occurs; authorizing a distributor to deduct the actual gallonage of the extraordinary loss; requiring such distributors to show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages; specifying the manner in which a distributor may show such proof; requiring a distributor to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss; specifying the manner in which to show such proof; requiring the division to inspect any remaining undamaged invoiced inventory intended to be distributed upon being notified by the distributor;

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requiring a distributor reporting extraordinary losses to furnish proof that the excise tax has not been recovered from any other source; requiring the distributor to provide the division with copies of all insurance claims and receipts of payment upon request; requiring distributors to record certain information on forms prescribed by the division; requiring the division to retain such forms for a specified timeframe; authorizing the division to adopt rules and forms; providing retroactive application; providing an effective date.

By Senator Mayfield

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A bill to be entitled

An act relating to deductions for certain losses of alcoholic beverages; creating s. 561.1215, F.S.; authorizing deductions against excise taxes for alcoholic beverages if they are unsalable; authorizing a distributor of vinous, spirituous, or malted beverages to make an excise tax deduction in its monthly tax report for alcoholic beverages that have become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption; specifying the percentage a distributor may deduct for such alcoholic beverages; requiring that breakage or spoliation be documented by an employee of the Division of Alcoholic Beverages and Tobacco or other authorized person; requiring that the method of breakage for malt beverages be elected annually; providing that the method is effective for a specified timeframe; providing an exception; requiring distributors that distribute more than one type of alcoholic beverage to deduct their gross taxes for products according to those specified for vinous, spirituous, or malt beverages; excluding extraordinary losses of vinous, spirituous, or malt beverages from such deductions; defining the term "extraordinary loss"; requiring a distributor to immediately notify the division when an extraordinary loss occurs; authorizing a distributor to deduct the actual gallonage of the extraordinary loss; requiring such distributors to show proof of the

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extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages; specifying the manner in which a distributor may show such proof; requiring a distributor to show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss; specifying the manner in which to show such proof; requiring the division to inspect any remaining undamaged invoiced inventory intended to be distributed upon being notified by the distributor; requiring a distributor reporting an extraordinary loss to furnish proof that the excise tax has not been recovered from any other source; requiring the distributor to provide the division with copies of all insurance claims and receipts of payment upon request; requiring distributors to record certain information on forms prescribed by the division; requiring the division to retain such forms for a specified timeframe; authorizing the division to adopt rules; providing an effective date.

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

Section 1. Section 561.1215, Florida Statutes, is created to read:

561.1215 Deductions for breakage, spoliation, evaporation, expiration, and extraordinary losses.—

(1)(a) Deductions against any excise tax due under s. 563.05, s. 564.06, or s. 565.12 are allowed for unsalable

alcoholic beverages. Distributors of vinous, spirituous, or malted beverages may make an excise tax deduction to their monthly tax report for alcoholic beverages that have become unsalable through warehouse breakage, spoliation, evaporation, or expiration or that have become unfit for human consumption in an amount equal to the following:

1. For vinous sales, 0.49 percent of gross tax.

2. For spirituous beverage sales, 0.15 percent of gross tax.

3. For malt beverage sales, 0.20 percent of gross tax or the actual breakage or spoliation.

(b) Such breakage or spoliation must be documented by an employee of the division or other authorized person.

(c) The method of determining breakage for malt beverages, either percentage or actual gallonage, must be elected annually and will be effective for 1 calendar year unless the license is transferred or 100 percent of the stock is sold to a new owner.

(d) Distributors that distribute more than one type of alcoholic beverage shall deduct the gross taxes for their products as prescribed in this subsection for vinous, spirituous, or malt beverages.

(2)(a) Extraordinary losses of vinous, spirituous, or malt beverages are excluded from the deductions in subsection (1). For purposes of this section, the term "extraordinary loss" means an unusual loss resulting from acts of God or nature which are not expected to recur; accidents that occur during interstate or intrastate shipment from manufacturer to distributor, from distributor to distributor, or from distributor to retailer; or products being recalled by a

manufacturer and destroyed by a distributor. The term does not include a loss from evaporation, breakage, or spoliation incurred on the licensed premises in the normal course of business which exceeds the standard deductions prescribed in subsection (1).

(b) A distributor shall immediately notify the division when an extraordinary loss occurs. A distributor may deduct the actual gallonage of the extraordinary loss. The distributor shall show proof of the extraordinary loss before recovering or crediting any excise tax due to the unsalable alcoholic beverages by:

1. Providing a copy of a traffic accident investigation report or an incident report from the investigating agency when the loss occurs in transit;

2. Having the extraordinary loss witnessed or documented by an authorized division employee when the extraordinary loss occurs on the premises of the distributor; or

3. Clearly and objectively establishing the extraordinary loss through appropriate documentation as determined by the division.

(c) The distributor shall show proof of the destruction, dumping, or recycling of the alcoholic beverages involved in the extraordinary loss by providing a statement to the division from the distributor, or the distributor's authorized employee or agent, evidencing such destruction, dumping, or recycling. The statement must include a description of the location of the extraordinary loss; the alcoholic beverages, by gallonage and tax category, which have been destroyed, dumped, or recycled; and the location of the site where the alcoholic beverages were

destroyed, dumped, or recycled.

(3)(a) Upon notification by a distributor, the division shall inspect any remaining undamaged invoiced inventory intended to be distributed.

(b)1. A distributor reporting extraordinary losses must furnish proof that the excise tax has not been recovered from any other source. The distributor shall provide the division with copies of all insurance claims and receipts of payment upon request by the division.

2. The distributor shall record on forms prescribed by the division the actual gallonage of breakage, spoliation, or evaporation of alcoholic beverages and the date of product destruction, quantity destroyed by tax classification, and a statement signed by the distributor, or the distributor's authorized employee or agent, that the product was destroyed.

3. The division shall retain all completed forms for 3 years.

(4) The division may adopt rules and forms to implement this section.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DEBBIE MAYFIELD
19th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations Committee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Finance and Tax
Fiscal Policy
Regulated Industries

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining, Alternating *Chair*

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

December 19, 2025

Senator Jennifer Bradley, Chair
Committee on Regulated Industries
Room 406, Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

I respectfully request that you place Senate Bill 678 – Deductions for Certain Losses of Alcoholic Beverages on the agenda for your next committee meeting. Senate Bill 678 allows distributors of alcoholic beverages to deduct alcoholic beverages which have been broken or spoiled from their excise tax remittances.

Previously, the Department of Business and Professional Regulation allowed these deductions to be made by rule. Last year, the Joint Administrative Procedures Committee determined that DBPR's rule did not have statutory authority and recommended it be repealed. SB 678 puts the rule into statute so the Department can continue authorizing the deduction.

Thank you for your consideration of this request.

Sincerely,

Debbie Mayfield,
State Senator, District 19

CC: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant
Mary Lee, Legislative Aide

REPLY TO:
❒ 900 East Strawbridge Avenue, Room 408, Melbourne, Florida 32901 (321) 409-2025
❒ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

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

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

BEN ALBRITTON
President

DANIEL PEREZ
Speaker

THE FLORIDA LEGISLATURE

JOINT ADMINISTRATIVE PROCEDURES COMMITTEE

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Representative Tobin Rogers "Toby" Overdorf, Vice Chair
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Representative Debra Tendrich
Representative Meg Weinberger

KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

August 27, 2025

Ms. Alexandra Leijon
Administrative Code and Register Director
Office of General Counsel
Department of State
Room 701, The Capitol
Tallahassee, FL

Re: Notice of Nullification of Rule 61A-4.0371, F.A.C.

Dear Ms. Leijon:

Pursuant to section 120.536(2)(a), Florida Statutes, notice is hereby provided of the nullification of rule 61A-4.0371, Florida Administrative Code.

Section 120.536(2)(a), Florida Statutes, provides:

> The repeal of one or more provisions of law implemented by a rule that on its face implements only the provision or provisions repealed and no other provision of law nullifies the rule. Whenever notice of the nullification of a rule under this subsection is received from the committee or otherwise, the Department of State shall remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

Rule 61A-4.0371, Florida Administrative Code, entitled "Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages," provides: "(1) Distributors which distribute malt, vinous, and spirituous beverages shall make an excise tax deduction in their monthly tax report for alcoholic beverages which have become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or which have become unfit for human consumption . . . " within certain specified amounts.

The historical note of the rule cites section 564.06, Florida Statutes, as a law implemented. At the time of the rule's adoption, section 564.06(5) provided: "[T]here shall be a 2-percent discount allowed to the manufacturer or bottler on the amount of taxes assessed against wine for his losses from shrinkage, in filtering, breakage, and waste in bottling . . . ." This provision was repealed by the Legislature in 1985 by s. 1, chapter 85-204, Laws of Florida.

Sections 561.55(1), 563.05, 564.06 and 565.12, Florida Statutes, also cited as laws implemented, are inapplicable and do not relate to excise tax deductions.

Based on the foregoing, rule 61A-4.0371, Florida Administrative Code, is nullified as a matter of law, and should be removed from the Florida Administrative Code.

Please let me know if you have any questions.

Sincerely,

Kenneth J. Plante
Coordinator

cc: Mr. Jerome Worley, Division Director
Ms. Susan Hartmann Swartz, Department Rules Attorney

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/20/26
Meeting Date

SEN. REG. IND.
Committee

SB 678
Bill Number or Topic

DE 105254
Amendment Barcode (if applicable)

Name SCOTT ASHLEY

Phone (850) 321-4261

Address 215 S. MONROE ST., # 705
Street

Email scott@wsdflorida.com

TALLA. FL 32301
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
WINE & SPIRITS DISTRIBUTORS OF FLORIDA

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/20/26
Meeting Date

Regulated Industries
Committee

678
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jared Ross

Phone (850) 224-2337

Address 215 S. Monroe St. Ste. 340
Street

Email jared@fbwa.com

Tallahassee FL 32311
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Beer Wholesalers Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 800
INTRODUCER:	Senator Mayfield
SUBJECT:	Engineering
DATE:	January 20, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	**Fav/CS**
2.			AEG	
3.			FP	

I. Summary:

CS/SB 800 amends s. 471.033, F.S., to provide an escalating fine schedule for subsequent violations of engaging in the unlicensed practice of engineering. The escalating fees are as follows: for a second violation, a fine of $10,000, for a third violation, a fine of $15,000, for a fourth violation, a fine of $20,000 and for a fifth and any subsequent violation, a fine of $25,000.

The bill also creates the Engineering Student Loan Assistance Program within ch. 471 of the Florida Statutes, providing eligible graduates from engineering programs with up to $16,000, over four years, in student loan principal repayment from the Professional Regulation Trust Fund if they are employed by a state agency or a water management district.

The bill has an effective date of July 1, 2026.

II. Present Situation:

Professional Engineers

Under ch. 471 of the Florida Statues, the Board of Professional Engineers (the board) is the primary state entity responsible for protecting the public health, safety, and welfare by regulating the engineering profession. The board was created and is maintained within the Department of Business and Professional Regulation (DBPR). Section 471.005(7), F.S., defines the term "engineering" to include:

> the term "professional engineering" and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and

> design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter [ch. 471, F.S.].

Section 471.005(5), F.S., defines the term "engineer" to include the terms "professional engineer" and "licensed engineer" and means a person who is licensed to engage in the practice of engineering.

According to the DBPR, there are 71,567 actively licensed engineers in the state of Florida.[1]

The Florida Engineers Management Corporation

Unlike most DBPR professions, the administrative, investigative, and prosecutorial services for the board are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.[2] The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the board.[3]

The FEMC may hire staff as necessary to carry out its functions, although such staff are not considered public employees.[4] Funds for FEMC are allocated through appropriations from the

[1] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2023-2024*, https://www2.myfloridalicense.com/os/documents/Division%20Annual%20Report%20FY%2023-24.pdf, (last visited January 20, 2026).
[2] *See* s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.
[3] *See* the Annual Report of the FEMC for FY 2024-2025, available at https://fbpe.org/wp-content/uploads/2025/09/2024-25-FEMC-Annual-Report.pdf (last visited January 16, 2026), the contract between the DBPR and FEMC is for the period between July 1, 2021 and June 30, 2025.
[4] Section 471.038(3), F.S.

Professional Regulation Trust Fund.[5] The FEMC must submit an annual report on the status of the FEMC to the secretary of the DBPR, the board, and the Legislature.[6]

Unlicensed Practice and Enforcement

The FEMC must issue a license to any applicant who the board certifies is qualified to practice engineering and who has passed the fundamentals examination and the principles and practice examination.[7] Persons who are not licensed are prohibited from the practice of engineering.[8] Any person who practices engineering without a license commits a misdemeanor of the first degree.[9] If there are any violations regarding unlicensed activity, the board can issue a Notice to Cease & Desist, can issue a citation (fine), or an administrative complaint (which can come with a recommended penalty of up to $5,000, injunctive proceedings if the action continues, and criminal prosecutions).[10]

The board is allowed to administer a fine not to exceed $5,000 for each count or separate offense if the board finds any person guilty of the following:[11]

- Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, F.S. or any other provision of this chapter or rule of the board or the DBPR.
- Attempting to procure a license to practice engineering by bribery or fraudulent misrepresentations.
- Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter 471, F.S. or chapter 455, F.S.
- Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering.
- Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed engineer.
- Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.
- Engaging in fraud or deceit, negligence, incompetence, or misconduct, in the practice of engineering.
- Violating chapter 455, F.S.
- Practicing on a revoked, suspended, inactive, or delinquent license.

[5] Section 471.038(3)(j)3, F.S.
[6] Section 471.038(3)(m), F.S.
[7] Section 471.015(1), F.S.
[8] Section 471.031, F.S.
[9] Section 471.031(2), F.S.
[10] Florida Board of Professional Engineers, *Unlicensed Activity Affects Everyone*¸ January, 2018, available at https://fbpe.org/unlicensed-activity-affects-everyone/ (last visited January 15, 2026).
[11] *See* Section 471.033, F.S.

- Affixing or permitting to be affixed his or her seal, name, or digital signature to any final drawings, specifications, plans, reports, or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control.
- Violating any order of the board or the DBPR previously entered in a disciplinary hearing.
- Performing building code inspection services under s. 553.791, F.S., without satisfying the insurance requirements of that section.
- Additionally, Rule 61G15-19.004 of the Florida Administrative Code, provides the following penalties for the unlicensed practice of engineering:[12]

VIOLATION	PENALTY RANGE		
	FIRST VIOLATION	SECOND VIOLATION	THIRD OR SUBSEQUENT VIOLATIONS
5. Practicing engineering without a license or using a name or title tending to indicate that such person holds an active license as an engineer. (Sections 471.031(1)(a), (b), F.S.)	In addition to referral to State Attorney's Office and denial of future application for licensure, from a $1,000 fine to a $2,500 fine.	In addition to referral to State Attorney's Office from a $2,500 fine to a $5,000 fine.	In addition to referral to State Attorney's Office, a $5,000 fine.

Undergraduate Tuition

Florida law defines "tuition" as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.

The resident undergraduate tuition rate for the State University System (SUS) is set at $105.07 per credit hour.[13] The SUS average tuition and out-of-state fee is $570.01 per credit hour.[14]

The Board of Governors may establish tuition for graduate and professional programs and out-of-state fees for all programs for state universities.

The Florida College System tuition rate for college credit courses is $71.98 per credit hour, and the out-of-state fee is $215.94 per credit hour. Baccalaureate degree program resident tuition is $91.79 per credit hour, and the total tuition and out-of-state fee may not exceed 85 percent of the tuition and out-of-state fee of the nearest state university.[15]

[12] See Department of Business and Professional Regulation, *2026 Agency Legislative Bill Analysis for SB 800* (January 12, 2026) (on file with the Senate Regulated Industries Committee).
[13] Section 1009.24(4), F.S.
[14] Florida Board of Governors, *State University System of Florida, Tuition and Required Fees, 2024-25* at 4, https://www.flbog.edu/wp-content/uploads/2024/10/2024-2025-SUS-Tuition-and-Fees-Report-FINAL.pdf (last visited January 20, 2026)
[15] Section 1009.23(3), F.S.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.033, F.S., to provide an escalating fine schedule for subsequent violations of engaging in the unlicensed practice of engineering. The escalating fees are as follows:

- For a second violation, a fine of $10,000.
- For a third violation, a fine of $15,000.
- For a fourth violation, a fine of $20,000.
- For a fifth and any subsequent violation, a fine of $25,000.

Section 2 of the bill creates s. 471.056, F.S., the Engineer Student Loan Assistance Program to increase employment and retention of licensed engineers who work for a state agency or water management district by making payments toward loans received by students from federal or state programs or commercial lending institutions who graduated from accredited or approved engineering programs.

To be eligible for the program a candidate must have graduated from an accredited or approved engineering program and have received a Florida license as a professional engineer or a professional engineer-in-training and be currently employed by a state agency or water management district.

Program funds are derived from the Professional Regulation Trust Fund..

From the funds available, the management corporation may make loan principal repayments of up to $4,000 a year for up to 4 years on behalf of selected graduates who meet the requirements, beginning after the selected graduate's first year of employment. All repayments are contingent upon continued proof of employment in a designated state agency or water management district and must be made directly to the holder of the loan.

The board must adopt rules necessary to administer the program.

The bill provides that this Engineering Student Loan Assistance Program should only be implemented as specifically funded.

Section 3 of the bill provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who are fined for engaging in the unlicensed practice of engineering as repeat offenders would be subject to increased fines under the bill.

C. Government Sector Impact:

The bill provides that the Engineering Management Corporation may make loan principal repayments of up to $4,000 a year. The funds are to be paid from the Professional Regulation Trust Fund. It is not clear how these costs will be determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 471.033 of the Florida Statutes.

This bill creates section 471.056 of the Florida Statutes.

IX. Additional Information:

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

CS by Regulated Industries on January 20, 2026
The committee substitute amended SB 800 in the following ways:

- Clarifies that the program is for graduates of accredited or approved engineering programs.
- Lists out the requirements of the student loan assistance program.
- Makes clarifying changes to what funds can be spent on.
- Removes contradictory language regarding employment restrictions.
- Clarifies that eligibility is not affected by a change in employment, provided that the participant remains employed with a state agency or water management district.

B. Amendments:

None.

209924

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2026	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 45 - 70

and insert:

institutions for graduates of accredited or approved engineering programs.

(2) To be eligible for the program, a candidate must meet the following requirements:

(a) Have graduated from an accredited or approved engineering program.

209924

(b) Have received a Florida license as a professional engineer or a professional engineer intern.

(c) Be currently employed by a state agency or water management district.

