

Tab 1	CS/SB 664 by BI, Bradley (CO-INTRODUCERS) Berman, Book, Stewart, Torres, Taddeo, Garcia; (Compare to CS/H 00425) Posttraumatic Stress Disorder Workers' Compensation for Law Enforcement and Correctional Officers					
481724	A	S	RCS	AEG, Bradley	Delete L.131 - 204:	02/22 03:41 PM
810476	A	S	WD	AEG, Bradley	Delete L.154 - 155.	02/22 03:41 PM
Tab 2	CS/SB 714 by RI, Hooper; (Similar to CS/H 00667) Department of Business and Professional Regulation					
Tab 3	SB 864 by Ausley; (Identical to H 01013) Cost-share Program for Agriculture, Shellfish Aquaculture, and Timber Operations					
Tab 4	CS/SB 898 by CA, Stewart (CO-INTRODUCERS) Perry, Taddeo, Book, Berman, Bracy, Polsky, Cruz, Jones, Garcia, Powell; (Compare to CS/CS/H 00577) Tenant Safety					
Tab 5	SB 1076 by Gruters; (Similar to H 01071) Florida Kratom Consumer Protection Act					
Tab 6	SB 1094 by Rodriguez (CO-INTRODUCERS) Jones; (Identical to H 01015) Architect Education Minority Assistance Program					
Tab 7	CS/SB 1156 by EN, Stewart; (Compare to H 00935) Comprehensive Waste Reduction and Recycling Plan					
Tab 8	CS/SB 1434 by EN, Rodriguez; (Similar to CS/H 01077) Public Financing of Potentially At-risk Structures and Infrastructure					
Tab 9	SB 1450 by Jones; (Identical to H 01311) Healthy Food Financing Initiative Program					
Tab 10	CS/SB 1474 by CM, Bradley; (Similar to CS/CS/H 01233) Online Training for Private Security Officers					
174762	A	S	RCS	AEG, Bradley	Delete L.40:	02/22 03:41 PM
Tab 11	CS/SB 1556 by EN, Gruters; (Similar to CS/CS/CS/H 00967) Golf Course Best Management Practices Certification					
856124	D	S	RCS	AEG, Gruters	Delete everything after	02/22 03:41 PM
Tab 12	SB 1562 by Ausley; (Identical to H 00745) Solar Photovoltaic Facility Development					
Tab 13	CS/SB 1678 by RI, Gibson (CO-INTRODUCERS) Powell, Ausley; (Similar to H 01285) Energy Equity Task Force					
Tab 14	CS/SB 1874 by BI, Boyd; (Similar to CS/CS/CS/H 00959) Department of Financial Services					
975516	A	S	RCS	AEG, Boyd	Delete L.697 - 761.	02/22 03:41 PM
Tab 15	CS/SB 1940 by EN, Brodeur; (Similar to H 07053) Statewide Flooding and Sea Level Rise Resilience					
Tab 16	SB 7022 by GO; State Group Health Insurance Program					
Tab 17	SB 7028 by AG; Food Policy Advisory Council					
223426	A	S	RCS	AEG, Berman	btw L.57 - 58:	02/22 03:41 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE,
ENVIRONMENT, AND GENERAL GOVERNMENT**

Senator Albritton, Chair
Senator Rodrigues, Vice Chair

MEETING DATE: Tuesday, February 22, 2022
TIME: 2:00—6:00 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Albritton, Chair; Senator Rodrigues, Vice Chair; Senators Ausley, Berman, Boyd, Bradley, Brodeur, Garcia, Mayfield, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 664 Banking and Insurance / Bradley (Compare CS/H 425)	<p>Posttraumatic Stress Disorder Workers' Compensation for Law Enforcement and Correctional Officers; Defining the term "first responder" for the purposes of including part-time and auxiliary law enforcement officers for workers' compensation benefits for posttraumatic stress disorder and for educational training related to mental health; providing that, under certain circumstances, posttraumatic stress disorder suffered by correctional officers and part-time correctional officers is an occupational disease compensable by workers' compensation benefits; specifying the evidentiary standard for demonstrating such disorder, etc.</p> <p>BI 02/02/2022 Fav/CS AEG 02/22/2022 Fav/CS AP</p>	<p>Fav/CS Yeas 10 Nays 0</p>
2	CS/SB 714 Regulated Industries / Hooper (Similar CS/H 667)	<p>Department of Business and Professional Regulation; Requiring the department to certify for licensure qualified individuals who practice mold assessment or mold remediation and hold certain licenses issued by other states or territories; providing an exception for the issuance of an asbestos consultant's license; requiring the department to certify asbestos consultants and asbestos contractors for licensure who meet certain exam and other state licensure requirements; removing a time limitation for applying for certain contracting licenses under certain provisions; deleting a requirement limiting the types of boxing exhibitions which require a specified maximum difference in participant weights, etc.</p> <p>RI 01/25/2022 Fav/CS AEG 02/22/2022 Favorable AP</p>	<p>Favorable Yeas 10 Nays 0</p>

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
Tuesday, February 22, 2022, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 864 Ausley (Identical H 1013)	Cost-share Program for Agriculture, Shellfish Aquaculture, and Timber Operations; Citing this act as the "Protecting Florida's Natural Resources Act"; establishing a cost-share program within the Department of Agriculture and Consumer Services; requiring the program, subject to legislative appropriation, to provide funds equal to a specified percentage of the value of environmental services that the agriculture, shellfish aquaculture, and timber industries provide; requiring the department to conduct a study to determine the value of such environmental services, in consultation with certain entities, etc. AG 12/02/2021 Favorable AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
4	CS/SB 898 Community Affairs / Stewart (Compare CS/CS/H 577)	Tenant Safety; Citing this act as "Miya's Law"; requiring landlords of nontransient or transient apartments to require employees to undergo background screenings as a condition of employment; authorizing landlords to disqualify persons from employment under certain circumstances relating to criminal offenses; revising what constitutes reasonable notice for repairs of dwelling units; requiring public lodging establishments licensed as nontransient or transient apartments to take certain actions relating to employee background screenings and keys for dwelling units, etc. CA 01/25/2022 Fav/CS AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
5	SB 1076 Gruters (Similar H 1071)	Florida Kratom Consumer Protection Act; Creating the "Florida Kratom Consumer Protection Act"; defining the terms "kratom extract," "kratom product," and "processor"; prohibiting processors from selling, preparing, distributing, or exposing for sale certain kratom products; prohibiting processors from distributing, selling, or exposing for sale a kratom product to an individual under 21 years of age; providing civil penalties, etc. CM 01/18/2022 Favorable AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
Tuesday, February 22, 2022, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 1094 Rodriguez (Identical H 1015)	Architect Education Minority Assistance Program; Creating the program within the Department of Business and Professional Regulation; requiring the Architect Education Minority Assistance Advisory Council to assist the Board of Architecture and Interior Design with administering the program; providing funding requirements for scholarships provided under the program; capping the amount of funds that the department may spend annually on the program; prohibiting a person or his or her agent from knowingly filing documents with the board which contain false information or material misstatements of fact, etc. RI 01/25/2022 Favorable AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
7	CS/SB 1156 Environment and Natural Resources / Stewart (Compare H 935)	Comprehensive Waste Reduction and Recycling Plan; Requiring the Department of Environmental Protection to develop a comprehensive waste reduction and recycling plan for this state by a specified date, based on certain department recommendations; requiring the department to convene a technical assistance group for a specified purpose; providing minimum requirements for the plan, etc. EN 01/31/2022 Fav/CS AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
8	CS/SB 1434 Environment and Natural Resources / Rodriguez (Similar H 1077)	Public Financing of Potentially At-risk Structures and Infrastructure; Providing that certain areas are at risk due to sea-level rise and structures and infrastructure within those areas are potentially at risk; providing an additional requirement for the standard for conducting a SLIP study, etc. EN 01/24/2022 Fav/CS AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
 Tuesday, February 22, 2022, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 1450 Jones (Identical H 1311)	<p>Healthy Food Financing Initiative Program; Revising requirements for the administration of and participation in the Healthy Food Financing Initiative program; providing program eligibility requirements for nonprofit organizations and revising eligibility requirements for community development financial institutions; revising requirements for program applicants and projects; requiring the Office of Program Policy Analysis and Government Accountability to review the program and collected data and provide the Legislature with a specified report, etc.</p> <p>AG 01/19/2022 Favorable AEG 02/22/2022 Favorable AP</p>	<p>Favorable Yeas 10 Nays 0</p>
10	CS/SB 1474 Commerce and Tourism / Bradley (Similar CS/CS/H 1233)	<p>Online Training for Private Security Officers; Providing that certain required training criteria for Class "G" and Class "D" licenses, respectively, may be conducted online; providing requirements for such online training; requiring the Department of Agriculture and Consumer Services to establish certain criteria and rules for the regulation of certain entities that provide online training; providing requirements for online training courses for a Class "D" license, etc.</p> <p>CM 01/31/2022 Fav/CS AEG 02/22/2022 Fav/CS AP</p>	<p>Fav/CS Yeas 10 Nays 0</p>
11	CS/SB 1556 Environment and Natural Resources / Gruters (Similar CS/CS/H 967)	<p>Golf Course Best Management Practices Certification; Directing the Department of Environmental Protection to work and cooperate with the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences to administer a certification for golf course best management practices and provide and approve certification training and testing programs; providing certification and recertification requirements; providing that such certification exempts persons from certain local testing and local ordinance regulations, etc.</p> <p>EN 01/24/2022 Fav/CS AEG 02/22/2022 Fav/CS AP</p>	<p>Fav/CS Yeas 10 Nays 0</p>

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
Tuesday, February 22, 2022, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1562 Ausley (Identical H 745)	Solar Photovoltaic Facility Development; Citing this act as the "Brownfields to Brightfields Act"; directing the Department of Environmental Protection, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites and closed landfill sites to determine viable locations for redevelopment as solar photovoltaic facilities, etc. EN 01/31/2022 Favorable AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
13	CS/SB 1678 Regulated Industries / Gibson (Similar H 1285)	Energy Equity Task Force; Creating the task force adjunct to the Department of Agriculture and Consumer Services for a specified purpose; providing for the membership and duties of the task force; requiring the department to provide staffing and administrative support to the task force; requiring the task force to submit a report to certain officials by a specified date, etc, RI 02/01/2022 Fav/CS AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
14	CS/SB 1874 Banking and Insurance / Boyd (Similar CS/CS/CS/H 959, Compare CS/H 503, CS/CS/S 468)	Department of Financial Services; Providing an exception to service of process on public entities under certain circumstances; authorizing specified persons relating to the Division of Rehabilitation and Liquidation to purchase coverage in a state group health insurance plan at specified premium costs; requiring certain hospitals to demonstrate financial responsibility for maintaining professional liability coverage; transferring the Stop Inmate Fraud Program from the Department of Financial Services to the Department of Economic Opportunity; revising statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance; revising requirements for licenses by endorsement to practice funeral directing, etc. BI 01/25/2022 Fav/CS AEG 02/22/2022 Fav/CS AP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
Tuesday, February 22, 2022, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	CS/SB 1940 Environment and Natural Resources / Brodeur (Similar H 7053, Compare H 1019, CS/S 1238)	Statewide Flooding and Sea Level Rise Resilience; Establishing the Statewide Office of Resilience within the Executive Office of the Governor; providing for the appointment of a Chief Resilience Officer; requiring the Department of Transportation to develop a resilience action plan for the State Highway System; revising the projects the Department of Environmental Protection may fund within the Resilient Florida Grant Program; extending the dates by which the department must complete a comprehensive statewide flood vulnerability and sea-level rise data set and assessment; requiring the Florida Flood Hub for Applied Research and Innovation to provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments, etc. EN 01/31/2022 Fav/CS AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
16	SB 7022 Governmental Oversight and Accountability	State Group Health Insurance Program; Requiring the Department of Management Services to provide an online education component relating to all health insurance plans in the State Group Insurance Program; requiring the department to contract with the State Board of Administration to provide retirement and health insurance planning education to members of the state group insurance program; setting a minimum monthly employer contribution to health savings accounts for certain employees, etc. AEG 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
17	SB 7028 Agriculture	Food Policy Advisory Council; Creating the council adjunct to the Department of Agriculture and Consumer Services; providing the purpose and membership of the council; requiring the council to meet at least quarterly; providing for per diem and travel expenses for council members; providing the duties of the council; requiring the council to submit an annual report to the Governor and the Legislature by a specified date; providing requirements for the report, etc. AEG 02/22/2022 Fav/CS AP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 664 (396028)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; and Banking and Insurance Committee and Senator Bradley and others

SUBJECT: Posttraumatic Stress Disorder Workers' Compensation for Law Enforcement and Correctional Officers

DATE: February 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 664 revises the current definition of first responders, for purposes of workers' compensation coverage for posttraumatic stress disorder (PTSD) benefits, to include part-time law enforcement officers and auxiliary law enforcement officers.

Further, the bill provides workers' compensation indemnity benefits in specified circumstances for PTSD suffered by a correctional officer regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. The bill provides PTSD is a compensable occupational disease for a correctional officer (CO) if the PTSD resulted from a CO acting within the course and scope of employment. Additionally, an authorized treating psychiatrist must examine and diagnose the CO as having PTSD due to experiencing at least one of the delineated qualifying events.

The bill has an indeterminate, yet negative impact on state revenues and expenses. The Department of Financial Services (DFS) Division of Risk Management estimates the State Risk Management Trust Fund could potentially pay as much as \$8.4 million to \$16.8 million over the first three years of the bill becoming law; the DFS expects this amount would grow exponentially over time. The DFS anticipates an additional Workers' Compensation Specialist may be needed at a recurring cost of \$70,991 and non-recurring costs of \$4,591.

The bill would have an indeterminate negative fiscal impact on local governments as workers' compensation claims could increase.

The bill has an effective date of July 1, 2022.

II. Present Situation:

Posttraumatic Stress Disorder (PTSD)

The American Psychiatric Association (APA) provides diagnostic criteria for mental disorders, including posttraumatic stress disorder (PTSD), in its *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5). PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or who have been threatened with death, sexual violence or serious injury.¹

Diagnosis

A diagnosis of PTSD requires exposure to an upsetting traumatic event.² Symptoms fall into four categories: intrusion, avoidance, alterations in cognition and mood, and alterations in arousal and reactivity.³ In order to diagnose a person with PTSD, symptoms must last for more than a month and must cause significant distress or problems in the individual's daily functioning.⁴

Prevalence Rates

The exact prevalence rate for PTSD is difficult to ascertain. About 15 million adults will have PTSD during a given year.⁵ About eight percent of females develop PTSD during their lives compared with about four percent of males.⁶ Approximately six to seven percent of the adult population in the United States will have PTSD at some point during their lifetime.⁷ Among the U.S. military veteran population, the prevalence variance in studies has ranged from approximately 30 percent of the Vietnam era veterans to more recently 13 percent to 14 percent of veterans serving in the dual wars in Iraq and Afghanistan over the last 20 years.⁸

Although estimates vary across occupations and the general population, some studies indicate first responders and other professionals who are exposed to potentially traumatic events in their workplace are more likely to develop PTSD compared to the general population.⁹ An estimated 30 percent of first responders develop behavioral health conditions, including depression and

¹ See American Psychiatric Association, *What is Posttraumatic Stress Disorder?* <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (Aug. 2020) (last visited Feb. 17, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ U.S. Department of Veterans Affairs, National Center for PTSD, *How Common is PTSD in Adults?* https://www.ptsd.va.gov/understand/common/common_adults.asp (last visited Feb. 17, 2022).

⁶ *Id.*

⁷ *Mo Med.* 2021 Nov-Dec.; 118(6): 546–551.

⁸ *Id.*

⁹ *Psychological Trauma: Theory, Practice, and Policy* 2015, Vol. 7, No. 5, 500-506.

PTSD, as compared with 20 percent of the general population.¹⁰ A 2015 survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is more than 10 times the rate in the general population.¹¹ Military veterans deployed from 2001 to 2007 had a 41 percent higher suicide risk than the general population, according to the Department of Veterans Affairs.¹²

A study¹³ of the prevalence rates of PTSD among U.S. correction professionals included the following findings:

- The prevalence rate for symptoms of PTSD experienced within the past 30 days was 27 percent for the entire sample, and 31 percent and 22 percent for males and females, respectively;
- A higher rate of PTSD, 31 percent, was found among security personnel compared to all other types of personnel; and
- One hundred percent of participants confirmed exposure to at least one VID (violence, injury, death) event during their career, with 28 VID events being the average number experienced by participants during their career.

In reference to the entire sample of correction professionals analyzed, PTSD-positive participants reported significantly:

- More exposure to workplace VID and negative VID-related emotions,
- Higher levels of depression, anxiety, and stress,
- More absenteeism, health services utilization, health conditions, and substance use, and
- Lower levels of pro-health behaviors, life functioning, and life satisfaction.¹⁴

Florida Workers' Compensation System

Employers are required to pay compensation or furnish benefits that are required under ch. 440, F.S., if an employee suffers an accidental compensable injury or death arising out of work performed in the course and the scope of the employment.¹⁵ Generally, employers may

¹⁰ Substance Abuse and Mental Health Services Administration, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma* (May 2018) <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited Feb. 17, 2022). The term, “first responders,” includes emergency medical services, firefighters, and police officers.

¹¹ FireRescue1, *Increasing suicide rates among first responders spark concern*, <https://www.firerescue1.com/fire-ems/articles/increasing-suicide-rates-among-first-responders-spark-concern-TkuBikGnO3vPHIb3/> (last visited Feb. 17, 2022).

¹² U.S. Department of Justice, Health Care, Public Health, *Suicide Risk and Risk of Death Among Recent Veterans*, <https://www.publichealth.va.gov/epidemiology/studies/suicide-risk-death-risk-recent-veterans.asp> (last visited Feb. 17, 2022), citing Kang HK, Bullman TA, Smolenski DJ, Skopp NA, Gahm GA, Reger MA. *Suicide risk among 1.3 million veterans who were on active duty during the Iraq and Afghanistan wars*. *Ann Epidemiol*. 2015 Feb;25(2):96-100. doi: 10.1016/j.annepidem.2014.11.020. Epub 2014 Nov 28. PMID: 25533155.

¹³ U.S. Department of Justice, Office of Justice Programs, Spinaris, Caterina, *et. al. Posttraumatic Stress Disorder in United States Corrections Professionals: Prevalence and Impact on Health and Functioning* (2012), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/posttraumatic-stress-disorder-united-states-corrections> (last visited Feb. 17, 2022).

¹⁴ *Id.*

¹⁵ Section 440.09(1), F.S.

secure coverage from an authorized carrier, qualify as a self-insurer,¹⁶ or purchase coverage from the Workers' Compensation Joint Underwriting Association, the insurer of last resort.¹⁷

Workers' compensation is the injured employee's remedy for "compensable" workplace injuries.¹⁸ An accidental compensable injury must be the major contributing cause of any resulting injury, meaning the cause must be more than 50 percent responsible for the injury as compared to all other causes combined, as demonstrated by medical evidence only.¹⁹ An injury or disease caused by a toxic substance is not an injury by accident arising out of employment unless there is clear and convincing evidence establishing exposure to the specific substance caused the injury or diseases sustained by the employee.²⁰ Injured workers are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prosthetics, for as long as the nature of the injury and process of recovery requires.²¹

Indemnity benefits only become payable to employees who are disabled for at least eight days due to a compensable workplace injury.²² These benefits are generally payable at 66 2/3 percent of the employee's average weekly wage,²³ up to the maximum weekly benefit established by law.²⁴ Indemnity benefits fall into one of four categories: temporary partial disability, temporary total disability, permanent partial disability, and permanent total disability, as described below:

- Temporary partial disability and temporary total disability benefits are payable for up to a combined total of 260 weeks;²⁵
- Permanent partial disability benefits are payable as impairment income benefits that are provided for a variable number of weeks depending upon the value of the injured worker's permanent impairment rating pursuant to a statutory formula;²⁶ and
- Permanent total disability benefits are payable until the age of 75, unless the work-related accident occurs after the worker's 70th birthday, then the benefit is paid for five years.²⁷

Section 440.15(3), F.S., provides permanent impairment benefits are limited for a permanent psychiatric impairment to one percent permanent impairment.

¹⁶ Section 440.38, F.S.

¹⁷ Section 627.311(5)(a), F.S.

¹⁸ "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment. Section 440.13(1)(d), F.S.

¹⁹ Section 440.09(1), F.S.

²⁰ Section 440.02(1), F.S.

²¹ Section 440.13(2)(a), F.S.

²² Section 440.12(1), F.S.

²³ An injured workers' average weekly wage is an amount equal to one-thirteenth of the total amount of wages earned during the 13 weeks immediately preceding the compensable accident pursuant to s. 440.14(1), F.S.

²⁴ Section 440.15(1)-(4), F.S.

²⁵ Section 440.15(2) and (4), F.S. Section 440.15(2)(a), F.S., specify that temporary total disability benefits are payable for 104 weeks; however, the Florida Supreme Court has found this provision unconstitutional and revived the standard of 260 weeks of payable temporary total disability benefits. *Westphal v. City of St. Petersburg*, 194 So.3d 311 (Fla. Jun. 9, 2016). Section 440.15(4)(e), F.S., provides that temporary partial disability benefits; however, the 1st DCA applied the holding in *Westphal* to these benefits finding the limitation unconstitutional and reverted the limitation to the 260 weeks previously allowed. *Jones v. Food Lion, Inc.*, No. 1D15-3488, 2016 Fla. App. LEXIS 16710 (Fla. 1st DCA Nov. 9, 2016).

²⁶ Section 440.15(3), F.S.

²⁷ Section 440.15(1), F.S.

General Compensability for Mental or Nervous Injuries

Section 440.093, F.S., sets forth the conditions under which a mental or nervous injury is compensable. A mental or nervous injury due to only stress, fright, or excitement is not an injury by accident arising out of the employment. Mental or nervous injuries without an accompanying physical injury requiring medical treatment are not compensable. In addition, a physical injury resulting from a mental or nervous injury unaccompanied by a physical trauma requiring medical treatment is not compensable.

Further, s. 440.093, F.S., provides that mental or nervous injuries occurring as a manifestation of an injury compensable under ch. 440, F.S., must be demonstrated by clear and convincing medical evidence. The compensable physical injury must be the major contributing cause of the mental or nervous injury. The law also limits the duration of temporary benefits for a compensable mental or nervous injury to no more than six months after the employee reaches maximum medical improvement.

Current PTSD Statutory Benefits for First Responders

In 2018, the Legislature revised the standards for determining compensability of PTSD as an occupational disease under workers' compensation coverage for first responders.²⁸ As a result, first responders who meet certain conditions may access indemnity and medical benefits for PTSD without an accompanying physical injury. A "first responder" is a law enforcement officer, as defined in s. 943.10, F.S.,²⁹ a firefighter as defined in s. 633.102, F.S.,³⁰ or an emergency medical technician or paramedic as defined in s. 401.23, F.S.,³¹ employed by state or local government. Further, a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is considered a first responder of the state or local government.³²

Section 112.1815, F.S., provides workers' compensation indemnity benefits in specified circumstances for PTSD suffered by a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. If the first responder:

- Has PTSD that resulted from the course and scope of employment; and

²⁸ Ch. 2018-124, Laws of Fla.

²⁹ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

³⁰ "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services pursuant to s. 633.408, F.S.

³¹ "Emergency medical technician" means a person who is certified by the Department of Health to perform basic life support pursuant to pt. III of ch. 401, F.S. "Paramedic" means a person who is certified by the Department of Health to perform basic and advanced life support pursuant to pt. III of ch. 401, F.S.

³² Section 112.1815, F.S.

- Is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier due to the first responder experiencing one of the following qualifying events relating to minors or others:
 - Seeing for oneself a deceased minor;
 - Witnessing directly the death of a minor;
 - Witnessing directly the injury to a minor who subsequently died prior to, or upon arrival at a hospital emergency department,
 - Participating in the physical treatment of, or manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;
 - Seeing for oneself a decedent who died due to grievous bodily harm of a nature that shocks the conscience;
 - Witnessing directly a death, including suicide, due to grievous bodily harm; or homicide, including murder, mass killings, manslaughter, self-defense, misadventure, and negligence;
 - Witnessing directly an injury that results in death, if the person suffered grievous bodily harm that shocks the conscience; or
 - Participating in the physical treatment of an injury, including attempted suicide, or manually transporting an injured person who suffered grievous bodily harm, if the injured person subsequently died prior to or upon arrival at a hospital emergency department.

Further, the PTSD must be demonstrated by clear and convincing evidence. Medical and indemnity benefits for a first responder's PTSD are due regardless of whether the first responder incurred a physical injury, and the following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The first responder must file the notice of injury with their employer or carrier within 90 days of the qualifying event, described above, or manifestation of the PTSD, whichever is later. However, the claim is barred if it is not filed within 52 weeks of the qualifying event.

Current law requires an employing agency of a first responder to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

In 2019, the Department of Financial Services (DFS) adopted Rule 69L-3.009, F.A.C., that specifies the types of injuries which qualify as grievous bodily harm of a nature that shocks the conscience, pursuant to s. 112.1815(5), F.S.

The Department of Financial Services/Division of Risk Management

The Division of Risk Management (division) of the DFS is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund, known as the State Risk Management Trust Fund. Coverages provided through the trust fund include workers' compensation, property, fleet automobile liability, general liability, federal civil rights and employment discrimination, and court awarded attorney fees.³³

³³ Section 284.30, F.S.

The division also provides loss prevention services and technical assistance to state agencies and universities for managing risk.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 112.1815, F.S., to provide the term, “first responder,” includes part-time law enforcement officers as defined in s. 943.10(6), F.S., and auxiliary law enforcement officers as defined in s. 943.10(8), F.S. This would extend medical and indemnity benefits for posttraumatic stress disorder (PTSD) for such officers if they meet other current requirements of this section. Agencies employing such officers are required to provide educational training related to mental health awareness, prevention, mitigation, and treatment. The section provides a technical conforming change.

Section 2 creates s. 112.18155, F.S., to define “grievous bodily harm of a nature that shocks the conscience” to mean:

- Degloving;
- Enucleation;
- Evisceration;
- Exposure of one or more of the following organs:
 - Brain;
 - Heart;
 - Intestines;
 - Kidney;
 - Liver;
 - Lung;
- Full or partial decapitation;
- Full or partial severance;
- Impalement; and
- Third-degree burns on nine percent or more on the body.

In addition, the bill provides this definition applies for the purpose of determining compensability of employment-related posttraumatic stress disorder for correctional officers.

Further, the bill provides PTSD, as described in the Diagnostic and Statistical Manual of Mental Health Disorders, Fifth Edition, is a compensable occupational disease for a part-time or full-time correctional officer (CO) if the PTSD resulted from the officer acting within the course and scope of his or her employment; and is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier and has PTSD due to experiencing one of the specified qualifying events. For a CO, the qualifying events are:

- Being taken hostage by an inmate or trapped in a life-threatening situation as a result of an inmate’s act;
- Directly witnessing an injury, including an injury caused by a suicide attempt, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;

³⁴ Department of Financial Services, The Division of Risk Management, *About the Division*, <https://myfloridacfo.com/Division/Risk/> (last visited Feb. 17, 2022).

- Participating in the physical treatment of an injury, including an injury caused by an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
- Manually transporting a person who was injured, including by a suicide attempt, and subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
- Directly witnessing a death, including a death by suicide, that involved grievous bodily harm of a nature that shocks the conscience;
- Directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence; or
- Seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience.

The PTSD diagnosis must be proved by clear and convincing medical evidence. The PTSD benefits do not require a physical injury to the CO to be compensable. The following provisions do not apply:

- Apportionment due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The bill provides the time for notice of injury or death is the same as s. 440.151(6), F.S., and is measured from one of the qualifying events or the manifestation of the disorder, whichever is later. A claim must be noticed properly within 52 weeks after the qualifying event.

An employing agency of a correctional officer is required to provide educational training relating to mental health awareness, prevention, mitigation, and treatment.

Sections 3, 4, and 5 amend ss. 111.09, 119.071, and 627.659, F.S., respectively, to provide conforming cross references.

Section 6 provides the Legislature determines and declares this act fulfills an important state interest.

Section 7 provides the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides, in relevant part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and the law requiring such expenditure is approved by two-thirds of the membership in each house of the Legislature; [or]...the expenditure is required to comply with a law that applies to all

persons similarly situated, including the state and local governments...” The provisions of this bill appear to apply to all persons similarly situated (state agencies, state universities, state colleges, and local governments employing law enforcement officers, correctional officers, and correctional probation officers.

Section 6 of the bill contains a finding that the Legislature determines and declares the bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expansion of the definition of the term, “first responder,” to include part-time law enforcement officers, and auxiliary law enforcement officers will allow those officers to be eligible for medical and indemnity benefits for posttraumatic stress disorder (PTSD) without having an accompanying physical injury if they meet certain conditions. Further, part-time and full-time correctional officers would be eligible for indemnity and medical benefits for PTSD without having an accompanying physical injury if they meet certain conditions.

Privately managed prisons would be impacted with increased workers’ compensation costs similar to that of the State Risk Management Trust Fund.³⁵

C. Government Sector Impact:

The bill has an indeterminate, yet negative, impact on state revenues and expenditures.

³⁵ Department of Financial Services, *2022 Legislative Analysis of SB 664* (Dec. 3, 2021) (on file with the Senate Committee on Banking and Insurance).

Department of Corrections³⁶

The Department of Corrections (DOC) employs about 14,500 correctional officers (COs) and correctional probation officers (CPOs) and has approximately 20,500 overall positions with potential eligibility for benefits under the provisions of this bill.³⁷

Recognizing that only a portion of officers are exposed to a qualifying event or circumstance each year, the DOC has provided data which may impact filing of PTSD claims. The DOC reports:

- In Fiscal Year 2020-2021, 1,036 officers were identified as having been injured by inmates. Under this bill, cases involving physical injury from the apportionment provisions in s. 440.093 F.S., would be eliminated as it relates to mental injuries;
- In 2021, one employee was taken hostage by an inmate. The DOC has not identified any other occurrences in the previous three calendar years;
- Approximately 300 COs or CPOs are exposed each year to a death that could meet the parameters outlined in the provisions of the bill. The DOC does not track deaths with specificity as to those where the death would qualify as to one that “shocks the conscience.”³⁸

The DOC currently provides some mental health curriculum; however most training relates to inmates and not staff. Under the bill, the DOC would be required to provide and track training for staff. The DOC indicates curriculum changes might be developed within existing resources and staff. However, the DOC estimates there would be increased cost associated with the expansion of PTSD coverage and eligibility.³⁹ In addition, the DOC would need to change procedures as it relates to evaluating compensable disorders under Florida’s Workers’ Compensation law as it relates to correctional officers.

Department of Financial Services (DFS)/Division of Risk Management⁴⁰

The DFS notes it is difficult to estimate the number of new workers’ compensation claims that would be filed as a result of enactment of the bill; but the DFS expects the fiscal impact would be significant. Prevalence rates for correctional professions vary amongst the studies e.g., 19 percent to 34 percent⁴¹ and 27 percent to 31 percent.⁴² Based upon the increased number of employees to be covered by this bill and the estimated number of correctional officers that are exposed to a qualifying event annually, the bill would likely have a significant impact on the State Risk Management Trust Fund (SRMTF) for claims expenditures and staffing.

³⁶ Department of Corrections, *2022 Agency Legislative Analysis of SB 664* (Dec. 2, 2021) (on file with the Senate Banking and Insurance Committee).

³⁷ *Id.*

³⁸ *Id.* Citing a three year average, the DOC reported there were 1,500 fights or batteries which occurred in prisons within its purview with 2,000 correctional officers identified as annually responding to incidents. The DOC addresses additional impacts for each qualifying event or circumstance in its analysis of SB 664, as originally filed.

³⁹ *Id.*

⁴⁰ See *supra* note 35.

⁴¹ *Id.*

⁴² See *supra* note 13.

In the Non-operating Loss Payment Category, based on an assumption of 200 new PTSD claims per year, the DFS estimated the SRMTF could potentially pay as much as \$8.4 million to \$16.8 million over the first three years after the enactment of the bill. The DFS expects this amount would grow exponentially over time.

The bill would add approximately 18,738⁴³ additional full time employees (FTEs) who would be eligible for workers' compensation PTSD benefits.

The addition of the auxiliary and part-time officers eligible for PTSD benefits is expected to be minimal due to the relatively limited exposure for the additional officers. The primary impact of this bill is the medical and indemnity coverage for correctional officers diagnosed with PTSD who experience a qualifying event. Correctional officers witness suicides and deaths in prisons, and some officers that work in the system for a long period of time are more likely to experience multiple incidents. Therefore, it is likely that the number of claims filed and costs due to PTSD for this sector of employees would increase substantially, and could occur at a higher rate than what has been seen since the 2018 law was enacted.

Based on information provided by the DOC, approximately 300 officers are exposed to a death which meets one of the qualifying events of the bill and 1,036 officers are injured by inmates each year.⁴⁴ This provides an estimated 1,336 officers who could potentially file a claim for PTSD. It is unknown how many of those injured officers or officers exposed to a qualifying event would develop PTSD and subsequently file a workers' compensation claim. The DFS estimated a 15 percent annual rate of actual PTSD claims being filed, which may underestimate or overestimate the actual number of claims filed.⁴⁵

The DFS estimates the need for one full time equivalent Workers' Compensation Specialist at a recurring cost of \$70,991 and non-recurring costs of \$4,591.⁴⁶

Department of Management Services/Division of Retirement

The Department of Management Services, Division of Retirement (division) has indicated the bill has an indeterminate, yet significant, impact on state funds. Redefining the definition of first responders to include part-time and auxiliary law enforcement officers, and part-time and auxiliary correctional officers, for purposes of workers' compensation benefits, may affect the Florida Retirement System (FRS). The division has indicated an actuarial study will need to be completed to determine costs and whether or not there is an unfunded liability to the FRS.⁴⁷

⁴³ See *supra* note 35 at 1. This number includes approximately 18,500 correctional officers and 238 part-time and auxiliary law enforcement officers.

⁴⁴ See *supra* note 36.

⁴⁵ See *supra* note 35.

⁴⁶ *Id.*

⁴⁷ Phone conversation with Department of Management Services on Feb. 17, 2022.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.1815, 111.09, 119.071, and 627.659 of the Florida Statutes, and provides cross references to s. 112.1815(1), F.S.

This bill creates section 112.18155 of the Florida Statutes.

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

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 22, 2022:

The committee substitute:

- Defines “grievous bodily harm of a nature that shocks the conscience;” and
- Revises the list of qualifying events that a correctional officer or part-time correctional officer, acting within the scope of his or her employment, may receive a posttraumatic stress disorder diagnosis.

CS by Banking and Insurance on February 2, 2022:

The CS revises posttraumatic stress disorder compensability provisions for correctional officers by changing the qualifying events for correctional officers and eliminating provisions creating eligibility for correctional probation officers.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 131 - 204
and insert:

(c) "Grievous bodily harm of a nature that shocks the
conscience" means the following:

1. Degloving.

2. Enucleation.

3. Evisceration.

4. Exposure of one or more of the following organs:



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a. Brain.

b. Heart.

c. Intestines.

d. Kidney.

e. Liver.

f. Lung.

5. Full or partial decapitation.

6. Full or partial severance.

7. Impalement.

8. Third-degree burns on 9 percent or more of the body.

This paragraph applies only for the purpose of determining
compensability of employment-related posttraumatic stress
disorder for correctional officers.

(d) "Manually transporting" has the same meaning as in s.
112.1815(5)(e).

(e) "Mass killing" means three or more killings in a single
incident.

(f) "Part-time correctional officer" has the same meaning
as in s. 943.10(7).

(2) For purposes of this section and chapter 440, and
notwithstanding ss. 440.093 and 440.151(2), posttraumatic stress
disorder, as described in the Diagnostic and Statistical Manual
of Mental Disorders, Fifth Edition, published by the American
Psychiatric Association, suffered by a correctional officer or
part-time correctional officer is a compensable occupational
disease within the meaning of s. 440.151 if:

(a) The posttraumatic stress disorder resulted from the
correctional officer or part-time correctional officer acting



481724

within the course of his or her employment; and

(b) The correctional officer or part-time correctional officer is:

1. Examined by a licensed psychiatrist who is an authorized treating physician as provided in chapter 440; and

2. Diagnosed by the psychiatrist described in subparagraph 1. as suffering from posttraumatic stress disorder due to one of the following events:

a. Being taken hostage by an inmate or trapped in a life-threatening situation as a result of an inmate's act.

b. Directly witnessing an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

c. Participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

d. Manually transporting a person who was injured, including by suicide attempt, and subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

e. Directly witnessing a death, including a death by suicide, that involved grievous bodily harm of a nature that shocks the conscience.

f. Directly witnessing a homicide regardless of whether the



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homicide was criminal or excusable, including murder, mass
killing, manslaughter, self-defense, misadventure, and
negligence.

g. Seeing for oneself a decedent whose death involved
grievous bodily harm of a nature that shocks the conscience.

(3) The posttraumatic stress disorder must be demonstrated
by clear and convincing medical evidence.

(4) Benefits for a correctional officer or part-time
correctional officer under this section:

(a) Do not require a physical injury to the correctional
officer or part-time correctional officer.

(b) Are not subject to any of the following:

1. Apportionment due to a preexisting posttraumatic stress
disorder.

2. Any limitation on temporary benefits under s. 440.093.

3. The 1-percent limitation on permanent psychiatric
impairment benefits under s. 440.15(3).

(5) The time for notice of injury or death in cases of
compensable posttraumatic stress disorder under this section is
the same as in s. 440.151(6) and is measured from one of the
qualifying events listed in paragraph (2)(b) or the
manifestation of the disorder, whichever is later. A claim under
this section must be properly noticed within 52 weeks after the
qualifying event.

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

And the title is amended as follows:

Delete lines 19 - 20

and insert:



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98

notice of injury or death; requiring



810476

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Bradley) recommended the following:

Senate Amendment

Delete lines 154 - 155.