(3) Program funds are derived from the Professional Regulation Trust Fund.

(4) From the funds available, the management corporation may make loan principal repayments of up to $4,000 a year for up to 4 years on behalf of selected graduates who meet the requirements of subsection (2), beginning after each selected graduate's first year of employment. All repayments are contingent upon continued proof of employment in a designated state agency or water management district and must be made directly to the holder of the loan. The state bears no responsibility for the collection of any interest charges or other remaining balance.

(5) Eligibility is not affected by a change in employment, provided that the participant remains employed by a state agency or a water management district.

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

And the title is amended as follows:

Delete lines 11 - 12

and insert:

program; authorizing the management

By Senator Mayfield

19-00315B-26 2026800__

A bill to be entitled

An act relating to engineering; amending s. 471.033, F.S.; providing penalties for persons found to have repeatedly engaged in the unlicensed practice of engineering; creating s. 471.056, F.S.; establishing the Engineering Student Loan Assistance Program; providing for the program's management by the Florida Engineers Management Corporation; providing the purpose of the program; providing eligibility requirements; providing the source of funding for the program; requiring that program funds be used only to pay certain costs; authorizing the management corporation to make payments; providing requirements for loan principal repayments; requiring the Board of Professional Engineers to adopt rules; providing construction; providing an effective date.

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

Section 1. Present subsection (4) of section 471.033, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

471.033 Disciplinary proceedings.—

(4) Notwithstanding subsection (3), a person who violates this section by engaging in the unlicensed practice of engineering, upon a second or subsequent violation, is subject to a fine imposed by the department which increases as follows:

(a) For a second violation, a fine of $10,000.

(b) For a third violation, a fine of $15,000.

19-00315B-26 2026800__

(c) For a fourth violation, a fine of $20,000.

(d) For a fifth and any subsequent violation, a fine of $25,000.

Section 2. Section 471.056, Florida Statutes, is created to read:

471.056 Engineering Student Loan Assistance Program.—

(1) To encourage qualified candidates to seek employment in areas of this state in which critical engineering shortages exist, there is established the Engineering Student Loan Assistance Program. The Florida Engineers Management Corporation established in s. 471.038 shall manage the program. The primary purpose of the program is to increase employment and retention of licensed engineers who work for a state agency or water management district by making payments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved engineering programs.

(2) To be eligible for the program, a candidate must have graduated from an accredited or approved engineering program and have received a Florida license as a professional engineer or a professional engineer-in-training.

(3) Program funds are derived from the Professional Regulation Trust Fund. Such funds may be used only to pay the costs of tuition, books, and living expenses, at an amount not to exceed $4,000 for each year of study toward the degree obtained.

(4) From the funds available, the management corporation may make loan principal repayments of up to $4,000 a year for up to 4 years on behalf of selected graduates who meet the

requirements of subsection (2), beginning after the selected graduate's first year of employment. All repayments are contingent upon continued proof of employment in a designated state agency or water management district and must be made directly to the holder of the loan. The state bears no responsibility for the collection of any interest charges or other remaining balance. In the event that the designated state agencies or water management districts change, an engineer remains eligible for loan assistance as long as he or she remains employed in the state agency or water management district for which the original loan payment was made and continues to meet all other conditions of eligibility.

(5) The board shall adopt rules necessary to administer the program.

(6) This section shall be implemented only as specifically funded.

Section 3. This act shall take effect July 1, 2026.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DEBBIE MAYFIELD
19th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations Committee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Finance and Tax
Fiscal Policy
Regulated Industries

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining, Alternating *Chair*

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

December 19, 2025

Senator Jennifer Bradley, Chair
Committee on Regulated Industries
Room 406, Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

I respectfully request that you place Senate Bill 800 – Engineering on the agenda for your next committee meeting.

Senate Bill 800 establishes increased penalties for subsequent offenses of unlicensed engineering practice and establishes an Engineering Student Loan Assistance Program for qualified engineers working for state agencies and water management districts.

Thank you for your consideration of this request.

Sincerely,

Debbie Mayfield,
State Senator, District 19

CC: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant
Mary Lee, Legislative Aide

REPLY TO:
❒ 900 East Strawbridge Avenue, Room 408, Melbourne, Florida 32901 (321) 409-2025
❒ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

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

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

2026 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION	
BILL NUMBER:	SB 800
BILL TITLE:	Engineering
BILL SPONSOR:	Sen. Mayfield
EFFECTIVE DATE:	July 1, 2026

COMMITTEES OF REFERENCE
1) Regulated Industries
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Regulated Industries

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS	
BILL NUMBER:	HB 839 Engineering
SPONSOR:	Rep. Melo

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	1/12/2026
LEAD AGENCY ANALYST:	Megan Kachur, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Richard Morrison, Executive Director, Department Liaison for the Board of Professional Engineers Tracy Dixon, Division of Service Operations Craig Doyle, Division of Technology G.W. Harrell, Division of Regulation
LEGAL ANALYST:	Click or tap here to enter text.

FISCAL ANALYST:	Click or tap here to enter text.

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill establishes fines for repeated violations of the unlicensed practice of engineering and creates a new Engineering Student Loan Assistance Program to be administered by the Florida Engineers Management Corporation. The program provides up to $4,000 per year for up to 4 years in loan principal repayment to eligible licensed engineers employed by state agencies or water management districts for the support of postsecondary study in accredited or approved engineering programs.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Unlicensed Practice of Engineering

Section 471.003, F.S., limits the practice of engineering to duly licensed professional engineers, prohibits the unlicensed practice of engineering, and authorizes the Department of Business and Professional Regulation (DBPR) and the Board of Professional Engineers (FBPE) to impose penalties.

Under rule 61G15-19.004, F.A.C., the following are the penalties for the unlicensed practice of engineering:

VIOLATION	PENALTY RANGE		
	FIRST VIOLATION	SECOND VIOLATION	THIRD OR SUBSEQUENT VIOLATIONS
5. Practicing engineering without a license or using a name or title tending to indicate that such person holds an active license as an engineer. (Sections 471.031(1)(a), (b), F.S.)	In addition to referral to State Attorney's Office and denial of future application for licensure, from a $1,000 fine to a $2,500 fine.	In addition to referral to State Attorney's Office from a $2,500 fine to a $5,000 fine.	In addition to referral to State Attorney's Office, a $5,000 fine.

However, the statute does not include a tiered penalty structure for fines for repeat offenders.

Engineering Workforce

Loan repayment or loan forgiveness incentives are not currently available within chapter 471, F.S. However, loan repayment programs are used in other professions (e.g., health care and education) as workforce incentives.

Florida Engineers Management Corporation (FEMC)

FEMC provides administrative, investigative, and regulatory support for FBPE and is funded under DBPR via contract through the Professional Regulation Trust Fund.

2. EFFECT OF THE BILL:

Section 1

Firstly, the bill creates a new subsection (4) in s. 471.033, F.S., to establish fines for repeat violations of engaging in the unlicensed practice of engineering upon a second or subsequent violation:

(a) Second violation: $10,000 fine
(b) Third violation: $15,000
(c) Fourth violation: $20,000
(d) Fifth and subsequent violation: $25,000

Section 2

Section 471.056, F.S., titled Engineering Student Loan Assistance Program, is created as follows:

(1) To encourage qualified candidates to seek employment in areas of this state in which critical engineering shortages exist, there is established the Engineering Student Loan Assistance Program. The Florida Engineers Management Corporation established in s. 471.038 shall manage the program. The primary purpose of the program is to increase employment and retention of licensed engineers who work for a state agency or water management district by making payments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved engineering programs.

(2) To be eligible for the program, a candidate must have graduated from an accredited or approved engineering program and have received a Florida license as a professional engineer or a professional engineer-in-training.

(3) Program funds are derived from the Professional Regulation Trust Fund. Such funds may be used only to pay the costs of tuition, books, and living expenses, at an amount not to exceed $4,000 for each year of study toward the degree obtained.

(4) From the funds available, the management corporation may make loan principal repayments of up to $4,000 a year for up to 4 years on behalf of selected graduates who meet the requirements of subsection (2), beginning after the selected graduate's first year of employment. All repayments are contingent upon continued proof of employment in a designated state agency or water management district and must be made directly to the holder of the loan. The state bears no responsibility for the collection of any interest charges or other remaining balance. In the event that the designated state agencies or water management districts change, an engineer remains eligible for loan assistance as long as he or she remains employed in the state agency or water management district for which the original loan payment was made and continues to meet all other conditions of eligibility.

(5) The board shall adopt rules necessary to administer the program.

(6) This section shall be implemented only as specifically funded.

Section 3

The bill provides an effective date of July 1, 2026.

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:	The bill provides explicit rulemaking authority to FBPE to administer the Engineering Student Loan Assistance Program.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rule Chapter 61G15-19, F.A.C., will need to amend and revise the citation and disciplinary guideline penalties for the unlicensed practice of engineering. New rules will need to be promulgated to create the loan assistance program and to create application forms for applicants to use to apply to the program.

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

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

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:	There is potential for local government to experience an increase in newly licensed engineers who are also pursuing a post-secondary engineering program jointly, thus helping to retain new talent at an early stage in their career for a longer duration of time.
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:	There is potential for the state agencies or water management districts to experience an increase in newly licensed engineers who are also pursuing a post-secondary engineering program joining, thus helping to retain new talent at an early stage in their career for a longer duration of time.
Expenditures:	The program will need to be administered through an appropriation under the Professional Regulation Trust Fund, but a specific dollar amount each year is not provided for in the bill.
Does the legislation contain a State Government appropriation?	No direct appropriation is included in the bill; however, the bill authorizes the use of funds from the Professional Regulation Trust Fund.
If yes, was this appropriated last year?	No.

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

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

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

If yes, explain impact.	The bill establishes fines for repeat violations of engaging in the unlicensed practice of engineering upon a second or subsequent violation: (a) Second violation: $10,000 fine (b) Third violation: $15,000 (c) Fourth violation: $20,000 (d) Fifth and subsequent violation: $25,000
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.	The bill requires configuration changes within the department's licensing system to Versa Regulation (VR), and the QLIK Reporting System. The work effort required is as follows: • Versa Regulation (VR) – 32 hours • QLIK Reporting System – 12 hours These changes can be made with by existing resources.

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

Loan Assistance Program

The bill does not outline many specific criteria for the loan program. Without additional legislative direction, much of the implementation will be left to the board to implement via rulemaking.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1-26-26
Meeting Date

RI
Committee

SCO
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sandra Bucklew ACEC-FL

Phone 850-528-1800

Address 4651 Salisbury Rd #320
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Jacksonville FL 32256
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	SB 1050
INTRODUCER:	Senator Calatayud
SUBJECT:	Veterinary Prescription Disclosure
DATE:	January 20, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	**Favorable**
2.			AEG	
3.			RC	

I. Summary:

SB 1050 creates s. 474.224, F.S., to require a licensed veterinarian or an authorized member of their staff to notify clients of their right to receive a written prescription that can be filled by a pharmacy of the client's choice.

The bill requires either verbal or electronic disclosures, requires a one-time signed acknowledgment from the client, and necessitates the posting of a conspicuous sign within veterinary establishments informing clients of their right to have prescriptions filled elsewhere.

The bill provides exceptions for emergency situations and for prescriptions for controlled substances that are restricted by federal and state law.

The bill will take effect July 1, 2026.

II. Present Situation:

Veterinarians in Florida

The Board of Veterinary Medicine (board) within the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practices to protect public health and safety.[1]

[1] Section 474.201, F.S.

A "veterinarian" is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida[2] and is subject to disciplinary action from the board for various violations of the practice act.[3]

The practice of "veterinary medicine" is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[4]

Veterinary medicine includes, with respect to animals:[5]
- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine); and
- Other branches or specialties of veterinary medicine.

The practice act defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments regarding the health of an animal and its need for medical treatment.[6]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by the DBPR.[7] Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.[8]

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:
- render a handwriting sample to an agent of the DBPR and, further, to have waived any objections to its use as evidence against her or him.
- waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the DBPR has reason to believe that a violation of this chapter has occurred and when the DBPR issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.[9]

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[2] Section 474.202(11), F.S.
[3] Sections 474.213 and 474.214, F.S.
[4] Section 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.
[5] Section 474.202(13), F.S. Section 474.202(1), F.S., defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[6] Section 474.202(12), F.S.
[7] Section 474.215(1), F.S.
[8] Section 474.216, F.S.
[9] Section 474.2185, F.S.

For Fiscal Year 2023-2024, there were 13,392 actively licensed veterinarians in Florida. The DBPR received 611 complaints, which resulted in 44 disciplinary actions.[10]

Veterinarians Prescribing and Dispensing Drugs

Veterinarians have broad authority to prescribe, as well as dispense, drugs and medicine to patients.[11] There are no laws prohibiting a veterinarian from maintaining their own on-site pharmacy and directly prescribing and then dispensing the drug or medication directly at the veterinarians' practice.

According to the American Veterinary Medical Association, "veterinarians are ethically bound to have a VCPR in place in order to prescribe medication for the patient and to provide a written prescription when requested."[12]

Federal Regulations

Federal law plays an important role in regulating what controlled substances a veterinarian is allowed to prescribe, administer and dispense. In order to purchase, prescribe, administer or dispense controlled substances, veterinarians must obtain a registration from the Drug and Enforcement Agency (DEA). According to the federal Controlled Substances Act, a veterinarian is considered a "practitioner," and is authorized to "distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research."[13]

Unless otherwise exempted, every practitioner who dispenses, which includes administering and prescribing, controlled substances in schedules II through V, must be registered with the DEA,[14] and must comply with applicable state and local laws.[15]

A practitioner's registration must be renewed every three years.[16]

Veterinary Telehealth

In 2024, the Legislature created and passed the Providing Equity in Telehealth Services Act (PETS act), establishing a framework for the practice of veterinary telehealth.[17] The PETS act allows veterinarians who hold current licenses to practice veterinary telehealth.[18]

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[10] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2023-2024*, https://www2.myfloridalicense.com/os/documents/Division%20Annual%20Report%20FY%2023-24.pdf, (last visited January 16, 2026).
[11] Section 474.202(8), F.S. "Patient" means any animal for which the veterinarian practices veterinary medicine.
[12] American Veterinary Medical Association, *Pharmacy and prescription issues*, https://www.avma.org/resources-tools/animal-healthand-welfare/animal-health/pharmacy (last visited January 16, 2026).
[13] 21 U.S.C. s. 802(21).
[14] 21 U.S.C. s. 822(a)(2), and 21 C.F.R. 1301.11(a).
[15] 21 U.S.C. s. 822(f).
[16] 21 C.F.R. s. 1301.13(e)(1)(iv).
[17] Ch. 2024-260, Laws of Fla. (codified at s. 474.2021, F.S., effective July 1, 2024).
[18] *Id.* Florida law requires the practice of telehealth to be consistent with a veterinarian's scope of practice and the prevailing professional standard of practice for a veterinarian who provides in-person veterinary services to patients in Florida, and who

Limitations

The PETS act puts certain limitations on what veterinarians can do via telehealth. The PETS act requires that a veterinarian:

- Provide certain information to the client, including the veterinarian's name, license number and contact information;
- Must prescribe all drugs and medications in accordance with federal and state laws;
- May not order or prescribe medicinal drugs or drugs as defined in s. 465.003, F.S., approved by the United States Food and Drug Administration for human use, or compounded antibacterial, antifungal, antiviral, or antiparasitic medications, unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits within the past year to the premises where the animal is kept;
- May not use veterinary telehealth to prescribe a controlled substance as defined in ch. 893, F.S. (Drug Abuse Preventions and Control), unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept;
- May not prescribe a drug or other medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the Florida Gaming Control Commission or on a horse that is a covered horse, as defined in the federal Horseracing Integrity and Safety Act, 15 U.S.C., ss. 3051 et seq.

Telehealth Prescriptions

Prescriptions based solely on a telehealth evaluation may be issued for up to **1 month** for products labeled solely for flea and tick control and up to **14 days** of treatment for other animal drugs.[19] Prescriptions based solely on a telehealth evaluation may not be renewed without an in-person examination.[20]

III. Effect of Proposed Changes:

The bill creates s. 474.224, F.S., to provide requirements for a veterinary prescription disclosure. Before a licensed veterinarian or an authorized member of the veterinary staff prescribes a medication, a client must be clearly informed of the following:

- The client's right to receive a written prescription for the medication that can be filled at the pharmacy of the client's choice; and
- If the veterinarian establishment is able to fill the prescription, the option to have the prescription filled at the veterinary establishment.

The bill provides that "written prescription" includes paper prescriptions delivered via manual transmission or electronic prescriptions delivered via direct transmission to a pharmacy.

The bill requires that each disclosure be made:

- Verbally, if the consultation with the client is in person; or

must employ sound, professional judgment to determine whether using veterinary telehealth is an appropriate method for delivering medical advice or treatment to the patient.

[19] Section 474.2021, F.S.

[20] *Id*.

- Electronically, if the consultation with the client is through veterinary telehealth.

Whatever option the client chooses (either to have medication filled at a pharmacy of their choosing or having the medication filled by the veterinary establishment) the veterinarian must document with a one-time acknowledgment that is signed by the client and that states that the client is aware of the options. The bill provides specific language a veterinarian must have signed.

The acknowledgment signed by the client must be documented in the patient's medical record.

The bill provides that the signed acknowledgment can not make any statement, warning, or assumption regarding the efficacy or safety of filling prescriptions through an outside pharmacy.

The bill also requires that a veterinary establishment shall post a clear and conspicuous sign near the point of sale or where checkout occurs to clearly inform the client of their right to "receive a written prescription for medication that can be filled at the pharmacy of your choice; or have your prescription filled at the veterinary establishment, if the veterinary establishment is able to fill the prescription."

Finally, the bill provides an exception that the required disclosures are not required if immediate dispensing of medication is required to preserve life or prevent suffering; or the prescription is for a controlled substance of which is restricted by federal or state law.

The bill has an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 474.224 of the Florida Statutes:

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Calatayud

38-01627A-26 20261050__

A bill to be entitled

An act relating to veterinary prescription disclosure; creating s. 474.224, F.S.; requiring a veterinarian or authorized member of veterinary staff to inform a client of the right to receive a written prescription to be filled at a pharmacy of the client's choice or the option to have the prescription filled at the veterinary establishment; defining the term "written prescription"; requiring that such disclosure be made in specified manners; requiring that the disclosure include an acknowledgement signed by the client; providing requirements for the acknowledgement; providing that such acknowledgement be documented in the patient's medical records; providing that such acknowledgement may not make certain statements, notifications, warnings, or assumptions; requiring a veterinary establishment to post a specified sign in a certain area; providing applicability; providing an effective date.

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

Section 1. Section 474.224, Florida Statutes, is created to read:

474.224 Veterinary prescription disclosure.—

(1)(a) Before dispensing a prescription medication, a licensed veterinarian or an authorized member of the veterinary staff must clearly inform a client of:

1. The client's right to receive a written prescription for the medication that can be filled at the pharmacy of the client's choice.

2. If the veterinary establishment is able to fill the prescription, the option to have the prescription filled at the veterinary establishment.

For purposes of this chapter, "written prescription" includes paper prescriptions delivered via manual transmission or electronic prescriptions delivered via direct transmission to a pharmacy.

(b) Each disclosure required under this subsection shall be made:

1. Verbally, if the consultation with the client is in person; or

2. Electronically, if the consultation with the client is through veterinary telehealth.

(c) The option chosen by the client under paragraph (a) must be documented by the veterinarian or an authorized member of the veterinary staff with a one-time acknowledgement that is signed by the client and that states that the client is aware of the options in paragraph (a).

1. The acknowledgement must be in substantially the following form:

ACKNOWLEDGMENT OF ABILITY TO RECEIVE WRITTEN PRESCRIPTION

I, ...(name of client)..., understand the veterinary client's right to receive a written prescription for medication that can be filled by the pharmacy of my choice or my veterinarian, as

provided in s. 474.224, Florida Statutes.

Signature:...(signature of applicant)...Date:...(date)...

2. An acknowledgment signed by a client under this section shall be documented in the patient's medical record.

3. An acknowledgement under this section may not make a statement, notification, warning, or assumption regarding the efficacy or safety of filling prescriptions through an outside pharmacy.

(d) A veterinary establishment shall post a clear and conspicuous sign near the point of sale or where checkout occurs which substantially states the following:

FLORIDA LAW GIVES THE VETERINARY CLIENT THE OPTION TO:

1. RECEIVE A WRITTEN PRESCRIPTION FOR MEDICATION THAT CAN BE FILLED AT THE PHARMACY OF YOUR CHOICE; OR

2. HAVE YOUR PRESCRIPTION FILLED AT THE VETERINARY ESTABLISHMENT, IF THE VETERINARY ESTABLISHMENT IS ABLE TO FILL THE PRESCRIPTION.

(2) This section does not apply if:

(a) Immediate dispensing of medication is necessary to preserve life or prevent suffering; or

(b) The prescription is for a controlled substance, the dispensing of which is restricted by federal or state law.

Section 2. This act shall take effect July 1, 2026.

The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 13, 2026

I respectfully request that **Senate Bill #1050**, relating to Veterinary Prescription Disclosure, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Alexis Calatayud

Senator Alexis Calatayud
Florida Senate, District 38

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	SB 484
INTRODUCER:	Senator Avila
SUBJECT:	Data Centers
DATE:	January 16, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	**Favorable**
2.			CA	
3.			RC	

I. Summary:

SB 484 revises Florida law regarding the regulation of large-scale data centers and certain other large electricity users. Specifically, the bill:

- Specifies that agencies may not enter into non-disclosure agreements, or other contracts restricting the agency from disclosing information about a potential data center development to members of the public.
- Maintains the authority of local governments to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers.
- Provides definitions for the terms "controlled by," foreign country of concern," "foreign entity," "large load customer," "public utility," "data center," and "large-scale data center."
- Requires the Public Service Commission (PSC) to develop minimum large load tariff requirements for public electric utilities. The tariff requirements must reasonably ensure that large load customers (such as large data centers) pay for their own cost of service and that the general body of rate payers do not bear the risk of non-payment of such cost.
- Prohibits public electric utilities from providing service to large load facilities owned or controlled by foreign countries of concern.
- Establishes a distinct large-scale data center consumptive use permit (CUP) permit requirements and application process. The bill also authorizes water management districts or the Department of Environmental Protection to require large-scale data centers to use some portion of reclaimed water as part of a CUP approval.
- Specifies that CUP modifications involving a large-scale data center must be treated as new, initial applications.

The bill has effective date of the bill of July 1, 2026

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[1] The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.[2] In order to do so, the PSC exercises authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.[3]

Electric Utilities

The PSC monitors the safety and reliability of the electric power grid[4] and may order the addition or repair of infrastructure as necessary.[5] The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities[6] (defined as "public utilities" under ch. 366, F.S.).[7] However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.[8] Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative's membership.

Public Electric Utilities in Florida

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).[9]

Electric IOU rates and revenues are regulated by the PSC, and the utilities must file periodic earnings reports. This allows the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.[10] If a utility believes it is earning below a reasonable level, it can petition the PSC for a change in rates.[11]

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[1] Section 350.001, F.S.
[2] *See* Florida Public Service Commission, *Florida Public Service Commission Homepage*, http://www.psc.state.fl.us (last visited Dec. 3, 2025).
[3] Florida Public Service Commission, *About the PSC*, https://www.psc.state.fl.us/about (last visited Jan. 15, 2026).
[4] Section 366.04(5) and (6), F.S.
[5] Section 366.05(1) and (8), F.S.
[6] Section 366.05, F.S.
[7] Section 366.02(8), F.S.
[8] Florida Public Service Commission, *About the PSC*, *supra* note 3.
[9] Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, pg. 4, Apr. 2025 (available at: https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202025.pdf).
[10] PSC, *2024 Annual Report*, p. 6, (available at: https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2024.pdf) (last visited Jan. 15, 2026).
[11] *Id.*

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.[12]

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, [F.S.], includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2024, the PSC had jurisdiction over 153 investor-owned water and/or wastewater utilities in 40 of Florida's 67 counties.[13]

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation," and others.[14] The PSC also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

Municipal Water and Sewer Utilities in Florida

A municipality[15] may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.[16]

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and

[12] *Id*.
[13] Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 9, at 4.
[14] Section 367.022, F.S.
[15] Defined by s. 180.01, F.S., "as any city, town, or village duly incorporated under the laws of the state."
[16] Section 180.02, F.S., *see also* s. 180.06, F.S.

revenues are regulated by their respective local governments, sometimes through a utility board or commission.

PSC Setting of Public Utility Rates and Other Charges

Section 366.041, F.S., establishes the considerations the PSC must apply in fixing just, reasonable, and compensatory rates:

> the [PSC] is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the PSC's authority to establish and implement procedures for the fixing of and changing public utility rates. Under this section, all applications made by public utilities for changes in rates must be in writing with the PSC under the PSC's established rules and regulations.[17] Section 366.06(2), F.S., requires the PSC to hold a public hearing whenever it finds, upon request made, or upon its own motion, one or more of the following:

- That the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law;
- That such rates are insufficient to yield reasonable compensation for the services rendered;
- That such rates yield excessive compensation for services rendered; or
- That such service is inadequate or cannot be obtained.

During such a hearing, the PSC must determine just and reasonable rates to be thereafter charged for such service, and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.[18]

The PSC establishes separate rates and charges for various components of a public utility's cost of providing service to its customers. These are established through various proceedings and processes which include:

- Base rate proceedings (also known as rate cases);
- Cost recovery clauses;
- Interim charges;
- Infrastructure surcharges;
- Tariffs.[19]

[17] Section 366.06(1), F.S.
[18] *Id.*
[19] Florida Public Service Commission, *2026 Agency Legislative Bill Analysis for SB 126*, (Nov. 7, 2025) (on file with the Senate Committee on Regulated Industries).

Tariffs

A public utility's tariffs are a series of documents, approved by the PSC, that provide the utility's rates, terms, and conditions for service. These tariffs also include standardized forms for the utility's service offerings and its standard contracts and agreements. Tariffs are generally revised, as necessary, after a PSC-approved change in a utility's rates or charges and are generally part of any proceeding revising rates or charges. Utilities may also request a tariff change if circumstances warrant doing so. However, the PSC does not establish a return on equity (ROE) or overall rates of return in reviewing stand-alone requests to approve a new, modified, or canceled tariff.[20]

Rate Cases

Rate cases are generally held less frequently than the PSC's other rate and charge proceedings for public utilities. For a public utility, these wide-ranging proceedings seek to address:

- A reasonable rate of return on investment;
- Operating and maintenance expenses; and
- Cost of administering the public utility.[21]

According to the PSC, in setting a reasonable rate of return, it is guided by the principles established in *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923) and *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).[22] In *Bluefield,* the United States Supreme Court found that:

> Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment….A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding, risks and uncertainties.[23]

Further, the court in *Bluefield* found that such return should be "reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Further, this "rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."[24] Thus, for a rate of return to be non-confiscatory, it must be adjusted as broader-market circumstances change.

The Supreme Court in *Hope* found that:

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[20] *Id.*.
[21] *Id.*
[22] *Id.*
[23] *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 690-92 (1923).
[24] *Id* at 692.

> The fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests…. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business…. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[25]

In *Hope*, the Supreme Court also reiterates its previous decision in *Fed. Power Comm'n v. Nat. Gas Pipeline Co. of Am.*, 315 U.S. 575, 586 (1942) that the "[United States] Constitution does not bind rate-making bodies to the service of any single formula or combination of formulas." Rather, it is "not theory but the impact of the rate order which counts."[26] The court cites with approval that the Federal Power Commission, in its rate-making function, uses "pragmatic adjustments" in fixing rates.[27]

In a base rate proceeding, the PSC establishes a public utility's rate of return or cost of capital. It sets this based on:

- Return on equity (ROE);
- Long-term and short-term debt;
- Customer deposits; and
- Deferred taxes.[28]

The PSC, in a rate proceeding, develops a substantial evidentiary record, which includes analysis of ROE using models generally used in the utility industry. The PSC also takes into account various risks to the public utility when setting ROE. When the PSC approves an ROE for a public utility, it does so within a 100-basis point rate of return (i.e. plus or minus 1 percent).[29]

The rate of return actually earned by the utility is dependent on both the utility's ability to manage costs and react to other factors that may impact its operations. These factors may include:

- Changes in revenues due to the impact of weather on sales;
- New, modified, or cancelled tariffed rates or charges;
- Costs of materials, supplies, and labor; and
- Interest rates affecting the cost of debt.[30]

Salaries and benefits paid to employees of the public utility, including its executives, are part of the PSC's review in a rate case proceeding and the PSC examines these figures in the aggregate. In determining whether such expenses are reasonable and prudent, the PSC will consider

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[25] *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944).
[26] *Id* at 602.
[27] *Id*.
[28] Florida Public Service Commission, *2026 Agency Legislative Bill Analysis for SB 126, supra* note 19.
[29] *Id.*
[30] *Id.*

industry norms and the need to attract and retain qualified executive and non-executive utility personnel.[31]

Establishment of other Bases of Public Utility Customer Charges

Outside of rate cases, the PSC also has other processes for revising, or creating, utility rates and charges. These proceedings include cost recovery clause proceedings and interim charges.

Cost recovery clause proceedings allow public utilities to recover variable, volatile, or legislatively mandated costs.[32] For public electric utilities, the PSC holds annual hearings to allow the utilities to recover expenditures on:

- Fuel and purchased power costs;
- Capacity costs;
- Environmental compliance costs pursuant to s. 366.8255, F.S.;
- Storm protection plan costs pursuant to s. 366.96, F.S.; and
- Energy conservation program costs pursuant to s. 366.80 through 366.83, F.S.

Section 366.93, F.S., also authorizes similar cost recovery for nuclear costs. However, the PSC has not conducted a nuclear cost recovery proceeding since 2018 as no public utility has petitioned for recovery under this clause since that year.[33]

For public natural gas utilities, the PSC holds annual hearings to allow the utilities to recover expenditures on:

- Purchased natural gas costs;
- Energy conservation costs pursuant to s. 366.80 through 366.83, F.S.; and
- Natural gas infrastructure relocation costs pursuant to s. 366.99, F.S.[34]

Outside of cost recovery clause proceedings, the PSC also provides a process for establishing interim charges to quickly recover estimated storm-recovery related expenses. These interim charges are time-limited and are subject to a final true-up proceeding once final costs can be determined for a particular storm or series of storms.[35]

The PSC does not establish ROEs or overall rates of returns in recovery clause and interim charge proceedings, as these focused rate proceedings are limited in scope. Rather, ROE and overall rates of return are set during rate cases, as those proceedings are substantially broader in scope.[36]

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[31] *Id*.
[32] *Id.*
[33] Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, (Feb. 28, 2025) (on file with the Senate Committee on Regulated Industries).
[34] Florida Public Service Commission, *2026 Agency Legislative Bill Analysis for SB 126, supra* note 19.
[35] *Id.*
[36] Florida Public Service Commission, *2026 Agency Legislative Bill Analysis for SB 126, supra* note 19.

Data Centers

At its most basic, a data center is a physical facility that contains information technology (IT) infrastructure for storing, processing, and distributing data and the running of shared and distributed applications and services. Data centers can be anything from a dedicated space within a building, a dedicated building, or, for the largest-scale data centers, multi-building campuses.[37]

Generally, the major components of a data center are:

- IT equipment: This would be the core processing, storage, and transmission hardware for a data center—this would include servers, data storage systems, and network gear (such as routers and switches).
- Power infrastructure: This would be all the equipment to supply and maintain power to the facility, including power supplies (including redundant and uninterruptable power supplies to ensure continuous operation), and power distribution units.
- Cooling systems: This would include cooling infrastructure to maintain the data center at ideal temperatures and prevent IT equipment from overheating.
- Physical security: This would include systems that restrict access to the data center and fire suppression systems.[38]

Technically, data centers came about during earliest days of electronic digital computing when machines like the US military's Electrical Numerical Integrator and Computer (ENIAC), completed in 1945, required dedicated computer room space to house its massive machines. For many years, mainframe computers dominated computer rooms. However, in the 1990's when microcomputers came about and replaced mainframes in computer rooms—these microcomputers became known as servers and the computer rooms became known as what would eventually become the modern data center.[39]

The emergence of cloud computing in the early 2000s changed the data center landscape significantly in regard to the purpose and scale of data centers. Data centers went from serving solely one organization's needs (or even one organization's needs at a single location), to shared resources that can be sold and provided as needed to multiple individuals and organizations with the ability to scale up or down as needed—these shared spaces are generally known as colocation data centers.[40]

Tiers/Types of Data Centers

While there are no hard-set size classification scale or guidelines for data centers, they generally fall into one of the below categories:[41]

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[37] Cisco, *What is a Data Center*, https://www.cisco.com/site/us/en/learn/topics/computing/what-is-a-data-center.html (last visited Jan. 12, 2026); and IBM, *What is a Data Center*, https://www.ibm.com/think/topics/data-centers (last visited Jan. 12, 2026).
[38] McKinsey & Company, *What is a Data Center*, https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-a-data-center (last visited Jan. 12, 2026).
[39] IBM *supra* note 37.
[40] *Id.*
[41] IBM, *What is a hyperscale data center*, https://www.ibm.com/think/topics/hyperscale-data-center (last visited Jan. 13, 2026); City Science, *Data Centres and Local Planning: Balancing Growth with Environmental Commitments*, Nov. 7, 2025

- Micro data center: These are the smallest type of data center—generally used by single companies or for remote offices of larger operations. Generally, these centers will have up to 10 server racks (or fewer than 140 servers).
  - Power capacity: Less than 150 kilowatts (kW).
  - Size: Less than 5,000 square feet.
- Small-sized data centers: These types of data centers are typical for onsite or regional enterprise facilities. Generally, these types of centers will range from 500-2,000 servers.
  - Power capacity: 1 to 5 megawatts (MW).
  - Size: 5,000 to 20,000 square feet.
- Medium-sized data centers: Also used for onsite or regional enterprise facilities. At the upper end of this scale, one may also see colocation data centers. Generally, these data centers will range from 2,000 to 5,000 servers.
  - Power capacity: 5 to 20 MW.
  - Size: 20,000 to 100,000 square feet.
- Large-scale data center: These are large-scale facilities. However, they are not quite up to what would generally, currently, be considered hyperscale. These facilities can be used for colocation, cloud services, big data analytics, and artificial intelligence. Generally, these data centers will fall somewhere between a medium-sized data center and a hyperscale data center in regard to servers, power capacity, and size.
- Hyperscale data center: These are massive-scale facilities, often involving a large campus of buildings. The International Data Corporation defines "hyperscale" as having at least 5,000 servers and at least 10,000 square feet of data center floor space. In practice, these facilities are multitudes larger than that.[42] Hyperscale data centers are used for cloud services, big data analytics, artificial intelligence and machine learning, streaming services, and large social networks and are run by large cloud providers and big tech firms.[43] While the minimum scale to qualify as a hyperscale can differ according to various sources—generally these facilities start at 40 to 100 MW in power capacity and reach up to a gigawatt or more.[44]

The size of data center facilities is anticipated to continue to grow and the share of the overall market for hyperscale facilities is also anticipated to grow. As of 2025, 41 percent of all data center capacity worldwide is within facilities with a power capacity of 100 MW or more. This figure is expected to grow to 60 percent by 2029.[45]

(available at: https://cityscience.com/news/data-centres-and-local-planning-balancing-growth-with-environmental-commitments/);

[42] IBM, *What is hyperscale?*, https://www.ibm.com/think/topics/hyperscale (last visited Jan. 14, 2026).

[43] BenchMark, *Hyperscale Data Centers and How to Power Them*, Jan. 15, 2025 (available at: https://info.burnsmcd.com/benchmark/article/hyperscale-data-centers-and-how-to-power-them).

[44] Ryan Abramson, Scout Cities, *Titans of Tech: Exploring America's Largest Hyperscale Data Centers*, Jul. 23, 2024 (available at: https://scoutcities.com/blog/the-titans-of-tech-exploring-the-worlds-largest-hyperscale-data-centers); Tawen Dawn-Hiscox, *What is a hyperscale data center*, DATA CENTER DYNAMICS, Sep. 13, 2022 (available at: https://www.datacenterdynamics.com/en/analysis/what-is-a-hyperscale-data-center/#:~:text=How%20big%20is%20a%20hyperscale,capacity%20above%20the%20100MW%20mark.); and Orrick, *Powering Data Centers*, Nov. 20, 2025 (available at https://www.orrick.com/en/Insights/2025/11/Powering-Data-Centers).

[45] Orrick *supra* note 44.