By the Committee on Banking and Insurance; and Senators Bradley, Berman, Book, and Stewart

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A bill to be entitled

An act relating to posttraumatic stress disorder workers' compensation for law enforcement and correctional officers; amending s. 112.1815, F.S.; defining the term "first responder" for the purposes of including part-time and auxiliary law enforcement officers for workers' compensation benefits for posttraumatic stress disorder and for educational training related to mental health; creating s. 112.18155, F.S.; defining terms; providing that, under certain circumstances, posttraumatic stress disorder suffered by correctional officers and part-time correctional officers is an occupational disease compensable by workers' compensation benefits; specifying the evidentiary standard for demonstrating such disorder; specifying that benefits do not require a physical injury and are not subject to certain apportionment or limitations; providing a time for notice of injury or death; requiring the Department of Financial Services to adopt certain rules; requiring an employing agency to provide specified mental health training; amending ss. 111.09, 119.071, and 627.659, F.S.; revising cross-references; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsections (5) and (6) of section 112.1815,

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2022664c1

Florida Statutes, are amended to read:

112.1815 Firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries and posttraumatic stress disorder.—

(5) (a) For the purposes of this section and chapter 440, and notwithstanding sub-subparagraph (2)(a)3. and ss. 440.093 and 440.151(2), posttraumatic stress disorder, as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, suffered by a first responder is a compensable occupational disease within the meaning of subsection (4) and s. 440.151 if:

1. The posttraumatic stress disorder resulted from the first responder acting within the course of his or her employment as provided in s. 440.091; and

2. The first responder is examined and subsequently diagnosed with such disorder by a licensed psychiatrist who is an authorized treating physician as provided in chapter 440 due to one of the following events:

a. Seeing for oneself a deceased minor;

b. Directly witnessing the death of a minor;

c. Directly witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;

d. Participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;

e. Manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;

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59 f. Seeing for oneself a decedent whose death involved
 60 grievous bodily harm of a nature that shocks the conscience;
 61 g. Directly witnessing a death, including suicide, that
 62 involved grievous bodily harm of a nature that shocks the
 63 conscience;
 64 h. Directly witnessing a homicide regardless of whether the
 65 homicide was criminal or excusable, including murder, mass
 66 killing as defined in 28 U.S.C. s. 530C, manslaughter, self-
 67 defense, misadventure, and negligence;
 68 i. Directly witnessing an injury, including an attempted
 69 suicide, to a person who subsequently died before or upon
 70 arrival at a hospital emergency department if the person was
 71 injured by grievous bodily harm of a nature that shocks the
 72 conscience;
 73 j. Participating in the physical treatment of an injury,
 74 including an attempted suicide, to a person who subsequently
 75 died before or upon arrival at a hospital emergency department
 76 if the person was injured by grievous bodily harm of a nature
 77 that shocks the conscience; or
 78 k. Manually transporting a person who was injured,
 79 including by attempted suicide, and subsequently died before or
 80 upon arrival at a hospital emergency department if the person
 81 was injured by grievous bodily harm of a nature that shocks the
 82 conscience.
 83 (b) Such disorder must be demonstrated by clear and
 84 convincing medical evidence.
 85 (c) Benefits for a first responder under this subsection:
 86 1. Do not require a physical injury to the first responder;
 87 and

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88 2. Are not subject to:
 89 a. Apportionment due to a preexisting posttraumatic stress
 90 disorder;
 91 b. Any limitation on temporary benefits under s. 440.093;
 92 or
 93 c. The 1-percent limitation on permanent psychiatric
 94 impairment benefits under s. 440.15(3).
 95 (d) The time for notice of injury or death in cases of
 96 compensable posttraumatic stress disorder under this subsection
 97 is the same as in s. 440.151(6) and is measured from one of the
 98 qualifying events listed in subparagraph (a)2. or the
 99 manifestation of the disorder, whichever is later. A claim under
 100 this subsection must be properly noticed within 52 weeks after
 101 the qualifying event.
 102 (e) As used in this subsection, the term:
 103 1. "Directly witnessing" means to see or hear for oneself.
 104 2. "First responder" also includes a part-time law
 105 enforcement officer as defined in s. 943.10(6) and an auxiliary
 106 law enforcement officer as defined in s. 943.10(8).
 107 3. "Manually transporting" means to perform physical labor
 108 to move the body of a wounded person for his or her safety or
 109 medical treatment.
 110 ~~4.3.~~ "Minor" has the same meaning as in s. 1.01(13).
 111 (f) The Department of Financial Services shall adopt rules
 112 specifying injuries qualifying as grievous bodily harm of a
 113 nature that shocks the conscience for the purposes of this
 114 subsection.
 115 (6) An employing agency of a first responder, including
 116 volunteer first responders, must provide educational training

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related to mental health awareness, prevention, mitigation, and treatment. As used in this subsection, the term "first responder" also includes a part-time law enforcement officer as defined in s. 943.10(6) and an auxiliary law enforcement officer as defined in s. 943.10(8).

Section 2. Section 112.18155, Florida Statutes, is created to read:

112.18155 Correctional officers and part-time correctional officers; special provisions for posttraumatic stress disorder.-

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

(a) "Correctional officer" has the same meaning as in s. 943.10(2).

(b) "Directly witnessing" has the same meaning as in s. 112.1815(5) (e).

(c) "Manually transporting" has the same meaning as in s. 112.1815(5) (e).

(d) "Mass killing" means three or more killings in a single incident.

(e) "Part-time correctional officer" has the same meaning as in s. 943.10(7).

(2) For purposes of this section and chapter 440, and notwithstanding ss. 440.093 and 440.151(2), posttraumatic stress disorder, as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, suffered by a correctional officer or part-time correctional officer is a compensable occupational disease within the meaning of s. 440.151 if:

(a) The posttraumatic stress disorder resulted from the correctional officer or part-time correctional officer acting

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within the course of his or her employment.

(b) The correctional officer or part-time correctional officer is:

1. Examined by a licensed psychiatrist who is an authorized treating physician as provided in chapter 440.

2. Diagnosed by the psychiatrist described in subparagraph 1. as suffering from posttraumatic stress disorder due to one of the following events:

a. Being seriously injured by an inmate in a manner that shocks the conscience.

b. Being taken hostage by an inmate or trapped in a life-threatening situation as a result of an inmate's act.

c. Directly witnessing an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

d. Participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

e. Manually transporting a person who was injured, including by suicide attempt, and subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

f. Directly witnessing a death, including a death by suicide, that involved grievous bodily harm of a nature that

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shocks the conscience.

g. Directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence.

h. Seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience.

(3) The posttraumatic stress disorder must be demonstrated by clear and convincing medical evidence.

(4) Benefits for a correctional officer or part-time correctional officer under this section:

(a) Do not require a physical injury to the correctional officer or part-time correctional officer.

(b) Are not subject to any of the following:

1. Apportionment due to a preexisting posttraumatic stress disorder.

2. Any limitation on temporary benefits under s. 440.093.

3. The 1-percent limitation on permanent psychiatric impairment benefits under s. 440.15(3).

(5) The time for notice of injury or death in cases of compensable posttraumatic stress disorder under this section is the same as in s. 440.151(6) and is measured from one of the qualifying events listed in paragraph (2)(b) or the manifestation of the disorder, whichever is later. A claim under this section must be properly noticed within 52 weeks after the qualifying event.

(6) The Department of Financial Services shall adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this

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section.

(7) An employing agency of a correctional officer or part-time correctional officer shall provide educational training related to mental health awareness, prevention, mitigation, and treatment.

Section 3. Paragraph (a) of subsection (1) of section 111.09, Florida Statutes, is amended to read:

111.09 Peer support for first responders.—

(1) For purposes of this section, the term:

(a) "First responder" has the same meaning as provided in s. 112.1815(1) ~~s. 112.1815~~ and includes 911 public safety telecommunicators as defined in s. 401.465.

Section 4. Paragraph (d) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(d)1. Information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if release of such information would reveal:

a. The design, development, construction, deployment, and operation of network facilities;

b. Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;

c. The features, functions, and capabilities of network infrastructure and facilities;

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233 d. The features, functions, and capabilities of network
 234 services provided to first responders, as defined in s.
 235 112.1815(1) ~~e. 112.1815~~, and other network users;
 236 e. The design, features, functions, and capabilities of
 237 network devices provided to first responders and other network
 238 users; or
 239 f. Security, including cybersecurity, of the design,
 240 construction, and operation of the network and associated
 241 services and products.

242 2. This paragraph is subject to the Open Government Sunset
 243 Review Act in accordance with s. 119.15 and shall stand repealed
 244 on October 2, 2023, unless reviewed and saved from repeal
 245 through reenactment by the Legislature.

246 Section 5. Subsection (4) of section 627.659, Florida
 247 Statutes, is amended to read:
 248 627.659 Blanket health insurance; eligible groups.—Blanket
 249 health insurance is that form of health insurance which covers
 250 special groups of individuals as enumerated in one of the
 251 following subsections:
 252 (4) Under a policy or contract issued in the name of a
 253 volunteer fire department, first aid group, local emergency
 254 management agency as defined in s. 252.34(6), or other group of
 255 first responders as defined in s. 112.1815(1) ~~e. 112.1815~~, which
 256 is deemed the policyholder, covering all or any grouping of the
 257 members or employees of the policyholder or covering all or any
 258 participants in an activity or operation sponsored or supervised
 259 by the policyholder.

260 Section 6. The Legislature determines and declares that
 261 this act fulfills an important state interest.

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262 Section 7. This act shall take effect July 1, 2022.

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SENATOR JENNIFER BRADLEY
5th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

February 5, 2021

Senator Ben Albritton, Chairman
Appropriations Subcommittee on Agriculture, Environment, and General Government
314 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Albritton:

I respectfully request that Senate Bill 664 be placed on the committee's agenda at your earliest convenience. This bill relates to posttraumatic stress disorder workers' compensation for law enforcement, correctional, and correctional probation officers.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenn", with a long horizontal stroke extending to the right.

Jennifer Bradley

cc: Giovanni Betta, Staff Director
Caroline Goodner, Administrative Assistant

REPLY TO:

- ☐ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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664

481724

Bill Number or Topic

481724

Amendment Barcode (if applicable)

2/22/22

Meeting Date

Appropriations Sub AEG

Committee

Name

Steve Zona (FL State FOP)

Phone

904-398-7010

Address

5530 Beach Blvd

Email

SZona@FOP530.com

Street

Jax FL 32250

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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06.22.2022

Meeting Date

APPROPS

Committee

\$B 664

Bill Number or Topic

481724

Amendment Barcode (if applicable)

Name

FELIX DEL ROSA

Phone

305-310-4081

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710 SW 12 AVE

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Street

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FL

33130

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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2/22/22
Meeting Date

Approps AG
Committee

664

Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Puckett

Phone _____

Address 300 East Brevard St.

Email _____

Street

Tallahassee FL 32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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representing:

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something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Police Benevolent Association

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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
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02.22.2022

Meeting Date

APROPS

Committee

SB 664

Bill Number or Topic

Amendment Barcode (if applicable)

Name

FELIX DEL ROSALW

Phone

305-310-4081

Address

710 SW 12TH AVE

Email

VPFOP20@FOPMIAMI.COM

Street

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33130

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State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

2/22/22

The Florida Senate
APPEARANCE RECORD

664

Meeting Date

Bill Number or Topic

Appropriations Sub AEG

Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name

Steve Zona (FL State FOP)

Phone

904-398-7610

Address

5530 Beach Blvd

Email

SZona@FOP530.com

Street

Jax

FL

32207

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:



In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

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compensation or sponsorship.

☐

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representing:

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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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 714

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: February 21, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
2. <u>Davis</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3. _____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 714 revises licensing and regulatory requirements for businesses and professions administered by the Department of Business and Professional Regulation (DBPR), including mold-related professionals, asbestos abatement professionals, electrical and alarm system contractors, certain public lodging establishments, and certain public food service establishments.

Related to mold-related professional licensing regulations, the bill authorizes a method for persons who have held a license in another state or territory for at least 10 years to obtain a Florida license.

Related to asbestos professional licensing regulations, the bill:

- Authorizes a method for persons who have held a license in another state for at least 10 years and meet examination and education requirements to obtain a Florida license; and
- Removes limits of bondability and credit as required criteria for determining the financial stability of an applicant for licensure.

Related to electrical and alarm system contractors licensing, the bill removes an existing deadline for registered electrical and alarm systems contractors to seek authorization to engage in their trades throughout the state at any time.

Related to the licensing, inspection, and regulation of public lodging establishments and public food service establishments by the Division of Hotels and Restaurants (DHR) in the DBPR which are not otherwise exempt, the bill:

- Requires licensees to submit forms, documents, and fees to the DHR electronically;
- Requires licensees to provide an email address to the DHR as a primary contact method;
- Allows the DHR's inspection reports and other notices to be served to operators of such establishments by email, in-person delivery, or mail;
- Allows the guest register at a transient public lodging establishment to be kept in an electronic format and removes the requirement for guests to sign the register;
- Authorizes a licensee to obtain a renewal license for two years rather than one year upon payment of the associated fee; and
- Removes the requirement for licensees to pay either a prorated or full fee for an initial license depending on when the application is made.

Related to boxing matches held solely for training purposes, the bill removes a restriction on the maximum difference in weight of participants, eliminating the 12 pound weight differential for such matches in current law.

According to the DBPR, the bill has a significant negative fiscal impact to state government and may result in an indeterminate fiscal impact to local government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

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

Organization of the DBPR

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

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

¹ See Department of Business and Professional Regulation (DBPR), *2022 Agency Legislative Bill Analysis for SB 714* at 6 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

- Service Operations; and
- Technology.

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.² The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.³

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”⁴ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁵ The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁷

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.⁸

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.⁹

² Section 548.003(1), F.S.

³ See parts I and III of ch. 450, F.S.

⁴ Section 455.01(6), F.S.

⁵ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁶ Section 455.201(2), F.S.

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 8, 2022).

III. Effect of Proposed Changes:

Mold-Related Professionals

Present Situation

The Department of Business and Professional Regulation (DBPR) licenses and regulates mold-related professionals.¹⁰ Specifically, mold assessors and mold remediators are regulated by ch. 468, part XVI, F.S., and licensed by the Mold-Related Services Licensing Program¹¹ in DBPR. In Fiscal Year 2020-2021, there were 5,070 active licensees, and 617 inactive licensees.¹² Of 120 complaints against licensees, 44 met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in five cases.¹³

“Mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than 10 square feet.¹⁴

“Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than 10 square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under ch. 489, F.S.¹⁵

In order to be licensed as a mold assessor or mold remediator, an applicant must:

- Be of good moral character;
- Pass the required DBPR-approved examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation;
- Have required liability insurance; and
- Complete either:
 - At least a two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
 - A high school diploma or the equivalent with a minimum of four years of experience.¹⁶

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:¹⁷

- Are of good moral character;
- Hold required general liability insurance;

¹⁰ See part XIV of ch. 468, F.S., Mold-Related Services; and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Feb. 8, 2022).

¹¹ Section 468.84, F.S.

¹² See 2020-2021 Annual Report at 20.

¹³ *Id.* at 89.

¹⁴ Section 468.8411(3), F.S.

¹⁵ Section 468.8411(5), F.S.

¹⁶ Section 468.8413(2), F.S.

¹⁷ Section 468.8414(3), (4), F.S.

- Hold a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the required Florida examination.

Applicants for a mold-related license pay an initial licensure fee of \$230.

Effect of Proposed Changes

Section 1 amends s. 468.8414, F.S., to allow licensure by endorsement to practice mold assessment or mold remediation for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory.

Applicants pursuing this avenue for licensure must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

The bill clarifies the provision relating to licensure certification examination requirements.

Asbestos Abatement

Present Situation

The DBPR also licenses and regulates asbestos consultants and asbestos contractors.¹⁸

Asbestos abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.¹⁹

An asbestos consultant may:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; and
- Prepare asbestos abatement specifications.²⁰

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.²¹

An asbestos consultant’s license may only be issued to an applicant who:

- Holds a current, valid, active license as an architect issued under ch. 481, F.S.;
- Holds a current, valid, active license as a professional engineer issued under ch. 471, F.S.;
- Holds a current, valid, active license as a professional geologist issued under ch. 492, F.S.;
- Is a diplomat of the American Board of Industrial Hygiene; or

¹⁸ See ch. 469, F.S., Asbestos Abatement; and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 19, 2022).

¹⁹ See s. 469.001(1), F.S.

²⁰ See s. 469.003, F.S.

²¹ See s. 469.003(3), F.S.

- Has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.²²

An applicant for licensure as either an asbestos consultant or contractor must also:²³

- If applying for an asbestos consultant license, complete the DBPR-approved courses in the following topics:
 - Building asbestos surveys and mechanical systems;
 - Asbestos management planning;
 - Respiratory protection; and
 - Project designer.
- If applying for an asbestos contractor license, complete courses in the following topics:
 - Asbestos contractor/supervisor; and
 - Respiratory protection.
- Provide evidence of satisfactory work on ten asbestos projects within the last five years;
- Provide evidence of financial stability; and
- Pass DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,²⁴ the DBPR must use both the applicant's credit history and limits of bondability and credit.²⁵ There is no provision which specifically allows or addresses licenses by endorsement for asbestos licensees of other states.

In Fiscal Year 2020-2021, there were 449 active licensees, and nine inactive licensees.²⁶ Of eight complaints against licensees, two met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in one case.²⁷

If an individual proposes to engage in asbestos consulting or contracting as any legal entity or in a name other than the individual's legal name:

- The legal entity must apply for licensure through a qualifying agent; or
- The applicant must apply for licensure under the fictitious name.²⁸

A qualifying agent must be licensed under ch. 469, F.S., in order for a business organization to be licensed in the same category for which the qualifying agent is licensed.²⁹

Effect of Proposed Changes

Sections 2 and 3 amend ss. 469.004 and 469.006, F.S., respectively, related to licensure of asbestos consultants/asbestos contractors and consulting/contracting business organizations.

²² See s. 469.004(1), F.S.

²³ See s. 469.005, F.S.

²⁴ The standards for determining an applicant's financial stability can be found in r. 61E1-4.002, F.A.C.

²⁵ See s. 469.006(2)(c)2., F.S.

²⁶ See 2020-2021 Annual Report at 20.

²⁷ *Id.* at 89.

²⁸ See s. 469.006(2)(a), F.S.

²⁹ See s. 469.005(3), F.S.

Section 2 of the bill amends s. 469.004, F.S., to allow licensure by endorsement to practice asbestos consulting or asbestos contracting for an applicant who has:

- Passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan;
- Held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the application date and is applying for the same or similar license in Florida, subject to the requirements in s. 469.005(5), F.S., (evidence of financial stability) and s. 469.006, F.S., (licensure of business organizations and qualifying agents); and
- Successfully completed all required DBPR-approved courses, including a respiratory protection course.³⁰

Applicants for licensure by endorsement must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

Section 3 amends s. 469.006(2)(c)2., F.S., to remove limits of bondability and credit as required criteria for determining financial responsibility of an applicant for licensure.

Grandfathering Provision for Registered Electrical and Alarm System Contractors

Present Situation

Section 489.514, F.S., authorizes the Electrical Contractors' Licensing Board (ECLB) to grandfather certain applicants for registered contractor status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB is required to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;³¹ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years' contracting experience in the applicable trade category (with an active license and excluding probationary periods);
 - Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
 - Meeting all required insurance and financial responsibility requirements.³²

³⁰ Section 469.005(2), F.S., also requires asbestos consultants complete courses in building asbestos surveys and mechanical systems, asbestos management planning, and project design. Section 469.005(3), F.S., also requires asbestos contractors complete an asbestos contractor/supervisor course.

³¹ The Electrical Contractors' Licensing Board (ECLB) has established a \$196 fee for applications for registered contractor certification. *See* s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.

³² *See* s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

The DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.³³

Effect of Proposed Changes

Section 4 amends s. 489.514(3), F. S., to remove the deadline for applicants with registered contractor status seeking certified licenses to apply by November 1, 2021, allowing the ECLB to consider an application to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state at any time.

The bill makes technical and conforming changes.

Public Lodging Establishments/Public Food Service Establishments

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida.³⁴ A public lodging establishment includes establishments that are transient or nontransient.³⁵ A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.³⁶

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or one calendar month.³⁷

³³ See DBPR, 2022 *Agency Legislative Bill Analysis for SB 714* at 9 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁴ The Division of Hotels and Restaurants (DHR) also licenses and regulates elevators, escalators, and other vertical conveyance devices. See DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 14, 2022).

³⁵ See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

³⁶ *Id.* Section 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

³⁷ *Id.*

A “public food service establishment” means:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.³⁸

Numerous food service places are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.³⁹

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁴⁰

Notices from the DHR pursuant to ch. 509, F.S., must be written and delivered personally by an agent of the DHR or by registered letter to the operator of the establishment, except lodging inspection reports and food service inspection reports, which may be delivered by electronic means.⁴¹

Operators of public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.⁴² Operators of public food service establishments must also maintain a copy of the latest food service inspection report and make it available to the DHR at the time of any inspection and to the public upon request.⁴³

In addition, operators of transient establishments⁴⁴ must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.⁴⁵ Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.⁴⁶

³⁸ See s. 509.013(5), F.S.

³⁹ *Id.*

⁴⁰ See ss. 509.032 and 509.035, F.S.

⁴¹ See s. 509.091, F.S.

⁴² See s. 509.101, F.S.

⁴³ *Id.*

⁴⁴ See *supra* n. 36.

⁴⁵ See s. 509.101, F.S.

⁴⁶ *Id.*

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.⁴⁷

Licenses must be conspicuously displayed in the establishment's office or lobby, and public food service establishments offering catering services must also display their license number on all advertising for such services.⁴⁸

Section 509.251, F.S., provides the method of determining the license fees payable by establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁴⁹

For a public food service establishment, there is a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment may not exceed \$400, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁵⁰

For both public lodging establishments and public food service establishments, the full license fee must be paid if the application for initial licensure is made during the annual renewal period or more than six months before the next such renewal period, but only one-half of the fee must be paid if the application is made six months or less before such period.⁵¹

Separate licensure is required for a public food service establishment operating in conjunction with a public lodging establishment.⁵²

Effect of Proposed Changes

Sections 5, 6, 7, 8, and 9 address requirements imposed upon public lodging establishments and public food service establishments.

Section 5 amends s. 509.032, F.S., to grant rulemaking authority to the DHR to adopt rules requiring electronic submission of any form, document, or fee required under ch. 509, F.S., relating to public lodging and public food service establishments, including procedures to obtain an exemption due to a technological or financial hardship.

Section 6 amends s. 509.091, F.S., to require licensees and licensed agents to provide an email address to the DHR to serve as the primary method of contact for all communications. The bill

⁴⁷ *Id.* See Fla. Admin. Code R. 61C-1.002(6).

⁴⁸ See s. 509.241(3), F.S.

⁴⁹ See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

⁵⁰ See s. 509.251(2), F.S.

⁵¹ See ss. 509.251(1) and (2), F.S.

⁵² See s. 509.251(3), F.S.

authorizes service of the DHR's notices and inspection reports by email or regular mail, in addition to personal delivery, and removes a requirement for the use of registered mail. The bill also authorizes the DHR to post an inspection report in a conspicuous place at the establishment, when the operator refuses to accept or evades service, or the agent is unable to serve the report after due diligence.

Section 7 amends s. 509.101, F.S., to clarify the duty for operators of transient establishments to maintain a guest register in chronological order of guests that occupy rental units in the establishment. Operators must make the register available for inspection by the DHR at any time, and the requirement for guests to sign the register is removed. The bill authorizes operators to keep the register in an electronic format.

Section 8 amends s. 509.241, F.S., related to licenses held by public lodging and public food service establishments. The bill provides that licenses expire if not renewed before the expiration date, and the license renewal period may be for two years rather than one year, at the option of the licensee. Licensees seeking initial licenses or renewal licenses must use forms provided by the DHR. Under the bill, the DHR is granted rulemaking authority to establish procedures for license issuance and renewals. Current law limits the DHR's rulemaking authority to establishing a staggered schedule for license renewals.

Section 9 amends s. 509.251, F.S., relating to license fees. As to public lodging establishments, the bill provides that license renewal fees be based on the number of rental units in the establishment and whether the renewal period is for one or two years; such fee may not exceed \$1,000 for a one-year renewal license or \$2,000 for a two-year renewal license.

As to public food service establishments, the bill provides that fees for initial licenses and renewal licenses be based on the classification of the license, and for renewal licenses, fees must also be based on whether the renewal period is for one or two years. Aggregate fees (a base fee and additional fees based on seating capacity and services offered) per establishment may not exceed \$400 for a one-year license or \$800 for a two-year license.

The bill removes the requirement for a public lodging or food service establishment to pay either a prorated or full fee for an initial license depending on when the application is made.

The bill makes technical and conforming changes.

Florida Athletic Commission (formerly State Boxing Commission)

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁵³ and mixed martial arts⁵⁴ by the Florida Athletic Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁵⁵

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁵⁶ which involves a professional.⁵⁷ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁵⁸ Chapter 548, F.S., does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”⁵⁹

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁶⁰ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶¹ During Fiscal Year 2019-2020, there were 49 sanctioned professional events and 101 amateur events.⁶²

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Section 548.017, F.S., requires licensing for a participant,⁶³ manager, trainer, second, referee, judge, physician, matchmaker, or promoter.⁶⁴

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to

⁵³ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

⁵⁴ The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

⁵⁵ Section 548.003(1), F.S.

⁵⁶ Section 548.006(1), F.S.

⁵⁷ The term “professional” means a person who has received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

⁵⁸ Section 548.006(4), F.S.

⁵⁹ Section 548.007(6), F.S., and *supra* n. 41 for the definition of “mixed martial arts.”

⁶⁰ Section 548.006(3), F.S.

⁶¹ Section 548.002(2), F.S.

⁶² *See* DBPR, *Florida State Boxing Commission Annual Report, Fiscal Year 2019-2020*, at 2, available at <http://www.myfloridalicense.com/dbpr/os/documents/Boxing19-20.pdf> (last visited Feb. 14, 2022).

⁶³ Section 548.002(17), F.S., defines “participant” as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁶⁴ *See* s. 548.002, F.S., for the definitions of “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer” and “referee,” are not defined in ch. 548, F.S.

eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁶⁵

Effect of Proposed Changes

Section 10 amends s. 548.043, F.S., to remove a restriction requiring that the weight differential between participants in a boxing match held solely for training purposes not exceed 12 pounds. According to the DBPR, this change will provide greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.⁶⁶

The bill makes technical and conforming changes.

Re-enactment related to License Fees and License Renewal

Present Situation

Under s. 509.102, F.S., the regulation of mobile food dispensing vehicles⁶⁷ involving licensing, registration, permitting, and fees, is preempted to the state, although local governments may regulate operation of such vehicles in other respects.

Effect of Proposed Changes

Section 11 re-enacts s. 509.102, F.S., relating to mobile food dispensing vehicles, for the purpose of incorporating the amendment to s. 509.251, F.S., relating to license fees for public lodging establishments and food service establishments.

Effective Date

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶⁵ Section 548.043(3), F.S.

⁶⁶ See DBPR, 2022 Agency Legislative Bill Analysis for SB 714 at 4 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁶⁷ Section 509.102(1), F.S., provides the term “mobile food dispensing vehicle” means “any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.”

D. State Tax or Fee Increases:

The bill does not increase fees for public lodging establishments or public food service establishments. It allows the licensees to pay for either one or two years at the same annual rate.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Division of Hotels and Restaurants (DHR) in the Department of Business and Professional Regulation (DBPR) indicates the bill will reduce license fees, as follows:⁶⁸

The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.65 million in Fiscal Year 2022-2023. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.

Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.

The division is unable to predict how many licensees would opt for a two-year license renewal.

According to the Division of Professions in the DBPR, eliminating limits of bondability and credit as criteria for determining financial responsibility of asbestos professionals will reduce the cost to applicants by approximately \$100 each.⁶⁹

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision.

⁶⁸ See DBPR, *2022 Agency Legislative Bill Analysis for SB 714* at 7 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁶⁹ *Id.* at 9. During FY 2018-2019, FY 2019-2020, and FY 2020-2021, an average of 33 applications were received for new asbestos professional licensure for each of the last three fiscal years. *Id.*

C. Government Sector Impact:

The DBPR expects the following fiscal impacts on revenues:⁷⁰

Division of Hotels and Restaurants

The DBPR's internal projections for Fiscal Year 2022-2023 indicate the bill would reduce the DHR's license revenues in the Hotel and Restaurant Trust Fund by approximately \$1.7 million (six percent) and a total of \$5.1 million over the next three fiscal years. These figures assume a 2.81 percent annual growth rate in DHR license revenue.

	FY 2022-23	FY 2023-24	FY 2024-25
Impact of CS/SB 714 on Licensing Revenue ⁷¹	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)
Change as %	- 6%	- 6%	- 6%

Under the current license fee structure, about 58 percent of new applicants pay an initial license fee for some fraction of time and then pay the DHR again to renew their license within the same fiscal year.

Under the bill, the DHR will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true "annual license" from the start with no same fiscal year renewals.⁷²

The DHR indicates it cannot predict the number of licensees who will seek license renewals for two years, so it is unknown how the two-year option would affect revenue.⁷³

The DHR notes the following about the revisions to the license, issuance, renewal, and fee provisions:⁷⁴

The benefits of this are two-fold: first, it simplifies the division's licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division's licensees by reducing the costs of the license over twelve months and decreasing the number of application delays, thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

⁷⁰ *Id.* at 6-7.

⁷¹ *Id.* at 10.

⁷² *Id.* at 6.

⁷³ *Id.*

⁷⁴ *Id.* at 9-10.

The division's intent is that the revised renewal and license fee schedule would only apply to new license applications processed after implementation of this initiative. The bill is not retroactive, thus, existing licenses will retain their current renewal dates. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

The DHR also estimates an anticipated reduction in the eight percent service charge to General Revenue due to reduced license fees and a possible reduction in postage expenditures.⁷⁵

Due to the reduction of licensing revenue, the amount transferred to the General Revenue Fund for the eight percent service charge from the Hotel and Restaurant Trust Fund would be reduced by approximately \$407,810 over three fiscal years.⁷⁶ The DHR also anticipates a reduction of expenditures for postage and bank fees due to the reduction in license renewals.⁷⁷

CS/SB 714 Impact	FY 2022-23	FY 2023-24	FY 2024-25
Reduction in 8% Service Charge to General Revenue	\$132,184	\$135,902	\$139,724
Cost Savings on Postage and Bank Fees	\$12,439	\$12,789	\$13,148

Division of Professions

As to electrical and alarm system license revenue, the Division of Professions of the DBPR indicates revenue from license fees for licensees using the grandfathering provision to seek statewide licensing is indeterminate as it is unknown how many eligible licensees will apply, but estimates a range of \$150,136 to \$399,056 in potential grandfathering fee revenue over the next three fiscal years.⁷⁸

The Division of Professions notes there are 2,036 registered licensees with current or inactive licenses who may seek statewide licensing using the grandfathering provision; only 766 applications were during the last period of grandfathering, which was from July 1, 2019, to November 1, 2021.⁷⁹ Local governments could experience a decrease in fees from registered electrical and alarm system contractors who seek statewide licensing using the grandfathering provision, but the impact is indeterminate.⁸⁰

⁷⁵ *Id.* at 10.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.* at 6 and 9.

⁷⁹ *Id.* at 9.

⁸⁰ *Id.* at 6.

The charts below shows the projected impact of the bill.⁸¹

Hotel and Restaurant Trust Fund	FY 2022-23	FY 2023-24	FY 2024-25
Estimated Revenue – Current Licensing System	\$27,287,063	\$28,054,554	\$28,843,632
Impact of CS/SB 714 on Licensing Revenues	(\$1,652,302)	(\$1,698,775)	(\$1,746,556)
Estimated Revenue under Proposed Change	\$25,634,761	\$26,355,779	\$27,097,076
Impact of CS/SB 714 on Expenditures	\$144,623	\$148,691	\$152,872
Net Impact of CS/SB 714 (Line 2 + Line 4)	(\$1,507,679)	(\$1,550,084)	(\$1,593,684)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.8414, 469.004, 469.006, 489.514, 509.032, 509.091, 509.101, 509.241, 509.251, and 548.043.

This bill re-enacts section 509.102 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 Committee on January 25, 2022:

The CS amends s. 469.004(1), F.S., to include an applicant who qualifies for licensure as an asbestos consultant by endorsement as a person to whom an asbestos consultant's license may be issued by the Department of Business and Professional Regulation.

B. Amendments:

None.

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

⁸¹ *Id.*

By the Committee on Regulated Industries; and Senator Hooper

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1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 468.8414, F.S.;
 4 requiring the department to certify for licensure
 5 qualified individuals who practice mold assessment or
 6 mold remediation and hold certain licenses issued by
 7 other states or territories; requiring applications to
 8 be filed within a specified timeframe after such
 9 licensure; amending s. 469.004, F.S.; providing an
 10 exception for the issuance of an asbestos consultant's
 11 license; requiring the department to certify asbestos
 12 consultants and asbestos contractors for licensure who
 13 meet certain exam and other state licensure
 14 requirements; requiring applications to be filed
 15 within a specified timeframe after such licensure;
 16 requiring asbestos consultants and asbestos
 17 contractors to complete certain courses; amending s.
 18 469.006, F.S.; revising the financial responsibility
 19 criteria the department must use when issuing
 20 consulting or contracting licenses; amending s.
 21 489.514, F.S.; removing a time limitation for applying
 22 for certain contracting licenses under certain
 23 provisions; amending s. 509.032, F.S.; authorizing the
 24 Division of Hotels and Restaurants of the department
 25 to adopt rules for certain electronic submissions and
 26 exemptions; amending s. 509.091, F.S.; requiring
 27 licensees and licensed agents to provide the division
 28 with e-mail addresses for contact with the division;
 29 authorizing the division to deliver notices and

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30 inspection reports by e-mail; amending s. 509.101,
 31 F.S.; revising the maintenance requirements an
 32 operator must meet for a transient establishment's
 33 guest register; amending s. 509.241, F.S.; providing
 34 for the expiration of public lodging establishment and
 35 public food service establishment licenses;
 36 authorizing the licenses to be renewed for specified
 37 timeframes; requiring the division to provide forms
 38 for license renewals and license applications;
 39 amending s. 509.251, F.S.; revising the public lodging
 40 establishment and public food service establishment
 41 license fees to include an option for 2-year renewals;
 42 limiting the fees the division may charge for a 2-year
 43 license renewal; requiring license fees to be paid in
 44 full at the time of application; amending s. 548.043,
 45 F.S.; deleting a requirement limiting the types of
 46 boxing exhibitions which require a specified maximum
 47 difference in participant weights; reenacting s.
 48 509.102(2), F.S., relating to mobile food dispensing
 49 vehicles, to incorporate the amendment made to s.
 50 509.251, F.S., in a reference thereto; providing an
 51 effective date.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55 Section 1. Subsection (3) of section 468.8414, Florida
 56 Statutes, is amended to read:

57 468.8414 Licensure.—

58 (3) The department shall certify as qualified for a license

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by endorsement an applicant who is of good moral character, who has the insurance coverage required under s. 468.8421, and who:

(a) Is qualified to take the examination as set forth in s. 468.8413 and has passed a certification examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation, and the department that has been approved the certification examination by the department as being substantially equivalent to the requirements of this part and s. 455.217; ~~or~~

(b) Holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States if the criteria for issuance of the license were substantially the same as the licensure criteria ~~that is~~ established by this part as determined by the department; or

(c) Has held a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States for at least 10 years before the date of application. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active.

Section 2. Present subsection (3) of section 469.004, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and subsection (1) of that section is amended, to read:

469.004 License; asbestos consultant; asbestos contractor.—

(1) All asbestos consultants must be licensed by the department. Except for an asbestos consultant's license issued by endorsement as provided under subsection (3) or otherwise expressly provided by law, an asbestos consultant's license may

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be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid, active license as a professional engineer issued under chapter 471; holds a current, valid, active license as a professional geologist issued under chapter 492; is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

(3) The department shall certify as qualified for licensure by endorsement any individual applying for licensure who has passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, has held a valid license to practice as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the date of application, and is applying for the same or similar license in this state, subject to ss. 469.005(5) and 469.006. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active. Asbestos consultants and asbestos contractors must complete courses as required by s. 469.005(2) or (3), respectively, to qualify for licensure by endorsement.

Section 3. Paragraph (c) of subsection (2) of section 469.006, Florida Statutes, is amended to read:

469.006 Licensure of business organizations; qualifying agents.—

(2)

(c) As a prerequisite to the issuance of a license under

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117 this section, the applicant shall submit the following:

118 1. An affidavit on a form provided by the department
 119 attesting that the applicant has obtained workers' compensation
 120 insurance as required by chapter 440, public liability
 121 insurance, and property damage insurance, in amounts determined
 122 by department rule. The department shall establish by rule a
 123 procedure to verify the accuracy of such affidavits based upon a
 124 random sample method.

125 2. Evidence of financial responsibility. The department
 126 shall adopt rules to determine financial responsibility which
 127 ~~shall~~ specify grounds on which the department may deny
 128 licensure. Such criteria must ~~shall~~ include, but not be limited
 129 to, credit history ~~and limits of bondability and credit~~.

130 Section 4. Subsection (3) of section 489.514, Florida
 131 Statutes, is amended to read:

132 489.514 Certification for registered contractors;
 133 grandfathering provisions.—

134 ~~(3) An applicant must make application by November 1, 2021,
 135 to be licensed pursuant to this section.~~

136 Section 5. Subsection (6) of section 509.032, Florida
 137 Statutes, is amended to read:

138 509.032 Duties.—

139 (6) RULEMAKING AUTHORITY.—The division shall adopt such
 140 rules as are necessary to carry out ~~the provisions of~~ this
 141 chapter. The division may adopt rules requiring electronic
 142 submission of any form, document, or fee as required by this
 143 chapter. The division may prescribe by rule requirements and
 144 procedures for an individual to obtain an exemption due to a
 145 technological or financial hardship.

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146 Section 6. Section 509.091, Florida Statutes, is amended to
 147 read:

148 509.091 Notices; form and service.—

149 (1) All licensees and licensed agents must provide an e-
 150 mail address to the division to function as the primary method
 151 of contact for all communication with the division.

152 (2) Each notice or inspection report served by the division
 153 pursuant to this chapter must be in writing and must be
 154 delivered personally by an agent of the division, be sent by e-
 155 mail, or mailed by registered letter to the operator of the
 156 public lodging establishment or public food service
 157 establishment. If the operator refuses to accept service or
 158 evades service or the agent is otherwise unable to effect
 159 service after due diligence, the division may post such notice
 160 or inspection report in a conspicuous place at the
 161 establishment.

162 ~~(2) Notwithstanding subsection (1), the division may~~
 163 ~~deliver lodging inspection reports and food service inspection~~
 164 ~~reports to the operator of the public lodging establishment or~~
 165 ~~public food service establishment by electronic means.~~

166 Section 7. Subsection (2) of section 509.101, Florida
 167 Statutes, is amended to read:

168 509.101 Establishment rules; posting of notice; food
 169 service inspection report; maintenance of guest register; mobile
 170 food dispensing vehicle registry.—

171 (2) It is the duty of each operator of a transient
 172 establishment to maintain at all times a register of, ~~signed by~~
 173 ~~or for~~ guests who occupy rental units within the establishment,
 174 showing the dates upon which the rental units were occupied by

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such guests and the rates charged for their occupancy. Each
~~operator shall maintain this register shall be maintained in~~
~~chronological order, shall make the register and~~ available for
 inspection by the division at any time, and may keep the
register in an electronic format. Operators need not make
 available registers ~~that which~~ are more than 2 years old.

Section 8. Section 509.241, Florida Statutes, is amended to
 read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ~~ANNUAL~~ RENEWALS.—Each public lodging
 establishment and public food service establishment shall obtain
 a license from the division. Such license may not be transferred
 from one place or individual to another. It ~~is shall be~~ a
 misdemeanor of the second degree, punishable as provided in s.
 775.082 or s. 775.083, for such an establishment to operate
 without a license. Local law enforcement shall provide immediate
 assistance in pursuing an illegally operating establishment. The
 division may refuse a license, or a renewal thereof, to any
 establishment ~~that is~~ not constructed and maintained in
 accordance with law and with the rules of the division. The
 division may refuse to issue a license, or a renewal thereof, to
 any establishment an operator of which, within the preceding 5
 years, has been adjudicated guilty of, or has forfeited a bond
 when charged with, any crime reflecting on professional
 character, including soliciting for prostitution, pandering,
 letting premises for prostitution, keeping a disorderly place,
 or illegally dealing in controlled substances as defined in
 chapter 893, whether in this state or in any other jurisdiction
 within the United States, or has had a license denied, revoked,

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or suspended pursuant to s. 429.14. Licenses expire if not
renewed before the expiration date and may be renewed for 1 or 2
years. Licenses must shall be renewed using forms provided by
~~annually, and~~ the division. The division shall adopt a rule
 establishing procedures ~~a staggered schedule~~ for license
 issuance and renewals. If any license expires while
 administrative charges are pending against the license, the
 proceedings against the license must shall continue to
 conclusion as if the license were still in effect.