Data Center Growth

An analysis published by McKenzie and Company in 2025 found that the global demand for data center capacity will triple by 2030 and it anticipates a 20 to 25 percent annual growth of data center capacity within the United States during that time. That same analysis found that this growth will likely place substantial strains on United States energy and water supplies.[46]

Data Center Impact on Water Resources

Every piece of electronic IT equipment generates heat as it operates, and high-performance computing tasks, such as machine learning, cloud computing, and large-scale data processing, intensify this heat production because of their near-continuous heavy workloads. This heat must be offloaded in some manner, otherwise high temperatures can lead to hardware malfunctions, efficiency reductions, and permanent hardware damage.[47] Data centers, thus, require extensive cooling systems to help dissipate large amounts of heat.[48]

This cooling can be accomplished through a number of strategies and technologies:

- Centralized cooling systems: These systems either moved chilled air through centralized duct work (essentially large-scale central air conditioning) or by moving chilled water through a cooling loop that exchanges heat with the environment.
- De-centralized/room scale cooling systems: A common type of these cooling systems is called computer room air conditioners (or CRACs) and are popular with smaller data centers.

Methods that directly consume water are the most effective for cooling and this water can come from many sources including local water utilities, on-site wells, and on-site reservoirs or other co-located water resources. The International Energy Agency estimates that a 100 MW data center in the United States consumes approximately the same amount of water as 2,600 households in direct consumption and cooling.[49] This does not account for, however, the water needed to produce the electricity need to power such facilities—which can be substantial.

Date Center Impact on Electricity Resources

In larger economies like the United States, China, and the European Union, data centers, as of 2024, account for two to four percent of total electricity consumption.[50] Studies have estimated, for the United States, data centers' percentage of total consumption could rise to anywhere

[46] McKinsey & Company, *The data center balance: How US states can navigate the opportunities and challenges*, Aug. 8. 2025 (available at: https://www.mckinsey.com/industries/public-sector/our-insights/the-data-center-balance-how-us-states-can-navigate-the-opportunities-and-challenges).
[47] Terry Nguyen and Ben Green, *What Happens When Data Centers Come to Town*, UNIVERSITY OF MICHIGAN FORD SCHOOL OF SCIENCE, TECHNOLOGY, AND PUBLIC POLICY, Jul. 2025 (available at: https://stpp.fordschool.umich.edu/sites/stpp/files/2025-07/stpp-data-centers-2025.pdf).
[48] Martin C. Offutt and Ling Zhu, Cong. Rsch. Serv., R48646, *Data Centers and Their Energy Consumption: Frequently Asked Questions* (Introduction) (Aug. 26, 2025), (available at: https://www.congress.gov/crs-product/R48646#:~:text=In%20its%20simplest%20form%2C%20a,transmit%20large%20amounts%20of%20data.
[49] *Id*.
[50] International Energy Agency, *What the data centre and AI boom could mean for the energy sector*, Oct. 18, 2024 (available at https://www.iea.org/commentaries/what-the-data-centre-and-ai-boom-could-mean-for-the-energy-sector).

between 6.7 percent and 12 percent by 2030 (the United States, as of 2025, stands at approximately four percent).[51]

The total consumption of data centers, however, does not show the entire context of their electricity demand. Data centers, thus far in the United States, have tended to be spatially concentrated, with the data center sector surpassing 10 percent of electricity consumption in five states as of 2024.[52] A single large or hyperscale data center consuming 20 to 100 MW of electricity continuously can have the electricity demand equivalent of 15,000 to 75,000 United States homes or more (the equivalent of a single small city). A large 650 MW facility would be the equivalent of 500,000 homes.[53] For comparison, the U.S. Census Reporter estimates that Orange County, Florida, currently has 556,557 total households and Florida has a total of 8.967 million households.[54]

Thus the growth of data centers in an area can lead to considerable strain on local electric grids—especially with the considerable mismatch between the speed with which data centers can be constructed and the ability to get approval for and build new generation capacity and interconnect that generation into the electric transmission grid.[55] Data center-driven increases in demand may have also lead to an increase in electricity prices for consumers, at least in the short term (while the medium and long term impact on overall electric rates is still debated).[56]

In markets with the most data centers (such as the Pacific Northwest, Northern California, Phoenix, Dallas, Chicago, and Northern Virginia), surging demand is creating electric capacity challenges. Due to this, hyperscale operators are looking to secondary markets (with lower but fast-growing electricity demand—such as Kansas, Iowa, Indiana, Oklahoma, Nebraska, and much of the Southeastern United States) and emerging markets (where electricity is still, comparatively, abundant—such as Florida, Ohio, Pennsylvania, New York, and New Jersey).[57]

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[51] Gartner, *Gartner Says Electricity Demand for Data Centers to Grow 16% in 2025 and Double by 2030*, Nov. 17, 2025 (available at: https://www.gartner.com/en/newsroom/press-releases/2025-11-17-gartner-says-electricity-demand-for-data-centers-to-grow-16-percent-in-2025-and-double-by-2030), United States Department of Energy, Clean Energy Resources to Meet Data Center Electricity Demand, https://www.energy.gov/gdo/clean-energy-resources-meet-data-center-electricity-demand (last visited Jan. 14, 2026); and World Resources Institute, *Powering the US Data Center Boom: Why Forecasting Can Be So Tricky*, Sep. 17, 2025 (available at: https://www.wri.org/insights/us-data-centers-electricity-demand).

[52] International Energy Agency *supra* note 50.

[53] IAEI Magazine, *How Much Electricity Does a Data Center Use? Complete 2025 Analysis*, Jan. 1, 2026 (available at: https://iaeimagazine.org/electrical-fundamentals/how-much-electricity-does-a-data-center-use-complete-2025-analysis/#:~:text=Frequently%20Asked%20Questions,homes%20for%20an%20entire%20year).

[54] Census Reporter, Orange County, FL https://censusreporter.org/profiles/05000US12095-orange-county-fl/ https://censusreporter.org/profiles/05000US12095-orange-county-fl/ -:~:text=Here's%20some%20census%20data%20for%20Orange%20County%2C,households%20*%2015.5%25%20moved%20since%20previous%20year(last visited Jan. 14, 2026).

[55] McKinsey & Company, *The data center balance: How US states can navigate the opportunities and challenges*, Aug. 8, 2025 (available at: https://www.mckinsey.com/industries/public-sector/our-insights/the-data-center-balance-how-us-states-can-navigate-the-opportunities-and-challenges).

[56] *See* Ryan Wiser et al., *Factors influencing recent trends in retail electricity prices in the United States*, 38 ELECTRICITY J. 107516 (2025), https://doi.org/10.1016/j.tej.2025.107516; *but see* Eliza Martin and Ari Peskoe, *Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power*, ENVIRONMENTAL & ENERGY LAW PROGRAM: HARVARD LAW SCHOOL, Mar. 2025 (available at: https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf).

[57] *Id.*

Consumptive Use Permits

Consumptive use is any use of water which reduces the supply from which it is withdrawn or diverted.[58] A consumptive use permit (CUP), also known as a water use permit (WUP), establishes the duration and type of water use as well as the maximum quantity of water that may be withdrawn.[59] The Florida Department of Environmental Protection (DEP) and Florida's five Water Management Districts (WMDs) are authorized to issue CUPs and impose reasonable conditions as necessary to assure such use is consistent with the DEP or the WMD's goals and is not harmful to the water resources of the area.[60] This authority is primarily delegated to the WMDs, which implement extensive CUP programs within their respective jurisdictions.[61] To obtain a CUP, an applicant must establish that the proposed use of water:

- Is a reasonable-beneficial use;[62]
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.[63]

The DEP has also adopted additional rules implementing s. 373.219(3), F.S., which provides that the agency, for Outstanding Florida Springs, adopt CUP rules "which prevent groundwater withdrawals that are harmful to the water resources and adopt by rule a uniform definition of the term 'harmful to the water resources' to provide water management districts with minimum standards necessary to be consistent with the overall water policy of the state." Florida Admin. Code R. 62-41.401 defines "harmful to the water resources" as:

> A consumptive use that adversely impacts an Outstanding Florida Spring or its spring run in one or more of the following ways: (a) Causing harmful water quality impacts to the Outstanding Florida Spring or its spring run resulting from the withdrawal or diversion; (b) Causing harmful water quality impacts from dewatering discharge to the Outstanding Florida Spring or its spring run; (c) Causing harmful saline water intrusion or harmful upcoming to the Outstanding Florida Spring or its spring run; (d) Causing harmful hydrologic alterations to natural systems associated with an Outstanding Florida Spring or its spring run, including wetlands or other surface waters; and (e) Otherwise causing harmful hydrologic alterations to the water resources of the Outstanding Florida Spring or its spring run.

Each of the five WMDs publishes an applicant's handbook, incorporated by reference into their respective rules, identifying the procedures and information used by district staff for review of CUP applications.[64] Generally, there are two types of CUP permits: general permits that may be

[58] Fla. Admin. Code R. 62-40.210(4).
[59] Chapter 373, part II, F.S.
[60] Section 373.219, F.S. No permit is required for domestic consumption of water by individual users.
[61] Section 373.216, F.S.; Fla Admin. Code Chapters 40A-2, 40B-2, 40C-2, 40D-2, and 40E-2.
[62] Section 373.019(16), F.S. "Reasonable-beneficial use" is defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest"; Fla. Admin. Code R. 62-40.410. DEP rules contain a list of factors that must be considered when determining whether a water use is a reasonable-beneficial use.
[63] Section 373.223, F.S.; *see* s. 373.229, F.S. Permit applications must contain certain specified information.
[64] South Florida WMD, *Applicant's Handbook for Water Use Permit Applications* (2022)[hereinafter *SFWMD WUP Handbook*], *available at* https://www.sfwmd.gov/sites/default/files/documents/wu_applicants_handbook.pdf; Southwest

granted by rule based on regulatory thresholds for factors such as withdrawal volume or pipe diameter, and individual permits requiring applications when regulatory thresholds are exceeded.[65] The WMDs have different schedules for application processing fees, which can vary based on total requested withdrawal amounts or type of application.[66] The DEP and the WMDs are authorized to grant permits for a period of up to 20 years, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.[67]

The WMDs are required to include appropriate monitoring efforts as part of their CUP programs.[68] CUPs must be monitored when they authorize groundwater withdrawals of 100,000 gallons or more per day from a well with an inside diameter of eight inches or more.[69] Such monitoring must be at intervals and must use methods determined by the applicable WMD.[70] The results of such monitoring must be reported to the applicable WMD at least annually.[71] The WMD's respective CUP applicant handbooks contain various monitoring standards, which may include thresholds for required monitoring, reporting requirements, and specific standards for metering.[72] Generally, pursuant to the handbooks, the permittee is responsible for required monitoring of withdrawal quantities.

Minimum Flows and Minimum Water Levels

Minimum Flows and Minimum Water Levels (MFLs) are adopted standards that identify the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.[73] The DEP and the WMDs are required to establish MFLs based on priority lists for surface water courses, aquifers, and surface waters.[74] By establishing the limit at which further withdrawals would be significantly harmful, the MFLs provide a benchmark to help establish excess quantities of water that are available from priority water bodies. A key goal of

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Florida WMD, *Water Use Permit Applicant's Handbook Part B* (2022)[hereinafter *SWFWMD WUP Handbook*], *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/WUP%20Applicant%27s%20Handbook%20Part%20B%20-%20January%202022_0.pdf; St. John's River WMD, *Applicant's Handbook: Consumptive Uses of Water* (2025)[hereinafter *SJRWMD CUP Handbook*], *available at* https://aws.sjrwmd.com/SJRWMD/permitting/CUP-Applicant-Handbook.pdf; Northwest Florida WMD, *Water Use Permit Applicant's Handbook* (2015)[hereinafter *NWFWMD WUP Handbook*], *available at* https://www.nwfwater.com/content/download/8605/71075/Applicant_Handbook_201504.pdf; Suwannee River WMD, *Water Use Permit Applicant's Handbook* (2019)[hereinafter *SRWMD WUP Handbook*], *available at* https://www.flrules.org/gateway/readRefFile.asp?refId=11315&filename=REFERENCE%20MATERIAL_WUP%20Applicant%27s%20Handbook%20FINAL%2010-31-2019.pdf.

[65] *See* Michael T. Olexa et al., University of Florida, Institute of Food and Agricultural Sciences, *Handbook of Florida Water Regulation: Consumptive Use*, 2 (2021), *available at* https://edis.ifas.ufl.edu/pdffiles/FE/FE60400.pdf.

[66] *See* s. 373.109, F.S.

[67] Section 373.236, F.S.

[68] Section 373.216, F.S.

[69] Section 373.223(6), F.S. The water management districts are authorized to adopt or enforce certain rules in lieu of these requirements, in accordance with the statute.

[70] *Id.*

[71] *Id.*

[72] *SFWMD WUP Handbook*, at 100-105; *SWFWMD WUP Handbook*, at 75-77, 85-89; *SJRWMD CUP Handbook*, at 4-1–4-3; *NWFWMD WUP Handbook*, at 63-64; *SRWMD WUP Handbook*, at 43-44, 50.

[73] Section 373.042, F.S.

[74] Sections 373.042 and 373.0421, F.S.; Fla. Admin. Code R. 62-40.473.

establishing an MFL is to identify and establish the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.[75]

III. Effect of Proposed Changes:

Section 1 of the bill creates s. 112.231, F.S., which provides that state, county, district, authority, or municipal officer, public employee, department, division, board, bureau, or commission, or other units of Florida government (defined collectively as an "agency") may not enter into nondisclosure agreements or other contract restricting the agency from disclosing information about a potential data center development to members of the public. Data center is defined as a "facility that primarily contains electronic equipment used to process, store, and transmit digital information which may be a free-standing structure or a facility within a larger structure which uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment." The section states that any such agreements, entered into on or after July 1, 2026, are void and unenforceable. The section also provides for a civil fine penalty of $1,000 for agencies that violate this provision. It applies to agreements entered on or after July 1, 2026.

Section 2 of the bill creates s. 163.326, F.S., provides that it is the finding of the Legislature that facilities with substantial electric or other utility demands (such as data centers and other large load electricity customers), present unique planning, infrastructure, and compatibility considerations. The section further provides that it is the intent of the Legislature that such considerations shall be addressed through local comprehensive planning and land development regulations adopted pursuant to ch. 163, F.S., including provisions related to infrastructure capacity, land use compatibility, environmental impacts, and the efficient provision of public facilities and services. Local governments, under the section, are to maintain the authority to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load electric customers.

Section 3 of the bill creates s. 366.043, F.S., which modifies Florida's public utility code to create a requirement that the Public Service Commission (PSC) develop minimum large load service and tariff requirements for public electric utilities. The tariff requirements must reasonably ensure that large load customers (such as large data centers) pay for their own cost of service and that the general body of rate payers do not bear the risk of non-payment of such cost. The bill defines a "large load customer" as one that a customer with an anticipated monthly peak load of 50 megawatts or more, calculated as the highest average load over a 15-minute interval at a single location. In addition, the section:

- Specifies that large load customers cannot split up loads to avoid being subject to the large load tariff requirements established by the provisions of the bill. The peak load threshold does not include a load aggregated across multiple locations owned by the same customer. However, it does include all customers or other entities that have entered into a colocation or similar agreement at a single location that otherwise meets the peak load threshold.
- Does not specify rate mechanisms or specific service policies, rather, it specifies the end goal and directs the PSC, by rule, to develop baseline requirements for serving large load

[75] *see* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan.14, 2026).

customers using utility industry-accepted ratemaking and other financial tools, such as, but not limited to:
  - Contributions in aid of construction or other required customer infrastructure investments;
  - Demand charges;
  - Incremental generation charges;
  - Financial guarantees;
  - Minimum load factors;
  - Take-or-pay provisions or similar provisions requiring payment for contracted capacity; and
  - Minimum period of service contract requirements.
- Prohibits a public utility from providing a large load customer with a tariff, contractual provision, service requirement, or other policy that would prevent or otherwise hinder the curtailment or interruption of electric service to a large load customer where such curtailment or interruption is intended to ensure grid stability, reduce the likelihood or breadth of wider service outages, or ensure public safety during an emergency or other exceptional circumstance.
- Prohibits public utilities from providing electrical service to facilities that would otherwise qualify for a large load tariff if such facility is owned or controlled by a foreign country of concern. It defines control to include a person or entity that controls 25 percent of the voting interest of a company or is entitled to 25 percent or more of the profits of the company. Foreign country of concern has the same meaning as in s. 692.201, F.S., which defines the term as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.
- Provides that the PSC is to adopt rules to implement this section, that it must propose a rule for adoption by January 1, 2027, and that public utilities must comply with such rules by January 1, 2028 (including updating any necessary tariffs).

The section also provides a legislative finding that the provision of safe and reliable electric services, provided at fair, just, and reasonable rates, is essential to the welfare of Florida ratepayers. Further, it finds that when one class of electric service customer requires uniquely large electrical loads at a single location, it imposes a disproportionate risk on other Florida ratepayers and makes it necessary for the PSC to develop policies to mitigate this risk and avoid the shifting of costs to provide service to such customers to the general body of ratepayers.

Section 4 amends s. 373.203, F.S., to create a definition for data centers and large-scale data centers for ch. 373, F.S., which regulates Florida's water resources. Specifically, the section defines:
- "Data center" as a facility that primarily contains electronic equipment used to process, store, and transmit digital information—which may be a free-standing structure or a facility within a larger structure which uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.
- "Large-scale data center" as a single location, with a data center on site, that has an anticipated monthly peak load of 50 megawatts or more, calculated as the highest average load over a 15-minute interval. This does not include a load aggregated across multiple

locations owned by the same customer. However, it does include all customers or other entities that have entered into a colocation or similar agreement at a single location that otherwise meets the anticipated monthly peak load threshold.

Section 5 amends s. 373.262, F.S., to create distinct large-scale data center consumptive use permit (CUP) permit requirements. Specifically, the section:

- Provides that, consistent with the other provisions of Florida's CUP law, a water management district (WMD) or the Department of Environmental Protection (DEP) may not grant a CUP to a large-scale data center for an allocation of water if the proposed use of the water is harmful to the water resources of the area or is prohibited by the applicable local government zoning regulations and comprehensive plan. A CUP may only be issued if the proposed use of water:
  - Is a reasonable-beneficial use as defined in s. 373.019, F.S.;
  - Will not interfere with any presently existing legal use of water; and
  - Is consistent with the public interest.
- Provides that the WMD or DEP may require the large-scale data center to use some portion of reclaimed water, in lieu of surface or groundwater, if:
  - A suitable reclaimed water supply source is available and permitted;
  - Reclaimed water distribution or supply lines are available at the property boundary in sufficient capacity and quality to serve the applicant's needs;
  - The applicant can access the reclaimed water source through distribution or supply lines;
  - Use of reclaimed water is environmentally, economically, and technically feasible; and
  - Use of reclaimed water would not conflict with the requirements contained in the applicant's surface water discharge permit, if applicable.
- In addition to the minimum CUP filing requirements under s. 373.229, F.S., all CUP applications requesting an allocation of at least an average daily flow of 100,000 gallons of water per day by a large-scale data center must contain:
  - All sources and amounts of water and losses of water used for cooling, industrial and treatment processes, personal or sanitary needs of employees, and landscape irrigation; and
  - A water conservation plan that, at a minimum, incorporates recycling cooling water before discharge or disposal, implementation of a leak detection and repair program, use of water efficient fixtures, and implementation of an employee awareness and education program concerning water conservation
- Prohibits large-scale data center CUP application approvals without a hearing.

Section 6 amends s. 373.239, F.S., to provide that if a CUP modification application is filed by a large-scale data center, it must be treated in the same manner as an initial CUP permit application.

Section 7 provides an effective date of the bill of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

While the bill will most likely have an impact on the electricity rates, fees, and other costs paid by large load electric customers of public electric utilities. However, the degree of this impact is indeterminate given the multitude of factors present in determining an electric utility rate, particular customer circumstances, and that the impact is likely be partly determined upon the particular rule provisions adopted by the Public Service Commission. In addition, large-scale data centers seeking consumptive use permits may see in increase in costs relating to the application process and additional permitting requirements authorized by the bill.

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: 373.203 and 373.239
This bill creates the following sections of the Florida Statutes: 112.231, 163.326, 366.043, and 373.262

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 Avila

39-01035F-26 2026484__

A bill to be entitled

An act relating to data centers; creating s. 112.231, F.S.; defining terms; prohibiting an agency from entering into a nondisclosure agreement or other contract that restricts the agency from disclosing certain information to the public; providing that an agreement or contract, or a provision of an agreement or contract, is void and unenforceable under certain circumstances; providing civil penalties; authorizing the state attorney or Attorney General to bring an action to collect a fine; providing applicability; creating s. 163.326, F.S.; providing legislative findings; specifying that local governments maintain authority to exercise power and responsibility over comprehensive planning and land development regulations related to large load customers; creating s. 366.043, F.S.; providing legislative findings; defining terms; requiring the Florida Public Service Commission to develop minimum tariff and service requirements for large load customers; requiring that such requirements ensure that large load customers bear their costs of service and that such costs are not shifted to the general body of ratepayers; specifying the cost of service; prohibiting the general body of ratepayers from bearing the risk of nonpayment of such costs; prohibiting a customer from separating a certain electrical load into multiple smaller connections for a specified purpose; authorizing the commission to include certain measures

39-01035F-26 2026484__

in minimum tariff and service requirements; prohibiting any tariff, contractual provision, service requirement, or other public utility policy from preventing or hindering the curtailment or interruption of electric service to a large load customer for certain purposes; prohibiting a public utility from providing service to certain customers; requiring the commission to adopt rules by a specified date; specifying a deadline for utilities' compliance with commission rules; amending s. 373.203, F.S.; defining terms; creating s. 373.262, F.S.; providing legislative intent; prohibiting the governing board of a water management district or the Department of Environmental Protection from issuing a permit for the consumptive use of water to a large-scale data center under certain circumstances; requiring that such permit be issued to a large-scale data center applicant if the applicant establishes that the proposed use of water satisfies certain requirements; requiring the governing board or the department to require the use of reclaimed water for a large-scale data center applicant's allocation when certain requirements are met; specifying requirements for certain permit applications; prohibiting the approval of permit applications without a hearing; amending s. 373.239, F.S.; requiring that consumptive use permit modifications proposed by a large-scale data center be treated in a specified manner; providing an effective date.

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

Section 1. Section 112.231, Florida Statutes, is created to read:

112.231 Data center nondisclosure agreements.—

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

(a) "Agency" means any state, county, district, authority, or municipal officer, public employee, department, division, board, bureau, or commission, or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any such agency.

(b) "Data center" means a facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be:

1. A free-standing structure; or

2. A facility within a larger structure which uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

(2) An agency may not enter into a nondisclosure agreement or other contract restricting the agency from disclosing information about a potential data center development to members of the public.

(3) An agreement or contract, or a provision of an agreement or contract, that violates this section is against public policy and is void and unenforceable.

(4) An agency that violates this section is subject to a civil fine of not more than $1,000. The state attorney of the

county in which the violation occurred or the attorney general may bring an action to collect the fine.

(5) This section applies to agreements entered into on or after July 1, 2026.

Section 2. Section 163.326, Florida Statutes, is created to read:

163.326 Large load customer considerations.—

(1) The Legislature finds that certain land uses, including facilities with substantial electric or other utility demands, such as data centers and other large load customers as defined in s. 366.043(2)(d), may present unique planning, infrastructure, and compatibility considerations. The Legislature intends that such considerations shall be addressed through local comprehensive planning and land development regulations adopted pursuant to this chapter, including provisions related to infrastructure capacity, land use compatibility, environmental impacts, and the efficient provision of public facilities and services.

(2) Local governments shall maintain the authority to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers.

Section 3. Section 366.043, Florida Statutes, is created to read:

366.043 Large load tariffs for public electric utilities.—

(1) The Legislature finds that the provision of safe and reliable electric services, provided at fair, just, and reasonable rates, is essential to the welfare of the ratepayers of this state. The Legislature further finds that when one class

of electric service customer requires uniquely large electrical loads at a single location, it imposes a disproportionate risk on the other ratepayers of this state and makes it necessary for the commission to develop and enforce rate structures and other policies for such customers which ensure such risk is mitigated as much as possible and prevent shifting the costs of serving large load customers to the general body of ratepayers.

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

(a) "Controlled by" means having the power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person or an entity that directly or indirectly has the right to vote 25 percent or more of the voting interests of the company or that is entitled to 25 percent or more of its profits is presumed to control the entity.

(b) "Foreign country of concern" has the same meaning as in s. 692.201.

(c) "Foreign entity" means an entity that is:

1. Owned or controlled by the government of a foreign country of concern; or

2. A partnership, an association, a corporation, an organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity.

(d) "Large load customer" means a customer with an anticipated monthly peak load of 50 megawatts or more, calculated as the highest average load over a 15-minute interval at a single location. This does not include a load aggregated across multiple locations owned by the same customer. However,

it does include all customers or other entities that have entered into a colocation or similar agreement at a single location that otherwise meets the anticipated monthly peak load provided in this paragraph.

(e) "Public utility" has the same meaning as in s. 366.02, except that it does not include a gas utility.

(3) The commission shall develop minimum tariff and service requirements for large load customers. The minimum tariff and service requirements must reasonably ensure that each large load customer bears its own full cost of service and that such cost is not shifted to the general body of ratepayers. Such cost of service includes, but is not limited to, connection, incremental transmission, incremental generation, and other infrastructure costs; operations and maintenance expenses; and any other costs required to serve a large load customer. The risk of nonpayment of such costs may not be borne by the general body of ratepayers.

(4) A customer may not separate an electrical load at a single location into multiple smaller connections to avoid being classified as a large load customer.

(5) To effectuate the requirements of subsection (3), the commission may include in such requirements utility industry-accepted ratemaking and other financial tools, including, but not limited to, all of the following:

(a) Contributions in aid of construction or other required customer infrastructure investments that may be returned, in whole or in part, to such customers over time.

(b) Demand charges, including minimum demand charges.

(c) Incremental generation charges.

(d) Financial guarantees.

(e) Minimum load factors.

(f) Take-or-pay provisions or similar provisions requiring payment for contracted capacity, regardless of a large load customer's actual electricity use or demand.

(g) Minimum period of service contract requirements, including early termination fees or other fees for violation of such contracts.

(6) Any tariff, contractual provision, service requirement, or other public utility policy relating to large load customers may not prevent or otherwise hinder the curtailment or interruption of electric service to a large load customer where such curtailment or interruption is intended to ensure grid stability, reduce the likelihood or breadth of wider service outages, or ensure public safety during an emergency or other exceptional circumstance.

(7) A public utility may not provide electric services to a customer that would otherwise qualify as a large load customer if that customer is a foreign entity.

(8) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption by January 1, 2027.

(9) The commission shall ensure that all public utilities have complied with the rules adopted pursuant to this section by January 1, 2028. Any revision to a public utility's tariffs which is necessary to comply with such rules must be effective no later than this date.

Section 4. Present subsections (3) and (4) of section 373.203, Florida Statutes, are redesignated as subsections (5)

and (6), respectively, and new subsections (3) and (4) are added to that section, to read:

373.203 Definitions.—

(3) "Data center" means a facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be:

(a) A free-standing structure; or

(b) A facility within a larger structure which uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

(4) "Large-scale data center" means a single location, with a data center on site, that has an anticipated monthly peak load of 50 megawatts or more, calculated as the highest average load over a 15-minute interval. This does not include a load aggregated across multiple locations owned by the same customer. However, it does include all customers or other entities that have entered into a colocation or similar agreement at a single location that otherwise meets the anticipated monthly peak load provided in this subsection.

Section 5. Section 373.262, Florida Statutes, is created to read:

373.262 Large-scale data center permitting.—

(1) It is the intent of the Legislature that the development and operation of large-scale data centers in this state be managed under a permitting framework that ensures this state's water resources are used in the public interest, in a manner that is not harmful to the water resources of this state, and consistent with local government zoning regulations and comprehensive plans.

(2) Consistent with other provisions of this part, the governing board of a water management district or the department may not issue a permit to a large-scale data center applicant for an allocation of water if the proposed use of the water is harmful to the water resources of the area or is prohibited by the applicable local government zoning regulations and comprehensive plan. A permit shall be issued to a large-scale data center applicant for an allocation of water if the applicant establishes that the proposed use of water:

(a) Is a reasonable-beneficial use as defined in s. 373.019;

(b) Will not interfere with any presently existing legal use of water; and

(c) Is consistent with the public interest.

(3) The governing board or the department shall require the use of reclaimed water in lieu of all or a portion of a proposed use of surface water or groundwater by a large-scale data center applicant when:

(a) A suitable reclaimed water supply source is available and permitted;

(b) Reclaimed water distribution or supply lines are available at the property boundary in sufficient capacity and quality to serve the applicant's needs;

(c) The applicant is capable of accessing the reclaimed water source through distribution or supply lines;

(d) Use of reclaimed water is environmentally, economically, and technically feasible; and

(e) Use of reclaimed water would not conflict with the requirements contained in the applicant's surface water

discharge permit, if applicable.

(4)(a) In addition to the requirements of s. 373.229, all permit applications made under this part requesting an allocation of at least an average daily flow of 100,000 gallons of water per day by a large-scale data center must contain:

1. All sources and amounts of water and losses of water used for cooling, industrial and treatment processes, personal or sanitary needs of employees, and landscape irrigation; and

2. A water conservation plan that, at a minimum, incorporates recycling cooling water before discharge or disposal, implementation of a leak detection and repair program, use of water efficient fixtures, and implementation of an employee awareness and education program concerning water conservation.

(b) Notwithstanding s. 373.229(4), the governing board or the department may not approve a permit application made under this part by a large-scale data center without a hearing.

Section 6. Subsection (2) of section 373.239, Florida Statutes, is amended to read:

373.239 Modification and renewal of permit terms.—

(2) If the proposed modification involves water use of 100,000 gallons or more per day or is proposed by a large-scale data center as defined in s. 373.203, the application shall be treated under the provisions of s. 373.229 in the same manner as the initial permit application. Otherwise, the governing board or the department may at its discretion approve the proposed modification without a hearing, provided the permittee establishes that:

(a) A change in conditions has resulted in the water

allowed under the permit becoming inadequate for the permittee's need, or

(b) The proposed modification would result in a more efficient utilization of water than is possible under the existing permit.

Section 7. This act shall take effect July 1, 2026.

SENATOR BRYAN AVILA
39th District

THE FLORIDA SENATE
Tallahassee, Florida 32399-1100

Avila.bryan.web@flsenate.gov

COMMITTEES:
COMMITTEES:
Finance and Tax, *Chair*
Transportation, Vice Chair
Appropriations Committee on Transportation, Tourism, and Economic Development
Environmental and Natural Resources
Ethics and Elections
Fiscal Policy
Rules

January 12, 2026

Honorable Senator Jennifer Bradley
The Florida Senate
525 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399

Honorable Senator Bradley,

I respectfully request SB 484 Data Centers be placed on the next committee agenda.

SB 484 Data Centers; Prohibiting an agency from entering into a nondisclosure agreement or other contract that restricts the agency from disclosing certain information to the public; specifying that local governments maintain authority to exercise power and responsibility over comprehensive planning and land development regulations related to large load customers; requiring the Florida Public Service Commission to develop minimum tariff and service requirements for large load customers; prohibiting the governing board of a water management district or the Department of Environmental Protection from issuing a permit for the consumptive use of water to a large-scale data center under certain circumstances.

Sincerely,

Bryan Avila

Senator, District 39

CC: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant
Tonya Shays, Legislative Assistant

❒ 309 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Date: November 7, 2025

Agency Affected: Public Service Commission
Agency Contact: David Frank, Director of Legislative Affairs | (850) 413-6125

RE: SB 126 – Florida Public Service Commission by Senator Don Gaetz

I. SUMMARY:

SB 126 makes numerous changes to law related to the Florida Public Service Commission (Commission). It amends Section 350.01, Florida Statutes (F.S.), to expand the Commission from five to seven members and add qualifications for two commissioners. The bill also creates Section 350.129, F.S., requiring Commission orders to include adequate support and rationale for their decisions.

In addition, the bill amends Section 366.06, F.S., to provide legislative direction regarding Return on Equity (ROE), and amends Section 366.07, F.S., to require the Commission to establish a schedule for public utilities to submit rate change requests. Finally, the bill creates Section 366.077, F.S., establishing an annual report on utility rates and their impacts.

The bill takes effect on July 1, 2026.

II. PRESENT SITUATION:

Statutory Background

Subsection 350.01(1), F.S., provides that the Commission shall consist of five Commissioners appointed in accordance with the requirements of Section 350.031, F.S. Subsection 350.01(2), F.S., establishes 4-year staggered terms for Commissioners. At present, the Commission operates in the Gerald Gunter building, and most public hearings are held in the hearing room located in the Betty Easley building. Both facilities were designed to accommodate a five-member Commission. Each Commissioner is afforded two personal staff members, including a legal/technical advisor and an executive assistant.

Subsection 350.031(5), F.S., requires the Florida Public Service Commission Nominating Council to nominate to the Governor persons who are competent and knowledgeable in one or more fields, including: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the Commission. Subsection (5) also requires the Commission to fairly represent the above-stated fields. Members of the Commission are not required to be certified or licensed in a particular profession.

Section 366.02, F.S., defines a "public utility" as an entity selling electricity or natural gas to the public, but excludes municipal utilities and rural electric cooperatives, as well as certain sellers of natural gas. Four investor-owned electric utilities and seven natural gas local distribution

companies meet the definition of a "public utility" as used in Chapter 366, F.S.

Section 366.04, F.S., establishes the jurisdiction of the Commission to regulate and supervise each public utility with respect to its rates and service. Section 366.041, F.S., establishes the considerations the Commission is to apply in fixing just, reasonable, and compensatory rates:

> The commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base.

Section 366.06, F.S., establishes the Commission's authority over the procedure for fixing and changing rates. Under subsection 366.06(1), F.S., all applications for changes in rates must be made to the Commission in writing under rules and regulations prescribed. The Commission has adopted rules to facilitate the orderly filing, review, and consideration of rate proceedings to meet the 12-month statutory deadline for final agency action under subsection 366.04(3), F.S.

Subsection 366.06(2), F.S., authorizes the Commission to hold a public hearing whenever the Commission finds that rates are either insufficient or excessive, and to determine just and reasonable rates to be thereafter charged.

Base Rate Proceedings (Rate Cases)

The Commission establishes separate rates and charges to recover various components of a public utility's cost of service. Base rate proceedings, filed less frequently than annual cost recovery clause proceedings, address a utility's costs of providing service, including infrastructure investment, a fair return on investment, operating and maintenance expenses, and the cost of managing the utility. The cost of salaries and benefits, including executive compensation, is reviewed at an aggregate level. Salary considerations include a relative comparison to industry norms, and the need to attract and retain qualified executive and non-executive utility personnel.

In determining a reasonable rate of return, the Commission is guided by the United States Supreme Court's seminal decisions in *Hope* and *Bluefield*, under which a reasonable return is one that is commensurate with the return investors would expect from like investments of comparable risk, is reasonably sufficient to assure investor confidence that the utility is financially sound, and is adequate to attract capital on reasonable terms. A just and reasonable ROE is integral to meeting sound regulatory economics and the standards set forth by the U.S. Supreme Court. The *Bluefield* case set the standard against which just and reasonable rates are measured:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the

> country on investments in other business undertakings which are attended by corresponding risks and uncertainties. . . . The return should be reasonable, sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise money necessary for the proper discharge of its public duties.[1]

The *Hope* case expanded on the guidelines as to a reasonable ROE, reemphasizing the findings in *Bluefield* and establishing that the rate-setting process must produce an end result that allows the utility a reasonable opportunity to cover its capital costs. The U.S. Supreme Court stated:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock . . . . By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain credit and attract capital.[2]

In a base rate proceeding, the Commission establishes a utility's authorized rate of return or cost of capital. This is based upon the ROE, long term and short term debt, customer deposits, and deferred taxes. A substantial evidentiary record is developed that includes analyses of ROE using various industry accepted models, as well as perspectives on the various risks that impact the utility. The authorized rate of return provides an opportunity for the utility to earn a reasonable return. The Commission establishes a mid-point ROE for purposes of setting rates, and an ROE range of 100 basis points (+/- 1%) for purposes of ensuring rates remain reasonable.

In establishing ROE in a base rate proceeding, the Commission considers the risk-free rate of return, which is based upon the average of the forecasted yields on 30-year U.S. Treasury bonds, adjusts upward based upon a number of factors, including the various risks faced by the utility and the current returns of similarly situated utilities. Numerous factors go into ROE, and the Commission analyzes multiple models and potential scenarios to create a range of potential ROE figures that incorporate the factors that affect the risk that the utility faces. Factors such as storm damage and a volatile business environment can increase the amount of risk the company faces, while factors such as a higher-than-typical equity ratio or a stable business environment can lower that risk. The Commission strives to establish an ROE for a given company that properly reflects the risk that company faces. The bill would effectively benchmark ROE to a national average, which may not accurately account for the specific conditions faced by Florida utilities.