(2) APPLICATION FOR LICENSE.—Each person who plans to open
 a public lodging establishment or a public food service
 establishment must shall apply for and receive a license from
 the division using forms provided by the division before
commencing prior to the commencement of operation. A condominium
 association, as defined in s. 718.103, which does not own any
 units classified as vacation rentals or timeshare projects under
 s. 509.242(1)(c) or (g) is not required to apply for or receive
 a public lodging establishment license.

(3) DISPLAY OF LICENSE.—Any license issued by the division
 shall be conspicuously displayed in the office or lobby of the
 licensed establishment. Public food service establishments that
~~which~~ offer catering services shall display their license number
 on all advertising for catering services.

Section 9. Subsections (1) and (2) of section 509.251,
 Florida Statutes, are amended to read:

509.251 License fees.—

(1) The division shall adopt~~7~~ by rule~~7~~ a schedule of fees
 to be paid by each public lodging establishment as a
 prerequisite to issuance or renewal of a license. Initial

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license ~~Such~~ fees must shall be based on the number of rental units in the establishment. License renewal fees must be based on the number of rental units in the establishment and whether the renewal is for 1 or 2 years. The aggregate fee per establishment charged any public lodging establishment may not exceed \$1,000 for a 1-year license or \$2,000 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. Vacation rental units or timeshare projects within separate buildings or at separate locations but managed by one licensed agent may be combined in a single license application, and the division must shall charge a license fee as if all units in the application are in a single licensed establishment. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before the next such renewal period and one half of the fee if application is made 6 months or less before such period.~~ The fee schedule must shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. All fees, ~~which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the

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expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law.

(2) The division shall adopt⁷ by rule⁷ a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. Initial license fees must be based on the classification of the license. License renewal fees must be based on the classification of the license and whether a renewal is for 1 or 2 years. The fee schedule must shall prescribe a base base fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service establishment may not exceed \$400 for a 1-year license or \$800 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before the next such renewal period and one half of the fee if application is made 6 months or less before such period.~~ The fee schedule must shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. ~~All fees, which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs

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associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law.

Section 10. Subsection (2) of section 548.043, Florida Statutes, is amended to read:

548.043 Weights and classes, limitations; gloves.—

(2) The commission shall establish by rule the acceptable difference in weight between participants; however, the maximum difference in weight in boxing matches may ~~shall~~ not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions ~~held solely for training purposes~~.

Section 11. For the purpose of incorporating the amendment made by this act to section 509.251, Florida Statutes, in a reference thereto, subsection (2) of section 509.102, Florida Statutes, is reenacted to read:

509.102 Mobile food dispensing vehicles; preemption.—

(2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's

Page 11 of 12

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

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jurisdiction.

Section 12. This act shall take effect July 1, 2022.

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



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 714</u>
BILL TITLE:	<u>Department of Business and Professional Regulation</u>
BILL SPONSOR:	<u>Sen. Hooper</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Appropriations Subcommittee on Agriculture, Environment, and General Government
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	HB 667
SPONSOR:	Rep. McClain

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

Yes

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	December 14, 2021
LEAD AGENCY ANALYST:	Cody McCloud, Legislative Affairs Director
ADDITIONAL ANALYST(S):	Jeffrey Kelly, Director, Division of Professions Patrick Cunningham, Director; Florida Athletic Commission Michelle Keith, Division of Hotels and Restaurants Marx Drexler, Division Counsel for Hotels and Restaurants Jerry Wilson, Division of Regulation

	Jake Whealdon, Acting OGC Rules Tracy Dixon, Service Operations Robin Jordan, Technology
LEGAL ANALYST:	Ross Marshman and Brande Miller, OGC
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Division of Hotels and Restaurants:

The bill authorizes the division to adopt rules requiring certain electronic data submissions; requires licensees and licensed agents to provide the division with e-mail addresses and allows the division to deliver specific notices and inspection reports by e-mail; revises transient public lodging guest register requirements; adjusts the expiration and renewal timeframes for public food service and public lodging licenses; allows the option for 2 year license renewals and requires license fees to be paid in full at the time of application.

Division of Professions:

The bill reopens the provision allowing registered electrical and alarm contractors to become certified contractors after five years of experience and removes certain licensure requirements pertaining to statements of bondability and credit; adds endorsement provisions for licenses in mold assessment/remediation and asbestos contractors and consultants when an applicant meets certain requirements; removes certain licensure requirements pertaining to statements of bondability and credit for asbestos contractors and consultants.

Florida Athletic Commission:

The bill removes the requirement that an exhibition match with a significant weight class differential between the participants be held strictly for training purposes.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Division of Hotels and Restaurants:

The division accepts fees, applications and renewals by postal mail or through the Department's online services portal. Application forms have fields for e-mail addresses but are not required.

Official division notices and inspection reports are either personally delivered or sent by certified mail.

Section 509.241(1), F.S., requires each public lodging and public food service establishment under the division's authority to obtain a license and requires the division to adopt rules establishing a staggered schedule for license renewals.

Transient public lodging establishments must maintain a physical guest register signed by guests who occupy rental units within the establishment, with the rental dates and rates charged. The guest register must be kept in chronological order, available for division review and maintained through the previous 2 years.

Under s. 509.251, F.S., the division adopted a fee schedule for licensees. This divides the state into seven geographic districts which are constructed of groups of counties. The fee required for a new license depends on the date applied and the time until next renewal. The division's fee schedule is complex as it relates to license fee calculations and duration of license time received for the payment. New public lodging and food service establishments are required to pay either a full year fee, half year fee, or in some cases, both a full and half year fee depending on their county/district location in the state. These complexities cause issues for both the operator and division resulting in errors, processing delays and applicants paying for more license time than they actually receive.

The division's licensees must renew their license annually according to the renewal date for the district in which the business is located. Districts have five different renewal dates (two of the smaller districts share renewal dates with larger districts). Among other factors which are also embedded in the fee schedule such as the type of license or

number of seats/units, the amount an applicant pays for a new license depends on the renewal date for their district and the time of year they plan to open. Businesses opening on the same day in different parts of the state will pay different fees and their licenses will expire at different times. As a result, license fees are complex and new licensees are frequently charged for more license time than they receive.

Licenses issued by the division should be conspicuously displayed in the office or lobby of the establishment and caterers should include their division issued license number on all advertisements.

The regulation, licensing, registration and permitting of mobile food dispensing vehicles is preempted to the State.

Division of Professions:

Section 468.8414, F.S., provides a method for licensure by endorsement for mold assessment and mold remediation licensure with other states, provided they:

- Have good moral character;
- Have insurance coverage as required by s. 468.8421, F.S.; and
- Is qualified to take the examination and has passed a certification examination in mold assessment or mold remediation offered by a nationally recognized organization that has been approved by the department as substantially equivalent to the requirements of this part; OR holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States with substantially similar to the requirements of this part;

Section 469.004(1), F.S. requires that an asbestos consultant's license may only be issued to an applicant who:

- holds a current, valid, active license as an architect issued under Chapter 481;
- holds a current, valid, active license as a professional engineer issued under Chapter 471,
- holds a current, valid, active license as a professional geologist under Chapter 492;
- is a diplomat of the American Board of Industrial Hygiene; or
- has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

Section 469.005, F.S., requires that all applicants for licensure as either asbestos consultants or asbestos contractors also pay an initial licensing fee, complete certain courses with specified minimum requirements, provide evidence of satisfactory work on 10 asbestos projects within the last 5 years, provide evidence of financial stability, and pass a department-approved examination.

Section 469.006(2)(c)2., F.S., requires the department to adopt rules to determine financial stability, and such criteria shall include, but not be limited to, both credit history and limits of bondability and credit.

Section 489.514, F.S., previously permitted Florida registered electrical and alarm contractors to grandfather their registered license to a state wide certification without taking the state licensure examination if they met certain criteria and made application to the Department before November 1, 2021. Registered contractors are permitted to work only within local jurisdictions which provide them a local competency card and are not permitted to operate on a state wide basis unless they obtain a state certified license. Since closing of the grandfathering provision on November 1, 2021, registered contractors are required to sit for the state certified license examination prior to receiving a state certified license as an electrical or alarm contractor.

Florida Athletic Commission:

Section 548.043, F.S., provides the maximum difference in weight in boxing matches shall not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions held solely for training purposes.

2. EFFECT OF THE BILL:

Division of Hotels and Restaurants:

Section 5 of the bill authorizes the division to adopt rules for the electronic submission of any form, document, or fee and allows the division to provide exemptions due to a technological or financial hardship.

Section 6 of the bill requires all licensees and licensed agents to provide an e-mail address to the division as a primary method of contact and provides that the division may deliver notices or inspection reports personally, by email, or standard postal mail. It also allows the division to post an inspection report in a conspicuous location at the

establishment if the operator evades or refuses to accept service or if the division is unable to obtain service after due diligence.

Section 7 of the bill permits an operator of a transient public lodging establishment to maintain a guest register in an electronic format and removes the guest signature requirement.

Section 8 of the bill states that licenses must be renewed before the expiration date, provides the option to renew licenses for one or two years at a time, removes the requirement of a staggered license renewal schedule and allows the division to adopt procedures for license issuance and renewals. Section 8 also requires applicants to use forms provided by the division and receive a license prior to commencing operations.

Section 9 of the bill mandates the division establish by rule a schedule of license fees and set aggregate fee maximums based on the renewal term. Section 9 mandates that initial license fees for a public lodging establishment must be based on the number of rental units, renewal fees for a public lodging establishment must be based on the number of rental units and whether the renewal is for one or two years, initial license fees for a public food service establishment must be based on the license classification of the establishment, and renewal fees for a public food service establishment must be based on the license classification and whether the renewal is for one or two years. Section 9 requires all fees to be paid in full at the time an application is submitted.

Section 11 of the bill reenacts subsection (2) of s. 509.102, Florida Statutes, for the purpose of incorporating the amendment made by this bill to s. 509.251, Florida Statutes, in a reference thereto. Subsection (2) provides that the regulation, licensing, registration and permitting of mobile food dispensing vehicles is preempted to the State; that a municipality, county or other local government may not require fees, permits, registration or any other license as a condition for operation of a mobile food dispensing vehicle within the entity's jurisdiction and that a municipality, county or other local government may not prohibit the operation of mobile food dispensing vehicles within their jurisdiction.

Division of Professions:

Section 1 of the bill amends s. 468.8414, F.S., to add a category of licensure to practice mold assessment or mold remediation by endorsement for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory. However, such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 2 of the bill amends s. 469.004, F.S., to add a category of licensure to practice asbestos consulting or Asbestos contracting by endorsement. The bill requires such applicants to have passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, have held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years, demonstrate financial stability, and complete courses as specified by s. 469.005, F.S. Such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 3 of the bill amends s. 469.006, F.S., by removing the limits of bondability and credit as mandatory criteria for determining financial responsibility.

Section 4 of the bill amends s. 489.118, F. S., to permanently re-open the period for grandfathering of registered contractors' licenses to state wide certified contractors' licenses indefinitely by removing the requirement that applicants apply by November 1, 2021.

Florida Athletic Commission:

Section 10 of the bill amends s. 548.043, F.S. to remove the language requiring an exhibition to be for training purposes if the weight differentials are in excess of 12 pounds. This will give greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.

Section 12 states the act will take effect on July 1, 2022

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:	Division of Professions – Application forms and corresponding rules will need to be amended/created to allow for application by endorsement for Asbestos and Mold-Related Services, and for removal of the limits of
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	bondability and credit requirement for Asbestos applicants. Division of Hotels and Restaurants – Section 5 of the bill authorizes the division to adopt rules for electronic submission of any form, document or fee and Section 8 of the bill allows the division to adopt rules establishing procedures for license issuance and renewals. Section 9 allows the division to adopt license renewal fees taking into account whether the renewal is for 1 or 2 years.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Division of Professions Rule 61E1-4.001, F.A.C. Rule 61-31.101, F.A.C. Division of Hotels and Restaurants Rules 61C-1.002 and 61C-1.008, F.A.C.

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

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

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

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

	<p>during their first 12 months of licensure. The division estimates licensees will save about \$1.65 million in FY 2022-23. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.</p> <p>Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.</p> <p>The division is unable to predict how many licensees would opt for a 2 year license renewal.</p>
Bill Section Number:	<u>Division of Hotels and Restaurants:</u> Sections 8 and 9.

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.	<p>This bill will require modification to the department's licensing system and online portal to create a new transaction type to allow for application by endorsement for Asbestos and Mold-Related Services. It will also require configuration changes to the system and changes to RSDs to update wording.</p> <ul style="list-style-type: none"> • Versa: Regulation – 80 hours • Versa Online – 40 hours • OnBase – 16 hours <p>These modifications can be made by existing resources.</p>
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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.	Click or tap here to enter text.
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ADDITIONAL COMMENTS

Division of Professions

Asbestos Licensure by Endorsement: A conforming change to Section 469.004(1) is needed via a technical amendment to section 2 of the bill to allow for an exception for applicants who apply via licensure by endorsement. The amendment is currently in bill drafting.

ECLB Grandfathering: Revenue from a grandfathering fee is indeterminate because it is unknown how many eligible registered Electrical Contractors' Licensing Board (ECLB) licensees will apply for grandfathering. The total fee (application fee, initial licensing fee, and unlicensed activity fee) during the end of the previous grandfathering period was \$196. There are 2,036 Registered Current Active/Inactive ECLB licensees who may be able to take advantage of the grandfathering provision. However, the department received only 766 applications during the last period of grandfathering, which was from July 1, 2019 to November 1, 2021.

Assuming total application/license fees of \$196, the grandfathering fees received by the department over the next three fiscal years could range from \$150,136.00 (if the department receives the same number of applications as the last grandfathering period) to a maximum of \$399,056.00 if all 2,036 Registered Current Active/Inactive licensees apply over the next three fiscal years.

Asbestos Removal of Bond/Credit Requirement: During FY 2018-19, FY 2019-20, and FY 2020-21, an average of 33 applications for new licensure were received per year. Assuming a cost of \$100.00 for Asbestos applicants to obtain a limit of bondability and credit, and assuming the department receives 33 applications per year for the next three fiscal years (FY 2021-22, FY 2022-23, and FY 2023-24) the potential savings to applicants by eliminating this requirement would be \$3,300 per year.

Athletic Commission: Exhibitions by definition are matches where the participants showcase their skill. Safeguards are in place to ensure the exhibition matches are as safe as they reasonably can be.

Division of Hotels and Restaurants

The bill authorizes the division to adopt rules to establish new procedures for license issuance and renewals and removes the staggered license fee schedule. The benefits of this are two-fold: first, it simplifies the division's licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division's licensees by reducing the costs of the license over twelve months and decreasing the

number of application delays, thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

The division's intent is that the revised renewal and license fee schedule would only apply to new license applications processed after implementation of this initiative. The bill is not retroactive, thus, existing licenses will retain their current renewal dates. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

OGC Division Counsel: No additional comments.

Division of Regulation: No additional comments.

OGC Rules: No additional comments.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

Fiscal Comment: Based on historical licensing data, the Division of Hotels and Restaurants estimates an average license revenue growth of approximately 2.81%. Under the current structure, new applicants often pay for a new, 6 month license that is later required to be renewed within the same fiscal year. Under the provisions of the bill this would no longer happen, resulting in a reduction in revenue. Also under the current licensing structure some applicants pay a half year prorated license fee. The bill removes the half year license leaving only the full year license resulting in a slight increase in licensing revenue.

Overall, based on internal projections for FY 2022-23 through FY 2024-25 the provisions of the bill would reduce the Division's licensing revenue by an estimated \$1,652,302 in FY 2022-23, \$1,698,775 in FY 2023-24 and \$1,746,556 in FY 2024-25.

Due to the reduction in revenue, there will also be a reduction in the amount of funds transferred to General Revenue. It is estimated that the 8% service charge to General Revenue will be reduced by approximately \$132,184 in FY 2022-23, \$135,902 in FY 2023-24 and \$139,724 in FY 2024-25.

There may be a slight impact to expenditures. Because of the reduction in renewals there may be a \$3,444 postage savings and a reduction of bank fees of as much as \$8,995 in FY 2022-23.

The chart below shows the projected change in revenue, the reduction in funds transferred to General Revenue and the estimated saving due to reduced postage and bank fees.

	FY 2022-23	FY 2023-24	FY 2024-25
Estimated Revenue under Current Licensing System	\$27,287,063	\$28,054,554	\$28,843,632
Estimated Revenue under Proposed Change	\$25,634,761	\$26,355,779	\$27,097,076
Change (Revenue Reduction)	-\$1,652,302	-\$1,698,775	-\$1,746,556
Reduction in 8% Service Charge to General Revenue	-\$132,184	-\$135,902	-\$139,724
Postage and Bank Fee Savings	\$12,439	\$12,789	\$13,148

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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The Florida Senate

Committee Agenda Request

To: Honorable Ben Albritton, Chair
Committee on Appropriations Subcommittee on Agriculture, Environment, and
General Government

Subject: Committee Agenda Request

Date: January 25, 2022

I respectfully request that **Senate Bill # 714**, relating to Department of Business and Professional Regulation, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate
APPEARANCE RECORD

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

2/22/22

Meeting Date

774

Bill Number or Topic

Sub. Approps - Ag...

Committee

Amendment Barcode (if applicable)

Name

Conner Mann

Phone

407-797-1064

Address

2601 Blair Stone Rd.

Email

Street

Tallahassee

FL

32399

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:

DBPR

☐ 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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 864

INTRODUCER: Senator Ausley

SUBJECT: Cost-share Program for Agriculture, Shellfish Aquaculture, and Timber Operations

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fink</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 864 creates a cost-share program for agriculture, shellfish aquaculture, and timber operations within the Department of Agriculture and Consumer Services (department). Furthermore, it requires the department (in consultation with the Florida Sea Grant program, the University of Florida Institute of Food and Agricultural Sciences, the University of Florida Shellfish Aquaculture Research and Extension Program, the Wakulla Environmental Institute, and the Florida Agricultural and Mechanical University College of Agriculture and Food Sciences) to:

- Conduct a study to determine the value of environmental services, such as water recharge, stormwater filtration, wildlife habitat, carbon sequestration, nutrient remediation, coastal resilience and flood protection, and air quality benefits provided by the agriculture, shellfish aquaculture, and timber industries;
- Promote the cost-share program, with priority going to low-income communities, historically under resourced communities of color, and rural communities impacted by Hurricane Michael in 2018;
- Update all relevant brochures, websites, and marketing materials to provide information on participation in the cost share program; and
- Adopt rules to implement the provisions in the bill.

The bill creates a cost-share program that is subject to appropriation. Currently, the bill does not include an appropriation for the program.

The fiscal impact of the bill is estimated to be \$450,000 in nonrecurring general revenue for the department to conduct the required environmental services valuation study for agriculture, shellfish aquaculture, and timber operations.

The bill takes effect July 1, 2022.

II. Present Situation:

Collectively, the agriculture, natural resources, and food industries are significant contributors to the economy of the state of Florida, so maintaining healthy and sustainable agricultural and timber industries is vital. Florida has 17.16 million acres (26,807 square miles) of forestland, representing 50 percent of the state's total land area, with nearly two-thirds of forestlands privately owned. In 2016, the forest industry sectors directly employed 36,055 persons (full-time and part-time jobs) and collected \$12.55 billion in industry revenues.¹

In 2017, Florida had 47,000 commercial farms, using a total of 9.45 million acres. Florida ranked first in the United States in value of production of cucumbers, grapefruit, oranges, squash, sugarcane, fresh market snap beans, and fresh market tomatoes. The state ranked second in value of production of bell peppers, strawberries, watermelons, fresh market cabbage, and fresh market sweet corn. Florida also ranked fourth nationally in the value of production of peanuts. Florida ranks 18th among all states in number of farms and 29th in land in farms. Farm cash receipts from marketing agricultural products in 2017 amounted to \$7.467 billion, a decrease of \$290 million from 2016. Nationally, Florida ranks fourth in the value of vegetable and melon cash receipts at \$1.194 billion, 11th in crop cash receipts with a value of \$6.08 billion, and 18th in total cash receipts.²

Shellfish can help restore ocean health. They are efficient water filterers and natural buffers for coastal communities. An adult oyster can filter up to 50 gallons of water daily, removing excess nutrients and other pollutants in coastal waters, often caused by runoff. The University of Florida Institute of Food and Agricultural Sciences and the Florida Sea Grant program are already working to quantify the environmental benefits of shellfish aquaculture, so that shellfish growers can be compensated for the benefit they provide.³

The federal farm bill currently provides some similar programs for farmers and landowners, which encourage and incentivize environmental stewardship. Programs like the Environmental Quality Incentive Program provide technical and financial assistance to agricultural producers and ranchers who voluntarily install or implement structural and management practices on eligible agricultural land to protect soil, water, air quality, and/or wildlife habitat.⁴

III. Effect of Proposed Changes:

The bill creates s. 570.891, F.S., to create the act cited as the “Protecting Florida’s Natural Resources Act.”

¹ University of Florida Institute of Food and Agricultural Sciences, “*Economic Contributions of the Forest Industry and Forest-based Recreation in Florida in 2016*,” available at https://edis.ifas.ufl.edu/publication/FE1051#FOOTNOTE_1 (last visited Jan. 26, 2022).

² Florida Department of Agriculture and Consumer Services, “*Florida Agriculture Overview and Statistics*,” available at <https://www.fdaacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited Jan. 26, 2022).

³ Lourdes Mederos, “*UF/IFAS Boosting Florida's shellfish aquaculture industry, water quality initiatives*,” South Dade Newsleader (Nov. 3, 2021), http://www.southdadenewsleader.com/news/uf-ifas-boosting-floridas-shellfish-aquaculture-industry-water-quality-initiatives/article_a35ee2d2-4ba5-11ec-80a6-676e251c69ab.html (last visited Jan. 26, 2022).

⁴ University of Florida Institute of Food and Agricultural Sciences, “*Cost Share Programs for Florida’s Agricultural Producers and Landowners*,” available at <https://edis.ifas.ufl.edu/publication/SS485> (last visited Jan. 26, 2022).

The bill establishes the following legislative findings:

- Maintaining healthy and sustainable agriculture, shellfish aquaculture, and timber industries is vital to this state's economy, environment, and natural resources, including making significant environmental contributions to water quality and quantity, air purification, carbon sequestration, coastal resilience, and habitat for threatened and endangered wildlife species;
- The continued expansion of urban and coastal areas has increased pressure on the agriculture and timber industries, and in recent years there has been a significant decrease in agricultural and timber acreage;
- Water quality and quantity problems in this state's coastal waters have harmed the aquaculture industry, specifically shellfish farming. Filter feeder shellfish, such as oysters, hard clams, and sunray venus clams, are beneficial to this state's imperiled seagrass; and
- To ensure healthy and sustainable agriculture, shellfish aquaculture, and timber industries, a cost-share program is necessary to provide incentives to the owners within these industries to continue activities that are beneficial to water quality and quantity, air purification, carbon sequestration, nutrient remediation, coastal resilience, and habitat for threatened and endangered wildlife species.

The bill also establishes a cost share program within the department which shall reimburse the owners of agriculture, shellfish aquaculture, and timber operations for up to 75 percent of the value of the environmental resources and services provided by such industries.

Additionally, the bill requires the department to:

- Conduct a study, in consultation with the Florida Sea Grant program and the University of Florida Institute of Food and Agricultural Sciences to determine the value of environmental services, such as water recharge, stormwater filtration, wildlife habitat, carbon sequestration, nutrient remediation, coastal resilience and flood protection, and air quality benefits, provided by the agriculture, shellfish aquaculture, and timber industries;
- Promote the cost-share program, in cooperation with University of Florida Shellfish Aquaculture Research and Extension Program, the Wakulla Environmental Institute, and the Florida Agricultural and Mechanical University College of Agriculture and Food Sciences, and prioritize distribution of assistance to low-income communities, historically under resourced communities of color, and rural communities impacted by Hurricane Michael in 2018;
- Update all relevant brochures, websites, and marketing materials to provide information on participation in the cost share program; and
- Adopt rules to implement the provisions in the bill.

The bill takes effect July 1, 2022.

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:

Indeterminate.

C. Government Sector Impact:

The bill creates a cost-share program subject to legislative appropriation. Currently, the bill does not include an appropriation for the cost-share program. The department estimates that \$450,000 in nonrecurring general revenue will be necessary to conduct the environmental services valuation study required by the bill.

However, if funds are appropriated for the cost-share program, the department estimates additional resources will be necessary for the administration of the program. The cost for three additional positions is estimated to total \$245,025 in recurring general revenue funding.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵ Department of Agriculture and Consumer Services, *Senate Bill 864 Bill Analysis* (Dec. 7, 2021) (on file with Appropriations Subcommittee on Agriculture, Environment, and General Government).

VIII. Statutes Affected:

This bill creates section 570.891 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Ausley

3-00789B-22

2022864__

1 A bill to be entitled
2 An act relating to a cost-share program for
3 agriculture, shellfish aquaculture, and timber
4 operations; providing a short title; creating s.
5 570.891, F.S.; providing legislative findings;
6 establishing a cost-share program within the
7 Department of Agriculture and Consumer Services;
8 requiring the program, subject to legislative
9 appropriation, to provide funds equal to a specified
10 percentage of the value of environmental services that
11 the agriculture, shellfish aquaculture, and timber
12 industries provide; requiring the department to
13 conduct a study to determine the value of such
14 environmental services, in consultation with certain
15 entities; requiring the department to cooperate with
16 certain entities to promote the cost-share program and
17 prioritize distributions to certain communities;
18 requiring the department to update certain materials
19 with information on participation in the cost-share
20 program; requiring the department to adopt rules;
21 providing an effective date.

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

25 Section 1. This act may be cited as the "Protecting
26 Florida's Natural Resources Act."

27 Section 2. Section 570.891, Florida Statutes, is created to
28 read:

29 570.891 Agriculture, shellfish aquaculture, and timber

Page 1 of 3

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

3-00789B-22

2022864__

30 ~~operations cost-share program.~~

31 (1) The Legislature finds that:

32 (a) Maintaining healthy and sustainable agriculture,
33 shellfish aquaculture, and timber industries is vital to this
34 state's economy, environment, and natural resources, including
35 making significant environmental contributions to water quality
36 and quantity, air purification, carbon sequestration, coastal
37 resilience, and habitat for threatened and endangered wildlife
38 species.

39 (b) The continued expansion of urban and coastal areas has
40 increased pressure on the agriculture and timber industries, and
41 in recent years there has been a significant decrease in
42 agricultural and timber acreage.

43 (c) Water quality and quantity problems in this state's
44 coastal waters have harmed the aquaculture industry,
45 specifically shellfish farming. Filter feeder shellfish, such as
46 oysters, hard clams, and sunray venus clams, are beneficial to
47 this state's imperiled seagrass.

48 (d) To ensure healthy and sustainable agriculture,
49 shellfish aquaculture, and timber industries, a cost-share
50 program is necessary to provide incentives to the owners within
51 these industries to continue activities that are beneficial to
52 water quality and quantity, air purification, carbon
53 sequestration, nutrient remediation, coastal resilience, and
54 habitat for threatened and endangered wildlife species.

55 (2) A cost-share program is established within the
56 Department of Agriculture and Consumer Services. Subject to the
57 appropriation of funds by the Legislature, the program shall
58 reimburse the owners of agriculture, shellfish aquaculture, and

Page 2 of 3

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

3-00789B-22

2022864__

59 timber operations for up to 75 percent of the value of the
60 environmental resources and services provided by such
61 industries.

62 (3) The department shall do all of the following:

63 (a) In consultation with the Florida Sea Grant and the
64 University of Florida Institute of Food and Agricultural
65 Sciences, conduct a study to determine the value of
66 environmental services, such as water recharge, stormwater
67 filtration, wildlife habitat, carbon sequestration, nutrient
68 remediation, coastal resilience and flood protection, and air
69 quality benefits, provided by the agriculture, shellfish
70 aquaculture, and timber industries.

71 (b) In cooperation with the University of Florida Shellfish
72 Aquaculture Research and Extension Program, the Wakulla
73 Environmental Institute, and the Florida Agricultural and
74 Mechanical University College of Agriculture and Food Sciences,
75 promote the cost-share program and prioritize distribution of
76 assistance to low-income communities, historically under-
77 resourced communities of color, and rural communities impacted
78 by Hurricane Michael in 2018.

79 (c) Update all relevant brochures, websites, and marketing
80 materials to provide information on participation in the cost-
81 share program.

82 (d) Adopt rules to implement this section.

83 Section 3. This act shall take effect July 1, 2022.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

December 7, 2021

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Carlos Nathan, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 864

Senate Bill Sponsor: Sen. Ausley

Bill Title: An act relating to a cost-share program for agriculture, shellfish aquaculture, and timber operations; providing a short title; creating s. 570.891, F.S.; providing legislative findings; establishing a cost-share program within the Department of Agriculture and Consumer Services; requiring the program, subject to legislative appropriation, to provide funds equal to a specified percentage of the value of environmental services that the agriculture, shellfish aquaculture, and timber industries provide; requiring the department to conduct a study to determine the value of such environmental services, in consultation with certain entities; requiring the department to cooperate with certain entities to promote the cost-share program and prioritize distributions to certain communities; requiring the department to update certain materials with information on participation in the cost-share program; requiring the department to adopt rules; providing an effective date.

Effective Date: July 1, 2022

Similar Bill(s): Yes ☐ No ☒

Similar Bill(s):

Identical Bill: Yes ☐ No ☒

Identical Bill:

1. SUMMARY

The bill establishes that maintaining healthy and sustainable agriculture, shellfish aquaculture, and timber industries is vital to this state's economy, environment, and natural resources, that the continued expansion of urban and coastal areas has increased pressure on the agriculture and timber industries, and that water quality and quantity problems in this state's coastal waters have harmed the aquaculture industry, specifically shellfish farming. To ensure healthy and sustainable agriculture, shellfish aquaculture and timber industries, a cost-share program is established within the Department of Agriculture and Consumer Services that shall reimburse the owners of agriculture, shellfish aquaculture, and timber

operations for up to 75 percent of the value of the environmental resources and services provided by such industries. FDACS will be required to conduct a study with the University of Florida to determine the value of such environmental services.

2. PRESENT SITUATION

No cost-share program currently exists which provides funding to agriculture, shellfish aquaculture and timber operations for the ecosystem services these industries provide to the public.

3. EFFECT OF PROPOSED CHANGES

FDACS, in consultation with the Florida Sea Grant and the University of Florida Institute of Food and Agricultural Sciences, is directed to conduct a study to determine the value of environmental services such as water recharge, stormwater filtration, wildlife habitat, carbon sequestration, nutrient remediation, coastal resilience and flood protection, and air quality benefits, provided by the agriculture, shellfish aquaculture, and timber industries. If enacted, this program would incentivize timber ownership and may discourage forest land conversion to other land uses. Following the completion of the environmental services valuation study, FDACS shall create a cost-share program and prioritize distribution of assistance to low-income communities, historically under-resourced communities of color, and rural communities impacted by Hurricane Michael in 2018.

4. FISCAL IMPACT ON FDACS

Yes, however the cost-share program is subject to legislative appropriation and a portion of that appropriation will be needed to fund the environmental services valuation study and the administration of the cost-share program itself. This will include funding for FDACS and cooperating academic institutions for staff and administrative costs.

	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE	(FY 24-25) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			
TOTAL REVENUES			
B. Expenditures			
Recurring	\$245,025/1	\$245,025/1	\$245,025/1
Non-Recurring	\$313,476/2	\$150,000/2	\$0

TOTAL EXPENDITURES	\$558,501	\$395,025	\$245,025
C. NET TOTAL			
<p>COMMENTS: ¹Estimated cost of 3 FTE positions (\$81,675 each - S&B (\$75,000), HR Srvcs (\$305), standard expense package (\$6,370)) to administer the cost sharing program for FFS(1) and Water Policy (2).</p> <p>²Estimated cost of the ecosystem services valuation studies for timber operations (\$150,000) and water policy (\$300,000) + \$13,476 of non-recurring expense for the FTE.</p>			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?

No.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

Private agriculture, shellfish aquaculture and timber operations will benefit financially from this bill.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? No.

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain. No.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain. No.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: ☒ No: ☐

b. If yes please explain: To implement Section 2 of the bill, FDACS is authorized to adopt rules to administer the cost-share program.

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

a. Yes: ☒ No: ☐

If yes please explain: FDACS, in cooperation with Florida Sea Grant and University of Florida Institute of Food and Agricultural Sciences, will be required to conduct an environmental services valuation study for agriculture, shellfish aquaculture, and timber operations, such as water recharge, stormwater filtration, wildlife habitat, carbon sequestration, nutrient remediation, coastal resilience and flood protection, and air quality benefits. This report will be required prior to moving forward with the establishment of rules and the cost-share program.

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

- a. Yes: ☐ No: ☒
b. If yes please explain:

LEGAL ISSUES

- 10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations? No.**
- 11. Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department? No.**
- 12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties? No.**

COMMENTS: The agriculture, shellfish aquaculture and timber industries will greatly benefit from receiving financial compensation for the ecosystem benefits these industries provide to the public. If enacted, it may incentivize timber ownership and discourage forest land conversion to other land uses. This would benefit Florida's environment and the citizens of the state.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR LORANNE AUSLEY

3rd District

January 5th, 2022

The Honorable Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government
The Florida Senate
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Albritton,

I respectfully request that my SB 864 regarding Cost-share programs for Agriculture, Shellfish Aquaculture, and Timber Operations be placed on your next available Appropriations Subcommittee on Agriculture, Environment, and General Government. The legislation requires the Department of Agriculture and Consumer Services to work with partners to establish a cost sharing program based on the environmental impact of the specified industries to promote the positive impact that they have on our ecosystems.

Thank you and please let me know if there's any additional information I may provide.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Ausley".

Loranne Ausley
Senate, District 3

cc: Giovanni Betta, Staff Director
Caroline Goodner, Committee Administrative Assistant

The Florida Senate

APPEARANCE RECORD

2/22/22

Meeting Date

864

Bill Number or Topic

Approps Ag, Env. & Nat. Resource
Committee

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

Amendment Barcode (if applicable)

Name

Jim Spratt

Phone

850-228-1296

Address

119 S Monroe St

Email

jim@magnoliastrategiesllc.com

Street

TLH

City

FL

State

32309

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 Forestry 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. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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

S-001 (08/10/2021)

February 22, 2022

Meeting Date

Ag, Enviro, and General Government Approp

Committee

Name Jonathan Webber

Phone 954-593-4449

Address 1700 N. Monroe St. #11-286

Street

Tallahassee

FL

32303

City

State

Zip

Email jwebber@fcvoters.org

SB 864 - Cost-share Program for Ag

Bill Number or Topic

Amendment Barcode (if applicable)

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 Conservation Voters

☐ 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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 898

INTRODUCER: Community Affairs Committee and Senator Stewart and others

SUBJECT: Tenant Safety

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 898, designated as “Miya’s Law,” makes changes to Florida’s Residential Landlord and Tenant Act as well as public lodging establishment laws in an effort to provide safety and security to apartment tenants.

The bill directs landlords or licensees of transient and nontransient apartments to require that all employees undergo a background screening performed by a consumer reporting agency (CRA) done in accordance with the federal Fair Credit Reporting Act (FCRA) as a condition of employment. A person may be disqualified from employment based on the background screening if the person has been found guilty or plead no contest to certain offenses, including those involving violence and disregard for safety.

Under the bill, apartments must maintain a log accounting for the issuance and return of all keys for each dwelling unit, and establish policies for the issuance and return of unit keys, as well as storage and access to unissued keys. An apartment’s key logs and employee background screening files are subject to the Department of Business and Professional Regulation’s (DBPR) annual inspection of apartments. This portion of the bill takes effect on January 1, 2023.

The bill changes from 12 hours to 24 hours the “reasonable notice” that a landlord must give a tenant for entry of a unit for the purpose of repair for all tenancies.

The DBPR has estimated it will need five full-time positions and \$475,480 from the Hotel and Restaurant Trust Fund due to workload and regulatory duties to ensure public lodging establishments provide proof of compliance with conducting employee background screening checks. It is anticipated there will be an indeterminate increase in fines to the trust fund.

Except as otherwise expressly provided, the bill takes effect on July 1, 2022.

II. Present Situation:

The Florida Residential Landlord and Tenant Act

Residential tenancies are governed by the Florida Residential Landlord and Tenant Act (act).¹

The landlord is the owner or lessor of a dwelling unit. The tenant is a person entitled to occupy a dwelling unit under a rental agreement, in which the tenant makes periodic payments of rent to the landlord.² When people enter into a landlord and tenant relationship, as evidenced by a rental agreement, each party commits to abide by certain legal obligations and responsibilities. Rental agreements may be written or oral.³ Oral rental agreements are for a duration of less than one year.⁴ Every rental agreement carries with it an obligation of good faith in both performance and enforcement.⁵ Landlords are entitled to collect security deposits from tenants and hold the deposits as security against the performance of the rental agreement.⁶

Landlords and tenants have different obligations to maintain the property. Landlords must comply with building, housing, and health codes, and for dwelling units other than a single-family home or a duplex, a landlord must provide for:

- The extermination of insects and rodents;
- Locks and keys;
- The clean and safe condition of common areas;
- Garbage removal; and
- Heat during winter, running water, and hot water.⁷

Tenants, in turn, must:

- Comply with building, housing, and health codes that apply to tenants;
- Keep the premises clean and sanitary;
- Keep plumbing fixtures clean and sanitary and in repair;
- Use and operate electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other appliances in a reasonable manner;
- Not destroy or damage the premises or property or allow others to do so; and
- Not disturb the peace.⁸

¹ Part II of ch. 83, F.S., s. 83.40, F.S.

² Sections 83.43(3), (4), and (6), F.S.

³ Section 83.43(7), F.S.

⁴ *Id.*

⁵ Section 83.44, F.S.

⁶ Section 83.43(12), F.S.

⁷ Sections 83.51(1)(a) and (2)(a), F.S.

⁸ Section 83.52, F.S.

A landlord may enter a dwelling unit at any time for the protection or preservation of the premises.⁹ The landlord may enter a dwelling unit with reasonable notice to the tenant and at a reasonable time for the purpose of repair of the premises. “Reasonable notice” for the purpose of repair is a notice given at least 12 hours prior to the entry, and reasonable time for the purpose of repair is defined as between the hours of 7:30 a.m. and 8:00 p.m.¹⁰ A landlord cannot abuse the right of access nor use it to harass the tenant.¹¹

Transient and Non-transient Apartments

The Division of Hotels and Restaurants (division) within the DBPR is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The division licenses transient and nontransient apartments in the state. Any nontransient apartment renting four units or less or any apartment building inspected by the United States Department of Housing and Urban Development (HUD) or other entity acting on its behalf that is designated primarily as housing for tenants at least 62 years of age is exempt from division licensure.¹²

The regulation of public lodging establishments includes, but is not limited to, sanitation standards, inspections, and training and testing of personnel. Both transient and nontransient apartments are inspected by the division at least annually.¹³ For purposes of performing required inspections and the enforcement, the division has the right of entry and access to public lodging establishments at any reasonable time.¹⁴

The term “public lodging establishments” includes transient and nontransient public lodging establishments.¹⁵ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.*

⁹ Section 83.53(2), F.S.

¹⁰ Section 83.53(2), F.S.

¹¹ Section 83.53(3), F.S.

¹² Section 509.013 (4)(b), F.S.

¹³ Section 509.032 (2)(a), F.S.

¹⁴ Section 509.032 (2)(b), F.S.

¹⁵ Section 509.013(4)(a), F.S.

A “nontransient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.¹⁶

A nontransient apartment is defined as a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants. A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.¹⁷

Safety Regulations

Section 509.211, F.S., dictates safety regulations of public lodging establishments. The law requires every bedroom or apartment in a public lodging establishment to be equipped with an approved locking device on each door opening to the outside, to an adjoining room or apartment, or to a hallway.¹⁸ Every public lodging establishment that is three or more stories in height must have safe and secure railings on all balconies, platforms, and stairways, and all such railings must be properly maintained and repaired.¹⁹

Employee Background Screenings

Florida provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.²⁰

By law, when a criminal history check or a duty to disclose the absence of a criminal history check is mandated by state law, the criminal history check must include a Florida criminal history provided by the Florida Department of Law Enforcement (FDLE). Such Florida criminal history information may be provided by a private vendor only if that information is directly obtained from the FDLE for each request.²¹

A Level 1 screening is a name-based demographic screening that includes a statewide criminal record check through the FDLE.²² A Level 1 background screening involves a name-based

¹⁶ Section 509.242(1), F.S.

¹⁷ *Id.*

¹⁸ Section 509.211(1), F.S.

¹⁹ Section 509.211(3), F.S.

²⁰ Sections 435.01-435.12, F.S.

²¹ Section 943.053(12), F.S.

²² Section 435.03, F.S. A Level 1 criminal history record check is “a state-only name-based check.” Florida Department of Law Enforcement (FDLE), *Definitions*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-FAQs/Definitions.aspx> (last visited Feb. 9, 2022).

search of Florida records, including employment history, state and local criminal history check, and a search of the National Sex Offender Public Website.²³ A Level 1 screening may be paid for and conducted through the FDLE's website, which provides immediate results.²⁴

A Level 2 screening consists of a fingerprint-based search of the FDLE and the Federal Bureau of Investigation databases for state and national criminal arrest records.²⁵ A Level 1 screening and Level 2 screening have the same disqualifying offenses, including, but not limited to, domestic violence, sexual misconduct, murder, and other violent or sexually-based offenses.²⁶

The state mandates background screenings for many professions, including at least a Level 1 screening, and on an agency-determined basis a Level 2, for all state employees.²⁷ Many professions require a background screening that interact with vulnerable persons like minors or vulnerable adults, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.²⁸ Examples of professions requiring background screening include employees who work in schools, substance abuse and mental health facilities, nursing homes, and massage therapists.

For athletic coaches authorized in the state, a background screening conducted by a commercial CRA in compliance with the federal FCRA, which includes a Level 1 background screening and a search of designated identifying information against listed sexual predator and sexual offender internet sites, is also deemed to satisfy the specified requirements.²⁹

Third Party Background Screening

There are hundreds of companies engaged in employment and tenant background screening across the United States.³⁰ These companies are defined as “consumer reporting agencies” (CRAs), pursuant to the FCRA and are regulated by both the Federal Trade Commission and Consumer Financial Protection Bureau.³¹ The FCRA promotes the accuracy, fairness, and privacy of information that consumer reporting agencies and their related entities collect.³² The FCRA governs the acts of CRAs, entities that furnish information to CRAs (furnishers), and individuals who use credit reports issued by CRAs. Specifically, CRAs and their furnishers must adopt methods to ensure the information they collect and report is accurate.

²³ Section 435.03(1), F.S.

²⁴ FDLE, State of Florida Criminal History Records Check, available at <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited Feb. 9, 2022).

²⁵ Section 435.04, F.S.

²⁶ Sections 435.03(2) and 435.04(2), F.S.

²⁷ Section 110.1127, F.S.

²⁸ Section 435.02(6), F.S.

²⁹ Section 943.0438(2)(a)2., F.S.

³⁰ Professional Background Screening Association (PBSA), About PBSA, available at <https://thepbsa.org/about-us/about-pbsa/> (last visited Feb. 9, 2022.)

³¹ *Id.*

³² Consumer Finance Bureau, *A Summary of Your Rights Under the Fair Credit Reporting Act* (Sept. 18, 2018), 12 CFR 1022, available at <https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf> (last visited Feb. 9, 2022). See also, Federal Trade Commission, *Fair Credit Reporting Act*, <https://www.ftc.gov/enforcement/statutes/fair-credit-reporting-act> (last visited Feb. 9, 2022).

Individuals can review the information a CRA has collected on them to ensure that it is accurate, and may dispute its accuracy—which triggers a CRA’s and furnisher’s duty to reinvestigate the information. Individuals may also request to review the information a CRA has in his or her file, the sources of the information, and the identity of those to whom the information was disclosed.

A CRA cannot provide information in a consumer report to anyone who does not have a specified purpose in the FCRA.³³

Miya Marcano

On September 24, 2021, Miya Marcano, a student at Valencia College, went missing from her apartment in Orlando, Florida, where she also worked at the front office. She was later found dead miles from her apartment.³⁴

Investigators for the Orange County Sheriff’s Office said Marcano was taken from her apartment by Armando Caballero, who was a maintenance worker at the same apartment complex. It is alleged that he used a master key fob for the apartment complex to enter her apartment. Caballero was found dead by apparent suicide a few days after Marcano went missing.³⁵

III. Effect of Proposed Changes:

The bill, cited as “Miya’s Law,” creates s. 83.515, F.S., to direct landlords of transient and nontransient apartments to require all employees to undergo a background screening performed by a consumer reporting agency done in accordance with the federal Fair Credit Reporting Act as a condition of employment. The screening must include a screening of criminal history records and sexual predator and sexual offender registries of all states and the District of Columbia.

The bill authorizes landlords to disqualify a person from employment based on the background screening if the person has been convicted of or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, any of the following offenses:

- A criminal offense involving disregard for the safety of others which, if committed in Florida, is a felony or first degree misdemeanor or, if committed in another state, would be a felony or a misdemeanor of the first degree if committed in Florida; or
- A criminal offense committed in any jurisdiction which involves violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, and stalking.

³³ Permissible purposes include employment, insurance underwriting that involves the consumer, evaluating the consumer’s eligibility for licensure or other governmental benefit that considers the applicants financial responsibility or status, or a legitimate business need. 15 U.S.C. § 1681b(a).

³⁴ Cristobal Reyes, *Miya Marcano’s family again blasts Orange sheriff after autopsy released: ‘Precious moments’ lost*, Orlando Sentinel, Orlando Sentinel (Dec. 28, 2021), available at <https://www.orlandosentinel.com/news/crime/os-ne-miya-marcano-autopsy-response-20211228-svqnw6bdozaghnoijjevdkgoi-story.html> (last visited Feb. 9, 2022); Vanessa Etienne, *Miya Marcano Cause of Death Ruled a ‘Homicide by Undetermined Means’*: Medical Examiner, People (Dec. 29, 2021), available at <https://people.com/crime/miya-marcano-cause-of-death-ruled-a-homicide-by-undetermined-means-by-medical-examiner/> (last visited Feb. 9, 2022).

³⁵ *Id.*

Effective January 1, 2023, the bill amends s. 509.211 F.S., to direct all public lodging establishments licensed by the Division of Hotels and Restaurants as a transient or nontransient apartment to require all employees to undergo a background screening as a condition of employment, as provided in s. 83.515, F.S., created in section 1 of the bill. Such licensed apartments must also maintain a log accounting for the issuance and return of all keys for each dwelling unit, and establish policies for the issuance and return of unit keys, as well as storage and access to unissued keys. Upon request during the division's annual inspection of the premises, a licensee must provide proof of compliance with these requirements.

Finally, the bill amends s. 83.53, F.S., to change from 12 hours to 24 hours the "reasonable notice" that a landlord must give a tenant for entry of a unit for the purpose of repair.

Except as otherwise provided, the bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The DBPR anticipates an indeterminate increase in fines collected due to noncompliance.³⁶

³⁶ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 898* at 4 (Nov. 12, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

B. Private Sector Impact:

The cost of the background screening will be borne by either an applicant/employee or the apartment landlord/licensee; however the bill does not specify. If the cost is to be borne by the apartment landlord/licensee, this expense may be passed on to apartment tenants. Background screening requirements may have a negative impact on workforce availability in affected lodging establishments.

The Division of Hotels and Restaurants currently licenses 19,261 transient and non-transient apartments. According to the DBPR, if third-party screening rates are similar to the FDLE rate of \$72.99 per person, the total fiscal impact to license holders to process one employee per license is \$1,405,860. However, the associated costs will be much greater because most properties will have multiple employees requiring screening.³⁷

Third-party background screening organizations will experience a significant increase in demand for their services due to this bill.

C. Government Sector Impact:

The bill will have a negative fiscal impact on state expenditures due to costs involved related to additional items for the DBPR to review during annual inspections of apartments. The DBPR estimates a cost of \$475,480 (\$346,795 recurring) to the Hotel and Restaurant Trust Fund and a need of five full-time positions due to workload and regulatory duties to ensure public lodging establishments provide proof of compliance with conducting employee background screening checks.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 34-39 of the bill requires a “third-party” background check conducted by a consumer reporting agency. According to FDLE, landlords will be responsible for finding a third-party company that can meet the screening criteria in the bill. The FDLE is unaware of the existence of a vendor with this capability.³⁸

The bill does not specify a date in which existing apartment employees must obtain a background screening.

It is unclear how the effective date in section 4 of the bill is intended to operate in concert with section 2 of the bill.

³⁷ *Id.* at 7.

³⁸ See Florida Department of Law Enforcement, *2022 Agency Legislative Bill Analysis for SB 898* at 4 (Dec. 10, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

The sponsor may consider incorporating reference to electronic programmable key cards to the bill provision requiring apartments to maintain a log accounting for the issuance and return of dwelling unit keys.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 83.53 and 509.211.

This bill creates section 83.515 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 Community Affairs on January 25, 2022:

The committee substitute removes the requirement that a background screening required under the bill be performed by a consumer reporting agency accredited by the Professional Background Screening Association and replaces it with the requirement that the background screening be done in accordance with the federal Fair Credit Reporting Act.

B. Amendments:

None.

By the Committee on Community Affairs; and Senators Stewart,
Perry, Taddeo, Book, Berman, Bracy, Polsky, and Cruz

578-02326-22

2022898c1

A bill to be entitled

An act relating to tenant safety; providing a short title; creating s. 83.515, F.S.; requiring landlords of nontransient or transient apartments to require employees to undergo background screenings as a condition of employment; specifying requirements for the employee background screenings; authorizing landlords to disqualify persons from employment under certain circumstances relating to criminal offenses; amending s. 83.53, F.S.; revising what constitutes reasonable notice for repairs of dwelling units; amending s. 509.211, F.S.; requiring public lodging establishments licensed as nontransient or transient apartments to take certain actions relating to employee background screenings and keys for dwelling units; requiring such establishments to provide proof of compliance to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation upon request; providing effective dates.

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

Section 1. This act may be cited as "Miya's Law."

Section 2. Section 83.515, Florida Statutes, is created to read:

83.515 Background screening of apartment employees; employment disqualification.—

(1) The landlord of a public lodging establishment

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

578-02326-22

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classified under s. 509.242(1)(d) or (e) as a nontransient apartment or transient apartment, respectively, must require that each employee of the establishment undergo a background screening as a condition of employment.

(2) The background screening required under subsection (1) must be performed by a consumer reporting agency in accordance with the federal Fair Credit Reporting Act, and must include a screening of criminal history records and sexual predator and sexual offender registries of all 50 states and the District of Columbia.

(3) A landlord may disqualify a person from employment if the person has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, any of the following offenses:

(a) A criminal offense involving disregard for the safety of others which, if committed in this state, is a felony or a misdemeanor of the first degree or, if committed in another state, would be a felony or a misdemeanor of the first degree if committed in this state.

(b) A criminal offense committed in any jurisdiction which involves violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, and stalking.

Section 3. Subsection (2) of section 83.53, Florida Statutes, is amended to read:

83.53 Landlord's access to dwelling unit.—

(2) The landlord may enter the dwelling unit at any time for the protection or preservation of the premises. The landlord may enter the dwelling unit upon reasonable notice to the tenant

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

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and at a reasonable time for the purpose of repair of the premises. "Reasonable notice" for the purpose of repair is notice given at least 24 ~~42~~ hours prior to the entry, and reasonable time for the purpose of repair shall be between the hours of 7:30 a.m. and 8:00 p.m. The landlord may enter the dwelling unit when necessary for the further purposes set forth in subsection (1) under any of the following circumstances:

(a) With the consent of the tenant;

(b) In case of emergency;

(c) When the tenant unreasonably withholds consent; or

(d) If the tenant is absent from the premises for a period of time equal to one-half the time for periodic rental payments. If the rent is current and the tenant notifies the landlord of an intended absence, then the landlord may enter only with the consent of the tenant or for the protection or preservation of the premises.

Section 4. Effective January 1, 2023, subsection (5) is added to section 509.211, Florida Statutes, to read:

509.211 Safety regulations.—

(5) Each public lodging establishment licensed as a nontransient apartment or transient apartment shall do all of the following:

(a) Require that each employee of the licensee undergo a background screening as a condition of employment pursuant to s. 83.515.

(b) Maintain a log accounting for the issuance and return of all keys for each dwelling unit.

(c) Establish policies and procedures for the issuance and return of dwelling unit keys and regulating the storage of, and

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access to, unissued keys.

Upon request during the division's annual inspection of the premises, a licensee must provide the division with proof of compliance with this subsection for the inspection.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 898</u>
BILL TITLE:	<u>Tenant Safety</u>
BILL SPONSOR:	<u>Sen. Stewart</u>
EFFECTIVE DATE:	<u>Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022</u>

COMMITTEES OF REFERENCE

1) Community Affairs
2) Judiciary
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 577
SPONSOR:	Rep. Bartleman

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 12, 2021
LEAD AGENCY ANALYST:	Michelle Keith, Division of Hotels and Restaurants
ADDITIONAL ANALYST(S):	Marc Drexler, Division Counsel Jake Whealdon, Acting OGC Rules Tracy Dixon, Service Operations Robin Jordan, Technology

LEGAL ANALYST:	Ross Marshman, OGC
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill mandates background screenings for employees of transient or non-transient apartments as a condition of employment and specifies requirements for the screenings; authorizes landlords to disqualify potential employees for certain criminal offenses; revises the meaning of a reasonable notice for repairs of dwelling units; requires transient and non-transient apartments to take certain actions involving employee background screenings and the provision of keys for tenant dwelling units; requires transient and non-transient apartments to provide proof of compliance with the bill to the Division of Hotels and Restaurants.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The regulation of public lodging establishments including, but not limited to, sanitation standards, inspections and training and testing of personnel is preempted to the state.

The Division of Hotels and Restaurants licenses apartments as transient or non-transient. A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy. A non-transient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to non-transient tenants.

Any non-transient apartment renting four units or less or any apartment building inspected by the United States Department of Housing and Urban Development (HUD) or other entity acting on its behalf that is designated primarily as housing for tenants at least 62 years of age is exempt from division licensure.

Both transient and non-transient apartments are inspected by the division at least annually.

The division does not require background checks of apartment employees and does not require accounting of dwelling unit keys. Division inspectors are primarily trained in food safety, transient lodging requirements and building/property upkeep and sanitation. Personal safety, home safety and potential felony crimes like robbery or assault prevention are not part of their training curriculum or required skillset.

There are currently no employee background or criminal history check requirements in Ch. 83, F.S.

2. EFFECT OF THE BILL:

Section 1 of the bill states it may also be referred to and cited as "Miya's Law."

Section 2 creates s. 83.515, F.S. and sets provisions for the background screening and disqualification of employees of transient and non-transient apartments as classified in s. 509.242, F.S. It requires as a condition of employment that each apartment employee must undergo a background check completed by a consumer reporting agency which is accredited by the Professional Background Screening Association and that the check must include a screening of criminal history records as well as sexual predator and sexual offender registries across all 50 States and the District of Columbia. It provides that a landlord may disqualify a person from employment if the person was convicted, found guilty of, or entered a plea of guilty or nolo contendere to (regardless of adjudication): the commission of a criminal offense in Florida involving disregard for the safety of others which is a felony or a misdemeanor of the first degree, the commission of a criminal offense in another state involving disregard for the safety of others which would be a felony or a misdemeanor of the first degree if committed in Florida, or the commission of a criminal offense committed in any jurisdiction which involves violence, including but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery and stalking.

Section 3 of the bill amends subsection (2) of s. 83.53, F.S. increasing "reasonable notice" when a landlord requires access to a tenant's unit for the purpose of repair from 12 hours to 24 hours prior to entry.

Section 4 of the bill adds subsection (5) to s. 509.211, F.S. requiring each licensed transient or non-transient apartment to: mandate a background screening as a condition of employment per s. 83.515, F.S., establish policies and procedures for the issuance and return of dwelling unit keys, regulate the storage and access to unissued dwelling unit keys, and maintain a log accounting for the issuance and return of all keys. During their annual

inspection, licensed transient and non-transient apartments must provide proof of compliance with these requirements upon request of the division.

Section 5 states that unless otherwise provided, the act would take effect July 1, 2022.

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

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	61C-3.001, F.A.C.

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

Proponents and summary of position:	To date, the division has not been contacted by proponents of the legislation with any stated positions.
Opponents and summary of position:	To date, the division has not been contacted by opponents of the legislation with any stated positions.

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

Y ☐ N ☒

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

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

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

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

Y ☐ N ☒

Revenues:	N/A
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Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No.
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:	Possible indeterminate influx of compliance fines related to violations of the act.
Expenditures:	<p>Checking for proof of compliance during each inspection may increase DBPR's visit time by approximately 30 minutes per inspection, possibly longer if an appointment is needed. This may create a new staffing, training and workload requirement for the Division of Hotels and Restaurants, necessitating the need for additional funding and resources. Estimated expenditures \$475,480 (\$346,795 recurring). The funding source for these expenditures will be the Hotel & Restaurants Trust Fund.</p> <p>See Additional Comments.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

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

Revenues:	N/A
Expenditures:	<p>Possible indeterminate increase in disciplinary fines related to violations of the act and unknown costs to conduct background screenings on current employees and applicants seeking employment at a transient or non-transient apartment. (A level 2 background check completed through FDLE will cost the individual or business \$72.99 but a check through a private company could cost from \$60-\$100 per screening. It is also unclear if a level 2 background check will satisfy the requirements of the act.)</p> <p>See Additional Comments.</p>
Other:	N/A

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

If yes, explain impact.	Yes. The bill creates new requirements for which the division could impose fines under 509.261(1)(a), F.S., for non-compliance.
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Bill Section Number:	Section 4.
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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.	<p>Additional staffing required to implement the provisions of this bill would result in technology infrastructure and licensing costs. Assuming employees are located in office space outside of existing offices, additional undetermined infrastructure costs will be incurred based on number, location and suitability</p> <ul style="list-style-type: none"> • For 5 additional senior sanitation and safety specialist FTEs: <ul style="list-style-type: none"> ○ Non-recurring costs for iPads - \$4,500.00 ○ Non-recurring costs software licenses – \$450.00 ○ Recurring software license maintenance and data service- \$2,440.00
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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.	Click or tap here to enter text.
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ADDITIONAL COMMENTS

Division of Hotels and Restaurants: While the bill does not directly provide disciplinary consequences, the bill opens up the possibility of fines under s. 509.261(1)(a), F.S., by creating a new requirement in chapter 509. The bill does not authorize the division to adopt rules for enforcement of the act and does not direct how or what the division must review to verify the completion, accreditation and validity of criminal, background and registry checks. It is unclear if division staff would be responsible for verifying that identities of employees match the key and background/criminal history logs or if division staff would be responsible for verifying who is an employee versus a non-employee (landlord). For the purposes of determining compliance with the background check and key maintenance log requirements, it is estimated that an additional 30 minutes would be added to the total time necessary to complete an apartment inspection.

The bill is unclear if the background screening requirements apply only to new apartment employment applicants or if the requirements will retroactively apply to staff already employed at an apartment. The bill does not specify that the background checks apply to only to a certain employment category at apartments, so it is assumed that the background and criminal history checks applies to all employees including maintenance, office staff, rental agents, managers, etc.

It is the division's understanding that there are different levels of criminal/background checks, each with different parameters and search regions. A level 2 background check completed through FDLE will cost the individual or business \$72.99 but a check through a private company could cost from \$60-\$100 per screening. It is unclear if a level 2 background check will satisfy the requirements of the act or if requestors can provide specific search parameters for each background check. It is likely that some landlords will shift the costs associated with conducting the background checks onto the tenant as part of the landlord's rental program and fees.

The Florida Department of Law Enforcement's Sexual Offenders and Predators search engine provides a statement that the information provided is for public access and FDLE does not confirm the accuracy of the information. (<https://offender.fdle.state.fl.us/offender/sops/home.jsf>) It is the division's understanding that sexual offender and predator regulations differ from state to state, that there is no national registry that encompasses all data for both sex offenders and sexual predators, and that a background/criminal history will show convictions of being an offender or predator but not if an individual is actually registered as a sex offender or sexual predator. It is also the division's understanding that sexual offenders and predators must by law complete any necessary registrations themselves, so it can be assumed that any available list may not be all encompassing. Additionally, any criminal, registry or background information gathered is

specific to data present at the time, and the bill does not require additional checks or set a schedule of checks throughout an individual's employment with an apartment.

The Division of Hotels and Restaurants currently licenses 19,261 transient and non-transient apartments. Using the FDLE rate of \$72.99 per person, the total fiscal impact to license holders to process one employee per license is \$1,405,860.39. However, the associated costs will likely be greater because some properties have multiple employees requiring screening. The division reviewed a National Apartment Association document from June 2020 which states "Regarding onsite personnel, the age-old, general rule is one office staff and one maintenance staff per 100 units. While there are various factors to consider with all staffing situations, this has been the formula for most owners, operators and developers when calculating personnel expenses." The Division of Hotels and Restaurants has noted an average growth of 0.42% in the number of apartment licenses and an average increase of 17.73% in the number of apartment units over the last five fiscal years. Currently, each apartment license has an average of 67 units, with 2,416 licenses having 200 or more units (12.5% of 19,261 licenses). Based on this, the minimum estimated average fiscal impact to license holders would be \$3,164,408.46.

Licenses with 100 or less units= 16,845 x 2 employees each x \$72.99= \$2,459,033.10.

Licenses with 200 or more units= 2,416 x 4 employees each x \$72.99= \$705,375.36

Section 4 sets requirements for tracking dwelling unit keys but does not account for the possibility of an individual duplicating and misusing keys or for apartments using electronic programmable key cards instead of traditional metal keys. Additionally, smaller apartments may not have an office on-site and the bill is unclear how compliance can be achieved during inspection in this situation.

Estimated Division Field Inspection Staff Needed

Since the implementation of Human Trafficking training requirements in January 2021, the division has conducted 26,845 total public lodging service inspections, at which 21.2% of lodging establishments were cited for lack of Human Trafficking training or signage, resulting in 9,928 violations. The division projects that there will be the same percentage of employee background check violations in apartments as there are Human Trafficking training violations in all public lodging establishments. In FY 2020-21, there were 18,774 apartment inspections conducted. Assuming the same number of inspections for FY 2022-23, there will be an estimated 3,980 lodging employee training violations ($18,774 \times 0.212 = 3,980.09$).

After the initial inspections finding 3,980 violations of the background check /criminal history requirement, the division must make implementation assumptions to estimate the fiscal impact of the bill:

Assuming some hands-on division follow-up is necessary; a Senior Inspector will conduct a callback inspection after the division receives notice from the establishment that compliance has been achieved. When conducting the callback inspection, the established policies and procedures, and the number of employees, as documented by the Senior Inspector, can be observed and recorded during the visit. The fines will be administratively assessed based on this information. This scenario will require a minimum of 1 callback inspection for each establishment that had a violation, or 3,980 callback inspections.

Staff calculation

1. Workload: Additional Callback Inspections 3,980
2. Inspections per inspector, per year 785
3. Number of additional inspection FTEs required: 5.07 FTE
(3,980 required annual inspections divided by 785 inspections per inspector, per year = 5.070)

Total anticipated Division of Hotels and Restaurants staff needed: 5 senior sanitation and safety specialist FTE.

Estimated additional costs \$475,480 (\$346,795 recurring). The funding source for these expenditures will be the Hotel & Restaurants Trust Fund.

OGC Division Counsel Comments:

The proposed legislative changes will likely result in additional workload for legal staff due to more administrative complaints being issued. The potential increase is indeterminate at this time.

OGC Rules: No additional comments.

DSO: No impact.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	As noted above, the proposed legislative changes will likely result in additional workload for legal staff due to more administrative complaints being issued. The potential increase is indeterminate at this time.
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2022 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 898
BILL TITLE:	Tenant Safety
BILL SPONSOR:	Senator Stewart
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE
1) Community Affairs
2) Judiciary
3) Rules
4)
5)

CURRENT COMMITTEE
Community Affairs

SIMILAR BILLS	
BILL NUMBER:	577
SPONSOR:	Bartleman

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	December 10, 2021
LEAD AGENCY ANALYST:	Robin Sparkman
ADDITIONAL ANALYST(S):	Ashley Black, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Weston Petkovsek
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Citing this act as "Miya's Law"; requiring landlords of nontransient or transient apartments to require employees to undergo background screenings as a condition of employment; authorizing landlords to disqualify persons from employment under certain circumstances relating to criminal offenses; revising what constitutes reasonable notice for repairs of dwelling units; requiring public lodging establishments licensed as nontransient or transient apartments to take certain actions relating to employee background screenings and keys for dwelling units.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** As classified under s. 509.242, FS, a nontransient apartment or transient apartment landlords are not statutorily required to have employees undergo "background screening" through a consumer reporting agency accredited by the Professional Background Screening Association (PBSA), a private company.
2. **EFFECT OF THE BILL:** Require all landlords of either nontransient apartments or transient apartments to require each employee of the establishment to undergo a background screening as a condition of employment. These background screenings must be performed by a consumer reporting agency accredited by the PBSA and must include a screening of criminal history records and sexual predator and sexual offender registries of all 50 states and the District of Columbia. Furthermore, landlords may disqualify persons from employment if said persons were convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, any in-state or out-of-state criminal offense(s) that involve the disregard for the safety of others or involves the act of violence.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

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

If yes, provide a description:	
Date Due:	
Bill Section Number:	

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

Board:	
Board Purpose:	

Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	
Other:	

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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	

What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The impact of the bill is unknown. FDLE would need to know the estimated number of individuals falling under the scope of this bill to assess the impact.
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FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

ADDITIONAL COMMENTS

- Lines 34-39: Requires a "third-party" background check conducted by a consumer reporting agency accredited by the PBSA. Therefore, as written, there is no impact to FDLE. The landlord will be responsible for finding a third-party company that can meet the screening criteria of "criminal history records and sexual predator and sexual offender registries of all 50 states and the District of Columbia". FDLE is unaware of the existence of a third-party background screening vendor with this capability.
- In order to facilitate state and national criminal history record checks, which will include state and national sexual predator and sexual offender registries, an official state governmental agency needs to be authorized and required to handle the national criminal history record information returned by the Federal Bureau Investigation (FBI). Additionally, FDLE recommends participation in the state and federal fingerprint retention programs to ensure all arrests occurring after the initial criminal history record check are reported to the appropriate state agency. Both FDLE and the FBI (when FDLE begins participation in the federal program) will retain the fingerprints, search the fingerprints against incoming arrests and FDLE will notify the retaining agency if their applicants' retained fingerprints match an incoming arrest. To facilitate state and national criminal history record checks and fingerprint retention, FDLE recommends using the following language:

An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

Fees for state and federal fingerprint processing and retention shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified shall be reported to the department.

- If the above language is included in future amendments of this bill, the following fiscal analysis would apply:

FDLE Fiscal Impact – Revenue:

The total fiscal revenue for the state portion of a state and national criminal history record check is \$24, which goes into the FDLE's Operating Trust Fund. The first year of retention is included in the cost of the criminal history record check. The cost to retain fingerprints at the state level is \$6 annually, per set of applicant fingerprints. This fee also goes into the FDLE's Operating Trust Fund.

Year 1: 2,000 (criminal history record checks) x \$24 (state criminal history record check fee) = \$48,000

Year 2: 2,000 (sets of retained applicant fingerprints) x \$6 (state retention fee) = \$12,000

Private Sector Fiscal Impact – Expenditure:

The total fiscal impact to the private sector for a state and national criminal history record check is \$37.25. Of this total amount, the cost for the national portion of the criminal history record check is \$13.25 and the cost for the state portion is \$24, which goes into the FDLE's Operating Trust Fund. The first year of state retention is included in the cost of the criminal history record check. The cost to retain fingerprints at the state level is \$6 annually, per set of applicant fingerprints. This fee also goes into the FDLE's Operating Trust Fund. When the FDLE begins participation in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.

Year 1: 2,000 (criminal history record checks) x \$37.25 (\$24 state criminal history record check fee + \$13.25 national criminal history record check fee) = \$74,500

Year 2: 2,000 (sets of retained applicant fingerprints) x \$6 (state retention fee) = \$12,000

- While the impact of this bill does not necessitate additional FTE or other resources, this bill in combination with additional criminal history record check bills could rise to the level requiring additional staffing and other resources.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 27, 2022

I respectfully request that **Senate Bill #898**, relating to Tenant Safety, be placed on the:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1076

INTRODUCER: Senator Gruters

SUBJECT: Florida Kratom Consumer Protection Act

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	Favorable
2.	Blizzard	Betta	AEG	Recommend: Favorable
3.			AP	

I. Summary:

SB 1076 creates the Florida Kratom Consumer Protection Act, which provides that a processor may not sell, prepare, distribute, or expose for sale a kratom product that:

- Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer;
- Contains a poisonous or otherwise harmful non-kratom ingredient;
- Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than two percent of the alkaloid composition of the product;
- Contains a synthetic alkaloid;
- Does not include directions for the safe and effective use of the product; or
- Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

The bill establishes that a processor may not sell, prepare, distribute, or expose for sale kratom extract that contains levels of residual solvents higher than the standards set forth in United States Pharmacopeia and the National Formulary (USP-NF) chapter 467. Additionally, a processor may not distribute, sell, or expose for sale a kratom product to an individual under 21 years of age.

The bill provides that a processor who violates section 501.9745(3), Florida Statutes, is subject to an administrative fine. However, a processor selling kratom products at retail does not violate section 501.9745(3), Florida Statutes, if it is shown by a preponderance of the evidence that the processor relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of the kratom product.

The bill may have an indeterminate negative fiscal impact on the Department of Agriculture and Consumer Services. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Kratom

Kratom is a tropical tree native to Southeast Asia that contains mitragynine and 7-hydroxymitragynine in its leaves, which are two major psychoactive ingredients.¹ The leaves are crushed and then smoked, brewed with tea, or placed into gel capsules.² Consumption of kratom leaves can produce stimulant and sedative effects, and may also lead to psychotic symptoms.³

Some research finds that kratom can be used as a substitute for opiate users to combat withdrawal symptoms, as well as to treat muscle ache, fatigue, and other conditions.⁴ Low doses of kratom are said to produce a stimulant effect, while higher doses may produce an opioid-like effect.⁵ Additionally, research points to the potential for further development of mitragynine and the use of kratom as a harm reduction agent.⁶ Even so, the toxicity of kratom remains a topic of discussion, as well as its potential to cause herb-drug interactions and even be involved in fatalities.⁷

Currently, kratom is not listed as a controlled substance under federal law or Florida law. However, in 2014, Sarasota County banned kratom, labeling it as a designer drug.⁸ With the exception of Sarasota County, in Florida, all parts of the plant and its extracts are legal to cultivate, buy, possess, and distribute without a license or prescription. Kratom is illegal in Alabama,⁹ Arkansas,¹⁰ Indiana,¹¹ Vermont,¹² and Wisconsin.¹³ Other states such as Arizona,¹⁴ Georgia,¹⁵ and Utah¹⁶ regulate kratom under their state's version of the Kratom Consumer Protection Act.

¹ Drug Enforcement Administration, *Kratom* (April 2020), available at https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf (last visited Jan. 14, 2022).

² *Id.*

³ *Id.*

⁴ See Dimy Fluyau and Neelambika Revedigar, *Biochemical Benefits, Diagnosis, and Clinical Risks Evaluation of Kratom*, *Frontiers in Psychiatry Journal* Volume 8 (April 24, 2017).

⁵ *Id.*

⁶ See Charles Veltri and Oliver Grundmann, *Current Perspectives on the Impact of Kratom Use*, *Substance Abuse and Rehabilitation Journal* Volume 10 23-31 (July 1, 2019).

⁷ *Id.*

⁸ See Sarasota, FL., Code of Ordinances, Sec. 62-351 (2014).

⁹ See Alabama Public Health, *Controlled Substance List* (Jan. 20, 2021), available at <https://www.alabamapublichealth.gov/blog/assets/controlledsubstanceslist.pdf> (last visited Jan. 14, 2022).

¹⁰ See Arkansas Department of Health, *List of Controlled Substances*, available at http://secureservercdn.net/166.62.109.105/e17.085.myftpupload.com/wp-content/uploads/2016/02/arkansas-controlled_substances_list.pdf (last visited Jan. 14, 2022).

¹¹ See IC 35-31.5-2-321.

¹² See Vt. Admin. Code 12-5-23:4.0.

¹³ See W.S.A. 961.14.

¹⁴ See AZ Rev Stat § 36-795.02.

¹⁵ See GA Code § 16-13-121.

¹⁶ See UT Code § 4-45-101.

Following an updated import alert that provides information to U.S. Food and Drug Administration (FDA) field staff about detaining without physical examination imported dietary supplements and bulk dietary ingredients that are or contain kratom, in May of 2021, the FDA announced the seizure of around 37,500 tons of adulterated kratom in Florida, worth an estimated \$1.3 million.¹⁷ The FDA's Associate Commissioner for Regulatory Affairs, stated that there is substantial concern regarding the safety of kratom and the risk it may pose to public health, and indicated that there are currently no FDA-approved uses for kratom.¹⁸

The U.S. Department of Justice, on behalf of the FDA, filed a complaint in the U.S. District Court for the Middle District of Florida alleging that kratom is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that it does not present a significant or unreasonable risk of illness or injury.¹⁹ Additionally, the FDA stated that dietary supplements and bulk dietary ingredients that are or contain kratom are adulterated under the Federal Food, Drug, and Cosmetic Act.²⁰ On October 26, 2021, a consent decree of condemnation and destruction against the articles seized by the FDA in May of 2021 was entered, which requires the claimants to pay a penal bond and destroy all seized articles.²¹

III. Effect of Proposed Changes:

The bill creates the Florida Kratom Consumer Protection Act, and establishes the following definitions:

- “Kratom extract” means a food product or dietary ingredient that contains any part of the leaf of the plant *Mitragyna speciosa* which has been extracted and concentrated to provide more standardized dosing;
- “Kratom product” means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant *Mitragyna speciosa* or an extract of such plant and is manufactured as a powder, capsule, pill, beverage, or other edible form; and
- “Processor” means a person who sells, prepares, manufactures, distributes, or maintains kratom products.

The bill provides that a processor may not sell, prepare, distribute, or expose for sale a kratom product that:

- Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer;
- Contains a poisonous or otherwise harmful non-kratom ingredient, including, but not limited to, any substance listed in s. 893.03, F.S.;²²

¹⁷ U.S. Food and Drug Administration, *FDA Announces Seizure of Adulterated Dietary Supplements Containing Kratom* (May 21, 2021), available at <https://www.fda.gov/news-events/press-announcements/fda-announces-seizure-adulterated-dietary-supplements-containing-kratom> (last visited Jan. 14, 2022).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules.

- Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than two percent of the alkaloid composition of the product;
- Contains a synthetic alkaloid, including, but not limited to, synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the plant *Mitragyna speciosa*;
- Does not include directions for the safe and effective use of the product, including, but not limited to, a suggested serving size, on the product's packaging or label; or
- Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

The bill establishes that a processor may not sell, prepare, distribute, or expose for sale kratom extract that contains levels of residual solvents higher than the standards set forth in USP-NF²³ chapter 467.²⁴ Additionally, a processor may not distribute, sell, or expose for sale a kratom product to an individual under 21 years of age.

The bill provides that a processor who violates s. 501.9745(3), F.S., is subject to an administrative fine of not more than \$500 for the first offense and not more than \$1,000 for the second or subsequent offense. However, a processor selling kratom products at retail does not violate s. 501.9745(3), F.S., if it is shown by a preponderance of the evidence that the processor relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of the kratom product.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²³ The United States Pharmacopeia (USP) and the National Formulary (NF) contains standards for medicines, dosage forms, drug substances, excipients, biologics, compounded preparations, medical devices, dietary supplements, and other therapeutics. The current version of USP-NF standards deemed official by USP are enforceable by the U.S. Food and Drug Administration for medicines manufactured and marketed in the United States.

²⁴ Residual solvents in pharmaceuticals are defined as organic volatile chemicals that are used or produced in the manufacture of drug substances or excipients, or in the preparation of drug products. The residual solvents are not completely removed by practical manufacturing techniques. Drug products should contain no higher levels of residual solvents than can be supported by safety data. Solvents that are known to cause unacceptable toxicities, "Class 1," should be avoided in the production of drug substances, excipients, or drug products unless their use can be strongly justified in a risk-benefit assessment. Solvents associated with less severe toxicity, "Class 2," should be limited in order to protect patients from potential adverse effects. Less toxic solvents, "Class 3," should be used where practical. See The United States Pharmacopeia and the National Formulary, *Residual Solvents*, available at https://www.uspnf.com/sites/default/files/usp_pdf/EN/USPNF/generalChapter467Current.pdf (last visited Jan. 14, 2022).

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:

Processors of kratom products will be required to adhere to the regulations set forth in the Florida Kratom Consumer Protection Act, which may benefit consumers.

Food establishments that sell, prepare, manufacture, distribute, or maintain kratom products would be required to pay the associated fees for a food permit.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services estimates a negative fiscal impact in expenditures of \$672,000 to the General Inspection Trust Fund for the 2022-2023 fiscal year, due to extended inspection times and additional resources required to regulate kratom products. The number of establishments paying registration fees and the amount of civil penalties is indeterminate at this time.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not designate an entity to enforce violations, and does not provide an administrative penalty for a processor who violates s. 501.9745(4), F.S.

The Florida Department of Law Enforcement has indicated that they do not have the testing capabilities to prove non-compliance with this proposed law.

²⁵ Department of Agriculture and Consumer Services, *Bill Analysis of SB 1076* (January 20, 2022) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 501.9745

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Gruters

23-01139-22

20221076__

A bill to be entitled

An act relating to the Florida Kratom Consumer Protection Act; creating s. 501.9745, F.S.; providing a short title; defining the terms "kratom extract," "kratom product," and "processor"; prohibiting processors from selling, preparing, distributing, or exposing for sale certain kratom products; prohibiting processors from distributing, selling, or exposing for sale a kratom product to an individual under 21 years of age; providing civil penalties; providing an exception; providing an effective date.

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

Section 1. Section 501.9745, Florida Statutes, is created to read:

501.9745 Florida Kratom Consumer Protection Act.—

(1) This section may be cited as the "Florida Kratom Consumer Protection Act."