The realized return, based upon a utility's earnings, is dependent upon the utility's ability to manage its costs and react to exogenous factors. Such factors include changes in revenues due to the impact of weather on sales; or new, modified or cancelled tariffed rates or charges. Other factors include the costs of materials, supplies, and labor; and interest rates affecting the cost of debt that could place upward or downward pressure on earnings.

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[1] *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).
[2] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

The Commission monitors the earnings of each public utility through recurring surveillance reports and tracks the realized ROE as reported to determine whether it falls within the authorized ROE range. If earnings fall outside the authorized range, Commission staff initiates inquiries to gather information in order to recommend potential actions by the Commission.

In a base rate proceeding, the entire financial and operational condition of a utility is reviewed, as well as the grounds for a utility's request to adjust rates. This perspective affords the Commission the opportunity to assess a utility's risk in current and near term market conditions, while judging the reasonableness of the need for increased revenue.

Rate Changes Outside of Base Rate Proceedings
Rate changes can occur outside of base rate cases. These types of proceedings establish rates to recover discrete costs. The Commission does not establish ROE or the overall rate of return in these focused rate setting processes as that function is part of a broad base rate case. Examples include:

Cost Recovery Clauses: Cost recovery clause proceedings are designed to recover variable, volatile, or legislatively mandated costs. For electric public utilities, proceedings are held annually to address fuel and purchased power costs, capacity costs, environmental compliance costs, storm protection plan costs, and energy conservation program costs.[3] The annual proceedings are governed by orders establishing procedure, including the schedule of key milestones.

Interim Charges*:* Interim charges may be established to recover storm restoration costs. The charge is time limited and subject to true-up following a subsequent Commission hearing to determine final costs that are eligible for recovery.

Infrastructure Surcharges: Natural gas public utilities have received Commission approval to establish surcharges to recover costs required to comply with natural gas infrastructure safety mandates. The surcharges are reviewed annually and revised to ensure revenues match costs.

Tariffs: A utility's tariffs are a series of documents that provide the rates, terms, and conditions for service. A utility's tariffs also include standard forms for different service offerings, as well as standard contracts and agreements. These can include the legislatively mandated contracts to purchase energy from cogenerators or renewable energy providers. While tariffs are typically revised or newly approved as part of the proceedings described above, a utility may seek Commission approval to modify an existing tariff or to implement a new one as circumstances warrant. However, in reviewing stand alone requests for approval of new, modified, or cancelled tariffs, the

[3] Most utilities purchase fuels to generate electricity and these commodities can include natural gas, coal, uranium and refined crude oil products. Utilities may also purchase, through contracts, all or a portion of the electricity required to serve customers. Purchased power contracts typically have two components: 1) energy charges, and 2) demand or capacity charges, that reserve generating capacity to help meet peak demand. The energy charge component of purchased power is recovered through the fuel and purchased power cost recovery clause. The capacity component of purchased power is recovered through the capacity cost recovery clause.

Commission does not determine the utility's ROE or overall rate of return.

III. EFFECT OF PROPOSED CHANGES:

Section 1 – Section 350.01, F.S.

The bill amends Section 350.01, F.S., to expand the Commission from five to seven members. It also adds a provision that one member must be a certified public accountant, and one member must be a chartered financial analyst. Because of the current composition of the Commission, the new appointments would be limited to these specific qualifications.

Subsection 350.01(2), F.S., outlines the method by which staggered term dates were initially established. As a result, two of the current Commissioners' terms end on January 1, 2026, two on January 1, 2027, and one on January 1, 2029. SB 126 does not provide a start or end date for the two new Commissioners' terms.

Each additional Commissioner would require two full-time equivalent (FTE) support staff positions, resulting in six new FTEs in total. The Gerald Gunter building, which currently houses the Commission, would require renovations to provide additional workspace. Similarly, structural modifications would be needed in the Commission hearing room located in the Betty Easley Conference Center to accommodate the expanded Commission. The fiscal impact of these additional FTEs, as well as the construction costs, are discussed in Section IV below.

Section 2 – Section 350.129, F.S.

Section 2 of the bill requires all orders issued by the Commission include adequate support and rationale for the Commission's conclusions, including the specific facts and factors on which the conclusions are based. In particular, any public interest conclusions must specify their rationale.

When considering a settlement agreement under Section 120.569, F.S., the Commission must provide a reasoned explanation of its approval or denial, citing the specific facts and factors relied upon. Additionally, the Commission must discuss the major elements of the settlement and the rationale for its conclusions.

Section 2 appears to codify the Florida Supreme Court's decisions in *Floridians Against Increased Rates v. Clark*, 371 So. 3d 905 (2023)(*FAIR*) and *Florida Rising, Inc. v. Fla. Pub. Serv. Comm'n*, 415 So. 3d 135 (Fla. 2025)(*Florida Rising*), where the Court "explained that the Commission's power to determine whether a settlement is in the public interest and results in fair, just, and reasonable rates rests on both facts in the record and policy judgments guided by the Commission's 'specialized knowledge and expertise in this area.'" *Florida Rising* at 140. The Court instructed the Commission to provide adequate support and rationale in its Final Orders, and when considering a settlement, to consider each of the major elements of the settlement before making a public interest determination. In *Florida Rising*, the Court found that the Commission met the requirements set out in the bill.

Section 3 – Section 366.06, F.S.

Section 3 of the bill requires the Commission to ensure that the allowable ROE for a utility does not exceed the national average ROE for comparable companies. The bill does not give a direction on how to determine which companies can be considered comparable to a given Florida public utility.

The alignment of the allowable ROE with the national average of comparable utilities may not fully account for variations in regional risk profiles or operating conditions unique to Florida.

In this context, if the allowable ROE is set below the level that investors perceive as appropriate for Florida-specific risks, there could be implications on the cost to attract new investment. This does not suggest that the ROE itself would increase as that is limited by the bill, but rather that future capital could become more costly if investors view the capped ROE as insufficient relative to the perceived level of risk. As a result, the provision may create upward pressure on the overall cost of capital, even as the allowable ROE remains limited to the national average.

Section 4 – Section 366.07, F.S.

The bill amends Section 366.07, F.S., to require the Commission to establish a schedule specifying when each public utility may submit rate change requests. This provision would apply to the four investor-owned electric utilities and the seven natural gas local distribution companies regulated by the Commission.

The bill does not define the scope of the term "rate change requests." As a result, the impact of this provision depends on whether "rate change requests" is interpreted narrowly, applying only to base rate cases, or broadly, applying to any change in rates or charges in the various rate making proceedings described above, including stand alone changes to tariffed charges.

Utilities do not currently file requests to adjust base rates on a set schedule. A narrow interpretation of this provision of the bill would require the Commission to establish a schedule by which electric and gas IOUs could file a base rate case. While this provision may ensure that the Commission's resources are not overwhelmed by multiple, simultaneous rate cases at any given time, in the event that a utility is over- or under-earning, a restrictive schedule could delay either the utility or its customers from receiving needed rate relief in a timely fashion. It is unclear whether the Commission would also be bound by the schedule established in the bill, which could constrain its authority to initiate a rate review when a utility's earnings fall outside its authorized range, whether due to over-earning or under-earning.

This provision appears to conflict with Subsection 366.06(2), F.S., which governs the timing of rate requests and requires the Commission to hold a public hearing whenever rates are either insufficient or excessive. Section 366.06(2), F.S., provides:

> Whenever the commission finds, upon request made or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting

> such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law; that such rates are insufficient to yield reasonable compensation for the services rendered; that such rates yield excessive compensation for services rendered; or that such service is inadequate or cannot be obtained, the commission shall order and hold a public hearing, giving notice to the public and to the public utility, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

Under this statute, fluctuations in revenues and costs drive the timing of rate requests. The underlying events that drive these fluctuations are not predictable. This statute allows the Commission to initiate a proceeding to change rates or a utility to seek changes to rates as circumstances dictate.

Under a broad interpretation, this provision could implicate many other types of proceedings where rates are impacted, leading to suboptimal scheduling and inefficient processes for both utilities and customers.

Section 5 – Section 366.077, F.S.

The bill creates Section 366.077, F.S., to create a new annual report, due to the Governor and the Legislature by March 1 of every year. The new report must contain the following:

- An investigation of contemporary economic analysis related to rate changes in Florida;

- An analysis of potential cost impacts to Florida utility customers if excess ROEs have occurred, and potential cost savings, if any, to customers if the excess ROEs have not occurred at a significant rate;

- An analysis of ROE models presented by public utilities and used by the Commission to determine approved ROEs for public utilities in Florida. Such analysis must:
  - Compare models used by federal agencies and other state utility regulatory bodies with those used by the Commission
  - Determine whether the models used are generally financially logical
  - Determine whether the models used comport with generally accepted economic theory both inside of and outside of the utility industry

- An assessment of long-term impacts and economic repercussions of rising rates of ROEs to utilities and their customers in the future;

- A summary detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including, but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar

amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and highlight any compensation exceeding the industry average. The office shall also include in the report any rationale provided by a public utility justifying compensation exceeding the industry average and, for each public utility, an explanation of how specific data gathered during the compiling of information informed the office's decisions on that insurer's rate change requests.

- Benchmarking that compares public utilities servicing Florida with public utilities servicing other states, including commentary on all findings.

When establishing the authorized ROE range in base rate proceedings, the Commission's current process includes reviewing and weighing witness testimony, analysis, and evidentiary support as outlined in the bill. For example, the Commission routinely monitors public utility earnings and has authority to initiate proceedings to adjust rates when earnings are found to be excessive or insufficient. The Commission also develops a substantial evidentiary record of alternative rate of return models based on testimony from expert witnesses during base rate proceedings. In addition, the Commission considers the returns of similarly situated utilities, both within and outside Florida, when determining the authorized ROE range.

During a base rate proceeding, utility employee compensation is reviewed and established at an aggregate level. The bill's additional reporting requirements involving "detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including, but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments" would require extensive discovery sent to public utilities. Much of this information would likely be considered proprietary confidential business information that necessitates confidential treatment by the Commission under section 366.093, F.S.; however, some of the information may be available through various SEC filings. It remains unclear how any information deemed confidential could be disseminated in a public report to the Legislature without presenting challenges under existing confidentiality provisions in section 366.093, F.S.

The bill will take effect on July 1, 2026.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill is expected to have a significant fiscal impact on the Commission. Section 1 of the bill requires the Commission to add six FTEs: two Commissioners, two advisors, and two executive assistants, for an annual increase of $776,006 and $31,838 in nonrecurring expenses. The Commission will also need to undertake renovations in the Gerald Gunter Building to accommodate the additional Commissioners and to modify the Hearing Room, for a nonrecurring cost of $2,500,000.

	(FY 26-27) Amount / FTE	(FY 27-28) Amount / FTE	(FY 28-29) Amount / FTE
A. Revenues			

1. Recurring	$0/0 FTE	$0/0 FTE	$0/0 FTE
2. Non-Recurring	$0/0 FTE	$0/0 FTE	$0/0 FTE
B. Expenditures			
1. Recurring	$776,006/6 FTE	$776,006/6 FTE	$776,006/6 FTE
2. Non-Recurring	$2,531,838/0 FTE	$0/0 FTE	$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

The bill is not expected to have any significant effects on local governments.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The bill is not expected to have any significant effect on the private sector.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No conflicts with existing federal laws or regulations have been identified.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g., separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

Section 366.06, F.S., allows utilities to project revenues and seek rate adjustments either in the normal course of business or in reaction to unanticipated or significant changes in revenues or costs. Adopting a set schedule directly conflicts with Section 366.06, F.S, which allows for flexibility with the timing of rate requests. The bill would instead require a set schedule to drive the filings as opposed fluctuations in revenues and costs. This provision may raise potential concerns because whether revenues are sufficient or excessive, the utility would have to wait for its scheduled date.

In addition to creating a statutory conflict, establishing a uniform rule with a schedule applicable to all utilities could have significant financial consequences for utilities and ratepayers. For example, under the current situation with no set schedule, a utility with sufficient revenues can delay the expense of a rate request until circumstances change. With a set schedule, that same utility would be forced to file an unnecessary rate request and incur those expenses, which are ultimately passed along to the ratepayers. Likewise, a utility that is operating in a deficiency and that is need of immediate sufficient revenues would have to wait for its scheduled submission date, which could ultimately create quality of service and safety as well as financial issues for the

customers.

Moreover, if a utility is unable to seek rate relief when needed, this could be considered a form of regulatory taking and raise a constitutional question. A utility that is earning revenues below its approved range is "under-earning." Under the proposed bill, a utility that is under-earning would have to continue to do so until allowed to seek a rate increase pursuant to the "rate change request" schedule. Forcing a utility to maintain this position may result in a claim for a "regulatory taking" in violation of the Fifth Amendment of the U.S. Constitution:

> The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. An inadequate return may prevent satisfactory services to the public and concomitantly disappoint investors who will look for alternative sources of investment. The Public Service Commission is given the power to fix the return within certain limits. That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.[4]

On the other side of this spectrum, a utility that is earning revenues above its approved range is "overearning." A utility that is subject to the rule and is overearning at a time that does not coincide with its "rate change request" schedule would be prohibited from lowering its rates. Ratepayers would not receive the rate relief to which they are entitled in a timely manner. The utility would be compelled to accept and hold the overearnings, calculate refunds as part of its scheduled "rate change request."

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

The schedule for utilities to make a "rate change request" must be established by the Commission, presumably by rule adoption. Because the phrase "rate change request" is not defined in the legislation, it may be appropriate to provide a definition in that same rule. This definition and the establishment of the schedule may generate a rule challenge from utilities or affected ratepayers.

The potential for regulatory takings litigation was addressed in Section B.

D. Other

None known at this time.

[4] *United Telephone Company v. Mayo,* 345 So. 2d 648, 653 (Fla. 1977) (*emphasis added*); *see* U.S. Const. amend. V; Fla. Const. art. X, § 6.

VIII. COMMENTS:

Prepared by: Benjamin Crawford and Major Thompson
Date: October 20, 2025

Date: February 28, 2025

Agency Affected: Public Service Commission
Agency Contact: David Frank, Director of Legislative Affairs | (850) 413-6125

RE: SB 354

I. SUMMARY:

SB 354 makes numerous changes to laws related to the Florida Public Service Commission (Commission or FPSC). It amends Section 350.01, Florida Statutes (F.S.), to expand the Commission from five to seven members and to add qualifications for two commissioners. It also amends Section 366.06, F.S., to require the FPSC to establish a schedule by which public utilities may submit rate change requests. It amends Section 366.81, F.S., to give Legislative direction regarding Return on Equity (ROE). Finally, it amends Section 366.82, F.S., to expand the scope of the Commission's annual report on activities under FEECA. The bill takes effect on July 1, 2025.

II. PRESENT SITUATION:

Statutory Background

Section 350.01(1), F.S., establishes that the Commission shall consist of five Commissioners appointed in accordance with the requirements of Section 350.031, F.S. Section 350.01(2), F.S., establishes 4-year staggered terms for Commissioners. At present, the Gerald Gunter building, which houses the Commission, and the hearing room in the Betty Easley building, where the Commission holds most of its public hearings, are designed around a five-member Commission. Currently, each Commissioner is afforded a personal staff of two, including a legal/technical advisor and an executive assistant.

Subsection 350.031(5), F.S., requires the Florida Public Service Commission Nominating Council to nominate to the Governor persons who are competent and knowledgeable in one or more fields, including: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the Commission. Subsection (5) also requires the Commission to fairly represent the above-stated fields. Members of the Commission are not required to be certified or licensed in a particular profession.

Section 366.02, F.S., defines a public utility as an entity selling electricity or natural gas to the public but excludes municipal utilities and rural electric cooperatives, as well as certain sellers of natural gas. As a result, the term "public utilities," as used in Chapter 366, F.S., applies to Florida's four investor-owned electric utilities, as well as seven natural gas local distribution companies.

Section 366.04, F.S., establishes the jurisdiction of the Commission to regulate and supervise each public utility with respect to its rates and service. Section 366.041, F.S., establishes the considerations the Commission is to apply in fixing just, reasonable, and compensatory rates:

> the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the Commission's authority over the procedure for fixing and changing rates. Specifically, Section 366.06(1), F.S., confers authority to the Commission that all applications for changes in rates shall be made to the Commission in writing under rules and regulations prescribed. The Commission has adopted rules to facilitate the orderly filing, review, and consideration of rate proceedings that will meet the 12-month statutory deadline for final agency action under Section 366.04(3), F.S. Also, Section 366.06(2), F.S., requires the Commission to hold a public hearing whenever the Commission finds that rates are either insufficient or excessive, and to determine just and reasonable rates to be thereafter charged.

Base Rate Proceedings (Rate Cases)

The Commission establishes separate rates and charges to recover various components of a public utility's cost of service. Base rate proceedings, filed less frequently, address a utility's costs of infrastructure including a reasonable return on investment, operating and maintenance expenses and the cost of administering the utility. The cost of salaries and benefits, including executive compensation, is reviewed at an aggregate level. Considerations include a relative comparison to industry norms and the need to attract and retain qualified executive and non-executive utility personnel.

In fixing a reasonable rate of return, the Commission is guided by the Supreme Court of the United States' decisions in *Hope* and *Bluefield*, under which a reasonable return is one that is commensurate with the return investors would expect from like investments of comparable risk, is reasonably sufficient to assure investor confidence that the utility is financially sound, and is adequate to attract capital on reasonable terms. A just and reasonable ROE is integral to meeting sound regulatory economics and the standards set forth by the U.S. Supreme Court. The *Bluefield* case set the standard against which just and reasonable rates are measured:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties. . . . The return should be reasonable, sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain and support

> its credit and enable it to raise money necessary for the proper discharge of its public duties.[1]

The *Hope* case expanded on the guidelines as to a reasonable ROE, reemphasizing the findings in *Bluefield* and establishing that the rate-setting process must produce an end result that allows the utility a reasonable opportunity to cover its capital costs. The U.S. Supreme Court stated:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock . . . . By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain credit and attract capital.[2]

In a base rate proceeding, the Commission establishes a utility's authorized rate of return or cost of capital. This is based upon the return on equity, long-term and short-term debt, customer deposits, and deferred taxes. A substantial evidentiary record of information is developed, including analyses of ROE using various industry-accepted models, as well as perspectives on the various risks impacting the utility. The rate of return authorized by the Commission provides an opportunity for the utility to earn a reasonable return. The Commission establishes a mid-point ROE for purposes of setting rates, and an ROE range of 100 basis points (+/- 1%) for purposes of ensuring rates remain reasonable.