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

(a) "Kratom extract" means a food product or dietary ingredient that contains any part of the leaf of the plant *Mitragyna speciosa* which has been extracted and concentrated to provide more standardized dosing.

(b) "Kratom product" means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant *Mitragyna speciosa* or an extract of such plant and is manufactured as a powder, capsule, pill, beverage, or other

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edible form.

(c) "Processor" means a person who sells, prepares, manufactures, distributes, or maintains kratom products.

(3) A processor may not sell, prepare, distribute, or expose for sale:

(a) A kratom product that:

1. Is adulterated with a dangerous non-kratom substance that affects the quality or strength of the kratom product to such a degree that it may injure a consumer.

2. Contains a poisonous or otherwise harmful non-kratom ingredient, including, but not limited to, any substance listed in s. 893.03.

3. Contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than 2 percent of the alkaloid composition of the product.

4. Contains a synthetic alkaloid, including, but not limited to, synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the plant *Mitragyna speciosa*.

5. Does not include directions for the safe and effective use of the product, including, but not limited to, a suggested serving size, on the product's packaging or label.

6. Has a label that contains any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

(b) Kratom extract that contains levels of residual solvents higher than the standards set forth in USP-NF chapter 467.

(4) A processor may not distribute, sell, or expose for

23-01139-22

20221076__

59 sale a kratom product to an individual under 21 years of age.

60 (5) A processor who violates subsection (3) is subject to
61 an administrative fine of not more than \$500 for the first
62 offense and not more than \$1,000 for the second or subsequent
63 offense. A processor selling kratom products at retail does not
64 violate subsection (3) if it is shown by a preponderance of the
65 evidence that the processor relied in good faith upon the
66 representations of a manufacturer, processor, packer, or
67 distributor of the kratom product.

68 Section 2. This act shall take effect July 1, 2022.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

January 20, 2021

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Carlos Nathan, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 1076

Senate Bill Sponsor: Sen. Gruters

Bill Title: Florida Kratom Consumer Protection Act

Effective Date: July 1, 2022

Similar Bill(s): Yes ☒ No ☐

Similar Bill(s): HB 1071 by Andrade

Identical Bill: Yes ☐ No ☒

Identical Bill:

1. SUMMARY

SB 1076 is an act relating to the Florida Kratom Consumer Protection Act; creating s. 501.9745, F.S.; providing a short title as well as defining the terms "kratom extract," "kratom product," and "processor". It requires a process to register with the Department of Agriculture and Consumer Services to sell kratom products at retail and prohibits processors from selling certain kratom products; prohibiting processors from distributing, selling, or exposing for sale a kratom product to an individual under 21 years of age; provides civil penalties; an exception; and requires the department to adopt rules. The effective date of the bill is July 1, 2022.

2. PRESENT SITUATION

The Division of Food Safety regulates food products under Chapter 500, F.S., which include articles used for food or drink for human consumption as well as dietary supplements. Kratom, as defined in the proposed section 501.9745, F.S., currently falls within in the definition of "Food" in Chapter 500.03(1)(n) and is subject to all applicable permitting, labeling, sanitation, and other food safety requirements. There are no existing

age limits related to the sale of these products. Labeling requirements for food or dietary supplements currently prohibit labels that contain any claim that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease.

“Food establishment” means a factory, food outlet, or other facility manufacturing, processing, packing, holding, or preparing food or selling food at wholesale or retail. The Division is the exclusive regulatory and permitting authority for all food establishments in accordance with Chapter 500, F.S., and a food permit from the Division is required of any person who operates a food establishment. As provided in 500.12(5), F.S., it is the intent of the Legislature to eliminate duplication of regulatory inspections of food.

3. EFFECT OF PROPOSED CHANGES

A food permit would be required under Chapter 500, F.S. and a registration would be required under Chapter 501, F.S. The proposed statute does not exclude Kratom from the existing definition of “Food” in Chapter 500. Food Establishments that sell, prepare, manufacture, distribute, or maintain kratom products would be required to pay the associated fees for a food permit.

If Kratom products, as defined in the proposed section 501.9745, F.S., are excluded from Chapter 500, F.S., sanitation requirements currently provided under Chapter 500, F.S. would no longer be applicable to these products.

If the Division of Food Safety were to regulate Kratom products under Chapter 501, additional resources would be required to ensure compliance with these proposed requirements. The proposed changes would require an estimated additional 30 minutes of inspection time per visit to each kratom processor to verify compliance with new labeling, age verification, and product testing requirements. Additional time to rectify violations of this statute would be necessary if citations were noted. Rule development, internal training, and industry outreach would also be required.

If the Division of Food Safety were to regulate Kratom products, the labs would be required to alter the current sample testing schedule to include Kratom testing. This would require less sample testing of other products or would require additional personnel, equipment, and supplies to accommodate the extra volume of work. The labs are currently capable of testing for mitragynine and 7-hydroxymitragynine but cannot directly and reliably differentiate between synthetic and naturally occurring molecules of mitragynine and 7-hydroxymitragynine. The labs are unable to identify *Mitragyna speciosa* at this time, however in the next few years tools may be developed from the genomic information and available for use in testing.

The Division does not currently have any existing age limit prohibitions for food products with the exception of hemp extract products intended for inhalation as prescribed by statute. A system may need to be developed and maintained to accurately determine

compliance with the prohibition against the distribution or sale of a kratom product to an individual under 21 years of age.

4. FISCAL IMPACT ON FDACS

	(FY 21-22) Amount/ FTE	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			
TOTAL REVENUES			
B. Expenditures			
Recurring	\$312,000	\$312,000	\$312,000
Non-Recurring	\$360,000	\$0	\$0
TOTAL EXPENDITURES	\$672,000	\$312,000	\$312,000
C. NET TOTAL			
COMMENTS: If the Division of Food Safety were to regulate Kratom products under Chapter 501, the Division would expect a fiscal impact in expenditures due to extended inspection times and additional resources required to enforce this statute. Registration fees and civil penalties would offset this regulatory cost, but due to the lack of available data the exact impact cannot be determined.			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?

Unknown.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

The registration fee for the required food permit would create a fiscal impact on the private sector. Establishments would also be fiscally impacted by the associated costs of complying with new labeling, age verification, and product testing requirements.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.

The bill authorizes the issuance of fines for non-compliance.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.

No.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: ☒ No: ☐

b. If yes please explain:

The bill draft includes specific rulemaking language.

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

a. Yes: ☐ No: ☒

b. If yes please explain:

No.

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

a. Yes: ☐ No: ☒

b. If yes please explain:

No.

LEGAL ISSUES

10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?

Kratom is a botanical that qualifies as a dietary ingredient under section 201(ff)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) [21 U.S.C. 321(ff)(1)]. When marketed as a dietary ingredient, FDA also considers kratom to be a new dietary ingredient under section 413(d) of the Act [21 U.S.C. 350b(d)] because, to the best of the agency's knowledge, there is no information demonstrating that this substance was marketed as a dietary ingredient in the United States before October 15, 1994.¹

Furthermore, based on FDA's review of the publicly available information regarding kratom, there does not appear to be a history of use or other evidence of safety establishing that kratom will reasonably be expected to be safe as a dietary ingredient.

¹ https://www.accessdata.fda.gov/cms_ia/importalert_1137.html

In fact, the scientific literature disclosed serious concerns regarding the toxicity of kratom in multiple organ systems. Consumption of kratom can lead to a number of health impacts, including respiratory depression, nervousness, agitation, aggression, sleeplessness, hallucinations, delusions, tremors, loss of libido, constipation, skin hyperpigmentation, nausea, vomiting, and severe withdrawal signs and symptoms. In the absence of a history of use or other evidence of safety establishing that kratom will reasonably be expected to be safe as a dietary ingredient, **kratom and kratom-containing dietary supplements and bulk dietary ingredients are adulterated under section 402(f)(1)(B) of the Act [21 U.S.C. 342(f)(1)(B)]**, because they contain a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury.²

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

Supremacy clause. See comment above.

12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?

Unknown.

COMMENTS:

The Division of Food Safety does not regulate food products under Chapter 501, F.S. The bill as drafted may serve to bifurcate regulation of kratom products between Chapter 500, F.S., and Chapter 501, F.S.

HB 1071, similarly, address regulation for kratom products. However, it adds the regulations to Ch. 500, Florida Statutes, and therefore the other provisions of the statute would also be applicable.

² https://www.accessdata.fda.gov/cms_ia/importalert_1137.html



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 28, 2022

I respectfully request that **Senate Bill #1076**, relating to Florida Kratom Consumer Protection Act, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Giovanni Betta, Staff Director
Caroline Goodner, Committee Administrative Assistant

File signed original with committee office

S-020 (03/2004)

The Florida Senate
APPEARANCE RECORD

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

2/22/22

Meeting Date

1074

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name

Melissa Villar

Phone

(850) 354-8424

Address

Po Box 11254

Email

melissavillar@hccintell.org

Street

TLM

City

FL

State

32302

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

2/22/22

Meeting Date

Senate Appropriations Subcommittee on Agriculture, Environment, and General Government

Committee

Name **Robert Blair**

Phone **813-527-0172**

Address **19401 Shumard Oak Drive**

Street

Land O' Lakes

City

FL

State

Zip

The Florida Senate
APPEARANCE RECORD

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

SB 1076

Bill Number or Topic

Amendment Barcode (if applicable)

Email

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 Kratom 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. 2020-2022 Joint Rules, 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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1094

INTRODUCER: Senators Rodriguez and Jones

SUBJECT: Architect Education Minority Assistance Program

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.	Davis	Betta	AEG	Recommend: Favorable
3.			AP	

I. Summary:

SB 1094 creates the Architect Education Minority Assistance Program (minority assistance program) within the Department of Business and Professional Regulation (DBPR) for the purpose of providing scholarships to minority persons as defined in s. 288.703, Florida Statutes. Under the bill, the minority assistance program is administered by the Board of Architecture and Interior Design (board) within the DBPR. The bill creates the five-member Architect Education Minority Assistance Advisory Council (advisory council) to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be a resident of Florida and enrolled in their fifth year of an architectural education program accredited by the National Architectural Accreditation Board (NAAB) at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees, not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account. The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to eligibility criteria, which must, at a minimum, include financial need, status as a minority person as defined in s. 288.703, Florida Statutes, and scholastic ability and performance.

The bill creates a criminal prohibition against a person, or his or her agent, knowingly filing with the board any notice, statement, or other document that is false or that contains any material

misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083, Florida Statutes.¹

The membership of the advisory council must be diverse and representative of minority persons. The advisory council must consist of five Florida-licensed architects, who are appointed by the board. The advisory council must include one board member, who shall serve as chair of the council, two representatives of the American Institute of Architects, Florida Section, one representative of the National Organization of Minority Architects, and one member who is appointed as a member-at-large. At least one member of the advisory council must be a woman.

Council members must serve without compensation, except that the advisory council member who is also a member of the board may be compensated for necessary and actual expenses while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The bill will have a negative fiscal impact on the board's operating account within the Professional Regulation Trust Fund. See Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, and the registration of interior designers, and related business organizations. The board, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.²

The terms "architect" or "registered architect" mean a natural person who is licensed under part I of ch. 481, F.S., to engage in the practice of architecture.³ The term "architecture" means:⁴

...the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

¹ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

² See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.

³ Section 481.203(1), F.S.

⁴ Section 481.203(2), F.S.

An applicant for an initial license as an architect must:

- Pass the licensure examination prescribed by rule of the board;⁵
- Be a graduate of a school or college of architecture accredited by the NAAB;⁶ and
- Complete an internship of diversified architectural experience that meets requirements set forth by rule of the board.⁷

The internship experience requirement is based on the Architectural Experience Program (AXP or experience program) administered through the National Council of Architectural Registration Boards (NCARB).⁸ The AXP requires 3,740 hours of supervised experience in certain experience areas.⁹

The fees for an initial architect license are:

- \$35 for an initial examination fee; and
- \$5 fee for combating unlicensed activity.

Persons who are licensed in another state or jurisdiction may also apply for a license by endorsement.¹⁰

There are also a number of fees payable to the NCARB by persons on the path to obtaining an architect license, including fees for a record of participation in the experience program and the \$1,410 examination fee.¹¹

There are six NAAB-accredited architecture programs in Florida at the following universities:

- Florida A&M University;
- Florida Atlantic University
- Florida International University;
- University of Florida;
- University of Miami; and
- University of South Florida.

The education standard for an architecture degree adopted by NCARB consists of a minimum of 150 semester credit hours (225 quarter credit hours) in a variety of specified subject areas.¹²

According to the American Institute of Architects (AIA), the average cost of a five-year Bachelor of Architecture ranges from \$150,000 to \$180,000.

⁵ Section 481.209(1), F.S.; and Fla. Admin. Code R. 61G1-14.001.

⁶ Section 481.209(1), F.S.

⁷ Section 481.211, F.S.; and Fla. Admin. Code R. 61G1-13.001.

⁸ Fla. Admin. Code R. 61G1-13.001; See NCARB, *Gain AXP Experience*, available at <https://www.ncarb.org/gain-axp-experience> (last visited Feb. 9, 2022).

⁹ See NCARB, *Experience Requirements*, available at <https://www.ncarb.org/gain-axp-experience/experience-requirements> (last visited Feb. 9, 2022).

¹⁰ See s. 481.213(3), F.S.

¹¹ See NCARB, *Fees*, available at <https://www.ncarb.org/fees#Exam%20fees> (last visited Feb. 9, 2022).

¹² See NCARB, *Education Guidelines*, p. 24, available at <https://www.ncarb.org/sites/default/files/Main%20Website/Data%20%20Resources/Guidelines/EducationGuidelines.pdf> (last visited Feb. 9, 2022).

According to the Florida Chapter of the AIA, it takes an average of 12.3 years to become a licensed architect, with African American license candidates taking an average of 15.2 years.¹³ Approximately 44 percent of candidates who take the licensure exam identify as a person of color; only 29 percent of the candidates who identify as a person of color complete the examination. As of 2020, the racial diversity of the persons participating in the path to licensure has increased, with the proportion of new persons who identify as people of color now equal to the proportion of white candidates. However, increases in racial and ethnic diversity have been limited to the Asian and the Hispanic or Latino population. The proportion of African American candidates in the profession has seen little change over the past decade and continues to be underrepresented when compared to United States Census data.¹⁴

Women are ready to take the licensure examination one year sooner than men. Two out of every five new architects is a woman. There is near equal representation of men and women early on the path to licensure, with women accounting for 47 percent of individuals reporting experience hours and 46 percent of individuals testing. Additionally, calendar year 2020 data also saw a three percentage point increase in the proportion of new women architects to 41 percent.¹⁵

There are approximately 10,800 Florida-licensed architects.¹⁶

Section 288.703(4), F.S., defines the term “minority person” to mean a lawful, permanent resident of Florida who is:

- An African American, a person having origins in any of the Black racial groups of the African Diaspora, regardless of cultural origin;
- A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race;
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778;
- A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or
- An American woman.

Clay Ford Scholarship Program

Section 473.3065, F.S., establishes the Clay Ford Scholarship Program administered by the Board of Accountancy within the DBPR. The Board of Accountancy is assisted by the Certified Public Accountant Education Minority Assistance Advisory Council to provide scholarships for minority persons, as defined in s. 288.703(4), F.S., during the fifth year study required to obtain a Certified Public Accountant (CPA) license. Under the Clay Ford Scholarship Program,

¹³ See also NCARB, *Demographics: Career and Licensure*, available at <https://www.ncarb.org/nbtn2021/demographics-licensure> (last visited Feb. 9, 2022).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Department of Business and Professional Regulation (DBPR), *Architecture and Interior Design – Board Information*, available at <http://www.myfloridalicense.com/DBPR/architecture-and-interior-design/board-information/> (last visited Feb. 9, 2022).

\$200,000 per year is set aside for scholarships. Funding for the program is based on a portion of the licensee fee for a CPA license, not to exceed \$10.

III. Effect of Proposed Changes:

The bill creates the Architect Education Minority Assistance Program within the DBPR for the purpose of providing scholarships to minority persons as defined in s. 288.703, F.S. The bill also creates the Architect Education Minority Assistance Advisory Council, an advisory council as defined in s. 20.03(7), F.S.,¹⁷ within the DBPR to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be:

- A resident of Florida; and
- Enrolled in their fifth year of an architectural education program accredited by the NAAB at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to:

- Eligibility criteria for receipt of a scholarship, which, at a minimum, must include the following factors:
 - Financial need;
 - Status as a minority person as defined in s. 288.703, F.S.; and
 - Scholastic ability and performance.
- Scholarship application procedures;
- Scholarship amounts, the timeframe for payments or partial payments, and criteria governing how scholarship funds may be spent by the recipient;
- The total amount of scholarship funds which can be awarded each year; and
- The minimum balance that must be maintained in the program account.

The bill authorizes the Chief Financial Officer to invest funds in the program account, subject to the same limitations that apply to the investment of other state funds, and all interest earned on investments must be credited to the program account.

Under the bill, scholarship determinations by the board are exempt from ch. 120, F.S., the Florida Administrative Procedure Act, which provides notice, hearing, and appeal rights for final agency actions.

¹⁷ Section 20.03(7), F.S., defines the terms “council” or “advisory council” to mean “an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.”

The bill creates a criminal prohibition against a person, or his or her agent, for knowingly filing with the board any notice, statement, or other document that is false or that contains any material misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S.¹⁸

Except as provided in the bill, the advisory council must operate in a manner consistent with s. 20.052, F.S.¹⁹ The advisory council membership must be diverse and representative of minority persons as defined in s. 288.703, F.S.

The advisory council must consist of five architects licensed under ch. 481, F.S., who are appointed by the board. The advisory council must include:

- One board member, who shall serve as chair of the council;
- Two representatives of the American Institute of Architects, Florida Section;
- One representative of the National Organization of Minority Architects; and
- One member who is appointed as a member-at-large.

At least one member of the advisory council must be a woman.

The initial and subsequent appointments by the board to the advisory council must be for staggered terms. The board must fill a vacancy on the advisory council in the same manner as the initial appointment. Any member appointed to fill a vacancy of an unexpired term must be appointed for the remainder of that term.

The council membership of any member who has three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period is void and the member's position is deemed vacant.

Under the bill, council members must serve without compensation. However, a board member who serves as a member of the council must be compensated in accordance with ss. 112.061 and 455.207(4), F.S.,²⁰ for any necessary and actual expenses incurred by a member while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The minority assistance program provided by the bill is similar to that provided in s. 473.3065, F.S., for students on the path to CPA licensure.

¹⁸ See *Supra* note 1 for applicable criminal penalties.

¹⁹ Section 20.052, F.S., provides for the administration of advisory boards, including requiring that the private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer; all members serve staggered four-year terms unless otherwise provided by law; members serve without compensation or honorarium other than per diem and reimbursement for travel expenses, and all meetings are public under s. 286.011, F.S.

²⁰ Section 112.061, F.S., authorizes reimbursement for travel expenses incurred by state employees. Section 455.207(4), F.S., authorizes compensation for members of a DBPR board in the amount of \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board, respectively.

The bill takes effect July 1, 2022.

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:

Qualifying minority architectural degree students may receive financial assistance during their fifth year of study.

C. Government Sector Impact:

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

According to the DBPR, the board's operating account within the Professional Regulation Trust Fund is projected to have a negative balance in Fiscal Year 2021-2022 and each subsequent year. However, the DBPR states that the Professional Regulation

Trust Fund, as a whole, remains healthy with sufficient cash.²¹ Transferring of funds from the operating account of the board will increase the operating account's projected negative balance each fiscal year in the amount of up to \$200,000 per year that could be transferred from the board's operating account to a newly created Architect Education Minority Assistance Program account beginning in Fiscal Year 2022-2023.

As a result of the transfer of the maximum amount allowed by the bill, the DBPR projects that the board's operating account will have a negative balance of \$937,326 by the end of Fiscal Year 2023-2024, a negative balance of \$889,013 by the end of Fiscal Year 2024-2025 and negative balance of \$1,948,932 by the end of Fiscal Year 2025-2026. The DBPR states that the anticipated deficit of the board's operating account within the Professional Regulation Trust Fund can be addressed through a review and modification of licensing fees and/or a one-time assessment of licensees every four years.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides for funding for the scholarship program to be “derived from a portion of existing license fees established under s. 481.207, F.S., not to exceed \$10 per license, and to be deposited...” (emphasis added.) As noted by the DBPR, funding for the scholarship program may be based on current license fees. If the funding is based on the current, i.e., existing, license fees, the DBPR questions whether the program ceases to exist should the board increase license fees.²³ Consideration should be given to deleting the term “existing.”

VIII. Statutes Affected:

This bill creates section 481.2095 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²¹ DBPR, *2022 Agency Legislative Bill Analysis for SB 1094*, at p. 5 (Dec. 15, 2021) (On file with the Committee on Regulated Industries).

²² *Id.* at p. 5.

²³ *Id.* at p. 5.

By Senator Rodriguez

39-00765A-22

20221094__

1 A bill to be entitled
 2 An act relating to the Architect Education Minority
 3 Assistance Program; creating s. 481.2095, F.S.;
 4 creating the program within the Department of Business
 5 and Professional Regulation; providing a purpose for
 6 the program; requiring the Architect Education
 7 Minority Assistance Advisory Council to assist the
 8 Board of Architecture and Interior Design with
 9 administering the program; providing funding
 10 requirements for scholarships provided under the
 11 program; requiring that funds be deposited into a
 12 specified account in the Professional Regulation Trust
 13 Fund; capping the amount of funds that the department
 14 may spend annually on the program; requiring that
 15 funds for scholarships be disbursed twice each year;
 16 authorizing the Chief Financial Officer to invest
 17 funds in the program account in a specified manner;
 18 requiring that all earned interest from such
 19 investments be credited to the program account;
 20 requiring the board to adopt rules; specifying that
 21 certain determinations made by the board are not
 22 agency actions for the purposes of the Administrative
 23 Procedure Act; prohibiting a person or his or her
 24 agent from knowingly filing documents with the board
 25 which contain false information or material
 26 misstatements of fact; providing criminal penalties;
 27 creating the council within the department; providing
 28 requirements for council membership; specifying that
 29 the council membership of a member with certain

Page 1 of 5

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

39-00765A-22

20221094__

30 absences is void; requiring council members to serve
 31 without compensation; providing an exception;
 32 providing an effective date.
 33

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

35
 36 Section 1. Section 481.2095, Florida Statutes, is created
 37 to read:

38 481.2095 The Architect Education Minority Assistance
 39 Program; Architect Education Minority Assistance Advisory
 40 Council.—

41 (1) The Architect Education Minority Assistance Program is
 42 created within the department for the purpose of providing
 43 scholarships to minority persons as defined in s. 288.703 who
 44 are residents of this state and who are students enrolled in
 45 their fifth year of an architectural education program
 46 accredited by the National Architecture Accrediting Board at an
 47 institution in this state. The Architect Education Minority
 48 Assistance Advisory Council created in subsection (6) shall
 49 assist the board in administering the program.

50 (2) All funds used to provide scholarships under the
 51 program must be derived from a portion of existing license fees
 52 established under s. 481.207, not to exceed \$10 per license, and
 53 must be deposited into the Professional Regulation Trust Fund in
 54 a separate account maintained for that purpose. The department
 55 may spend up to \$200,000 per year from such account for the
 56 program but may not allocate overhead charges to the account.
 57 Funds for scholarships must be disbursed twice each year as
 58 recommended by the advisory council and approved by the board,

Page 2 of 5

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

39-00765A-22

20221094

based on eligibility criteria adopted by board rule and a comparative evaluation of all applicants. The Chief Financial Officer may invest funds in the program account, subject to the same limitations that apply to the investment of other state funds, and all interest earned thereon must be credited to the program account.

(3) The board shall adopt rules to administer the program, including rules relating to the following:

(a) Eligibility criteria for receipt of a scholarship, which, at a minimum, must include the following factors:

1. Financial need;

2. Status as a minority person as defined in s. 288.703; and

3. Scholastic ability and performance.

(b) Scholarship application procedures.

(c) Scholarship amounts, the timeframe for payments or partial payments, and criteria governing how scholarship funds may be spent by the recipient.

(d) The total amount of scholarship funds which can be awarded each year.

(e) The minimum balance that must be maintained in the program account.

(4) Determinations made by the board regarding recipients of scholarship funds are not agency actions for purposes of chapter 120.

(5) A person or his or her agent may not knowingly file with the board any notice, statement, or other document that is false or that contains any material misstatement of fact. A person who violates this subsection commits a misdemeanor of the

39-00765A-22

20221094

second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) The Architect Education Minority Assistance Advisory Council, an advisory council as defined in s. 20.03(7), is created within the department to assist the board in administering the program. Except as otherwise provided in this section, the advisory council shall operate in a manner consistent with s. 20.052. The council membership must be diverse and representative of minority persons as defined in s. 288.703.

(a) The council shall consist of five architects licensed under this chapter appointed by the board. Of the five council members, one must be a board member, who shall serve as chair of the council; two must be representatives of the American Institute of Architects, Florida Section; one must be a representative of the National Organization of Minority Architects; and one must be appointed as a member-at-large. At least one member of the council must be a woman.

(b) The board shall determine the terms for initial appointments, which must be staggered, and appointments thereafter.

(c) Any vacancy on the council must be filled in the same manner as the initial appointment. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of that term.

(d) The council membership of any member who has three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period is void and the member's position is deemed vacant.

39-00765A-22

20221094

117 (e) Council members shall serve without compensation, and
118 any necessary and actual expenses incurred by a member while
119 engaged in the business of the council must be borne by such
120 member or by the organization or agency such member represents.
121 However, a board member who serves as a member of the council
122 must be compensated in accordance with ss. 112.061 and
123 455.207(4).

124 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 25, 2022

I respectfully request that **Senate Bill #1094**, relating to Architect Education Minority Assistance Program, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez", is written over a horizontal line.

Senator Ana Maria Rodriguez
Florida Senate, District 39

2/22/2022

Meeting Date

Approps Sub on Ag., Enviro, and Gen. Gov't.

Committee

Name **George T. Levesque**

Phone **850-577-9090**

Address **301 S. Bronough Street**

Email **glevesque@gray-robinson.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:

AIA 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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SB 1094

Bill Number or Topic

Amendment Barcode (if applicable)

2-22-22

Meeting Date

Appropriations Subcommittee on Agriculture, Environment, and General Government

Committee

The Florida Senate

APPEARANCE RECORD

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1094

Bill Number or Topic

Amendment Barcode (if applicable)

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State

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☒ I am a registered lobbyist,
representing:

**Florida Association of the American Institute
of Architects**

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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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 1156

INTRODUCER: Environment and Natural Resources Committee and Senator Stewart

SUBJECT: Comprehensive Waste Reduction and Recycling Plan

DATE: February 21, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	Fav/CS
2. Reagan	Betta	AEG	Recommend: Favorable
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1156 directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023, and to convene a technical assistance group within the DEP to develop the plan. The bill provides minimum criteria for the plan and directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon its completion.

The DEP may incur costs in convening a technical assistance group and developing a comprehensive waste reduction and recycling plan. These costs are indeterminate.

II. Present Situation:

Florida's Recycling Goal

In 2008, in recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a statewide goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities by 2020.¹ The DEP has

¹ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see Department of Environmental Protection (DEP), *Final Report, Florida and the 2020 75% Recycling Goal*, 2 (2020), available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report> (last visited Jan. 31, 2022).

established numerous programs and initiatives to reach that goal.² In 2010, the Legislature established the interim goals that counties must pursue leading up to 2020.³

In those years when the recycling rate does not meet the statutory thresholds for these interim goals, the DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.⁴ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.⁵ Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the interim recycling goal of 60 percent by 2017.⁶ Since 2016, Florida's statewide recycling rate exhibited a general decline. In 2020, when the DEP released the final report "Florida and the 2020 75% Recycling Goal," the recycling rate was only 50 percent, falling short of the 75 percent goal.⁷

The report states that in 2020 alone, Florida residents and tourists generated municipal solid waste equivalent to over two tons per resident.⁸ That is above the national average of about one ton per resident per year, since Florida's municipal solid waste calculations per resident do not include the number of tourists, as measured by the United States Environmental Protection Agency and other states. There is no universal methodology for measuring progress toward recycling goals, which makes it difficult to compare states' recycling rates. Florida's recycling goal includes only municipal solid waste, meaning that waste from industrial, agricultural, mining operations, and wastewater treatment sludge, is excluded from the calculations.⁹ The goal is also measured by weight, which pushed counties to recycle heavy materials, rather than traditional recyclables like metal cans and plastic bottles.¹⁰

As published in the report, the Florida Recycling Workgroup and a group of local governments have provided recycling ideas and recommendations, which include:

- Replacing the weight-based 75 percent goal;
- Transitioning to a goal or set of goals that are better indicators of program performance and desired environmental and economic outcomes; and
- Focusing on developing recycling markets, education and outreach, and funding and incentives to support local government recycling efforts.¹¹

In the report, the DEP recommends convening a technical assistance group that will include the Florida Recycling Workgroup, local governments, and any interested parties to develop a comprehensive waste reduction and recycling plan for Florida. The plan will implement stakeholder recommendations by:

² DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Jan. 27, 2022).

³ Section 403.706(2)(a), F.S.

⁴ Section 403.706(2)(e), F.S.; *see s. 403.705(3)*, F.S. The DEP must evaluate and report biennially to the President of the Senate and the Speaker of the House on the state's success in meeting the solid waste recycling goal in s. 403.706(2), F.S.

⁵ Section 403.706(2)(e), F.S.

⁶ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 2.

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4.

- Identifying a set of recycling goals that use sustainable materials management and waste diversion concepts;
- Developing objectives and proposing a three-year plan to develop a recycling market, education and outreach, and local government assistance; and
- Proposing statutory language to implement the revised recycling goals and strategies.¹²

Local Government Solid Waste Responsibilities

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.¹³ Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.¹⁴ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.¹⁵ Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products.”¹⁶

Each Florida county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.¹⁷ These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers;
- Aluminum cans;
- Steel cans;
- Glass;
- Plastic bottles;
- Cardboard;
- Office paper; or
- Yard trash.¹⁸

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.¹⁹ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling

¹² *Id.*

¹³ Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 403.703(31), F.S.

¹⁷ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75 percent of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see also* s. 403.7032(2), F.S.

¹⁸ Section 403.706(2)(f), F.S.

¹⁹ Section 403.706(3), F.S.

programs.²⁰ Certain activities are eligible for special credit towards achieving a county's recycling goals, including the use of solid waste as a fuel in a renewable energy facility, the innovative use of yard trash or other clean wood waste or paper waste, and providing opportunities to recycle in counties with smaller populations.²¹ To assess progress, counties must provide information on their solid waste management programs and recycling activities to the DEP by April 1 of each year.²²

"Municipal solid waste" includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.²³ The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. The DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to the DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county's waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.²⁴

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.²⁵

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.²⁶ Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.²⁷ Local governments are authorized to provide for the collection of the recyclable materials. A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.²⁸ Such ordinances may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials designated by the local government, and ensuring the collection of recovered materials as necessary to protect public health and safety.²⁹

A local government may not:

²⁰ Section 403.706(2)(a), F.S.

²¹ Section 403.706(4), F.S.

²² Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

²³ Section 403.706(5), F.S.

²⁴ Section 403.706(6), F.S.

²⁵ *Id.*

²⁶ Section 403.706(9), F.S.

²⁷ Section 403.706(21), F.S.

²⁸ *Id.*

²⁹ Section 403.706(21), F.S.

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the statutory requirements; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.³⁰

Local governments may require a commercial establishment to source-separate the recovered materials generated on the premises.³¹

Local Government Recycling Assistance

In 1988, the Solid Waste Management Act required counties to initiate recycling programs to address the growing costs and environmental problems associated with solid waste disposal in the state. To aid counties in setting up recycling programs, the Legislature established the Recycling and Education Grant Program. Under the program, counties received funds for initial capital costs, operations, recycling education, market development, and special projects. The program sunset in 2001. The report provides that the technical assistance group will evaluate the benefits and problems of the Recycling and Education Grant Program, make a recommendation to reinstate the program, or consider other means to provide recycling assistance to local governments.³²

Sustainable Materials Management and Waste Diversion

Sustainable materials management is a term for alternative approaches to recycling that recognize the differences among waste components with respect to environmental and resource outcomes. Sustainable materials management focuses on using and reusing materials more productively over their life cycles.³³

Waste diversion, or waste reduction, is already an important part of the state's municipal solid waste management system. Waste diversion is the amount of material that is reduced, reused, prevented, and recycled, per capita and can be measured by the amount of waste not being disposed of in landfills. In setting a waste diversion goal, it is important to determine whether the goal is a state or local goal, or both; the percentage waste reduction expected; and the base year, so that the amount of waste disposed can be compared over time.³⁴

Recycling Education and Outreach

Education on the types of recycling service available, how materials are collected, and what materials are accepted is important for a successful recycling program. Because recycling

³⁰ Section 403.7046(3), F.S.

³¹ Section 403.7046(3)(a), F.S.

³² DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 5.

³³ *Id.* at 4.

³⁴ *Id.*

programs in the state vary significantly, education should be tailored to local recycling programs.³⁵

Currently, the DEP operates several education programs, including:

- The Florida Food Waste Prevention Week, which focuses on engagement with local municipalities, universities, national food recovery networks, and the hospitality industry to raise awareness about food waste;
- Phase Three of the Rethink.Reset.Recycle. Program, which focuses on providing counties and municipalities with a variety of customized digital products illustrating correct preparation of recyclables prior to disposing of them; and
- The Recycling Recognition Program, which encourages private businesses, institutions, schools, organizations, and the public to increase recycling by setting recycling goals.³⁶

The report provides that the technical assistance group will propose an education and outreach approach that evaluates statewide solutions but is customized for local needs, including a possible application for mobile devices that provides recycling information based on location.³⁷

Recycling Market Challenges

Until 2017, China consumed about 70 percent of the recycled paper and plastic in the world, including millions of tons of recycling from the United States.³⁸ In 2018, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also announced a 0.5 percent contamination standard for most recyclables not named in the ban.³⁹ The ban was later expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.⁴⁰ The ban has caused shipments of recyclables to other Southeast Asian countries to increase dramatically, resulting in nations including Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.⁴¹

³⁵ *Id.*

³⁶ *Id.* at 20, 21.

³⁷ *Id.* at 5.

³⁸ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.siteym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Jan. 27, 2022); Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Jan. 27, 2022).

³⁹ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Jan. 27, 2022).

⁴⁰ *Id.*; see Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Jan. 27, 2022). China is planning a total ban on virtually all recovered material imports.

⁴¹ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*; Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?* (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Jan. 27, 2022).

In Florida, local governments struggle with issues like the rising costs of processing and high contamination rates.⁴² Many local governments use single stream recycling programs.⁴³ These programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers.⁴⁴ While single stream recycling programs have been successful in increasing residential participation, they have hurt recycling markets by increasing contamination.⁴⁵

The closure of foreign export markets led to a disruption in the United States recycling industry.⁴⁶ In Florida, recycling haulers and material recovery facilities compensated for this change by partnering with state and municipalities to focus on eliminating contamination and by shifting overall sales to domestic markets.⁴⁷ Because of this shift, the average price of mixed recyclables dropped from \$60/ton in 2018 to \$47/ton in 2020. There were fluctuations in the price of mixed recyclables during that two-year period due to the expansion of domestic markets, however the final average reflected a 21 percent decrease.⁴⁸

III. Effect of Proposed Changes:

Section 1 amends s. 403.7032, F.S., to direct the DEP to develop a comprehensive waste reduction and recycling plan by July 1, 2023, based on recommendations from the DEP's "Florida and the 2020 75% Recycling Goal Final Report." The bill requires the DEP to convene a technical assistance group within the DEP to develop the plan.

The bill provides that the plan must:

- Identify recycling goals based on sustainable materials management and waste diversion.
- Include a three-year plan to implement the following strategies:
 - Recycling education and outreach. The DEP must propose statewide solutions to provide local recycling information and education.
 - Local government recycling assistance. The DEP must evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing assistance to local governments.
 - Recycling materials market development. The DEP must consider and recommend plans to develop and promote markets for recycling materials.

The bill directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan. The bill requires that the report include

⁴² Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Jan. 27, 2022); DEP, *Rethink, Reset, Recycle*, <http://floridarecycles.org/#:~:text=Floridians%20are%20contaminating%20their%20home%20recycling%20bins%20with,piz%20boxes%2C%20thin%20plastic%20packaging%20and%20much%20more> (last visited Jan. 27, 2022).

⁴³ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁴ DEP, *Volume I – Report, Florida and the 2020 75% Recycling Goal*, 13 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolumeI_0_0.pdf (last visited Jan. 27, 2022).

⁴⁵ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁶ Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Jan. 27, 2022).

⁴⁷ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁸ *Id.*

an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP may incur costs in convening a technical assistance group and developing a comprehensive waste reduction and recycling plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.7032 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 Environment and Natural Resources on February 1, 2022:

The committee substitute:

- Directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023, and to convene a technical assistance group within the DEP to develop the plan;
- Provides minimum criteria for the plan; and
- Directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and
Senator Stewart

592-02537-22

20221156c1

A bill to be entitled

An act relating to a comprehensive waste reduction and recycling plan; amending s. 403.7032, F.S.; requiring the Department of Environmental Protection to develop a comprehensive waste reduction and recycling plan for this state by a specified date, based on certain department recommendations; requiring the department to convene a technical assistance group for a specified purpose; providing minimum requirements for the plan; requiring the department to submit a report to the Legislature upon completion of the comprehensive plan; providing requirements for the report; providing an effective date.

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

Section 1. Subsection (6) is added to section 403.7032, Florida Statutes, to read:

403.7032 Recycling.—

(6) By July 1, 2023, the Department of Environmental Protection shall develop a comprehensive waste reduction and recycling plan for this state based on recommendations from the department's Florida and the 2020 75% Recycling Goal Final Report. The department shall convene a technical assistance group within the department to help develop the plan.

(a) The comprehensive plan, at a minimum, must:

1. Identify recycling goals based on sustainable materials management and waste diversion.

2. Include a 3-year plan to implement the following

Page 1 of 2

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

592-02537-22

20221156c1

strategies:

a. Recycling education and outreach. The department shall propose statewide solutions to provide local recycling information and education throughout this state.

b. Local government recycling assistance. The department shall evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing assistance to local governments.

c. Recycling materials market development. The department shall consider and recommend plans to develop and promote markets for recycling materials.

(b) Upon completion of the plan, the department shall provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must include an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: February 1, 2022

I respectfully request that **Senate Bill #1156**, relating to Study to Establish a Statewide Long-Term Recycling Goal:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13

2/22/22

Meeting Date

AEG Appropriations

Committee

Name **Jeff Scala**

Phone **(727) 637-4081**

Address **100 S Monroe Street**

Email **jscala@fl-counties.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:

Florida 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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Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

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representing:

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(travel, meals, lodging, etc.),
sponsored by:

Fla League of Cities

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2/22/22

Meeting Date

SB 1156

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~~AS~~ APPROPs SUB AG, ENV &
GG

Amendment Barcode (if applicable)

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City

State

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Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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NATIONAL WASTE + RECYCLING ASSN
FL CHAPTER

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5-001 (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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 1434

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Public Financing of Potentially At-risk Structures and Infrastructure

DATE: February 21, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Fav/CS
2. Reagan	Betta	AEG	Recommend: Favorable
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1434 broadens the geographic applicability of the requirements, for public entities commissioning or managing coastal construction projects using funds appropriated from the state, to create sea level impact projection (SLIP) studies.