The realized return, based upon a utility's earnings, is dependent on the utility's ability to manage its costs and react to exogenous factors, some of which may be outside its control. Such factors include changes in revenues due to the impact of weather on sales; or new, modified, or cancelled tariffed rates or charges. Other factors include the costs of materials, supplies, and labor; and interest rates affecting the cost of debt that could place upward or downward pressure on earnings. The Commission monitors the earnings of each public utility through recurring surveillance reports. The realized ROE filed in a surveillance report is analyzed for whether it falls within the established ROE range. Should earnings fall outside the range, the Commission's staff makes inquiries to gather information in order to recommend potential actions by the Commission.

In a base rate proceeding, the entire financial and operational condition of a utility is reviewed, as well as the grounds for a utility's request to adjust rates. This perspective affords the Commission the opportunity to assess a utility's risk in current and near-term market conditions, while judging the reasonableness of the need for increased revenue.

Cost Recovery Clauses, Infrastructure Surcharges, Interim Charges

Cost recovery clause proceedings are designed to recover variable, volatile, or legislatively mandated costs. For electric public utilities, proceedings are held annually to address fuel and

[1] *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).
[2] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

purchased power costs, capacity costs, environmental compliance costs, storm protection plan costs, and energy conservation program costs.[3] For natural gas public utilities, annual proceedings address purchased natural gas and energy conservation program costs. The annual proceedings are governed by orders establishing procedure, including the schedule of key milestones.

Interim charges may be established to recover storm restoration costs. The charge is time-limited and subject to true-up following a subsequent Commission hearing to determine final costs that are eligible for recovery.

Finally, natural gas public utilities have received Commission approval to establish surcharges to recover costs required to comply with natural gas infrastructure safety mandates. The surcharges are reviewed annually and revised to ensure revenues match costs.

These types of proceedings establish rates to recover discrete costs. The Commission does not establish ROE or the overall rate of return in these focused rate setting processes, as that function is part of a broad base rate case.

Tariffs

A utility's tariffs are a series of documents that provide the rates, terms, and conditions for service. Tariffs are approved by the Commission as part of every rate setting proceeding, including those described above. A utility's tariffs also include standard forms for different service offerings and standard contracts and agreements. These can include the legislatively mandated contracts to purchase energy from cogenerators or renewable energy providers. While tariffs are normally revised or new tariffs approved as part of the proceedings described above, utilities can seek approval to modify an existing tariff or for a new tariff as circumstances warrant. The Commission, however, does not establish ROE or the overall rate of return in reviewing stand alone requests to approve new, modified or to cancel a tariff.

Florida Energy Efficiency and Conservation Act (FEECA)

Sections 366.80 through 366.83, and 403.519, F.S., are collectively known as FEECA. FEECA emphasizes four key areas: reducing the growth rates of weather-sensitive peak demand and electricity usage, increasing the efficiency of the production and use of electricity and natural gas, encouraging demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels. Sections 366.82(2) and 366.82(6), F.S., require the Commission to establish goals for the FEECA utilities and review the goals every five years, at a minimum. The utilities are required to develop cost-effective demand-side management (DSM) plans and programs that meet their goals and submit them to the Commission for approval. Public utilities subject to FEECA may seek cost recovery for approved DSM programs.

[3] Most utilities purchase fuels to generate electricity and these commodities can include natural gas, coal, uranium and refined crude oil products. Utilities may also purchase, through contracts, all or a portion of the electricity required to serve customers. Purchased power contracts typically have two components: 1) energy charges, and 2) demand or capacity charges, that reserve generating capacity to help meet peak demand. The energy charge component of purchased power is recovered through the fuel and purchased power cost recovery clause. The capacity component of purchased power is recovered through the capacity cost recovery clause.

Energy conservation and DSM in Florida are accomplished through a multi-pronged approach that includes energy efficiency requirements in building codes for new construction, federal appliance efficiency standards, utility programs, and consumer education. Utility programs, which are paid for by all customers, are aimed at increasing efficiency levels above building codes and appliance efficiency standards.

The Commission is required by Section 366.82(10), F.S., to provide an annual report to the Florida Legislature and the Governor by March 1, summarizing the adopted goals and the progress made toward achieving those goals. Similarly, Section 377.703(2)(f), F.S., requires the Commission to file information on electricity and natural gas energy conservation programs with the Department of Agriculture and Consumer Services.

III. EFFECT OF PROPOSED CHANGES:

Section 1 – Section 350.01, F.S.

The bill amends Section 350.01, F.S., to expand the Commission from five to seven members. It also adds a provision that one member must be a certified public accountant, and one member must be a chartered financial analyst. Because of the current composition of the Commission, the new appointments would be limited to these specific qualifications.

Subsection 350.01(2), F.S., outlines the method by which staggered term dates were initially established. As a result, two of the current Commissioners' terms end on January 1, 2026; two on January 1, 2027; and one on January 1, 2029. SB 354 does not provide a start or end date for the two new Commissioners' terms.

Each Commissioner would require two further FTEs as support staff, for a total of six added FTEs. The Gerald Gunter building, which currently houses the Commission, would need renovations to account for added workspace, as would the Commission hearing room in the Betty Easley Conference Center, where structural changes would be needed to accommodate an expanded Commission. The fiscal impact of these additional FTEs, as well as the construction costs, is discussed in section IV below.

Section 2 – Section 366.06, F.S.

The bill amends Section 366.06, F.S., to require the Commission to establish a schedule by which rate change requests may be submitted to the Commission by each public utility company. This section would apply to four investor-owned electric utilities, as well as seven natural gas local distribution companies. This section of the bill also makes various wording changes that do not appear to be substantive.

The bill does not establish the scope of the term "rate change requests." As a result, the impact of this bill is dependent on whether "rate change requests" is interpreted narrowly, and only applies to base rate cases, or broadly, applying to any change in rates or charges in the various rate making proceedings described above, including stand alone changes to tariffed charges.

A narrow interpretation would require the Commission to establish a schedule by which electric and gas IOUs could file a base rate case. While this provision may ensure that the Commission's resources are not overwhelmed by multiple, simultaneous rate cases at any given time, in the event that a utility is over- or under-earning, a restrictive schedule could delay either the utility or its customers from receiving needed rate relief in a timely fashion. This provision appears to conflict with section 366.06(2), F.S., that requires the Commission to hold a public hearing whenever rates are either insufficient or excessive. With regard to the utility being unable to seek rate relief when needed, this could be considered a form of regulatory taking and raise a constitutionality question.

Under a broad interpretation, the bill could implicate many other types of proceedings where rates are impacted, leading to less-than-optimal schedules and inefficient processes for utilities and customers. Also, a broad interpretation introduces increased regulatory risk and instability that could increase risk to the financial integrity of the utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 3 – Section 366.81, F.S.

Sections 3 and 4 of the bill both make changes to portions of FEECA, though neither section appears to address FEECA, energy efficiency, or energy conservation directly. This analysis assumes that the placement of these sections of the bill within FEECA does not limit the application of those sections of the bill.

The bill amends Section 366.81, F.S., to require the Commission to work to keep the allowable ROE close to the risk-free rate of return and requires a utility seeking a tariff modification to specifically justify any upward deviations from that rate.

In establishing ROE in a base rate proceeding, the Commission considers the risk-free rate of return, which is based upon the average of the forecasted yields on 30-year U.S. Treasury bonds and adjusts upward based on a number of factors, including the various risks faced by the utility and the current returns of similarly situated utilities. Numerous factors go into ROE, and the Commission analyzes multiple models and potential scenarios to create a range of potential ROE figures that incorporate the factors affecting the risk that the utility faces. Factors such as storm damage and a volatile business environment can increase the amount of risk the company faces, while factors such as higher-than-typical equity or a stable business environment can lower that risk. The Commission strives to establish an ROE for a given company that properly reflects the risk that company faces.

Public utilities may seek approval for new tariffs or to modify existing tariffs in the various rate setting proceedings described in section II, and as part of discrete, stand alone requests to the Commission. The bill suggests that a public utility need only seek to modify a tariff in order to initiate a review of its authorized ROE and range. This could occur in the annual cost recovery clause proceedings, annual natural gas infrastructure surcharge proceedings, interim rate setting proceedings, or stand alone tariff modification proceedings. Revising ROE annually introduces increased regulatory risk and instability that could increase risk to the financial integrity of the

utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 4 – Section 366.82, F.S.

The bill amends Section 366.82, F.S., to significantly expand the Commission's Annual Report on Activities pursuant to FEECA (FEECA Report). At present, the FEECA Report is solely concerned with activities directly related to FEECA, such as the programs utilities have undertaken and their success with those programs. The bill expands the FEECA Report to include numerous subjects outside of FEECA, including:

- An investigation of contemporary economic analysis related to rate changes in Florida;

- An analysis of potential cost impacts to Florida utility customers if excess ROEs have occurred, and potential cost savings, if any, to customers if the excess ROEs have not occurred at a significant rate;

- An analysis of alternative rate-of-return scenarios, including an investigation of the rationale for why such scenarios were not chosen in the past, and an investigation of the applicability of such scenarios for the future;

- An assessment of long-term impacts and economic repercussions of rising rates of regulated ROEs to utilities and their customers in the future;

- A summary detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and highlight any compensation exceeding the industry average. The office shall also include in the report any rationale provided by the insurer justifying compensation exceeding the industry average and, for each insurer, an explanation of how specific data gathered during the creation of the report informed the office's decisions on that insurer's rate change requests; and

- Benchmarking that compares public utilities servicing Florida with public utilities servicing other states, including commentary on all findings.

It would be helpful to have further clarification on the references to "insurer" in lines 143-146, as well as which "office" is intended in line 146.

As explained earlier, the apparent concept behind the topics outlined above in the annual report is used and considered by the Commission in establishing the authorized ROE and range in a base rate proceeding. For example, the Commission routinely monitors public utility earnings

and has authority to initiate a proceeding to adjust rates whenever earnings are excessive or insufficient. Second, the Commission establishes a substantial record of evidence of alternative rate of return model results based on the assumptions of various expert witnesses in a base rate proceeding. Third, the returns of similarly situated utilities in and out of Florida are considered by the Commission in establishing the authorized ROE and range.

During a base rate proceeding, compensation is reviewed and established at an aggregate level. The additional reporting requirements involving "detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments" would require extensive discovery sent to public utilities. Much of this information would likely be considered proprietary business information that necessitates confidential treatment by the Commission under Section 366.093, F.S. It would be helpful to have further clarification on how this confidential information could be disseminated in a public report to the Legislature and remain consistent with current law.

The bill will take effect on July 1, 2025.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill is expected to have a significant fiscal impact on the Commission. Section 1 of the bill requires the Commission to add six FTEs: two Commissioners, two advisors, and two executive assistants, for an annual increase of $762,353. The Commission will also need to conduct renovations in the Gerald Gunter and Betty Easley buildings to accommodate the additional Commissioners, at a non-recurring cost of $1,000,000 - $2,000,000. The actual construction cost will be provided once the legislation passes.

	(FY 25-26) Amount / FTE	(FY 26-27) Amount / FTE	(FY 27-28) Amount / FTE
A. Revenues			
1. Recurring	$0/0 FTE	$0/0 FTE	$0/0 FTE
2. Non-Recurring	$0/0 FTE	$0/0 FTE	$0/0 FTE
B. Expenditures			
1. Recurring	$762,353/6 FTE	$762,353/6 FTE	$762,353/6 FTE
2. Non-Recurring	$31,838/0 FTE	$0/0 FTE	$0/0 FTE
3. Non-Recurring (Construction)*	$1-$2M/0 FTE		

* The building renovations will be required to accommodate additional staff. In consultation with Department of Management Services (DMS) the estimated range of construction cost is $1-$2M.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

The bill is not expected to have any significant effects on local governments.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The bill is not expected to have any significant effect on the private sector.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No conflicts with existing federal laws or regulations have been identified.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g., separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

Utilities do not currently file rate requests on a set schedule. Section 366.06(2), F.S., which currently governs the timing of rate requests, provides in full as follows:

> Whenever the commission finds, upon request made or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law; that such rates are insufficient to yield reasonable compensation for the services rendered; that such rates yield excessive compensation for services rendered; or that such service is inadequate or cannot be obtained, the commission shall order and hold a public hearing, giving notice to the public and to the public utility, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

Under this statute, fluctuations in revenues drive rate requests. The underlying events that drive these fluctuations are not predictable. This statute allows the Commission and the utility the ability to coordinate rate requests with revenues as circumstances dictate. The inherent statutory flexibility has operated as intended over time, with utilities maintaining rates that are neither excessive nor inadequate.

Adopting a set schedule directly conflicts with this statute. The dates adopted in the rate request schedule would drive the filings. Whether revenues are sufficient or excessive, the utility would have to wait for its scheduled date.

In addition to creating a statutory conflict, establishing by rule a schedule applicable to all utilities could have significant financial consequences for utilities and ratepayers. For example, under the current situation with no set schedule, a utility with sufficient revenues can delay the expense of a rate request until circumstances change. With a set schedule, that same utility would be forced to file an unnecessary rate request and incur those expenses, which are ultimately passed along to the ratepayers. Also, with no set schedule, a utility has the ability to file a rate

request as soon as a revenue increase or decrease indicates a near-term deficiency or excess. With a set schedule, that utility would have to wait for its scheduled submission date, which could make a bad situation worse.

A utility that is earning revenues below its adopted range is "underearning." Under the proposed bill, a utility that is underearning would have to continue to do so until allowed to seek a rate increase pursuant to the "rate change request" schedule. Forcing a utility to maintain this position may result in a claim for a "regulatory taking."

> The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. An inadequate return may prevent satisfactory services to the public and concomitantly disappoint investors who will look for alternative sources of investment. The Public Service Commission is given the power to fix the return within certain limits. That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.[4]

The phrase "rate change request" is not defined. The broader the interpretation of this phrase and wider the effect of the schedule, the more likely such a scenario is to occur.

On the other side of this spectrum, a utility that is earning revenues above its adopted range is "overearning." A utility that is subject to the rule and is overearning at a time that does not coincide with its "rate change request" schedule would be prohibited from lowering its rates. Ratepayers would not receive the rate relief to which they are entitled in a timely manner. The utility would be compelled to accept and hold the overearnings, calculate refunds as part of its schedule "rate change request," and deal with the potential of Commission sanctions for overearning.

The existing statutory framework avoids these scenarios. Utilities currently project revenues and seek rate adjustments either in the normal course of business or in reaction to unanticipated or sudden events or opportunities. An established schedule removes this maneuverability.

> C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

The schedule for utilities to make a "rate change request" must be established by the Commission, presumably by rule adoption. Because the phrase "rate change request" is not defined in the legislation, it may be appropriate to provide a definition in that same rule. This definition and the establishment of the schedule may generate a rule challenge from utilities or affected ratepayers.

The potential for regulatory takings litigation was addressed immediately above in Section B.

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[4] *United Telephone Company v. Mayo,* 345 So. 2d 648, 653 (Fla. 1977)(emphasis added); *see* U.S. Const. amend. V; Fla. Const. art. X, § 6.

D. Other

There are a number of issues raised in Section 3 of the bill:

1. Section 3 amends the intent section of the Florida Energy Efficiency and Conservation Act ("FEECA"), Section 366.81, F.S., to include a new requirement regarding the utility's Return on Equity ("ROE"). Placement of the new provision within Section 366.81, F.S., creates inherent confusion because that section of law is the legislative intent section of the FEECA statutes regarding demand side management ("DSM") plans and programs. Because there are no tariffs adopted to implement legislative intent, the scope, application, and meaning of this provision could benefit from further clarification.

2. Section 3 interjects the placement of the substantive requirements for ROE in the FEECA statute and thus conflicts with the historic practice and application of Chapter 366, F.S. This is because ROE has consistently been litigated as an issue in base rate proceedings only. Return on common equity, once established in a base rate proceeding, is applied uniformly across the utility's rate base until the utility's next base rate proceeding.

3. Section 3 of the bill (notwithstanding that the new requirement is in the intent section of the FEECA statute) could be construed to require a full-blown analysis of ROE in a DSM proceeding, which could lead to a substantial change in the scope, magnitude, and cost of a DSM proceeding, especially since the DSM docket involves all electric IOUs (which could mean a review of the ROE of all utilities simultaneously). Of course, presumably it would apply only to those utilities "seeking a tariff modification" in connection with implementing their proposed DSM plans and programs. But any analysis of ROE is an involved undertaking and potentially costly to customers.

4. Section 3 could also benefit from further clarification as to whether the new language is intended to direct the Commission to establish generally-applicable ROE requirements in a DSM proceeding (i.e. applicable to all utilities).

VIII. COMMENTS:

Section 4 of the bill includes references to "insurer" and "office," which do not have clear meaning or relevance within Chapter 366, F.S.

Prepared by: Benjamin Crawford and Shaw Stiller
Date: February 23, 2025

The Florida Senate

APPEARANCE RECORD

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1-20-2026
Meeting Date

484
Bill Number or Topic

REGULATED INDUSTRIES
Committee

Amendment Barcode (if applicable)

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Email JON@DCIPGROUP.TECH

Glen Rose TX 76043
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/20/26
Meeting Date

Regulated Industries
Committee

484
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Basford

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Email abasford@aif.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information **OR** **Waive Speaking:** ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Associated Industries of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Jan 20, 2026
Meeting Date

Regulated Industries
Committee

SB 484
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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1/20/28
Meeting Date

Reg Industries
Committee

SB 484
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FL Association of Counties

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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1/20/26
Meeting Date

Reg. Industries
Committee

SB484
Bill Number or Topic

Amendment Barcode (if applicable)

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DeLand FL 32720
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
SUN - Action

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

1/20/26
Meeting Date

RCS Industries
Committee

The Florida Senate

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484
Bill Number or Topic

Amendment Barcode (if applicable)

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JAX FL 32241
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
CONSUMER ENERGY ALLIANCE

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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01/20/2026
Meeting Date

Regulated Industries
Committee

SB 484
Bill Number or Topic

Amendment Barcode (if applicable)

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Street

Email tloesel@jamesmadison.org

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☑ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: The James Madison Institute

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	SB 1118
INTRODUCER:	Senator Avila
SUBJECT:	Public Records/Data Centers
DATE:	January 16, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	**Favorable**
2.			CA	
3.			RC	

I. Summary:

SB 1118 provides a time-limited public records exemption for information, held by a county or municipality, that concerns the plans, intentions, or interests of such person to locate a data center within the jurisdiction of the county or municipality. Such records would be confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution upon request by a person, for a period of 12 months. It also provides that person's proprietary confidential business information related to a data center and held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

SB 484 (2026 Regular Session) by Senator Avila, revises Florida law regarding the regulation of large-scale data centers and certain other large electricity users. In part, the bill prohibits agencies from entering into non-disclosure agreements, or other contracts restricting the agency from disclosing information about a potential data center development to members of the public.