The bill provides definitions for the terms “area at risk due to sea level rise,” “potentially at-risk structure or infrastructure,” and “significant flood damage.”

In each place in section 161.551, Florida Statutes, where the term “coastal structure” currently appears, the bill replaces it with the term “potentially at-risk structure or infrastructure.” This expands the geographic scope of the statutory requirements relating to SLIP studies from the coastal building zone, as defined in statute, to areas at risk due to sea level rise.

The bill adds a new requirement to the standards for SLIP studies, which the Department of Environmental Protection (DEP) establishes by rule, requiring a list of flood mitigation strategies evaluated as part of the design of the potentially at-risk structures or infrastructure, and identification of the flood mitigation strategies that have been implemented or are being considered as part of the potentially at-risk structure or infrastructure design.

The bill would require the DEP to promulgate and administer new regulations which may cause the DEP to incur additional costs.

II. Present Situation:

Flooding and Sea Level Rise

The effects of climate change¹ include sea level rise, increasing storm intensity, and increasing frequency and severity of extreme rainfall events.² These trends result in increased flooding in inland and coastal areas.³ With 1,350 miles of coastline, relatively low elevations, and a porous geology, Florida is particularly vulnerable to coastal flooding.⁴ Coastal areas are facing the combined effects of sea level rise, storm surge, and extreme precipitation.⁵

Sea level rise is an observed increase in the average local sea level or global sea level trend.⁶ Climate change is causing global sea level rise through two primary factors: the loss of land-based ice (ice sheets and glaciers) due to melting, and thermal expansion caused by the warming of the oceans (water expands as it warms).⁷ Global mean sea level has risen about 8-9 inches since 1880, and the rate of rise is accelerating: 0.06 inches per year throughout most of the twentieth century, 0.14 inches per year from 2006-2015, and 0.24 inches per year from 2018-2019.⁸

¹ See National Aeronautics and Space Administration (NASA), Global Climate Change, Facts, Effects, <https://climate.nasa.gov/effects/> (last visited Jan. 20, 2022).

² U.S. Global Change Research Program (USGCRP), *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 31, 40-43, 97, 116-118, 745, 762, 1482 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022); Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2021: The Physical Science Basis, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM-10 SPM-11, SPM-28, SPM-33 (2021), available at https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (last visited Jan. 20, 2022).

³ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 757-68 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022).

⁴ Florida Division of Emergency Management (DEM), *Enhanced State Hazard Mitigation Plan*, 107-108, 162 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022). Florida has over 8,000 miles of coastline when considering intricacies such as bays, inlets, and waterways; McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 10, 12, 27 (2020), available at https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 20, 2022). Florida's porous limestone foundation causes saltwater intrusion and seepage from underground.

⁵ See DEM, *Enhanced State Hazard Mitigation Plan*, 107 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); IPCC, *Climate Change 2021: The Physical Science Basis, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM-33 (2021), available at https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (last visited Jan. 20, 2022).

⁶ Department of Environmental Protection (DEP), *Florida Adaptation Planning Guidebook*, Glossary (2018), available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 20, 2022).

⁷ *Id.*; National Oceanic and Atmospheric Administration (NOAA), *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Jan. 20, 2022). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean.

⁸ NOAA, *Climate Change: Global Sea Level*, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Jan. 20, 2022). The melting of glaciers and ice sheets (such as the Greenland and Antarctic Ice Sheets) is accelerating, and from 2005–2013 melting caused nearly twice as much sea level rise as thermal expansion.

Sea level rise data is obtained through various scientific equipment: tide gauge stations record the local height of the surrounding water level relative to a reference point on land, and satellite laser altimeters measure the average height of the entire ocean.⁹ Data is incorporated into numerous online tools for visualization.¹⁰ Scientific projections for future sea level rise and precipitation vary based on modeling using different scenarios of future greenhouse gas emissions and atmospheric concentrations.¹¹ After 2050, the various projections for sea level rise and precipitation diverge significantly based on different scenarios of emissions trajectories.¹² Rising sea levels result in gradual coastal inundation as sea level rise raises the height of high tide.¹³ High tide flooding (HTF) generally begins when coastal water levels exceed about 1.75 feet above high tide as measured by a tide gauge.¹⁴ Since 2000, the frequency of HTF in the United States has more than doubled, with data showing large increases at tide gauge locations in Florida.¹⁵ For example, research shows that in Miami Beach, between 1998 and 2013, the frequency of recurrent tidal flooding events quadrupled.¹⁶ The frequency of such flooding is projected to continue to increase.¹⁷ Research suggests that the increasing frequency of HTF may not be incremental and may include tipping points punctuated by extreme months and seasons during which many days of HTF cluster together.¹⁸

⁹ NOAA, Tides and Currents, *Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Jan. 20, 2022). Showing trends in data from tide gauge stations around Florida; NOAA, *Is Sea Level Rising?*, <https://oceanservice.noaa.gov/facts/sealevel.html> (last visited Jan. 20, 2022); see DEM, *Enhanced State Hazard Mitigation Plan*, 107 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022). “Relative sea level” is measured locally using tide gauges. “Eustatic sea level” is measured globally based on the volume of water in earth’s oceans.

¹⁰ DEP, *SLIP Map*, <https://floridadep-slip.org/Map.aspx> (last visited Jan. 20, 2022).

¹¹ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 1, 6, 40-43, 84-91, 338, 751, 758, 762 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022).

¹² *Id.* at 41-42, 109; IPCC, *The Ocean and Cryosphere in a Changing Climate*, 4-94-10 (Sept. 2019), available at https://www.ipcc.ch/site/assets/uploads/sites/3/2019/12/SROCC_FullReport_FINAL.pdf (last visited Jan. 20, 2022); Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 7, 25, 29 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

¹³ DEM, *Enhanced State Hazard Mitigation Plan*, 101, 108 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 17 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022). Rapid pulses are possible.

¹⁴ NOAA, *2021 State of High Tide Flooding and Annual Outlook*, v, 1 (2021), available at https://tidesandcurrents.noaa.gov/publications/2021_State_of_High_Tide_Flooding_and_Annual_Outlook_Final.pdf (last visited Jan. 20, 2022).

¹⁵ *Id.* at 9, 16-17.

¹⁶ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 31 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

¹⁷ NOAA, *2021 State of High Tide Flooding and Annual Outlook*, v-vi, 10 (2021). By 2030, without additional adaptation measures, national high tide flooding (HTF) frequency is likely to be about 2-3 times greater than today. By 2050, it’s likely to be 5-15 times greater.

¹⁸ Thompson et al., *Rapid Increases and Extreme Months in Projections of United States High-Tide Flooding*, NATURE CLIMATE CHANGE 11, 584-585, 589 (2021), available at <https://www.nature.com/articles/s41558-021-01077-8> (last visited Jan. 20, 2022).

In Florida, flooding from sea level rise impacts roads, stormwater systems, wastewater systems, public and private property, and natural areas.¹⁹ Sea level rise causes saltwater intrusion of both surface water and groundwater, threatening fresh water resources including coastal aquifers.²⁰ It causes coastal erosion and threatens coastal ecosystems which, when healthy and allowed space for landward migration, are critical for resilience.²¹ Sea level rise also raises coastal groundwater tables and pushes salt water further inland.²² Many of these processes are exacerbated by Florida's porous limestone geology.²³

Future storms are generally expected to have increased average intensity and precipitation rates.²⁴ Storm intensity is a principal determinant of storm surge height.²⁵ Storm surge is water driven ashore by the wind during severe weather, and it is an especially dangerous aspect of

¹⁹ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 5 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

²⁰ DEM, *Enhanced State Hazard Mitigation Plan*, 106 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 33-35 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

²¹ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 35 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022); DEM, *Enhanced State Hazard Mitigation Plan*, 106, 221 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 340-341, 690, 775, 833 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022). Coastal ecosystems reduce erosion, buffer against waves and storm surge, attenuate wave energy, maintain water quality, and provide habitat for wildlife.

²² DEM, *Enhanced State Hazard Mitigation Plan*, 108 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022).

²³ See Urban Land Institute (ULI), *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, 20 (2020), available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49af72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 20, 2022).

²⁴ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 35 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022); DEM, *Enhanced State Hazard Mitigation Plan*, 106, 221 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 97, 116-118, 1482 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022); see Knutson et al., *Tropical Cyclones and Climate Change Assessment, Part II: Projected Response to Anthropogenic Warming*, American Meteorological Society, E317-E318 (2020), available at <https://journals.ametsoc.org/bams/article/101/3/E303/345043/Tropical-Cyclones-and-Climate-Change-Assessment> (last visited Jan. 20, 2022); IPCC, *Climate Change 2021: The Physical Science Basis, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM-20 (2021), available at https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (last visited Jan. 20, 2022). The proportion of intense tropical cyclones (categories 4-5) and peak wind speeds of the most intense tropical cyclones are projected to increase globally.

²⁵ DEM, *Enhanced State Hazard Mitigation Plan*, 441 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022).

coastal flooding.²⁶ Sea level rise is expected to increase the impacts from storm surge, as it will build on top of a higher base of water, travel farther inland, and impact more areas and properties than in the past.²⁷ Storm surges are an especially dangerous aspect of coastal flooding and their impacts also include coastal erosion, property loss and damage, and debris carried by the water.²⁸ A warmer atmosphere holds more water vapor, leading to more frequent and intense extreme rainfall events that are contributing to increased inland and coastal flooding.²⁹ Extreme rainfall events can stress or overwhelm stormwater infrastructure, while sea level rise impairs gravity-driven systems and reduces the discharge capacity of coastal water control structures.³⁰ By raising groundwater levels, sea level rise reduces the ability of rainfall to infiltrate the soil, and the reduced soil storage capacity causes flooding.³¹

Florida's 35 coastal counties contain 76 percent of its population and 79 percent of its total economy as of 2012.³² One study found that 20.5 percent of properties in Florida were at

²⁶ DEM, *Enhanced State Hazard Mitigation Plan*, 100 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); Emrich et al., *Climate-Sensitive Hazards in Florida, Identifying and Prioritizing Threats to Build Resilience against Climate Effects*, Storm Surge 1 of 37 (2014), available at <https://flbrace.org/images/docs/climate-sensitive-hazards-in-florida-final-report.pdf> (last visited Jan. 20, 2022).

²⁷ DEM, *Enhanced State Hazard Mitigation Plan*, 100, 106-08 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 758 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022).

²⁸ DEM, *Enhanced State Hazard Mitigation Plan*, 138-40, 217-19 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); Emrich et al., *Climate-Sensitive Hazards in Florida, Identifying and Prioritizing Threats to Build Resilience against Climate Effects*, Storm Surge 1 of 37 (2014), available at <https://flbrace.org/images/docs/climate-sensitive-hazards-in-florida-final-report.pdf> (last visited Jan. 20, 2022); NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document*, 16-18 (May 2021), available at <https://marinedebris.noaa.gov/file/5582/download?token=3Ju2uDHQ> (last visited Jan. 20, 2022). Forty percent of all hurricanes that strike the U.S. make landfall in Florida. *Id.* at 15.

²⁹ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 88, 97, 113, 745, 762, 1447 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022); DEM, *Enhanced State Hazard Mitigation Plan*, 106 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022); IPCC, *Climate Change 2021: The Physical Science Basis, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM-20 (2021), available at https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (last visited Jan. 20, 2022). Globally, extreme daily precipitation events are projected to intensify by about seven percent for each 1°C of warming.

³⁰ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 763 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022); SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 5, 34 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

³¹ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 33 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022); DEM, *Enhanced State Hazard Mitigation Plan*, 106, 181 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022).

³² DEP, *Florida Adaptation Planning Guidebook*, at III (2018), available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 20, 2022); see McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 13 (2020), available at [https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%](https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20stay%20afloat%20in%20florida.pdf)

substantial risk of flooding in 2020 and 24.3 percent will be at such risk by 2050.³³ Another study found tidal flooding could result in a total property devaluation of \$10-\$30 billion by 2030 and \$30-\$80 billion by 2050, and that real estate losses during 100-year storm surge events could reach \$50-\$75 billion by 2050.³⁴ A regional analysis found that in Southeast Florida alone, by 2040, \$4.2 billion in property value could be lost to daily tidal inundation and one 10-year storm tide event could cause \$3.2 billion in property damage.³⁵ It is estimated that Florida has nine of the top ten counties in the nation for total annual risk of economic loss from flooding.³⁶ Despite the risks, people and capital continue to flow into exposed coastal areas in Florida.³⁷

Adaptation strategies such as elevating properties or constructing coastal structures may be cost-prohibitive in certain instances, and the burdens of adaptation disproportionately affect vulnerable individuals or communities.³⁸ A recent report from a medical journal states a range of health impacts related to rising sea levels are likely to occur.³⁹

[20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf](https://www.mckinsey.com/~/media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf) (last visited Jan. 20, 2022). Almost 10 percent of the state's population is less than 4.9 feet (1.5 meters) above sea level.

³³ First Street Foundation (FSF), *The First National Flood Risk Assessment: Defining America's Growing Risk*, 39 (2020), available at https://assets.firststreet.org/uploads/2020/06/first_street_foundation_first_national_flood_risk_assessment.pdf (last visited Jan. 20, 2022). The study calculates substantial risk as a one percent annual risk of 1 cm of inundation or more.

³⁴ McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 15-19 (2020), available at https://www.mckinsey.com/~/media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 20, 2022).

³⁵ Urban Land Institute (ULI), *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, 6 (2020), available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 20, 2022). In 2070, the estimated potential harm in Southeast Florida increases to \$53.6 billion of lost property value from daily tidal inundation and \$16.5 billion of property damage from one 10-year storm.

³⁶ FSF, *The Cost of Climate, America's Growing Flood Risk*, 11 (Feb. 2021), available at https://assets.firststreet.org/uploads/2021/02/The_Cost_of_Climate_FSF20210219-1.pdf (last visited Jan. 20, 2022).

³⁷ McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 13 (2020), available at https://www.mckinsey.com/~/media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 20, 2022).

³⁸ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 333-35 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022); U.S. Government Accountability Office, *A Climate Migration Pilot Program Could Enhance the Nation's Resilience and Reduce Federal Fiscal Exposure*, 29 (2020), <https://www.gao.gov/assets/710/707961.pdf> (last visited Jan. 20, 2022); see A.R. Siders and Jesse M. Keenan, *Variables Shaping Coastal Adaptation Decisions to Armor, Nourish, and Retreat in North Carolina*, OCEAN AND COASTAL MANAGEMENT, vol. 183, pg. 1-2, 9 (Jan. 2020), available at <https://www.sciencedirect.com/science/article/abs/S0964569119305836> (last visited Jan. 20, 2022); see generally Buchanan et al., *Sea Level Rise and Coastal Flooding Threaten Affordable Housing*, ENVIRONMENTAL RESEARCH LETTERS (Dec. 1, 2020), available at <https://iopscience.iop.org/article/10.1088/1748-9326/abb266> (last visited Jan. 20, 2022).

³⁹ Watts et al., *The 2020 Report of The Lancet Countdown on Health and Climate Change: Responding to Converging Crises*, THE LANCET, Vol. 396, 14 (2020), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)32290-X/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)32290-X/fulltext) (last visited Jan. 20, 2022). The report mentions "changes in water and soil quality and supply, livelihood security, disease vector ecology, flooding, and saltwater intrusion."

As sea level rise continues, financial impacts may include increases in flood insurance costs,⁴⁰ decreases in property sales or property values, and increased risk for lenders.⁴¹ Coastal flooding can disrupt local economies and tourism, leading to lost revenues for the public and private sectors, and over time risks include loss or impairment of employment opportunities and public services and infrastructure.⁴² While accounting for the chronic stresses of recurrent flooding, local governments will increasingly need to finance adaptation strategies, such as investing in infrastructure or pumping systems, which may be made more difficult over time by any downgrades to municipal bond ratings or long-term tax losses.⁴³

Studies show significant positive returns on investment calculated for resilience measures, including the following benefit-cost ratios: \$6 for every \$1 spent through federal grants on natural hazard mitigation, and, for future resilience investments in Southeast Florida, \$4 for every \$1 on building-level adaptations and \$2 for every \$1 on community-wide adaptations.⁴⁴

Sea Level Rise Projections

Entities from the international to the local level use scientific data and modeling to create projections of future sea level rise for planning and decision-making. The Intergovernmental Panel on Climate Change (IPCC) includes 195 member countries assessing climate change science reviewed by thousands of experts around the globe and intended to reflect the full range of scientific views.⁴⁵ The National Oceanic and Atmospheric Administration (NOAA) operates tide gauges along the nation's coasts and satellites that measure changes in sea level. In 2012 and 2017, the NOAA published sea level rise projections for the United States.⁴⁶ The NOAA's projections include six scenarios ranging from "low" to "extreme," with several intermediate

⁴⁰ FSF, *The Cost of Climate, America's Growing Flood Risk*, 39 (Feb. 2021). The report finds that if insurance prices were adjusted to account for actual current flood risk premiums for many properties in Florida would increase significantly, by as much as 4.8 to 7.7 times the current rates (depending on location), impacting property values.

⁴¹ McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 22-27 (2020), available at https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 20, 2022) (lending risks involve not only banks investing in private homes and businesses, but also potential downgrades to bond ratings for local governments that do not implement adaptation strategies); SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 5 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

⁴² ULI, *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, 13, 14, 19, 20 (2020), available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 20, 2022).

⁴³ *Id.* at 10, 23, 33; McKinsey Global Institute, *Will Mortgages and Markets Stay Afloat in Florida?*, 27 (2020), available at https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Sustainability/Our%20Insights/Will%20mortgages%20and%20markets%20stay%20afloat%20in%20Florida/MGI_Climate%20Risk_Case%20Studies_Florida_May2020.pdf (last visited Jan. 20, 2022).

⁴⁴ ULI, *The Business Case for Resilience - Regional Economic Benefits of Climate Adaptation*, 26 (2020), available at https://knowledge.uli.org/-/media/files/research-reports/2020/the-business-case-for-resilience-in-southeast-florida_final.pdf?rev=81609c7f6b72479d89c49aff72fea446&hash=FB2E953B8A456CFE781169A0CAA82333 (last visited Jan. 20, 2022); National Institute of Building Sciences, *Natural Hazard Mitigation Saves*, 1-2 (Dec. 2019), available at https://www.nibs.org/files/pdfs/NIBS_MMC_MitigationSaves_2019.pdf (last visited Jan. 20, 2022).

⁴⁵ IPCC, *About the IPCC*, <https://www.ipcc.ch/about/> (last visited Jan. 20, 2022).

⁴⁶ NOAA, *Climate Change: Global Sea Level*, available at <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited Jan. 20, 2022).

scenarios.⁴⁷ NOAA's projections were used in the fourth national climate assessment by the United States Global Change Research Program, a program of 13 federal agencies analyzing the changing global environment.⁴⁸ The United States Army Corps of Engineers (USACE) has developed policies requiring consideration of specific scenarios of sea level change at every step in a project's life cycle.⁴⁹

Sea level rise is experienced differently in different areas, depending on many factors including ocean currents, subsidence (sinking of land), accretion (accumulation of sediment), land use, and erosion.⁵⁰ The Southeast Florida Regional Climate Change Compact (compact), a collaboration including Broward, Miami-Dade, Monroe, and Palm Beach counties, periodically assembles a technical work group of experts to produce sea level rise projections to assist planning and decision-making in Southeast Florida.⁵¹ Many local governments in the region have incorporated the compact's projections into their planning documents and policies.⁵² In 2019, the Tampa Bay Climate Science Advisory Panel recommended a common set of sea level rise projections for use throughout the Tampa Bay region.⁵³

⁴⁷ Sweet et al., NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 21–23 (2017), available at https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf (last visited Jan. 20, 2022).

⁴⁸ USGCRP, *About USGCRP*, <https://www.globalchange.gov/about> (last visited Jan. 20, 2022).

⁴⁹ See United States Army Corps of Engineers (USACE), *Policies*, https://www.usace.army.mil/corpsclimate/climate_policies/ (last visited Jan. 20, 2022).

⁵⁰ USGCRP, *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States*, 757, 855, 1495 (2018), available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 20, 2022).

⁵¹ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 8 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022).

⁵² SFRCCC, *Climate Action Plan, ST-1: Incorporate Projections Into Plans*, <http://southeastfloridacclimatecompact.org/recommendations/incorporate-projections-into-plans/> (last visited Jan. 20, 2022).

⁵³ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Jan. 20, 2022).

Sea Level Rise Projections				
Source	Scale	Year	Low (feet)	High (feet)
IPCC Assessment Report 6 ⁵⁴	Global	2100	0.92-1.8	2.07-3.31
		2150	1.21-2.82	3.22-6.17
NOAA (Sweet et al., 2017), Low–Extreme ⁵⁵	Global	2040	0.43	1.35
		2070	0.72	3.94
		2100	.98	8.20
SFRCCC Unified Sea Level Rise Projection, 2019 Update ⁵⁶	Southeast Florida	2040	.83	1.42
		2070	1.75	3.33
		2120	3.33	7.67
Tampa Bay Climate Science Advisory Panel ⁵⁷	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

Statewide Resilience Programs

In 2021, the Legislature, recognizing that Florida is vulnerable to flooding from increasing rainfall, storm surge, and sea level rise, established several statewide resilience programs.⁵⁸ Those programs include the following:

- The Department of Environmental Protection’s (DEP’s) Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets.⁵⁹ The findings of the assessments must be reported to the DEP.
- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years.⁶⁰ The DEP must:
 - By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.

⁵⁴ IPCC, *Climate Change 2021: The Physical Science Basis, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM-28 (2021), available at https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf (last visited Jan. 20, 2022). The low and high ranges shown in the table represent the very low and very high greenhouse gas emissions scenarios, respectively.

⁵⁵ Sweet et al., NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 21, 23 (2017), available at https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf (last visited Jan. 20, 2022).

⁵⁶ SFRCCC, *Unified Sea Level Rise Projection Southeast Florida - 2019 Update*, 9-10 (2019), available at https://southeastfloridacclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf (last visited Jan. 20, 2022). The range in the table shows regional applications of the IPCC Representative Concentration Pathway 8.5 Median curve and the NOAA Intermediate High curve.

⁵⁷ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Jan. 20, 2022).

⁵⁸ See ch. 2021-28, Laws of Fla., codified in ss. 380.093, 380.0933, and 403.928(4), F.S.

⁵⁹ Section 380.093(2)(a), F.S. “Critical asset” is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

⁶⁰ Section 380.093(4), F.S.

- By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.⁶¹
- The Statewide Flooding and Sea Level Rise Resilience Plan.⁶² By each December 1, the DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature for funding of ranked projects.⁶³

The Coastal Zone Protection Act

The Coastal Zone Protection Act of 1985 (act)⁶⁴ is intended to manage the most sensitive portion of Florida’s coastal areas through the imposition of strict construction standards in order to minimize damage to the natural environment, private property, and life.⁶⁵

The act covers activities and construction within the “coastal building zone.” The coastal building zone is the land from the seasonal high-water line⁶⁶ landward to a line 1,500 feet landward from the coastal construction control line (CCCL),⁶⁷ and for those areas where no CCCL has been established, the coastal building zone is the land seaward of the most landward velocity zone (v-zone) line⁶⁸ as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.⁶⁹ On coastal barrier islands, the coastal building zone is the land from the seasonal high-water line to a line 5,000 feet landward from the CCCL, or the entire island, whichever is less.⁷⁰ For coastal barrier islands on which a CCCL has not been established, the coastal building zone is the land seaward of the most landward v-zone boundary line fronting upon the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida.⁷¹ All land in the Florida Keys located within Monroe County is in the coastal building zone.⁷²

⁶¹ *Id.*

⁶² Section 380.093(5), F.S.

⁶³ Section 380.093, F.S.

⁶⁴ Section 161.52-161.58, F.S.

⁶⁵ Section 161.53(5), F.S.

⁶⁶ See s. 161.053(5)(a)2., F.S., (defining “seasonal high-water line” as “the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water”); see s. 177.27(14), F.S., (defining “mean high water,” in part, as the average height of the high waters over a 19-year period).

⁶⁷ See s. 161.053, F.S. A coastal construction control line (CCCL) defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other predictable weather conditions. Generally, a permit is required for construction and excavation activities seaward of the CCCL. See generally Fla. Admin. Code Chapters 62B-33, 62B-34, 62B-49, and 62B-56.

⁶⁸ Federal Emergency Management Agency (FEMA), *National Flood Insurance Program (NFIP), Floodplain Management Requirements*, FEMA 480, 3-22–3-23, 3-29, 5-51, 7-59 (2005), available at https://www.fema.gov/sites/default/files/documents/fema-480_floodplain-management-study-guide_local-officials.pdf (last visited Jan. 20, 2022). Special Flood Hazard Areas on flood insurance rate maps include “A Zones,” which are the regular base floodplain, and “V Zones,” which are coastal high hazard areas, subject to more stringent regulatory requirements and different flood insurance rates, where structures must be protected from hazards such as waves, storm surges, hurricane-force winds, and erosion.

⁶⁹ Section 161.54(1), F.S.

⁷⁰ Section 161.55(4), F.S.

⁷¹ *Id.*

⁷² *Id.*

The act defines certain types of structures regulated within the coastal building zone.⁷³ A “[m]ajor structure” means houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.⁷⁴ A “[n]onhabitable major structure” means swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets, and highways; and underground storage tanks.⁷⁵

The act also defines “substantial flood damage,” which means “flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.”⁷⁶

Sea Level Impact Projection (SLIP) Studies

In 2020, the Legislature created within the act s. 161.551, F.S., entitled “Public financing of construction projections within the coastal building zone.”⁷⁷

Section 161.551, F.S., requires a public entity that commissions or manages a construction project on a coastal structure, using funds appropriated from the state, to conduct a sea level impact projection (SLIP) study prior to commencing construction.⁷⁸ The section defines a coastal structure as a major structure or nonhabitable major structure within the coastal building zone.⁷⁹

Before construction commences, a state-financed constructor⁸⁰ must conduct a SLIP study meeting the statutory requirements, submit the study to the DEP, and receive notification from the DEP that the study has been published on the DEP’s website for at least 30 days.⁸¹ The DEP is required to develop by rule the specific standards for conducting a SLIP study.⁸² Under the statute, the DEP’s SLIP study standards must, at a minimum, require state-financed constructors to do all of the following:

- Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.
- Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less.

⁷³ Section 161.54(6), F.S.

⁷⁴ Section 161.54(6)(a), F.S.

⁷⁵ Section 161.54(6)(c), F.S.

⁷⁶ Section 161.551(1)(e), F.S.; see FEMA, *What Does “Substantial Damage” Mean?*, <https://www.fema.gov/press-release/20210318/what-does-substantial-damage-mean> (last visited Jan. 21, 2022) (noting that FEMA applies the term “substantial damage” to a structure in a Special Flood Hazard Area – or floodplain – for which the total cost of repairs is 50 percent or more of the structure’s market value before the disaster occurred, regardless of the cause of damage).

⁷⁷ Chapter 2020-119, Laws of Fla.

⁷⁸ Section 161.551(2), F.S.

⁷⁹ Section 161.551(1)(a), F.S.

⁸⁰ Section 161.551(1)(b) and (d), F.S. “State-financed constructor” is defined as “a public entity that commissions or manages a construction project using funds appropriated from the state.”

⁸¹ Section 161.551(2), F.S.

⁸² Section 161.551(3), F.S.

- The assessment must take into account potential relative local sea level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and, to the extent possible, account for the contribution of sea level rise versus land subsidence to the relative local sea level rise.
- The assessment must provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk.
- The assessment must use and consider available scientific research and generally accepted industry practices.
- The assessment must provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less.
- The assessment must analyze potential public safety and environmental impacts resulting from damage to the coastal structure, including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.
- Provide alternatives for the coastal structure's design and siting, and how such alternatives would impact specified risks, as well as the risk and cost associated with maintaining, repairing, and constructing the coastal structure.⁸³

If a state-financed constructor commences construction of a coastal structure without complying with the SLIP study requirements, the DEP is authorized to institute a civil action.⁸⁴ In such cases, the DEP may:

- Seek injunctive relief to cease further construction of the coastal structure or enforce compliance with this section or with rules adopted by the DEP pursuant to this section.
- If the coastal structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.⁸⁵

The DEP is authorized to enforce the requirements of s. 161.551, F.S., and required to adopt rules as necessary to administer the act.⁸⁶ Accordingly, the DEP has adopted a rule providing the requirements for state-financed constructors⁸⁷ and developed a web-based tool enabling them to create and submit SLIP study reports pursuant to the statute.⁸⁸ The web-based tool provides resources for the benefit of the public, including policy information, a database of resilience strategies, and an interactive map for visualizing different scenarios of sea level rise and flooding.⁸⁹

III. Effect of Proposed Changes:

Section 1 amends s. 161.551, F.S., which requires a public entity commissioning or managing certain construction projects within the coastal building zone, using funds appropriated from the state, to conduct a sea level impact projection (SLIP) study prior to commencing construction.

⁸³ Section 161.551(3), F.S.

⁸⁴ Section 161.551(4), F.S.

⁸⁵ *Id.*

⁸⁶ Section 161.551(6) and (7), F.S.

⁸⁷ Fla. Admin. Code R. 62S-7.011.

⁸⁸ DEP, *Sea Level Impact Projection Study Tool*, <https://www.floridadep-slip.org/> (last visited Jan. 20, 2022).

⁸⁹ *Id.*

The bill changes the title of s. 161.551, F.S., from “Public financing of construction projects within the coastal building zone” to “Public financing of construction projects within areas at risk due to sea level rise.”

The bill creates a definition, defining “[a]rea at risk due to sea level rise” as:

[A]ny location that is projected to be below the threshold for tidal flooding within the next 50 years by adding sea-level rise using the 2017 National Oceanic and Atmospheric Administration intermediate-high sea-level rise projection. For purposes of this paragraph, the threshold for tidal flooding is 2 feet above mean higher high water.

The bill defines the term “[p]otentially at-risk structure or infrastructure” as meaning any of the following when within an area at risk due to sea level rise:

- A major structure, regardless of whether it has the potential for substantially impacting coastal zones;
- A nonhabitable major structure; or
- Any other construction critical to public health, life, or safety.

This definition of “[p]otentially at-risk structure or infrastructure” replaces the existing definition of “coastal structure” as “a major structure or nonhabitable major structure within the coastal building zone.”

The bill replaces the definition of “[s]ubstantial flood damage” with “[s]ignificant flood damage,” which means flood, erosion, inundation, or wave action damage resulting from a discrete or compound natural hazard event, such as a flood or tropical weather system, where such damage exceeds:

- Twenty-five percent of the replacement cost of the potentially at risk structure or infrastructure at the time of the event; or
- A defined threshold established by the Department of Environmental Protection (DEP) in coordination with the Department of Transportation and water management districts. The threshold must be established by July 1, 2023.

The bill revises the requirement that a state-financed constructor assess the flooding, inundation, and wave action damage risks relating to a coastal structure over its expected life or 50 years, whichever is less, by referencing “potentially at-risk structure or infrastructure” instead of “coastal structure.” The bill also revises the requirement that the assessment provide the “mean average annual chance of substantial flood damage” over the expected life of the coastal structure or 50 years, whichever is less, to instead require the assessment to provide “an estimated probability of significant flood damage to the potentially at-risk structure or infrastructure” over the expected life of the structure or infrastructure or 50 years, whichever is less.

The bill replaces the term “coastal structure” with the term “potentially at-risk structure or infrastructure” throughout s. 161.551, F.S. This broadens the geographic applicability of the section’s requirements from the coastal building zone⁹⁰ to areas at risk due to sea level rise.

The bill also creates a new requirement for SLIP studies. The studies must provide a list of flood mitigation strategies evaluated as part of the design of the potentially at-risk structure or infrastructure, and identify the flood mitigation strategies that have been implemented or are being considered as part of the potentially at-risk structure or infrastructure design.

Section 2 provides an effective date of July 1, 2022.

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.

⁹⁰ Section 161.54(1), F.S. “Coastal Building Zone” is defined as “the land area from the seasonal high-water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to s. 161.053, and, for those coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and not included under s. 161.053, the land area seaward of the most landward velocity zone (V-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.” *Id.* The coastal building zone on coastal barrier islands is “the land area from the seasonal high-water line to a line 5,000 feet landward from the coastal construction control line established pursuant to s. 161.053, or the entire island, whichever is less. For coastal barrier islands on which a coastal construction control line has not been established pursuant to s. 161.053, the coastal building zone shall be the land area seaward of the most landward velocity zone (V-zone) boundary line fronting upon the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida. All land area in the Florida Keys located within Monroe County shall be included in the coastal building zone.” Section 161.55(4), F.S.

B. Private Sector Impact:

The bill expands the geographic applicability of procedures that identify long-term risks to coastal structures, and potentially avoids some of the large costs of mitigating and dealing with future damage to, or even loss of, potentially at-risk structures or infrastructure. To the extent that the bill increases the avoided costs of damage or destruction, residents and businesses may benefit.

C. Government Sector Impact:

The bill would require the DEP to promulgate and administer new regulations which may cause the DEP to incur additional costs.

Requiring government entities to conduct a larger number of sea-level impact project studies prior to construction may result in an indeterminate, negative fiscal impact on the government sector in the short-term. However, the bill requires procedures that identify risks and potentially avoid damage and loss for an increased range of potentially at-risk structures or infrastructure, at least in part, using funds appropriated from the state. This may result in state funds, or potentially federal grant money that is appropriated from the state, being used for structures or infrastructure that have less risk of damage or loss over time, or structures or infrastructure that may remain undamaged or intact for a longer period of time. Therefore, the bill may result in an indeterminate, positive impact on the government sector in the long-term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 161.551 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 Environment and Natural Resources on January 24, 2022:

The committee substitute:

- Revises the definition of “Area at risk due to sea level rise,” such that it only means any location that is projected to be below the threshold for tidal flooding within the next 50 years by adding sea-level rise using the 2017 National Oceanic and Atmospheric Administration intermediate-high sea-level rise projection.
- Revises the definition of “Potentially at-risk structure or infrastructure,” such that it means any of the following when within an area at risk due to sea-level rise:

- A major structure, regardless of whether it has the potential for substantially impacting coastal zones.
- A nonhabitable major structure.
- Any other construction critical to public health, life, or safety.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

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A bill to be entitled

An act relating to public financing of potentially at-risk structures and infrastructure; amending s. 161.551, F.S.; defining and revising terms; providing that certain areas are at risk due to sea-level rise and structures and infrastructure within those areas are potentially at risk; providing an additional requirement for the standard for conducting a SLIP study; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 161.551, Florida Statutes, is amended to read:

161.551 Public financing of construction projects within areas at risk due to sea-level rise ~~the coastal building zone.~~

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

(a) "Area at risk due to sea-level rise" means any location that is projected to be below the threshold for tidal flooding within the next 50 years by adding sea-level rise using the 2017 National Oceanic and Atmospheric Administration intermediate-high sea-level rise projection. For purposes of this paragraph, the threshold for tidal flooding is 2 feet above mean higher high water.

(b) "Potentially at-risk ~~Coastal~~ structure or infrastructure" means any of the following when within an area at risk due to sea-level rise:

1. A major structure, regardless of whether it has the

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potential for substantially impacting coastal zones.

2. A ~~or~~ nonhabitable major structure.

3. Any other construction critical to public health, life, or safety within the coastal building zone.

(c) ~~(b)~~ "Public entity" means the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit.

(e) ~~(c)~~ "SLIP study" means a sea level impact projection study as established by the department pursuant to subsection (3).

(f) ~~(d)~~ "State-financed constructor" means a public entity that commissions or manages a construction project using funds appropriated from the state.

(d) ~~(e)~~ "Significant ~~Substantial~~ flood damage" means flood, erosion, inundation, or wave action damage resulting from a discrete or compound natural hazard ~~single~~ event, such as a flood or tropical weather system, where such damage exceeds:

1. Twenty-five ~~25~~ percent of the replacement cost ~~market value~~ of the potentially at-risk ~~coastal~~ structure or infrastructure at the time of the event; or

2. A defined threshold established by the department in coordination with the Department of Transportation and water management districts. The threshold must be established by July 1, 2023.

(2) Beginning 1 year after the date the rule developed by the department pursuant to subsection (3) is finalized and is

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otherwise in effect, a state-financed constructor may not commence construction of a potentially at-risk ~~coastal~~ structure or infrastructure without:

(a) Conducting a SLIP study that meets the requirements established by the department;

(b) Submitting the study to the department; and

(c) Receiving notification from the department that the study was received and that it has been published on the department's website pursuant to paragraph (6)(a) for at least 30 days. The state-financed constructor is solely responsible for ensuring that the study submitted to the department for publication meets the requirements under subsection (3).

(3) The department shall develop by rule a standard by which a state-financed constructor must conduct a SLIP study and may require that a professional engineer sign off on the study. The rule must be effective 1 year after the date it is finalized and applies only to projects not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized. At a minimum, the standard must require that a state-financed constructor do all of the following:

(a) Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.

(b) Assess the flooding, inundation, and wave action damage risks relating to the potentially at-risk ~~coastal~~ structure or infrastructure over its expected life or 50 years, whichever is less.

1. The assessment must take into account potential relative

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local sea-level rise and increased storm risk during the expected life of the potentially at-risk ~~coastal~~ structure or infrastructure or 50 years, whichever is less, and, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.

2. The assessment must provide scientific and engineering evidence of the risk to the potentially at-risk ~~coastal~~ structure or infrastructure and methods used to mitigate, adapt to, or reduce this risk.

3. The assessment must use and consider available scientific research and generally accepted industry practices.

4. The assessment must provide an estimated probability of significant ~~the mean average annual chance of substantial~~ flood damage to the potentially at-risk structure or infrastructure over the expected life of the ~~coastal~~ structure or infrastructure or 50 years, whichever is less.

5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the potentially at-risk ~~coastal~~ structure or infrastructure, including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

(c) Provide alternatives for the ~~coastal structure's~~ design and siting of the potentially at-risk structure or infrastructure, and how such alternatives would impact the risks specified in subparagraph (b)5. as well as the risk and cost associated with maintaining, repairing, and constructing the potentially at-risk ~~coastal~~ structure or infrastructure.

(d) Provide a list of flood mitigation strategies evaluated

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as part of the design of the potentially at-risk structure or infrastructure, and identify the flood mitigation strategies that have been implemented or are being considered as part of the potentially at-risk structure or infrastructure design.

If multiple potentially at-risk ~~coastal~~ structures or infrastructure are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project for publication by the department.

(4) If a state-financed constructor commences construction of a potentially at-risk ~~coastal~~ structure or infrastructure but has not complied with the SLIP study requirement under subsection (2), the department may institute a civil action in a court of competent jurisdiction to:

(a) Seek injunctive relief to cease further construction of the potentially at-risk ~~coastal~~ structure or infrastructure or to enforce compliance with this section or with rules adopted by the department pursuant to this section.

(b) If the potentially at-risk ~~coastal~~ structure or infrastructure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the potentially at-risk ~~coastal~~ structure or infrastructure.

(5) This section ~~does not~~ ~~may not be construed to~~ create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

(6) The department:

(a) Shall publish and maintain a copy of each SLIP study

Page 5 of 6

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~~all SLIP studies~~ submitted pursuant to this section on its website for at least 10 years after the date the department receives the study receipt. However, any portion of a study containing information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution must be redacted by the department before publication.

(b) Shall adopt rules as necessary to administer this section.

(7) The department may enforce the requirements of this section.

Section 2. This act shall take effect July 1, 2022.

Page 6 of 6

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The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 25, 2022

I respectfully request that **CS/SB#1434**, relating to Public Financing of Potentially At-risk Structures and Infrastructure, be placed on the:

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

A handwritten signature in black ink, appearing to read "AmR", is written over a horizontal line.

Senator Ana Maria Rodriguez
Florida Senate, District 39

The Florida Senate
APPEARANCE RECORD

2/22/22

Meeting Date

1434

Bill Number or Topic

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

S appropriations sub on Ag
Committee

Amendment-Barcode (if applicable)

Name

Jason King

Phone

954-610-3064

Address

1 E Broward Blvd #1800

Email

jking@jakebeckerlawyer.com

Street

FL Lauderdale

33337

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. [2020-2022 Joint Rules.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
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Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

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:

FLORIDA LEAGUE OF WOMEN VOTER

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. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

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S-001 (08/10/2021)

February 22, 2022

Meeting Date

Ag, Enviro, and General Government Approp

Committee

Name Jonathan Webber

Phone 954-593-4449

Address 1700 N. Monroe St. #11-286

Street

Tallahassee

FL

32303

City

State

Zip

Email jwebber@fcvoters.org

SB 1434 Public Financing of Potentially At-risk

Bill Number or Topic

Amendment Barcode (if applicable)

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 Conservation Voters

☐

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

5-001 (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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1450

INTRODUCER: Senator Jones

SUBJECT: Healthy Food Financing Initiative Program

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fink</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 1450 amends the Healthy Food Financing Initiative, which was created in 2016. The bill transfers, renumbers, and amends section 500.81, Florida Statutes, to redefine “underserved communities,” revises requirements for the administration of and participation in the Healthy Food Financing Initiative program, and revises eligibility requirements for program participants. The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the program and collected data and provide the Legislature with a specified report.

The bill has an indeterminate fiscal impact on the Department of Agriculture and Consumer Services. See Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Healthy Food Financing Initiative Program

This Legislature directed the department to establish a Healthy Food Financing Initiative Program (program) to provide financial assistance for the rehabilitation or expansion of grocery retail outlets located in underserved or low-income communities. The department was directed to draw upon and coordinate the use of federal, state, and private loans or grants, federal tax credits, and other types of financial assistance. The goal of the program is to improve public health and well-being of low-income children, families, and older adults by increasing access to fresh produce and other nutritious foods at participating independent grocery outlets that will be required to allocate at least 30 percent of their retail space to the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish. Annual reporting of the program’s accomplishments is required to be made to the President of

the Senate and Speaker of the House, and, after seven years, the OPPAGA is directed to review the impact and successfulness of the program.¹

For the 2016-2017 fiscal year, \$500,000 in non-recurring general revenue was appropriated to the department to implement the program.²

Food Insecurity in Florida

This year, the OPPAGA prepared a research memorandum to describe low income, low access (LILA) census tracts in the state, which includes describing what is known about LILA food areas and the effects on residents of those areas.³ The memorandum outlines the incidence of LILA census tracts statewide, specifically, the number of people that are both low income and have limited access to healthy food options by census tract; provides additional information about LILA areas in Hillsborough, Pinellas, and Suwannee counties; and provides high level policy considerations to expand access to healthy food in LILA areas.

In Florida, the number of LILA tracts has decreased since 2015, but barriers to healthy food access remain.⁴ Approximately 13.5 percent of Floridians live in census tracts that are both low income and low access, with a larger percentage of urban residents compared to rural residents. In Hillsborough and Pinellas counties, residents of LILA census tracts are from a disproportionately lower socioeconomic minority group compared to other areas of the county and the LILA census tracts have high poverty rates, and few, if any major chain supermarkets. Public and private entities have started a range of food access initiatives in these counties, though resource constraints present a challenge. In Suwannee County, the two LILA census tracts have a higher proportion of residents that are 65 and older, have no major chain supermarkets, and stakeholders report that the largest barrier to healthy food access is transportation.

High relative availability of unhealthy food refers to geographic areas where there is a high ratio of unhealthy food sources to healthy food sources. Such areas are sometimes referred to as food swamps. Both low-access and unhealthy food environments have been associated with a range of social, economic, and health concerns. A “low income” census tract is characterized by a poverty rate greater than 20 percent or the median family income is less than or equal to 80 percent of the statewide median family income, or in metropolitan areas, 80 percent of the metropolitan area median family income. A “low access” census tract is characterized by an area where at least 500 people, or 33 percent of the population, is greater than one mile (urban) or 10 miles (rural) from a supermarket, supercenter, or large grocery store.

III. Effect of Proposed Changes:

Section 1 renames ch. 595, F.S., entitled “School Food and Nutrition Services,” as “Food and Nutrition.”

¹ Section 500.81, F.S.

² Ch 2016-221, Laws of Fla.

³ Office of Program Policy and Government Accountability, “*Geographic Access to Healthy Food in Florida*,” (Dec. 27, 2021).

⁴ *Id.* at 10

Section 2 transfers and renumbers s. 500.81, F.S., as s. 595.801, F.S.

The bill changes the definition of “underserved community” to “a low income community where a substantial number of residents have low access to a full service supermarket or grocery store.”

The bill directs the department to establish a Healthy Food Financing Initiative program that provides grants and loans, for the construction, rehabilitation, or expansion of independent grocery stores, supermarkets, community facilities, or other retail outlets.

The bill also provides new program eligibility requirements for nonprofit organizations, requiring that the organization can demonstrate:

- Prior experience in healthy food financing;
- An exemption from taxation under s. 501(c)(3) of the Internal Revenue Code;
- The ability to successfully manage and operate lending and grant programs; and
- The ability to assume full financial risk for loans made under the program.

The bill also provides new program eligibility requirements for community development financial institutions. These institutions must demonstrate all of the following:

- Prior experience in healthy food financing;
- Certification by Support from the Community Development Financial Institutions Fund of the United States Department of the Treasury;
- The ability to successfully manage and operate lending and tax credit programs; and
- The ability to assume full financial risk for loans made under the program.

The bill also requires that any third-party administrator that contracts with the department shall provide quarterly updates to the department.

The department, or a third-party administrator, is required to:

- Establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, make award decisions, underwrite and disburse grants and loans, and monitor compliance and impact;
- Create eligibility guidelines and provide financing through an application process; and
- Report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, the geographic distribution of the projects, and the outcomes, including the number and type of jobs created.

The bill also revises requirements for program applicants and projects. The entities that may apply for funding under the program include for profit entities, including convenience stores or fueling stations, and not-for-profit entities.

The bill requires that a program must demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining, demonstrate the ability to repay the loan, accept Supplemental Nutrition Assistance Program benefits, and accept Women, Infants, and Children benefits. Additionally, independent grocery stores and supermarkets must allocate at least 30 percent of floor food retail space for the sale of perishable

foods. All program participants must comply with all data collection and reporting, and promote the hiring of local residents as well as Florida-based grocers.

The bill also requires certain requirements for program eligibility. Projects must:

- Be located in an underserved community;
- Provide for the construction of independent grocery stores or supermarkets; renovation, expansion, and infrastructure upgrades to stores and community facilities that improve the availability and quality of fresh produce and other healthy foods; or other projects that create or improve access to affordable fresh produce; and
- Fund at least three eligible projects annually.

The bill also requires that the OPPAGA review the program and data collected from the department after a term of seven years and provide a report to the President of the Senate and the Speaker of the House of Representatives. The report shall include economic impact and health outcomes data and other factors as determined by the department.

The bill requires the department to adopt rules to implement the bill.

Sections 3, 4, 5, 6, and 7 make technical changes.

Section 8 provides the bill will take effect on July 1, 2022.

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:

Funding for the Healthy Food Financing Initiative Program (program) is contingent upon specific appropriation by the Legislature. The department may incur an indeterminate increase in costs to implement the provisions of the bill. These costs will need to be funded through the overall appropriation for the program. This bill does not provide funding for the program.

In 2015, the department estimated \$64,499 in recurring funds and \$3,999 in nonrecurring funds for one temporary position and associated expenses would be needed to implement the program as passed into law in 2016.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 500.81, 595.801, 595.401, 595.402, 595.404, 595.408, and 595.501.

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

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

None.

B. Amendments:

None.

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

⁵ Department of Agriculture and Consumer Services, Agency Analysis of 2016 House Bill 153, p. 3 (October 19, 2015) (on file with the Senate Committee on Agriculture).

By Senator Jones

35-00466-22

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1 A bill to be entitled
 2 An act relating to the Healthy Food Financing
 3 Initiative program; providing a directive to the
 4 Division of Law Revision; transferring, renumbering,
 5 and amending s. 500.81, F.S.; redefining the term
 6 "underserved community"; revising requirements for the
 7 administration of and participation in the Healthy
 8 Food Financing Initiative program; providing program
 9 eligibility requirements for nonprofit organizations
 10 and revising eligibility requirements for community
 11 development financial institutions; revising
 12 requirements for program applicants and projects;
 13 revising the purposes for which project funding may be
 14 used; requiring the Office of Program Policy Analysis
 15 and Government Accountability to review the program
 16 and collected data and provide the Legislature with a
 17 specified report; specifying that program funding is
 18 subject to and provided from certain appropriations;
 19 deleting a prohibition limiting the amount the
 20 Department of Agriculture and Consumer Services may
 21 distribute among program recipients; amending ss.
 22 595.401, 595.402, 595.404, 595.408, and 595.501, F.S.;
 23 conforming provisions to changes made by the act;
 24 providing an effective date.
 25
 26 Be It Enacted by the Legislature of the State of Florida:
 27
 28 Section 1. The Division of Law Revision is directed to
 29 rename chapter 595, Florida Statutes, entitled "School Food and

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30 Nutrition Services," as "Food and Nutrition."
 31 Section 2. Section 500.81, Florida Statutes, is
 32 transferred, renumbered as section 595.801, and amended to read:
 33 595.801 ~~500.81~~ Healthy Food Financing Initiative.—
 34 (1) DEFINITIONS.—As used in this section, the term:
 35 (a) "Community facility" means a property owned by a
 36 nonprofit or for-profit entity in which health and human
 37 services are provided and space is offered in a manner that
 38 provides increased access to, or delivery or distribution of,
 39 food or other agricultural products to encourage public
 40 consumption and household purchases of fresh produce or other
 41 healthy food to improve the public health and well-being of low-
 42 income children, families, and older adults.
 43 (b) "Department" means the Department of Agriculture and
 44 Consumer Services.
 45 (c) "Independent grocery store or supermarket" means an
 46 independently owned grocery store or supermarket whose parent
 47 company does not own more than 40 grocery stores throughout the
 48 country based upon ownership conditions as identified in the
 49 latest Nielsen TDLinx Supermarket/Supercenter database.
 50 (d) "Low-income community" means a population census tract,
 51 as reported in the most recent United States Census Bureau
 52 American Community Survey, which meets one of the following
 53 criteria:
 54 1. The poverty rate is at least 20 percent;
 55 2. In the case of a low-income community located outside of
 56 a metropolitan area, the median family income does not exceed 80
 57 percent of the statewide median family income; or
 58 3. In the case of a low-income community located inside of

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a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.

(e) "Program" means the Healthy Food Financing Initiative established by the department.

(f) "Underserved community" means a low-income community ~~distressed urban, suburban, or rural geographic area~~ where a substantial number of residents have low access to a full-service supermarket or grocery store. An area with limited supermarket access must be:

1. A census tract, as determined to be an area with low access by the United States Department of Agriculture, as identified in the Food Access Research Atlas;

2. Identified as a limited supermarket access area as recognized by the Community Development Financial Institutions Fund of the United States Department of the Treasury; or

3. Identified as an area with low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental initiative, or a well-established or well-regarded philanthropic healthy food initiative.

(2) HEALTHY FOOD FINANCING INITIATIVE PROGRAM.—The department shall establish a Healthy Food Financing Initiative program that provides grants and loans ~~is composed of and coordinates the use of grants from any source; federal, state, and private loans from a governmental entity or institutions regulated by a governmental entity; federal tax credits; and other types of financial assistance~~ for the construction, rehabilitation, or expansion of independent grocery stores, supermarkets, community facilities, or other retail outlets

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~~structures~~ to increase access to affordable fresh produce and other nutritious food in underserved communities.

(3) THIRD-PARTY ADMINISTRATORS; QUALIFICATIONS.—

(a) The department may contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program through a public-private partnership.

(b) A qualified nonprofit organization must be able to demonstrate all of the following:

1. Prior experience in healthy food financing.

2. An exemption from taxation under s. 501(c)(3) of the Internal Revenue Code.

3. The ability to successfully manage and operate lending and grant programs.

4. The ability to assume full financial risk for loans made under the program.

(c) Eligible community development financial institutions must be able to demonstrate all of the following:

1. Prior experience in healthy food financing.

2. Certification by ~~Support from~~ the Community Development Financial Institutions Fund of the United States Department of the Treasury.

3. The ability to successfully manage and operate lending and tax credit programs.

4. The ability to assume full financial risk for loans made under the program ~~this initiative.~~

(d) Any third-party administrator that contracts with the department shall provide quarterly updates to the department.

(4) ~~(b)~~ DUTIES OF THE DEPARTMENT OR THIRD-PARTY

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ADMINISTRATOR.—The department or a third-party administrator shall do all of the following:

(a) ~~1-~~ Establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, make award decisions, underwrite and disburse grants and loans, and monitor compliance and impact. ~~The department may contract with a third-party administrator to carry out such duties. If the department contracts with a third party administrator, funds shall be granted to the third-party administrator to create a revolving loan fund for the purpose of financing projects that meet the criteria of the program. The third party administrator shall report to the department annually.~~

(b) ~~2-~~ Create eligibility guidelines and provide financing through an application process. ~~Eligible projects must:~~

~~a. Be located in an underserved community;~~

~~b. Primarily serve low income communities; and~~

~~c. Provide for the renovation or expansion of, including infrastructure upgrades to, existing independent grocery stores or supermarkets; or the renovation or expansion of, including infrastructure upgrades to, community facilities to improve the availability and quality of fresh produce and other healthy foods.~~

(c) ~~3-~~ Report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, the geographic distribution of the projects, ~~the costs of the program~~, and the outcomes, including the number and type of jobs created.

~~(4) (a) The Office of Program Policy Analysis and Government Accountability shall review the program and data collected from~~

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~~the department after a term of 7 years and report to the President of the Senate and the Speaker of the House of Representatives. The report shall include, but is not limited to, health impacts based on data collected by the state on diabetes, heart disease and other obesity related diseases, and other factors as determined by the department.~~

~~(b) If the report determines the program to be unsuccessful after 7 years, the department shall create guidelines for unused funds to be returned to the initial investor.~~

(5) PROGRAM PARTICIPANTS.—Entities that may apply for funding under the program include A for-profit entities entity, including a convenience stores store or a fueling stations; and station, or a not-for-profit entities entity, including, but not limited to, a sole proprietorships, partnerships proprietorship, partnership, limited liability companies, corporations, cooperatives company, corporation, cooperative, nonprofit organizations organization, nonprofit community development entities entity, or private universities university, may apply for financing.

(a) A program An applicant ~~for financing~~ must do all of the following:

1. (a) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining. ~~+~~

2. (b) Demonstrate the ability to repay the loan. ~~+~~ and

~~(c) Agree, as an independent grocery store or supermarket, for at least 5 years, to:~~

3.1- Accept Supplemental Nutrition Assistance Program benefits and ~~+~~

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~~2. Apply to accept~~ Special Supplemental Nutrition Program for Women, Infants, and Children benefits. ~~and accept such benefits, if approved.~~

~~4.3. For independent grocery stores and supermarkets,~~ allocate at least 30 percent of ~~floor food retail~~ space for the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish. ~~+~~

~~5.4. Comply with all data collection and reporting requirements established by the department. ~~+~~ and~~

~~6.5. Promote the hiring of local residents.~~

(b) The department shall give preference to Florida-based grocers, local business owners with experience in grocery stores, and grocers and business owners with a business plan that includes written documentation of opportunities to purchase from farmers and growers in this state before seeking out-of-state purchases.

(6) PROJECT ELIGIBILITY.—

(a) To be eligible for funding under the program, a project must:

1. Be located in an underserved community; and

2. Provide for the construction of independent grocery stores or supermarkets; renovation, expansion, and infrastructure upgrades to stores and community facilities that improve the availability and quality of fresh produce and other healthy foods; or other projects that create or improve access to affordable fresh produce which meet the intent of this section, as determined by the department or a third-party administrator.

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~~(b) Projects including, but not limited to, corner stores, bodegas, or other types of nontraditional grocery stores~~ that do not meet the 30 percent space minimum in subparagraph (5)(a)4. ~~may 3. can~~ still qualify for funding if such funding will be used for refrigeration, displays, or other one-time capital expenditures to promote the sale of fresh produce and other healthy foods.

~~(6) In determining which qualified projects to finance, the department or third-party administrator shall:~~

~~(a) Give preference to local Florida-based grocers or local business owners with experience in grocery stores and to grocers and business owners with a business plan model that includes written documentation of opportunities to purchase from Florida farmers and growers before seeking out of state purchases;~~

~~(b) Consider the level of need in the area to be served;~~

~~(c) Consider the degree to which the project will have a positive economic impact on the underserved community, including the creation or retention of jobs for local residents;~~

~~(d) Consider the location of existing independent grocery stores, supermarkets, or other markets relevant to the applicant's project and provide the established entity the right of first refusal for such project; and~~

~~(e) Consider other criteria as determined by the department.~~

~~(c) (7)~~ A minimum of three eligible projects shall be funded annually. Financing under this program for eligible projects may be used for any of the following purposes:

1. ~~(a)~~ Site acquisition and preparation.

2. ~~(b)~~ Construction and build-out costs.

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233 3.(e) Equipment and furnishings.
 234 4.(d) Workforce training ~~or security~~.
 235 5.(e) Predevelopment costs, such as market studies and
 236 appraisals.
 237 6.(f) Energy efficiency measures.
 238 7.(g) Working capital for first-time inventory and startup
 239 costs, including seeds and starter plants for residential
 240 produce cultivation.
 241 ~~(h) Acquisition of seeds and starter plants for the~~
 242 ~~residential cultivation of fruits, vegetables, herbs, and other~~
 243 ~~culinary products. However, only 7 percent of the total funds~~
 244 ~~expended in any one project under this section may be used for~~
 245 ~~such acquisition.~~
 246 8.(i) Other purposes as determined necessary and reasonable
 247 by the department or a third-party administrator.
 248 (7) PROGRAM REVIEW.—
 249 (a) The Office of Program Policy Analysis and Government
 250 Accountability shall review the program and data collected from
 251 the department after a term of 7 years and provide a report to
 252 the President of the Senate and the Speaker of the House of
 253 Representatives. The report shall include economic impact and
 254 health outcomes data and other factors as determined by the
 255 department.
 256 (b) If the report determines the program to be unsuccessful
 257 after 7 years, the department shall return any initial funds
 258 that have not been loaned, granted, or leveraged in a revolving
 259 loan fund to the General Revenue Fund.
 260 (8) FUNDING.—The department's performance and obligation to
 261 pay under this section is contingent upon an annual

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262 appropriation by the Legislature as provided in s. 287.0582. If
 263 the department contracts with a third-party administrator, funds
 264 must be advanced from the department's annual appropriation to
 265 the third-party administrator in order to implement this
 266 section.
 267 ~~(9)(b)~~ RULES.—The department shall adopt rules to
 268 administer this section.
 269 ~~(9) The department may not distribute more than \$500,000~~
 270 ~~among more than three recipients.~~
 271 Section 3. Section 595.401, Florida Statutes, is amended to
 272 read:
 273 595.401 Short title.—Sections 595.401-595.601 ~~This chapter~~
 274 may be cited as the "Florida School Food and Nutrition Act."
 275 Section 4. Section 595.402, Florida Statutes, is amended to
 276 read:
 277 595.402 Definitions.—As used in this act ~~chapter~~, the term:
 278 (1) "Commissioner" means the Commissioner of Agriculture.
 279 (2) "Department" means the Department of Agriculture and
 280 Consumer Services.
 281 (3) "Program" means any one or more of the school food and
 282 nutrition service programs that the department has
 283 responsibility over including, but not limited to, the National
 284 School Lunch Program, the Special Milk Program, the School
 285 Breakfast Program, the Summer Food Service Program, the Fresh
 286 Fruit and Vegetable Program, and any other program that relates
 287 to school nutrition.
 288 (4) "School breakfast program" means a program authorized
 289 by s. 4 of the Child Nutrition Act of 1966, as amended, and
 290 administered by the department.

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291 (5) "School district" means any of the 67 county school
 292 districts, including the respective district school board.
 293 (6) "Sponsor" means any entity that is conducting a program
 294 under a current agreement with the department.
 295 (7) "Summer nutrition program" means one or more of the
 296 programs authorized under 42 U.S.C. s. 1761.
 297 (8) "Universal school breakfast program" means a program
 298 that makes breakfast available at no cost to all students
 299 regardless of their household income.
 300 Section 5. Subsections (3), (9), (10), (11), and (13) of
 301 section 595.404, Florida Statutes, are amended to read:
 302 595.404 School food and other nutrition programs; powers
 303 and duties of the department.—The department has the following
 304 powers and duties:
 305 (3) To fully cooperate with the United States Government
 306 and its agencies and instrumentalities so that the department
 307 may receive the benefit of all federal financial allotments and
 308 assistance possible to carry out the purposes of this act
 309 ~~chapter~~.
 310 (9) To employ such persons as are necessary to perform its
 311 duties under this act ~~chapter~~.
 312 (10) To adopt rules covering the administration, operation,
 313 and enforcement of the program and the farmers' market nutrition
 314 program, as well as to implement ~~the provisions of~~ this act
 315 ~~chapter~~.
 316 (11) To adopt and implement an appeal process by rule, as
 317 required by federal regulations, for applicants and participants
 318 under the programs implemented pursuant to this act ~~chapter~~,
 319 notwithstanding ss. 120.569 and 120.57-120.595.

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

35-00466-22

20221450__

320 (13) To advance funds from the program's annual
 321 appropriation to a summer nutrition program sponsor, when
 322 requested, in order to implement ~~the provisions of~~ this act
 323 ~~chapter~~ and in accordance with federal regulations.
 324 Section 6. Paragraph (b) of subsection (1) and subsections
 325 (2) and (4) of section 595.408, Florida Statutes, are amended to
 326 read:
 327 595.408 Food distribution services; department
 328 responsibilities and functions.—
 329 (1)
 330 (b) The department shall determine the benefits each
 331 applicant or recipient of assistance is entitled to receive
 332 under this act ~~chapter~~, provided that each applicant or
 333 recipient is a resident of this state and a citizen of the
 334 United States or is an alien lawfully admitted for permanent
 335 residence or otherwise permanently residing in the United States
 336 under color of law.
 337 (2) The department shall cooperate fully with the United
 338 States Government and its agencies and instrumentalities so that
 339 the department may receive the benefit of all federal financial
 340 allotments and assistance possible to carry out the purposes of
 341 this act ~~chapter~~.
 342 (4) This act ~~chapter~~ does not limit, abrogate, or abridge
 343 the powers and duties of any other state agency.
 344 Section 7. Subsection (2) of section 595.501, Florida
 345 Statutes, is amended to read:
 346 595.501 Corrective action plans; penalties.—
 347 (2) Any person or sponsor that violates ~~any provision of~~
 348 this act ~~chapter~~ or any rule adopted thereunder or otherwise

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349 does not comply with the program is subject to a suspension or
350 revocation of their agreement, loss of reimbursement, or a
351 financial penalty in accordance with federal or state law, or
352 both. This section does not restrict the applicability of any
353 other law.

354 Section 8. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

Senator Shevrin D. "Shev" Jones
214 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

To: Chair Ben Albritton
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: February 9, 2022

I respectfully request that **SB 1450: Healthy Food Financing Initiative**, be placed on the:

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

A handwritten signature in blue ink, appearing to be "Shev", is written above a horizontal line.

Senator Shevrin Jones
Florida Senate, District 35

2/22/22

Meeting Date

AEG Appropriations

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1450

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jeff Scala**

Phone **(727) 637-4081**

Address **100 S Monroe Street**

Email **jscala@fl-counties.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:

Florida Association of Counties

☐ 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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 1474 (422484)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Commerce and Tourism Committee; and Senator Bradley

SUBJECT: Online Training for Private Security Officers

DATE: February 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1474 will allow Class “D” unarmed Security Officers and Class “G” Statewide Firearm applicants to obtain the training required as a licensing qualification through either in-person or online instruction. The online instruction must be provided through the secure website of a licensed school or training facility, or a Class “K” licensee that has a physical location in Florida. Additionally, the online training course must:

- Include security questions to ensure that the applicant is actively using the computer and is following along with the online training;
- Establish a minimum amount of time that each applicant must spend on each screen;
- Include randomized test questions; and
- Maintain a digital attendance log and keep other required records.

The Department of Agriculture and Consumer Services (department) regulates private security officers and their related licenses. The bill requires the department to adopt rules, including those to establish the online courses’ content, web security protocols, and course completion reporting requirements.

The bill may have an insignificant negative fiscal impact on state expenditures that can be absorbed within existing resources.

The bill takes effect on July 1, 2022.

II. Present Situation:

The Division of Licensing within the department is responsible for investigating and issuing licenses to conduct private security services and related licenses, including Class “D” unarmed Security Officer and Class “G” Statewide Firearm licensees.¹

Class “D” Security Officer Licensees

A Class “D” security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; or transportation of prisoners.² A Class “D” licensee is not permitted to carry a firearm during the course of his or her duties unless he or she also has a supplemental Class “G” license.³

Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.⁴ Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of either their employer’s business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.⁵

As of December 31, 2021, there are 124,996 active Class “D” security officer licensees.⁶

A Class “D” applicant for licensure must complete 40 hours of professional training at a Class “DS” Security Officer School or Training Facility licensed by the department.⁷

Class “G” Statewide Firearm License

A Class “G” license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class “G” license is available only to individuals who currently hold one of the following licenses:

- Private investigator (Class “C”);
- Private investigator intern (Class “CC”);
- Security officer (Class “D”);
- Private investigative or security agency manager (Class “M”);
- Private investigative agency manager (Class “MA”); or
- Security agency manager (Class “MB”).⁸

The “Class G” license must be renewed every two years.

¹ Chapter 493, F.S.

² Section 493.6101(19), F.S.; *see also*, Florida Department of Agriculture and Consumer Services (DACS), *Private Security Licenses*, <https://www.fdacs.gov/Business-Services/Private-Security-Licenses> (last visited Jan. 31, 2022).

³ Section 493.6101(9), F.S.

⁴ Section 493.6102(1), F.S.

⁵ Section 493.6102(4), (13), F.S.

⁶ DACS, Division of Licensing, *Number of Licensees by Type* (Dec. 31, 2021), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Jan. 31, 2022).

⁷ Section 493.6303, F.S.

⁸ Section 493.6115(2), F.S.

Application and Training Requirements for Class “G” Licensees

An initial applicant for a Class “G” license must complete firearm training, which must include at least 28 hours of range and classroom training (range training must be limited to no more than eight hours) that is administered by a Class “K” licensee.⁹ An applicant who was discharged within the last 12 months from service as a military officer, and has completed specific military courses is deemed to have completed a substantially similar training, and is exempt from the 28 hours of range and classroom training required for a Class “G” initial license.

Class “G” licensees must annually complete four hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.¹⁰

Class “DS” Security Officer Schools and Training Facilities

Schools and training facilities that provide required training services for Class “D” Security Officer license applicants must submit an application for licensure, which includes:¹¹

- The name and address of the school or training facility;
- The street address of the place where training will be conducted; and
- A copy of the curriculum and final exam to be administered, in accordance with the requirements set forth by the department.¹²

The department establishes the general content and number of hours of each subject area to be taught by the licensed schools and training facilities.¹³ Currently, administrative rule states that students shall “remain under the supervision of a licensed instructor during all classes and under constant supervision during examination.”¹⁴

A Class “DS” Security Officer School or training facility must maintain the following records for at least two years:¹⁵

- A schedule of the date, time, location, and instructor of each class session;
- A separate file for each course which establishes that the minimum course standards were met, the course materials used, and an original of each final exam;
- An attendance log for each class session;
- A copy of any certificate, diploma, or other record given to each student; and
- A separate file on each approved instructor, which includes his or her qualifications.

An individual who teaches or instructs at a class “DS” security officer school or training facility must have a Class “DI,” Security Officer School or Training Facility Instructor license.¹⁶

⁹ Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).

¹⁰ Section 493.6113(3)(b), F.S.

¹¹ Section 493.6304, F.S. and Fla. Admin. Code R. 5N-1.134.

¹² Fla. Admin. Code R. 5N-1.132(4)(c).

¹³ Section 493.6303(4)(a), F.S.

¹⁴ Fla. Admin. Code R. 5N-1.138(4).

¹⁵ Fla. Admin. Code R. 5N-1.140(5).

¹⁶ *See* Fla. Admin. Code R. 5N-1.138(1), for qualifications for Class “DI” license.

Class “K” Firearm Instructor Licensees

Class “K” Firearm Instructor Licensees provide classroom or range instruction to applicants for a Class “G” license.¹⁷ Class “K” instructors are not currently required to be affiliated with a school or training facility. Administrative rules currently state that firearms instructors may not rely solely on the use of audio/video material in his or her course, but may use such material as an instructional aide when teaching the classroom portion of the course.¹⁸

Class “K” Firearm Instructors must provide a standardized Certificate of Firearms Proficiency for Statewide Firearm License to each student who successfully completes the 28-hour firearms proficiency course.¹⁹ The Class “K” licensee must retain a copy of each certificate he or she provides, and is subject to penalty for the falsification of any such certificate.²⁰

COVID-19 Emergency Orders

The Commissioner of Agriculture and Consumer Services issued Emergency Order 2020-004 to “provide flexibility for workers” during the COVID-19 pandemic²¹ by allowing Class “D” security guards to complete their initial 40 hours of training via live video conference.²²

Emergency Order 2020-10, issued on April 24, 2020, suspends the provisions of s. 493.6105(5), F.S., and its related rules to allow Class “G” license applicants to conduct their class room training by live video conference.²³

These emergency orders expired on June 26, 2021.²⁴

III. Effect of Proposed Changes:

The bill allows Class “G” statewide firearm licensees and Class “D” security officer licensees to obtain required training via online or in-person instruction.

Class “G” Statewide Firearm Licenses

Section 1 amends s. 493.6105, F.S., to allow a Class “G” applicant to complete the 20-hour classroom training portion of the required firearm training either by in-person instruction, or via live instruction through a secure website, with no more than eight hours consisting of in-person range training which must include safe handling and storage of firearms. The training must be

¹⁷ Sections 493.6101(14) and 493.6115(7), F.S.

¹⁸ Fla. Admin. Code R. 5N-1.132(4)(c).

¹⁹ Fla. Admin. Code R. 5N-1.132(4)(d).

²⁰ Fla. Admin. Code R. 5N-1.132(4)(d)-(e).

²¹ Press Release, DACS, *Commissioner Nikki Fried Issues Emergency Orders & Rules During COVID-19* (Mar. 31, 2020), <https://www.fdacs.gov/News-Events/Press-Releases/2020-Press-Releases/Commissioner-Nikki-Fried-Issues-Emergency-Orders-Rules-During-COVID-19> (last visited Jan. 31, 2022).

²² DACS, *Emergency Order 2020-004* (Mar. 20, 2020), <https://www.fdacs.gov/content/download/91595/file/2020-03-20-EmergencyOrder2020-004%28DOLCOVID-19%29.pdf> (last visited Jan. 31, 2022).

²³ DACS, *Emergency Order 2020-010* (Apr. 24, 2020), https://www.fdacs.gov/content/download/94238/file/2020-04-24-DOL-Class-G-Emergency-Order_2020-010.pdf (last visited Jan. 31, 2022).

²⁴ DACS, *Commissioner of Agriculture Emergency Orders Regarding COVID-19*, <https://www.fdacs.gov/Divisions-Offices/Licensing> (last visited Jan. 31, 2022).

taught and administered by a Class “K” firearms instructor who verifies the identity and attendance of the applicant.

The bill requires Class “G” applicants to submit a training certificate to the department upon completion of the training. Additionally, the Class “K” licensee who provided the training must submit results directly to the department’s Division of Licensing and provide a copy of the training results to the trainee.

The bill requires the department to engage in rulemaking to establish the general content, number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and regulation of Class “K” licensees in relation to their provision of in-person or online training.

Class “D” Security Officer Licenses

Section 3 amends s. 493.6303, F.S., to allow Class “D” applicants to complete their 40-hour training requirement either by in-person instruction, or through live, online instruction presented through a secure website of a licensed school or training facility.

The bill requires an applicant to submit his or her verification of successful completion of training to the department, and requires the training facility or instructor to submit proof of completion of training for the applicant to the department. Additionally, the training facility or instructor must provide an electronic copy of proof of training for each applicant to the department, and must also provide a copy of the training results to the applicant.

The bill requires the department to engage in rulemaking to establish the general content, number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rule necessary to regulate schools or training facilities that provide in-person or online training. The bill further allows the department to adopt additional rules needed to regulate schools or training facilities that provide in-person or online training.

Class “DS” Security Officer Schools and Training Facilities

Section 2 creates s. 493.6132, F.S., to specify requirements for schools or training facilities and Class “K” licensees that provide online training courses allowed under the bill. Specifically, a licensed school or training facility and Class “K” licensee must maintain a physical location in Florida. The Class “K” licensee must conduct his or her live online training in Florida, but a licensed school or training facility may conduct the live online classes from any location. The providers of live online training must also maintain, and make available to the department, records of:

- All training sessions;
- The name and license number of the instructor who is present online with the students while the students receive instruction; and
- Proof of compliance with all security protocols at the school, facility, or place of business.

The online training course must:

- Require its instructor to verify the applicant's identity, attendance, and successful completion of training;
- Include security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the training;
- Establish a minimum amount of time that each applicant must spend on each screen before moving on to the next;
- Include randomized test questions;
- Include a digital record of the applicant's attendance log and any other components required by the department;
- Allow instructing via recording where an applicant is absent during a portion of the live online class, as limited by departmental rule; and
- Permit the department to access each online course for the purpose of auditing, monitoring, and inspection.

The applicant may not use more than one device at a time to log into the online training course.

The bill takes effect July 1, 2022.

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:

This bill will require the department to undergo rulemaking to revise Rule 5N-1.132 of the Florida Administrative Code and update related policies and procedures. The bill has an indeterminate, yet insignificant fiscal impact on the department's Division of Licensing Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 493.6105 and 493.6303.

This bill creates section 493.6132 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.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 22, 2022:

The committee substitute provides that the eight hour in-person range training requirement for a Class “G” license shall include instruction on the safe handling and storage of firearms.

CS by Commerce and Tourism on January 31, 2022:

The committee substitute:

- Allows Class “G” applicants to complete training through a secure website that is not affiliated with or operated by a licensed school or training facility (but is administered by a Class “K” licensee), and requires the department to adopt rules that regulate a Class “K” licensee’s teaching of such an online course;
- Implements similar reporting requirements for Class “G” and Class “D” applicants who complete their training online, specifically requiring both the applicant and instructor to submit training results to the department, and requiring the instructor to provide a hard copy of the certificate to the applicant;

- Requires an online training course to keep a record of the (1) applicant's attendance log, (2) instructor who taught each session; (3) compliance with security protocols; and (4) any other required documentation established by departmental rule;
- Requires a person or entity that provides online training pursuant to the bill to provide live access to the department for auditing or inspection purposes; and
- Replaces a reference to the Department of Business and Professional Regulation with a reference to the Department of Agriculture and Consumer Services.

B. Amendments:

None.



174762

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete line 40
and insert:
shall consist of in-person range training that includes training
on the safe handling and storage of firearms. Consistent with s.

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

And the title is amended as follows:

Delete line 7



174762

11 and insert:
12 requirements for such training; requiring the

By the Committee on Commerce and Tourism; and Senator Bradley

577-02512-22

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A bill to be entitled

An act relating to online training for private security officers; amending ss. 493.6105 and 493.6303, F.S.; providing that certain required training criteria for Class "G" and Class "D" licenses, respectively, may be conducted online; providing requirements for such online training; requiring the Department of Agriculture and Consumer Services to establish certain criteria and rules for the regulation of certain entities that provide online training; providing reporting requirements upon completion of the training; creating s. 493.6132, F.S.; providing requirements for online training courses for a Class "D" license; requiring entities offering online training to provide the Division of Licensing with live access to each course; authorizing such entities to deliver online instruction using recordings under certain circumstances; providing an effective date.

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

Section 1. Subsection (5) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(5) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license must satisfy minimum training criteria for firearms established by rule of the department, including which training criteria includes, but ~~is~~

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not limited to, 28 hours of range and classroom training conducted by in-person instruction or live online instruction through a secure website, provided that the applicant's identity, attendance, and successful completion of training are verified by the instructor. As part of his or her application, the applicant must submit a training certificate to the department upon completion of the training. Training must be taught and administered by one or more Class "K" licensees. ~~licensee, however,~~ No more than 20 hours of such training may be conducted in an online classroom, and 8 hours of such training shall consist of in-person range training. Consistent with s. 493.6115, the department shall by rule establish the general content and the number of hours of each subject area to be taught, the method of delivery and the security protocols for online training and testing, the reporting requirements for verification of successful completion of training, and any other rules necessary for the regulation of Class "K" licensees providing in-person or online training. Upon completion of the training, the instructor must submit results directly to the Division of Licensing in a manner prescribed by the department. The instructor must also provide a copy of the training results to the applicant who completed the training. The department may waive the foregoing firearms training requirement if:

(a) The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months.

Page 2 of 5

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(b) The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency.

(c) The applicant submits a valid firearm certificate ~~listed among those specified~~ in paragraph (6) (a).

Section 2. Section 493.6132, Florida Statutes, is created to read:

493.6132 Online training courses.—

(1) An online training course for a Class "D" license must be conducted live and by a licensed school or training facility that maintains a physical location in this state.

(2) A Class "K" licensed firearms instructor conducting an online training course must maintain a physical location in this state and must conduct online classes live at a location in this state.

(3) An applicant may only be logged into the online training course from one device at a time.

(4) The online training course must include, at a minimum, all of the following:

(a) Security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the online training.

(b) A minimum amount of time that each applicant must spend on each screen before moving on to the next screen.

(c) Randomized test questions.

(d) A digital record of the applicant's attendance log along with any components required by department rule.

(5) A licensed school or training facility, or a Class "K"

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licensee conducting an online course, must maintain records of all training sessions, including the name and license number of the instructor who is present online with the students while the students are receiving instruction, and proof of compliance with all security protocols at the school, facility, or place of business in this state. The records required under this subsection must be made accessible to the department's investigators upon request.

(6) A licensed school or training facility, or a Class "K" licensee conducting an online course must provide the Division of Licensing with live access to each course for the purposes of auditing, monitoring, or inspection as deemed necessary by the division.

(7) If an applicant is absent during a portion of a live online class, a licensed school or training facility, or a Class "K" licensee conducting an online course, may deliver instruction in part using recordings, as limited by department rule.