SB 1118 would take effect on the same date that SB 484 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

SB 484 (2026 Regular Session)

SB 484 revises Florida law regarding the regulation of large-scale data centers and certain other large electricity users. Specifically, the bill:

- Specifies that agencies may not enter into non-disclosure agreements, or other contracts restricting the agency from disclosing information about a potential data center development to members of the public.

- Maintains the authority of local governments to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers.
- Requires the Public Service Commission (PSC) to develop minimum large load tariff requirements for public electric utilities. The tariff requirements must reasonably ensure that large load customers (such as large data centers) pay for their own cost of service and that the general body of rate payers do not bear the risk of non-payment of such cost.
- Prohibits public electric utilities from providing service to large load facilities owned or controlled by foreign countries of concern.
- Establishes a distinct large-scale data center consumptive use permit (CUP) permit requirements and application process. The bill also authorizes water management districts or the Department of Environmental Protection to require large-scale data centers to use some portion of reclaimed water as part of a CUP approval.
- Specifies that CUP modifications involving a large-scale data center must be treated as new, initial applications.

SB 484 takes effect upon becoming a law.

Data Centers

At its most basic, a data center is a physical facility that contains information technology (IT) infrastructure for storing, processing, and distributing data and the running of shared and distributed applications and services. Data centers can be anything from a dedicated space within a building, a dedicated building, or, for the largest-scale data centers, multi-building campuses.[1]

Generally, the major components of a data center are:
- IT equipment: This would be the core processing, storage, and transmission hardware for a data center—this would include servers, data storage systems, and network gear (such as routers and switches).
- Power infrastructure: This would be all the equipment to supply and maintain power to the facility, including power supplies (including redundant and uninterruptable power supplies to ensure continuous operation), and power distribution units.
- Cooling systems: This would include cooling infrastructure to maintain the data center at ideal temperatures and prevent IT equipment from overheating.
- Physical security: This would include systems that restrict accesses to the data center and fire suppression systems.[2]

Data centers date back to the earliest dates of electronic, digital, computing when machines like the US military's Electrical Numerical Integrator and Computer (ENIAC), completed in 1945, required dedicated computer room space to house its massive machines. For many years, mainframe computers dominated computer rooms. However, in the 1990's when

[1] Cisco, *What is a Data Center*, https://www.cisco.com/site/us/en/learn/topics/computing/what-is-a-data-center.html (last visited Jan. 12, 2026); and IBM, *What is a Data Center*, https://www.ibm.com/think/topics/data-centers (last visited Jan. 12, 2026).
[2] McKinsey & Company, *What is a Data Center*, https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-a-data-center (last visited Jan. 12, 2026).

microcomputers came about and replaced mainframes in computer rooms—these microcomputers became known as servers and the computer rooms became known as what would eventually become the modern data center.[3]

The emergence of cloud computing in the early 2000s changed the data center landscape significantly in regard to the purpose and scale of data centers. Data centers went from serving solely one organization's (or even one organization's needs at a single location) needs, to shared resources that can be sold and provided as needed to multiple individuals and organizations with the ability to scale up or down as needed—these shared spaces are generally known as colocation data centers.[4]

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[5] This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.[6]

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.[7] For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.[8] Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.[9]

Section 119.011(12), F.S., defines "public records" to include:

> [a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

[3] IBM *supra* note 1.
[4] *Id.*
[5] FLA. CONST. art. I, s. 24(a).
[6] *Id*. *See also*, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).
[7] Chapter 119, F.S., does not apply to legislative or judicial records. *See*, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[8] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).
[9] Section 119.01(1), F.S.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to "perpetuate, communicate, or formalize knowledge of some type."[10]

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[11] A violation of the Public Records Act may result in civil or criminal liability.[12]

Only the Legislature may create an exemption to public records requirements.[13] An exemption must be created by general law and must specifically state the public necessity justifying the exemption.[14] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[15] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[16]

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[17] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[18] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[19]

General exemptions from the public records requirements are typically contained in the Public Records Act.[20] Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.[21]

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 112.231, F.S., created by SB 484, to create a time-limited public records exemption for information, held by a county or municipality, that concerns the plans,

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[10] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[11] Section 119.07(1)(a), F.S.
[12] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[13] FLA. CONST. art. I, s. 24(c).
[14] *Id.*
[15] The bill may, however, contain multiple exemptions that relate to one subject.
[16] FLA. CONST. art. I, s. 24(c)
[17] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[18] *Id.*
[19] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[20] *See, e.g.*, s.119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.
[21] *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

intentions, or interests of such person to locate a data center[22] within the jurisdiction of the county or municipality. Such records would be confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution upon request by a person, for a period of 12 months (or until the person waives confidentiality or the information is otherwise disclosed). To be valid, this request must be made in the timeframe in which such person plans, intends, or is interested in locating the data center and before any formal application is filed with the county or municipality. However, the county or municipality must disclose that the project in question is a data center. This exemption applies to officers and public employees of the county or municipality and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of the county or municipality.

The section does provide, however, that a municipality may disclose such information to an agency with decision-making or regulatory responsibility regarding the data center, including, but not limited to, regulation of the location, construction, or operations.

In addition to the above time-limited exemption, the section also provides a public records exemption for confidential business information related to a data center and held by any agency.[23] These records would be confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution until such information is otherwise publicly available or is no longer treated by the proprietor as proprietary confidential business information. The section defines "confidential business information" as owned or controlled by the person requesting confidentiality, is intended to be and is treated by that person as private (in that the disclosure of the information would cause harm to the business operations of the person), and that has not been disclosed pursuant to a statutory provision or an order of a court or administrative body. Such information would include all of the following:

- Business plans;
- Internal auditing controls and reports of internal auditors;
- Reports of external auditors for privately held companies;
- Security measures, systems, or procedures; and
- Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

This section is subject to Florida's Open Government Review Act and stands repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a statement of public necessity as required by s. 24(c), Article I of the Florida Constitution stating that such protections provide confidentiality for a period of time for certain information concerning persons locating a data center in Florida or attempting to do data center-related business with a county or municipality. The section finds the disclosure of information

[22] Section 112.231, F.S., as created by SB 484 (2026), defines a "data center" as a facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be 1) a free-standing structure, or 2) a facility within a larger structure which uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

[23] Section 112.231, F.S., as created by SB 484 (2026), defines a "agency" as means any state, county, district, authority, or municipal officer, public employee, department, division, board, bureau, or commission, or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any such agency.

such certain business activity plans related to the data center could injure a person in the marketplace by providing competitors with vital competitive information. Such a situation may negatively impact the economics state by increasing the likelihood of a person refraining from locating a data center in Florida due to confidentiality concerns.

Section 3 of the bill would take effect on the same date that SB 484 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or public meetings requirements. This bill creates a new public records exemption; thus, the bill does require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect certain business information relating to data centers. This bill exempts only those portions of records and meetings that contain relevant information and therefore does not appear to be broader than necessary to accomplish the purposes of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 112.231, F.S., created by SB 484 (2026).

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 Avila

39-01061B-26 20261118__

A bill to be entitled

An act relating to public records; amending s. 112.231, F.S.; providing an exemption from public records requirements for information relating to the plans, intentions, or interest of a person to locate a data center; defining the term "proprietary confidential business information"; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Present subsection (5) of section 112.231, Florida Statutes, as created by SB ___ or similar legislation, 2026 Regular Session, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

112.231 Data center nondisclosure agreements; confidentiality.—

(5)(a) If a person, as defined in 1.01(3), requests in writing that a county or municipality maintain the confidentiality of information that concerns the plans, intentions, or interests of such person to locate a data center within the jurisdiction of the county or municipality, any portion of a public record held by a county or municipality which contains such information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The request must be made during the timeframe in which the person plans, intends, or is interested in locating the data center and

39-01061B-26 20261118__

before any formal application is filed with the county or municipality. The information is confidential and exempt for 12 months after the date a county or municipality receives a request for confidentiality or until the person waives confidentiality or the information is otherwise disclosed. However, the county or municipality must disclose that the project is a data center. This paragraph applies to officers and public employees of the county or municipality and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of the county or municipality.

(b) The information requested pursuant to paragraph (a) may be disclosed to an agency with decision-making or regulatory responsibility regarding the data center, including, but not limited to, regulation of the location, construction, or operations.

(c)1. A person's proprietary confidential business information related to a data center and held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such information is otherwise publicly available or is no longer treated by the proprietor as proprietary confidential business information.

2. The term "proprietary confidential business information" means information that is owned or controlled by the person requesting confidentiality under this section; that is intended to be and is treated by the person as private in that the disclosure of the information would cause harm to the business operations of the person; and that has not been disclosed pursuant to a statutory provision or an order of a court or administrative body. Proprietary confidential business

information includes all of the following:

a. Business plans.

b. Internal auditing controls and reports of internal auditors.

c. Reports of external auditors for privately held companies.

d. Security measures, systems, or procedures.

e. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to provide confidentiality for a period of time for certain information concerning persons locating a data center in this state which is contained in records of such persons conducting business or attempting to conduct business with a county or municipality in this state. The disclosure of information such as plans for locating proprietary confidential business information, or other business activities related to the data center could injure a person in the marketplace by providing competitors with detailed insights into the strategic plans of the person or with confidential personnel information, thereby diminishing the advantage that the person maintains over those that do not possess such information. Without these exemptions, persons whose records generally are not required to be open to the public might refrain from locating a data center

in this state and instead choose to conduct business activities outside of this state, which would deprive the state and the public of the potential economic benefits associated with business activities in this state. The harm to persons caused by the public disclosure of such information outweighs the public benefits derived from the release of the information.

Section 3. This act shall take effect on the same date that SB ___ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

SENATOR BRYAN AVILA
39th District

THE FLORIDA SENATE
Tallahassee, Florida 32399-1100

Avila.bryan.web@flsenate.gov

COMMITTEES:
COMMITTEES:
Finance and Tax, *Chair*
Transportation, Vice Chair
Appropriations Committee on Transportation, Tourism, and Economic Development
Environmental and Natural Resources
Ethics and Elections
Fiscal Policy
Rules

January 12, 2026

Honorable Senator Jennifer Bradley
The Florida Senate
525 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399

Honorable Senator Bradley,

I respectfully request SB 1118 Public Records -Data Centers be placed on the next committee agenda.

SB 1118 Public Records Data Centers; Provides an exemption from public records requirements for information relating to the plans, intentions, or interest of a person to locate a data center; providing for future legislative review and repeal of the exemption; providing a statement of public necessity.

Sincerely,

Bryan Avila

Senator, District 39

CC: Booter Imhof, Staff Director
Susan Datres, Administrative Assistant
Tonya Shays, Legislative Assistant

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Pre-K - 12 Education, *Chair*
Appropriations
Appropriations Committee on Higher Education
Education Pre-K - 12
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DANNY BURGESS
23rd District

January 15, 2026

Senator Jennifer Bradley
Chair, Committee on Regulated Industries

Dear Chair Bradley,

I respectfully request an excusal from the January 20th meeting of the Committee on Regulated Industries. Thank you for your consideration on this matter.

Sincerely,

Senator Danny Burgess
The Florida Senate
District 23

CC: Booter Imhof, Staff Director
CC: Susan Datres, Committee Administrative Assistant

REPLY TO:
❒ 38507 Fifth Avenue, Zephyrhills, Florida 33542 (813) 779-7059
❒ 411 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

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

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

CourtSmart Tag Report

Room: KB 412 **Case No.:** **Type:**
Caption: Senate Regulated Industries Committee **Judge:**

Started: 1/20/2026 9:30:16 AM
Ends: 1/20/2026 10:47:39 AM Length: 01:17:24

9:30:33 AM	Chair Pizzo calls meeting to order
9:30:41 AM	Roll call
9:31:01 AM	Quorum present
9:31:04 AM	Senator Burgess excused
9:31:07 AM	Chair Pizzo makes opening remarks
9:31:17 AM	Tab 2 SB 986 Smoking in Public Places by Senator Gruters
9:31:24 AM	Senator Rodriguez explains the bill
9:32:29 AM	No questions
9:32:33 AM	Appearance Forms
9:32:43 AM	Samantha Padgett, FL Restaurant and Lodging Assoc., speaking for information
9:34:18 AM	Jodi James, FLCAN, speaking against
9:36:08 AM	Debate
9:36:16 AM	Chair Pizzo
9:36:26 AM	Senator Rodriguez closes on the bill
9:37:09 AM	Roll Call
9:37:29 AM	SB 986 reported favorably
9:37:33 AM	Tab 3 SB 678 Deductions for Certain Losses of Alcoholic Beverages by Senator Mayfield
9:37:40 AM	Senator Mayfield explains the bill
9:38:27 AM	Take up strike-all amendment 105254
9:38:34 AM	Senator Mayfield explains the amendment
9:39:02 AM	No questions
9:39:04 AM	Appearance Forms
9:39:14 AM	Scott Ashley, Wine and Spirits Distributors of FL, waiving in support
9:39:35 AM	Amendment adopted
9:39:41 AM	Appearance Forms
9:39:48 AM	Jared Ross, FL Beer Wholesales Assoc., waiving in support
9:39:58 AM	Senator Mayfield closes on bill
9:40:01 AM	Roll Call
9:40:26 AM	CS/SB 678 reported favorably
9:40:33 AM	Tab 4 SB 800 Engineering by Senator Mayfield
9:40:40 AM	Senator Mayfield explains the bill
9:41:29 AM	Amendment 209924 taken up
9:41:38 AM	Senator Mayfield explains amendment
9:41:59 AM	Senator Mayfield waives close
9:42:04 AM	Amendment adopted
9:42:07 AM	Appearance Forms
9:42:15 AM	Sandra Bucklew, ACEL-FL, waiving in support
9:42:33 AM	Senator Mayfield closes on the bill
9:42:38 AM	Roll call
9:42:55 AM	CS/SB 800 reported favorably
9:43:30 AM	Break
9:43:34 AM	Recording Paused
9:45:50 AM	Recording Resumed
9:46:01 AM	Tab 1 SB 408 Advertisement of a Harmful Vaccine by Senator Grall
9:46:07 AM	Senator Grall explains the bill
9:47:29 AM	No questions
9:47:32 AM	Appearance Forms
9:47:43 AM	Ryan Kennedy, FL Citizens Alliance, waiving in support
9:47:58 AM	William Large, FL Justice Reform Institute, speaking against
9:51:38 AM	Cary Silverman, American Tort Reform Assoc., speaking against
9:55:53 AM	Patricia Campbell-Smith, Biotechnology Innovation Organization, speaking against
9:58:57 AM	Vice Chair Pizzo with question

9:59:12 AM Back and forth with questions
10:00:51 AM Adam Basford, Associated Industries of FL, waiving against
10:01:18 AM George Feijoo, US Chamber Institute for Legal Reform, speaking against
10:03:29 AM Vice Chair Pizzo question
10:04:11 AM Mr. Feijoo
10:04:20 AM Jason Winn, FL Osteopathic Medical Assoc., waiving against
10:04:30 AM Carolyn Johnson, The FL Chamber, waiving in opposition
10:04:38 AM Leslie Dughi, FL Assn of Family Physicians, waiving against
10:04:49 AM Debate
10:04:54 AM Vice Chair Pizzo
10:05:53 AM Chair Bradley
10:08:53 AM Senator Grall closes on bill
10:12:45 AM Roll call
10:13:10 AM SB 408 reported favorably
10:13:54 AM Tab 6 SB 484 Data Centers by Senator Avila
10:14:06 AM Senator Avila explains the bill
10:16:36 AM Questions
10:16:42 AM Vice Chair Pizzo
10:17:06 AM Senator Avila
10:17:33 AM No other questions
10:17:40 AM Appearance Forms
10:17:51 AM Jon Brown, CEO DCIP Group, speaking for information
10:20:55 AM Vice Chair Pizzo question
10:20:57 AM Mr. Brown responds
10:21:00 AM Vice Chair Pizzo
10:21:03 AM Mr. Brown
10:21:19 AM Kevin Doyle, Consumer Energy Alliance, speaking for the bill
10:23:41 AM Vice Chair Pizzo question
10:23:43 AM Mr. Doyle responds
10:24:06 AM Heaven Campbell, Sun-Action, speaking for bill
10:25:55 AM Peter Abello, FL Assoc. of Counties, waiving in support
10:26:02 AM Chante Jones, AARP FL, waiving in support
10:26:24 AM Adam Basford, Associated Industries of FL, speaking for information
10:29:27 AM Turner Loesel, The James Madison Institute speaking for information
10:31:50 AM Vice Chair Pizzo question
10:31:54 AM Mr. Loesel responds
10:32:11 AM Vice Chair Pizzo follow up
10:32:12 AM Back and forth with questions
10:32:43 AM Vice Chair Pizzo question for Mr. Brown
10:32:49 AM Mr. Brown responds
10:32:54 AM Back and forth with questions
10:33:33 AM Debate
10:33:36 AM Senator Brodeur
10:35:24 AM Vice Chair Pizzo
10:36:28 AM Senator Avila closes on the bill
10:39:38 AM Roll Call
10:39:59 AM SB 484 reported favorably
10:40:10 AM Tab 7 SB 1118 Public records/Data Centers by Senator Avila
10:40:16 AM Senator Avila explains the bill
10:40:54 AM Questions
10:40:58 AM Vice Chair Pizzo
10:41:16 AM Senator Avila in response
10:42:12 AM Vice Chair Pizzo follow up
10:42:35 AM Senator Avila responds
10:42:56 AM Debate
10:43:02 AM Vice Chair Pizzo
10:44:15 AM Chair Bradley
10:44:36 AM Senator Avila closes on bill
10:45:25 AM Roll Call
10:45:48 AM SB 1118 reported favorably
10:46:05 AM Tab 5 SB 1050 Veterinary Prescription Disclosure by Senator Calatayud
10:46:13 AM Senator Calatayud explains the bill

10:46:52 AM Senator Calatayud waives close
10:46:54 AM Roll call
10:47:11 AM SB 1050 reported favorably
10:47:15 AM Vote after motion
10:47:19 AM Senator Calatayud
10:47:31 AM Senator Mayfield moves to close
10:47:33 AM Meeting adjourned