Section 3. Paragraph (a) of subsection (4) of section 493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency must comply with the following additional requirements:

(4) (a) An applicant for a Class "D" license must submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by the department. The training may be conducted by in-person instruction or online instruction presented live through a

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117 secure website of the licensed school or training facility,
118 provided that the applicant's identity, attendance, and
119 successful completion of training are verified by the
120 instructor. As part of his or her application, the applicant
121 must submit the completed training certificate to the department
122 upon completion of the training. The department shall by rule
123 and in accordance with s. 493.6103 establish the general content
124 and number of hours of each subject area to be taught, the
125 method of delivery and the security protocols for online
126 training and testing, the reporting requirements for
127 verification of successful completion of training, and any other
128 rules necessary for the regulation of schools or training
129 facilities providing in-person or online training. Upon
130 completion of such training, the training facility or the
131 instructor must submit proof of completion of training for each
132 applicant to the department electronically in a manner
133 prescribed by the department. The training facility or the
134 instructor must also provide a copy of the training results to
135 the applicant who completed the training.

136 Section 4. This act shall take effect July 1, 2022.



SENATOR JENNIFER BRADLEY
5th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

February 2, 2022

Senator Ben Albritton, Chairman
Appropriations Subcommittee on Agriculture, Environment, and General Government
314 Senate Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Mr. Chairman:

I respectfully request that CS/SB 1474 be placed on the agenda of the Subcommittee on Agriculture, Environment, and General Government at your earliest convenience. The bill authorizes the use of live, online instruction for the training of private security guards and specifies oversight and safeguards for such instruction.

Thank you for your consideration and please let me know if you have any questions or concerns about the bill.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Mr. Giovanni Beta, Staff Director
Ms. Caroline Goodner, Administrative Assistant

REPLY TO:

- ☐ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

Feb 22, 2022

Meeting Date

1474

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Cynthia Henderson

Phone

850 559 0855

Address

108 E. Jefferson St. Suite A

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cyhenderson@gme.com

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Tall

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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(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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 1556 (773696)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Environment and Natural Resources Committee; and Senator Gruters

SUBJECT: Golf Course Best Management Practices Certification

DATE: February 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Fav/CS
2.	Reagan	Betta	AEG	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1556 provides for golf course best management practices (BMPs) certification. The bill directs the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS) in coordination with the Department of Environmental Protection (DEP) to administer a golf course BMPs certification to ensure compliance with fertilizer BMPs.

The bill requires the UF/IFAS, in cooperation with the DEP, to provide training and testing certification programs. The bill requires an applicant for certification to submit a copy of the training certificate. Recertification is available when the certificate expires, for which the bill requires eight classroom hours of continuing education.

The bill exempts a person certified in golf course BMPs from additional local testing and local ordinances relating to water and fertilizer use restrictions, unless a state of emergency is declared.

The UF/IFAS may incur costs in administering training and testing certification programs and continuing education in golf course best management practices.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.¹ The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.²

Phosphorus and nitrogen are derived from natural and human-made sources.³ Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.⁴

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals.⁵ Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.⁶

Best Management Practices

BMPs are designed to protect water resources from nonpoint source pollution,⁷ occurring from operations like agriculture, golf courses, forestry, and stormwater management.⁸ BMPs are practical measures that can reduce the effects of fertilizer, nutrients, and water use on the environment and otherwise manage the landscape to further protect water resources.⁹

Producers of nonpoint source pollution included in a basin management action plan (BMAP)¹⁰ must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.¹¹ A nonpoint source discharger may be subject

¹ U.S. Environmental Protection Agency (EPA), *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Jan. 19, 2022).

² *Id.*

³ *Id.*

⁴ EPA, *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Jan. 19, 2022).

⁵ EPA, *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Jan. 19, 2022).

⁶ *Id.*

⁷ Point sources are “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources are not point sources. Fla. Admin. Code R. 62-620.200(37).

⁸ University of Florida Institute of Food and Agricultural Sciences (UF/IFAS), *Best Management Practices*, <https://hort.ifas.ufl.edu/yourfloridalawn/bmps.shtml> (last visited Jan. 20, 2022); Department of Environmental Protection (DEP), *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Jan. 19, 2022).

⁹ UF/IFAS, *Agricultural Best Management Practices*, <https://bmp.ifas.ufl.edu/about-bmps/> (last visited Jan. 20, 2022).

¹⁰ Basin Management Action Plans (BMAPs) are one of the primary mechanisms the DEP uses to address the entire pollution load for a watershed, including point and nonpoint discharges. Section 403.067(7), F.S.

¹¹ Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

to enforcement action by the DEP or a water management district based on a failure to implement these requirements.¹²

Golf Course BMPs for Fertilizer Application

The Florida golf course industry is the largest of any state.¹³ As of 2019, there were 1,306 golf courses and 986 golf facilities in Florida.¹⁴ Site placement and management of golf courses can create environmental harms, but BMPs can help mitigate harms or provide environmental benefits.¹⁵

Golf course BMPs attempt to curb excessive and unnecessary fertilization to prevent water pollution due to nutrient runoff or leaching from saturated or compacted soils.¹⁶ BMPs for nutrient applications focus on maximizing plant uptake and include suggestions to:

- Follow UF/IFAS nitrogen (N) application rates;
- Apply nutrients when turfgrass is actively growing;
- Apply slow-release N fertilizers at the appropriate time of year, taking into consideration the release rate of the chosen material;
- Take into account that putting greens, tees, and landing areas require more nutrition than other areas like fairways and roughs;
- Exercise caution when applying nutrients during turfgrass establishment, because they are more susceptible to leaching and runoff at that time;
- During establishment, use appropriate rates and products to minimize N loss due to increased water applications, increased nutrients rates, and reduced root mass;
- Be aware of the pros and cons of different nutrient spreaders;
- Calibrate the chosen nutrient spreader properly;
- Properly store, load, and clean up fertilizer to reduce environmental risk;
- Avoid applying fertilizer to soils that are at or near saturation, or when the National Weather Service has issued a flood, tropical storm, or hurricane warning, or if heavy rains are forecast in the next 24 hours; and
- When using fertigation,¹⁷ ensure that irrigation heads are properly aligned and adjusted to ensure no nutrient-loaded irrigation water is being applied to lakes and wetlands.¹⁸

Golf course BMPs also focus on other areas of landscape management to protect environmental resources, including:

- Planning, design, and construction;
- Irrigation;
- Cultural practices;
- Lake and aquatic management;
- Turf pest and pesticide management;

¹² Section 403.067(7)(b)2.h., F.S.

¹³ *BMPs for the Enhancement of Env. Quality on FL Golf Courses*, 14 (Sept. 2021), available at <http://flgolfbmp.com/view-the-bmp-guide> (last visited Jan. 19, 2022).

¹⁴ *Id.*

¹⁵ *Id.* at 15.

¹⁶ *Id.* at 144.

¹⁷ Fertigation is fertilizer application through an irrigation system. *Id.* at 152.

¹⁸ *Id.* at 153.

- Maintenance operations;
- Pollinator protection; and
- Energy conservation.¹⁹

Green Industries BMP Certification

The UF/IFAS currently offers the Green Industries BMPs program, which teaches environmentally safe landscaping practices that protect water quality and natural resources.²⁰ The program was created for people working in lawn-care and landscape maintenance. The program includes golf course employees among those who benefit from green industries BMPs training.²¹

Local Government Ordinances Relating to Golf Courses BMPs

Local governments often require fertilizer on golf courses to be used in accordance with the *Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses*; or they may provide fertilizer restrictions exemptions for golf courses that follow golf course BMPs.²² Local governments may also regulate fertilizer use in addition to requiring or encouraging golf course BMPs.²³

In addition to fertilizer, local government may also require or encourage golf course irrigation practices to align with golf course BMPs.²⁴ Local governments may also regulate water use separately from golf course BMPs.²⁵

III. Effect of Proposed Changes:

Section 1 creates s. 403.9339, F.S., relating to golf course BMPs certification. The bill requires the UF/IFAS in coordination with the DEP to administer a certification for golf course BMPs as a means of documenting and ensuring compliance with BMPs for fertilizer application to golf courses.

The bill requires the UF/IFAS, in cooperation with the DEP, to:

- Provide training and testing programs in golf course BMPs and may issue certificates demonstrating satisfactory completion of the training; and

¹⁹ *Id.* at 3-4.

²⁰ UF/IFAS, *Green Industries BMPs*, <https://gibmp.ifas.ufl.edu/> (last visited Jan. 20, 2022); UF/IFAS, *FL Friendly Landscaping Program*, <https://ffl.ifas.ufl.edu/ffl-and-you/gi-bmp-program/> (last visited Jan. 20, 2022).

²¹ *Id.*

²² *See, e.g.*, Boca Raton Ord. No. 17-265 (fertilizer content and application rates), Alachua County Ord. No. 77-12 (groundwater protection), Collier County Ord. No. 54-33 (exemptions), and Jacksonville Ord. No. 366-610 (exemptions).

²³ *See, e.g.*, Miami-Dade Ord. No. 18C-8 (requirements related to golf courses, athletic fields, specialized turf, and parks); and Palm Beach County Ord. Nos. 11-407 (fertilizer free zones), 11-408 (fertilizer content and application rates), and 11-409 (fertilizer application practices).

²⁴ *See, e.g.*, Miami-Dade Ord. No. 18C-8 (requirements related to golf courses, athletic fields, specialized turf, and parks) and Alachua County Ord. No. 77-64 (exemptions).

²⁵ *See, e.g.*, Palm Beach County Ord. No. 27-180 (approved uses of reclaimed water) and Boca Raton Ord. No. 17-57 (landscape irrigation restrictions)

- Approve training and testing programs in golf course BMPs in the future that are equivalent to or more comprehensive than the original training and testing programs. The programs must be reviewed and reapproved by the UF/IFAS if significant changes are made.

The bill requires an applicant to submit a copy of the training certificate to the UF/IFAS to obtain a golf course BMPs certification.

The bill provides that a golf course BMPs certification expires four years after the date of issuance. Upon expiration or after a grace period of not more than 30 days after the expiration date, a recertification may be reissued. The bill specifies that before applying for recertification, an applicant must complete eight classroom hours of acceptable continuing education, including at least two hours addressing fertilizer BMPs. The bill requires an applicant to submit proof of completion of the eight classroom hours of continuing education to the UF/IFAS to obtain golf course BMPs recertification.

The bill provides that a person certified in golf course BMPs is exempt from:

- Additional local training; and
- Local ordinances relating to water and fertilizer use blackout periods or restrictions, unless a state of emergency is declared.

The bill provides that these provisions do not exempt a certified person from complying with the rules and requirements for basin management action plans (BMAP) if the golf course is located within a BMAP.

The bill provides that the UF/IFAS may provide the certification status of persons certified in golf course BMPs to local and state governmental entities. The bill encourages the UF/IFAS to create a registry of persons certified in golf course BMPs on its website.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The UF/IFAS may incur costs in administering training and testing certification programs and continuing education in golf course best management practices.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 403.9339 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 22, 2022:

The committee substitute:

- Directs the turfgrass science program at UF/IFAS to administer the certification for golf course best management practices (BMPs), instead of the DEP. The turfgrass science program will coordinate with the DEP.
- Provides a certified person may be exempt from additional local training and local ordinances relating to water and fertilizer use blackout periods or restrictions, unless a state of emergency is declared. The amendment adds that the certified person must continue to coordinate with the local government to ensure that they adhere to the comprehensive BMPs for that specific community.
- Clarifies that this section does not exempt a certified person from complying with the rules and requirements for basin management action plans when applicable.

- Deletes the rulemaking authorization.

CS by Environment and Natural Resources on January 24, 2022:

Removes the golf course best management practices certification and recertification fees.

B. Amendments:

None.



856124

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 403.9339, Florida Statutes, is created
to read:

403.9339 Golf course best management practices
certification.—

(1) To provide a means of documenting and ensuring
compliance with best management practices for fertilizer



856124

application to golf courses, the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences, in coordination with the department, shall administer a certification for golf course best management practices.

(2) The turfgrass science program, in cooperation with the department, shall:

(a) Provide training and testing programs in golf course best management practices and may issue certificates demonstrating satisfactory completion of the training.

(b) Approve training and testing programs in golf course best management practices that are equivalent to or more comprehensive than the programs provided by the turfgrass science program under paragraph (a). Such programs must be reviewed and reapproved by the turfgrass science program if significant changes are made.

(3) To obtain a golf course best management practices certification, an applicant must submit to the turfgrass science program a copy of the training certificate issued under subsection (2).

(4) A golf course best management practices certification issued under this section expires 4 years after the date of issuance. Upon expiration of the certification, or after a grace period of not more than 30 days after the expiration date, a recertification may be issued.

(5) To obtain a golf course best management practices recertification, an applicant must submit to the turfgrass science program proof of having completed 8 classroom hours of continuing education, of which at least 2 hours must address fertilizer best management practices.



856124

(6) A person certified under this section is exempt from:
(a) Additional local training.
(b) Local ordinances relating to water and fertilizer use
blackout periods or restrictions, unless a state of emergency is
declared. The certified person must continue to coordinate with
the local government to ensure that he or she adheres to the
comprehensive best management practices for that specific
community.

(7) This section does not exempt a person certified under
this section from complying with the rules and requirements for
basin management action plans set forth in s. 403.067(7) if the
golf course is located in an area within a basin management
action plan.

(8) (a) The turfgrass science program may provide the
certification status of persons certified under this section to
local and state governmental entities.

(b) The turfgrass science program is encouraged to create a
registry of persons certified under this section on its website.

Section 2. This act shall take effect July 1, 2022.

===== 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 golf course best management
practices certification; creating s. 403.9339, F.S.;
requiring the turfgrass science program at the
University of Florida Institute of Food and



856124

Agricultural Sciences, in coordination and cooperation with the Department of Environmental Protection, to administer a certification for golf course best management practices and provide and approve certification training and testing programs; providing certification and recertification requirements; providing that such certification exempts persons from certain local training and local ordinance regulations; providing construction; authorizing the turfgrass science program to share certification information with local and state governmental entities; encouraging the turfgrass science program to create an online certification registry; providing an effective date.

By the Committee on Environment and Natural Resources; and
Senator Gruters

592-02258-22

20221556c1

A bill to be entitled

An act relating to golf course best management practices certification; creating s. 403.9339, F.S.; directing the Department of Environmental Protection to work and cooperate with the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences to administer a certification for golf course best management practices and provide and approve certification training and testing programs; providing certification and recertification requirements; providing that such certification exempts persons from certain local testing and local ordinance regulations; providing an exception; authorizing the department to share certification information with local and state governmental entities; encouraging the department to create an online certification registry; directing the department to adopt rules; providing an effective date.

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

Section 1. Section 403.9339, Florida Statutes, is created to read:

403.9339 Golf course best management practices certification.

(1) To provide a means of documenting and ensuring compliance with best management practices for fertilizer application to golf courses, the department shall work with the

Page 1 of 3

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

592-02258-22

20221556c1

turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences to administer a certification for golf course best management practices.

(2) The department, in cooperation with the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences, shall:

(a) Provide training and testing programs in golf course best management practices and may issue certificates demonstrating satisfactory completion of the training.

(b) Approve training and testing programs in golf course best management practices that are equivalent to or more comprehensive than the programs provided by the department under paragraph (a). Such programs must be reviewed and reapproved by the department if significant changes are made.

(3) To obtain a golf course best management practices certification, an applicant must submit to the department a copy of the training certificate issued by the department under subsection (2).

(4) (a) A golf course best management practices certification issued under this section expires 4 years after the date of issuance. Upon expiration of the certification, or after a grace period of not more than 30 days after the expiration date, a recertification may be issued.

(b) Before applying for recertification, an applicant must complete 8 classroom hours of acceptable continuing education, of which at least 2 hours must address fertilizer best management practices.

(5) To obtain a golf course best management practices recertification, an applicant must submit to the department

Page 2 of 3

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

592-02258-22

20221556c1

59 proof of having completed the 8 classroom hours of continuing
60 education pursuant to subsection (4).

61 (6) A person certified under this section is exempt from:

62 (a) Additional local testing.

63 (b) Local ordinances relating to water and fertilizer use
64 blackout periods or restrictions, unless a state of emergency is
65 declared.

66 (7) (a) The department may provide the certification status
67 of persons certified under this section to local and state
68 governmental entities.

69 (b) The department is encouraged to create a registry of
70 persons certified under this section on its website.

71 (8) The department shall adopt rules to administer this
72 section.

73 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 28, 2022

I respectfully request that **Senate Bill #1556**, relating to Golf Course Best Management Practices Certification, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Giovanni Betta, Staff Director
Caroline Goodner, Committee Administrative Assistant

File signed original with committee office

S-020 (03/2004)

The Florida Senate

APPEARANCE RECORD

2/22/22

Meeting Date

SB 1556

Bill Number or Topic

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

Ag, Env + 66 Appropriations

Committee

Amendment Barcode (if applicable)

Name

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Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



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I am not a lobbyist, but received
something of value for my appearance
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FL Golf Course Superintendents Association

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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1562

INTRODUCER: Senator Ausley

SUBJECT: Solar Photovoltaic Facility Development

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Favorable
2.	Reagan	Betta	AEG	Recommend: Favorable
3.			AP	

I. Summary:

SB 1562, entitled the “Brownfields to Brightfields Act”, directs the Department of Environmental Protection (DEP), in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites, as defined in state law, and closed landfill sites, to determine viable sites for redevelopment as solar photovoltaic (PV) facilities.

The study must include, at a minimum:

- A list of brownfield sites and closed landfill sites with potential for redevelopment as solar PV facilities, divided into high, medium, and low potential.
- An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis.
- An analysis of the potential costs and benefits of installing solar PV facilities to adjacent communities.
- A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar PV facilities.

The bill directs the DEP to submit a report on the findings and recommendations of the study to the Governor, the Legislature, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

The Department of Environmental Protection and the Office of Energy of the Department of Agriculture and Consumer Services will likely incur costs associated with preparing the required study.

II. Present Situation:

The Brownfields Redevelopment Act

Florida's Brownfields Redevelopment Act (act) was adopted in 1997 to provide incentives for local governments and individuals to voluntarily clean up and redevelop brownfield sites.¹ A "brownfield site" is defined as real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.² The primary goals of the act are to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused due to these hazards; create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites; derive cleanup target levels and a process for obtaining a "no further action" letter using risk-based corrective action principles; and provide the opportunity for environmental equity and justice.³ The act authorizes the Department of Environmental Protection's (DEP) Brownfields Redevelopment Program. Participation in the program results in environmental cleanup, protection of public health, reuse of infrastructure, and job creation.⁴

For a property to participate in the program, a local government must first designate the site as a brownfield area by resolution.⁵ The local government may then identify a "person responsible for brownfield site rehabilitation," which simply entitles the identified person to voluntarily execute a "brownfield site rehabilitation agreement" with the DEP or an approved local program.⁶ If actual contamination exists at the site, the person must enter into such an agreement.⁷ Pursuant to the act, a brownfield site rehabilitation agreement must contain several elements, including a brownfield site rehabilitation schedule; a commitment to conduct site rehabilitation activities in accordance with applicable cleanup criteria; a commitment to implement reasonable pollution

¹ Chapter 97-277, Laws of Fla.; ss. 376.77-376.85, F.S.; Department of Environmental Protection (DEP), *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 3, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

² Section 376.79(4), F.S.

³ DEP, *Brownfields Program*, <https://floridadep.gov/waste/waste-cleanup/content/brownfields-program> (last visited Jan. 24, 2022).

⁴ DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 3, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

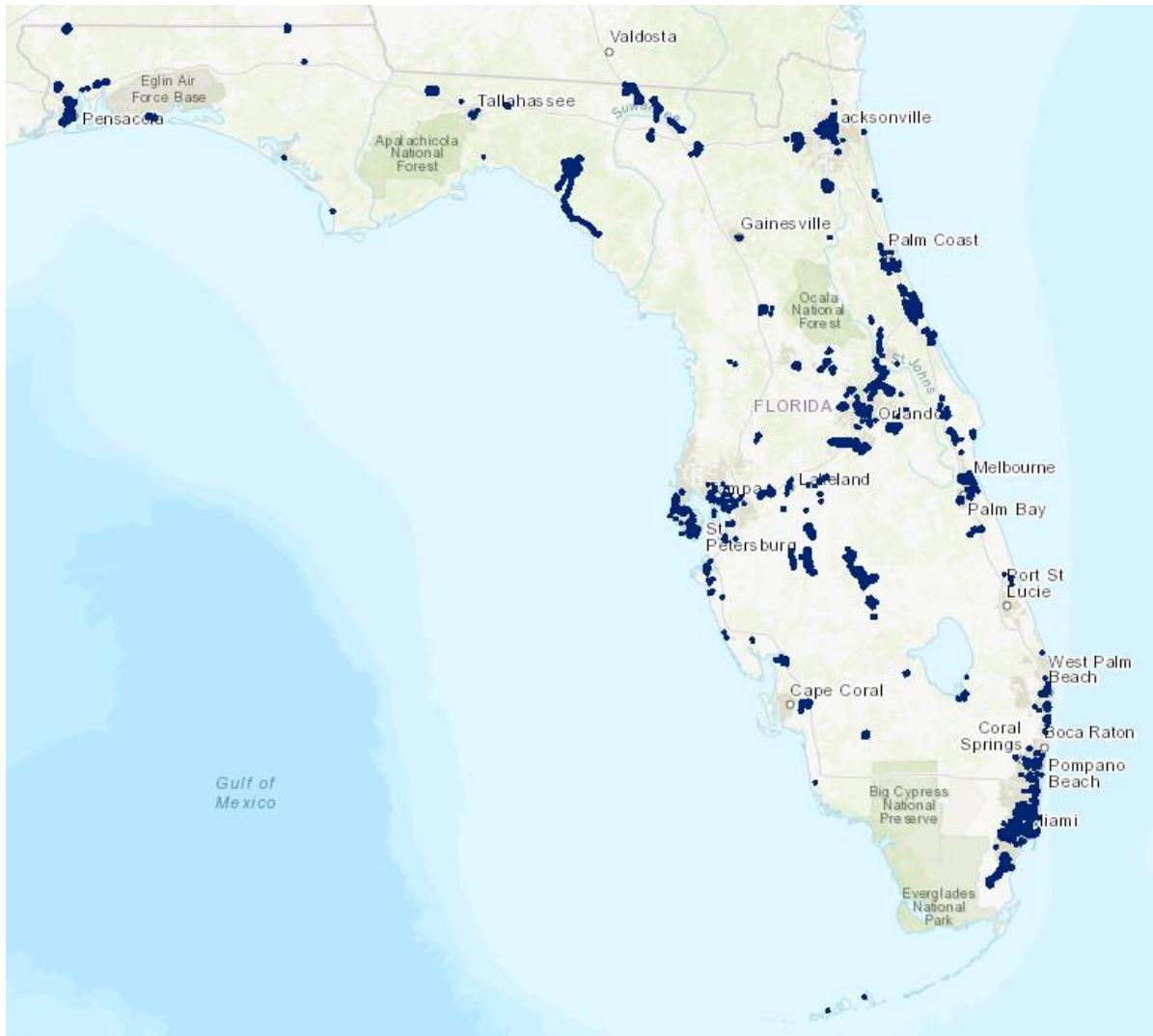
⁵ Section 376.80, F.S.; *see also* s. 376.79(5), F.S., (defining a "brownfield area" as a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution).

⁶ Section 376.80(2)(d), F.S.; *see also* s. 376.79(15), F.S., (defining the "person responsible for brownfield site rehabilitation" as "the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the [DEP] or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site"); *see also* DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 9, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022) (providing that the DEP has delegated authority to administer the program to three county governments: Broward, Hillsborough, and Miami-Dade counties).

⁷ Section 376.80(5), F.S.

prevention measures; and certification that the local government approves of the proposed redevelopment.⁸

Since 1997, Florida has amassed 533 locally designated brownfield areas encompassing approximately 291,679 acres, and 178 site rehabilitation completion orders have been issued.⁹



(Map of Brownfield Areas in Florida)¹⁰

⁸ Section 376.80(5), F.S.; see Fla. Admin. Code Ch. 62-780 (containing cleanup criteria requirements that apply to site rehabilitation governed by a brownfield site rehabilitation agreement).

⁹ DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 4-5, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

¹⁰ DEP, *DEP Brownfields GeoViewer*, <https://floridadep.gov/waste/waste-cleanup/content/dep-brownfields-geoviewer> and <https://ca.dep.state.fl.us/mapdirect/?focus=brnfls> (last visited Jan. 26, 2022).

Solid Waste Disposal Facilities

The DEP is responsible for implementing and enforcing Florida's solid waste management laws in ch. 403, F.S.¹¹ These statutes provide the authority for Florida Administrative Code Ch. 62-701, which are the DEP's current rules for solid waste management facilities.¹² The rules define solid waste management facilities as any solid waste disposal area, transfer station, materials recovery facility, or other facility (including landfills), the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.¹³ No person may store, process, or dispose of solid waste except as authorized at a permitted solid waste management facility.¹⁴ A permit from the DEP is required for the construction, operation, or closure of a solid waste management facility.¹⁵

The DEP's rules for landfills require compliance with water quality and air quality standards, and they establish minimum requirements for water quality monitoring.¹⁶ Landfills that close must comply with the DEP's requirements for closure permitting and long-term care.¹⁷ Consultation with the DEP is required prior to conducting any activities at closed landfill areas.¹⁸ The DEP provides guidance on requirements and recommendations for disturbing or using old, closed landfills or disposal areas.¹⁹ These areas include old waste disposal areas that were operated and closed without permits and which may have had few or no records available of their operations.²⁰ In these old waste disposal areas, the DEP prefers uses such as recreational facilities instead of residential housing, and discourages some construction due to issues such as landfill gas and settlement problems.²¹

Photovoltaic Technology and Facilities

Photovoltaic (PV) materials and devices convert sunlight into electrical energy.²² A single PV device is known as a cell. An individual PV cell is usually small, typically producing about one or two watts of power. These cells are made of different semiconductor materials and are often less than the thickness of four human hairs. In order to withstand the outdoors for many years, cells are enclosed between protective materials in a combination of glass and plastics.²³

¹¹ Section 403.704, F.S.; see DEP, *Solid Waste Section*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/solid-waste-section> (last visited Jan. 24, 2022).

¹² Fla. Admin. Code Ch. 62-701.

¹³ Fla. Admin. Code R. 62-701.200(112).

¹⁴ Fla. Admin. Code R. 62-701.300.

¹⁵ Section 403.707, F.S.; Fla. Admin. Code R. 62-701.320. The rule specifies certain exemptions.

¹⁶ Fla. Admin. Code Rules 62-701.340 and 62-701.510.

¹⁷ Fla. Admin. Code Rules 62-701.600 and 62-701.620.

¹⁸ Fla. Admin. Code R. 62-701.610(1).

¹⁹ DEP, *Guidance For Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida, Version 2.3* (Apr. 2, 2019), 1, available at https://floridadep.gov/sites/default/files/Old_Dump_Guidance-02Apr2019.pdf (last visited Jan. 24, 2022).

²⁰ *Id.* at 2.

²¹ *Id.* at 16-18.

²² U.S. Department of Energy, Office of Energy Efficiency & Renewable Energy (DOE), *Solar Photovoltaic Technology Basics*, <https://www.energy.gov/eere/solar/solar-photovoltaic-technology-basics> (last visited Jan. 21, 2022).

²³ *Id.*

To boost the power output of PV cells, they are connected together in chains to form larger units known as modules or panels.²⁴ Modules can be used individually, or several can be connected to form arrays. One or more arrays is then connected to the electrical grid as part of a complete PV system. Because of this modular structure, PV systems can be built to meet almost any electric power need, small or large.²⁵

PV modules and arrays are just one part of a PV system.²⁶ Systems also include mounting structures that point panels toward the sun, along with the components that take the direct-current electricity produced by modules and convert it to the alternating-current electricity used to power all of the appliances in the typical home.²⁷



(Image of Photovoltaic Panels)²⁸

PV cells and modules will produce the largest amount of electricity when they are directly facing the sun.²⁹ PV modules and arrays can use tracking systems that move the modules to constantly face the sun, but these systems are expensive. Most PV systems have modules in a fixed position with the modules facing directly south (in the northern hemisphere—directly north in the southern hemisphere) and at an angle that optimizes the physical and economic performance of the system.³⁰

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Nancy W. Stauffer, *Researchers find benefits of solar photovoltaics outweigh costs*, MIT NEWS (June 23, 2020), available at <https://news.mit.edu/2020/researchers-find-solar-photovoltaics-benefits-outweigh-costs-0623> (last visited Jan. 26, 2022).

²⁹ U.S. Energy Information Administration (EIA), *Solar Explained: Photovoltaics and Electricity*, <https://www.eia.gov/energyexplained/solar/photovoltaics-and-electricity.php> (last visited Jan. 21, 2022).

³⁰ *Id.*

The smallest photovoltaic systems power calculators and wristwatches.³¹ Larger systems can provide electricity to pump water, to power communications equipment, to supply electricity for a single home or business, or to form large arrays that supply electricity to thousands of electricity consumers.³²

Batteries allow for the storage of solar PV energy, which makes it possible to use PV energy to power homes at night or when weather elements keep sunlight from reaching PV panels.³³ Not only can batteries be used in homes, but they are playing an increasingly important role for utilities. As customers feed solar energy back into the grid, batteries can store it so it can be returned to customers at a later time.³⁴

Advantages and Disadvantages

Some advantages of PV systems are:

- They can be designed for a variety of applications and operational requirements³⁵ (e.g., they can supply electricity in locations where electricity distribution systems (power lines) do not exist).³⁶
- They can be used for either centralized or distributed power generation.³⁷
- Quick installation.
- Energy independence.
- Environmental compatibility.
- Fuel (sunlight) is free.
- No noise or pollution.
- Minimal maintenance.
- No moving parts.
- Modular.
- Expandable.
- Transportable.
- Long service lifetimes.³⁸

Some disadvantages of PV systems are:

- The high cost of PV modules and equipment (as compared to conventional energy sources).³⁹

³¹ *Id.*

³² *Id.*

³³ DOE, *Solar Photovoltaic System Design Basics*, <https://www.energy.gov/eere/solar/solar-photovoltaic-system-design-basics> (last visited Jan. 21, 2022).

³⁴ *Id.*

³⁵ University of Central Florida, The Florida Solar Energy Center (UCF FSEC), *Pros & Cons of PV*, http://www.fsec.ucf.edu/en/consumer/solar_electricity/basics/pros_cons.htm (last visited Jan. 21, 2022).

³⁶ EIA, *Solar Explained: Photovoltaics and Electricity*, <https://www.eia.gov/energyexplained/solar/photovoltaics-and-electricity.php> (last visited Jan. 21, 2022).

³⁷ UCF FSEC, *Pros & Cons of PV*, http://www.fsec.ucf.edu/en/consumer/solar_electricity/basics/pros_cons.htm (last visited Jan. 21, 2022).

³⁸ *Id.*

³⁹ *Id.*

- Surface area requirements for PV arrays.⁴⁰

Solar Electricity Generation from PV Power Plants

The United States Energy Information Administration (EIA)⁴¹ estimates that solar electricity generation at utility-scale PV power plants increased from 76 million kilowatt-hours (kWh) in 2008 to about 88 billion kWh in 2020.⁴² It also estimates that about 42 billion kWh were generated by small-scale grid-connected PV systems in 2020, up from 11 billion kWh in 2014. Utility-scale power plants have at least 1,000 kilowatts (or one megawatt (MW)) of electricity generation capacity and small-scale systems have less than one MW generation capacity. Most small-scale PV systems are located on buildings and are sometimes called rooftop PV systems.⁴³

The National Environmental Justice Advisory Council and the White House Environmental Justice Advisory Council

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee to the United States Environmental Protection Agency (EPA).⁴⁴ Established in 1993, the NEJAC provides independent advice and recommendations to the EPA Administrator regarding a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to environmental justice.⁴⁵

The White House Environmental Justice Advisory Council (WHEJAC), established in 2021 pursuant to Executive Order 14008 (entitled “Tackling the Climate Crisis at Home and Abroad”), advises the Chair of the Council of Environmental Quality and the newly established White House Environmental Justice Interagency Council to increase the federal government’s efforts to address environmental justice.⁴⁶

On May 13, 2021, the WHEJAC released an interim final report⁴⁷ setting forth recommendations regarding President Biden’s administration’s environmental justice agenda, and it finalized those

⁴⁰ *Id.* Due to the diffuse nature of sunlight and the existing sunlight to electrical energy conversion efficiencies of photovoltaic (PV) devices, surface area requirements for PV array installations are on the order of 8 to 12 m² (86 to 129 ft²) per kilowatt of installed peak array capacity. *Id.*

⁴¹ See 42 U.S.C. s. 7135, (establishing the EIA as a “central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation’s economic and social needs”). The EIA collects, analyzes, and disseminates independent and impartial energy information to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment. EIA, *About EIA*, <https://www.eia.gov/about/> (last visited Jan. 24, 2022).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ U.S. Environmental Protection Agency (EPA), *National Environmental Justice Advisory Council*, <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council> (last visited Jan. 25, 2022).

⁴⁵ *Id.*

⁴⁶ EPA, *White House Environmental Justice Advisory Council*, <https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council> (last visited Jan. 26, 2022).

⁴⁷ White House Environmental Justice Advisory Council (WHEJAC), *Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions, Interim Final Recommendations* (May 13, 2021), https://www.epa.gov/sites/default/files/2021-05/documents/whejac_interim_final_recommendations_0.pdf (last visited Jan. 26, 2021).

recommendations on May 21, 2021.⁴⁸ The WHEJAC’s recommendations focus on how the administration may pursue its Justice40 Initiative, which is a “whole-of-government” effort to ensure that federal agencies work with state and local communities to deliver at least 40 percent of the overall benefits from federal investments in climate and clean energy to disadvantaged communities.⁴⁹ The WHEJAC’s recommendations regarding Justice40 include the following:

- The administration should establish a single unit or office to oversee President Biden’s Justice40 Initiative.⁵⁰
- Support for clean energy projects, clean energy jobs training, lead water pipe replacement, public transportation, and community and green housing. Those projects include recommendations for solar grants for communities with an energy cost burden of 12.5 percent or greater and the expansion of United States Department of Agriculture Rural Energy for America Program to tax-exempt entities, such as nonprofits and government agencies, with increased program funding to \$100 million per year.⁵¹
- Opposition to investments in activities that would extend the life span or capacity of fossil fuel-fired generation, carbon capture and storage, nuclear power, and the establishment or advancement of carbon markets.⁵²
- Expansion of tools to help communities impacted by the transition away from coal, including increased funding for the Partnerships for Opportunity and Workforce and Economic Revitalization and Assistance to Coal Communities programs, subsidized broadband construction in coal-impacted communities, and incentives for hiring remote workers in those communities by extending the Work Opportunity Tax Credit.⁵³

III. Effect of Proposed Changes:

Section 1 entitles the bill the “Brownfields to Brightfields Act” (act).

The bill directs the Department of Environmental Protection (DEP), in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites, as defined in state law, and closed landfill sites, to determine viable sites for redevelopment as solar photovoltaic (PV) facilities.

The study must include, at a minimum:

- A list of brownfield sites and closed landfill sites with potential for redevelopment as solar PV facilities, divided into high, medium, and low potential. The list must be based on:
 - Site characteristics including physical, legal, and zoning barriers to redevelopment;
 - Proximity to existing energy generation and transmission infrastructure;
 - Proximity to current and projected population centers; and

⁴⁸ WHEJAC, *Final Recommendations: Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions* (May 21, 2021), available at <https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf> (last visited Jan. 26, 2022).

⁴⁹ The White House, *The Path to Achieving Justice40*, <https://www.whitehouse.gov/omb/briefing-room/2021/07/20/the-path-to-achieving-justice40/> (last visited Jan. 26, 2022).

⁵⁰ WHEJAC, *Final Recommendations: Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions* (May 21, 2021), 15, available at <https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf> (last visited Jan. 26, 2022).

⁵¹ *Id.* at 16-18, 58.

⁵² *Id.* at 59.

⁵³ *Id.* at 25-26.

- Environmental justice considerations, including, but not limited to, the interim final recommendations of the National Environmental Justice Advisory Council dated May 13, 2021.
- An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis. Potential sites must vary in lot size, geographic proximity to current and projected population centers, and geographic region.
- An analysis of the potential costs and benefits of installing solar PV facilities to adjacent communities.
- A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar PV facilities.

The bill also directs the DEP to submit a report on the findings and recommendations of the study to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

Section 2 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection and the Office of Energy of the Department of Agriculture and Consumer Services will likely incur costs associated with preparing the required study.

VI. Technical Deficiencies:

The bill references, “the interim final recommendations of the National Environmental Justice Advisory Council [(NEJAC)] dated May 13, 2021.” However, the White House Environmental Justice Advisory Council (WHEJAC), a different entity, issued interim final recommendations on May 13, 2021, and final recommendations on May 21, 2021. Amending the bill to reference WHEJAC’s final recommendations instead of NEJAC’s interim final recommendations would address this issue.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Ausley

3-01706-22

20221562__

A bill to be entitled

An act relating to solar photovoltaic facility development; providing a short title; directing the Department of Environmental Protection, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites and closed landfill sites to determine viable locations for redevelopment as solar photovoltaic facilities; providing study requirements; directing the department to submit a report to the Governor, Legislature, Florida Public Service Commission, and regional planning council chairs by a specified date; providing an effective date.

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

Section 1. (1) This act may be cited as the "Brownfields to Brightfields Act."

(2) The Department of Environmental Protection, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, shall conduct a study of brownfield sites, as defined in s. 288.107(1)(b), Florida Statutes, and closed landfill sites to determine viable sites for redevelopment as solar photovoltaic facilities.

(3) The study must include, at a minimum:

(a) A list of brownfield sites and closed landfill sites with potential for redevelopment as solar photovoltaic facilities, divided into high, medium, and low potential. The

Page 1 of 2

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

3-01706-22

20221562__

list must be based on:

1. Site characteristics including physical, legal, and zoning barriers to redevelopment.

2. Proximity to existing energy generation and transmission infrastructure.

3. Proximity to current and projected population centers.

4. Environmental justice considerations, including, but not limited to, the interim final recommendations of the National Environmental Justice Advisory Council dated May 13, 2021.

(b) An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis. Potential sites must vary in lot size, geographic proximity to current and projected population centers, and geographic region.

(c) An analysis of the potential costs and benefits of installing solar photovoltaic facilities to adjacent communities.

(d) A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar photovoltaic facilities.

(4) The department shall submit a report on the findings and recommendations of the study to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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

2/22/22

Meeting Date

AEG 2-6 110 SoB

Committee

Name DAVID CULLEN

The Florida Senate

APPEARANCE RECORD

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1562

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 941-323-2404

Address 9830 ELM ST

Email cullenasea@gmail.com

Street

OCEAN CITY

MD

21842

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:

SIERRA CLUB 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. [2020-2022 Joint Rules.pdf \(fisenate.gov\)](#)

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

S-001 (08/10/2021)

February 22, 2022

Meeting Date

Ag, Enviro, and General Government Approp

Committee

Name **Jonathan Webber**

Phone **954-593-4449**

Address **1700 N. Monroe St. #11-286**

Street

Tallahassee

FL

32303

City

State

Zip

Email **jwebber@fcvoters.org**

The Florida Senate
APPEARANCE RECORD

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SB 1562 Solar Photovoltaic Facility Develop

Bill Number or Topic

Amendment Barcode (if applicable)

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 Conservation Voters

☐ 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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 1678

INTRODUCER: Regulated Industries Committee and Senator Gibson and others

SUBJECT: Energy Equity Task Force

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon	Imhof	RI	Fav/CS
2.	Blizzard	Betta	AEG	Recommend: Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1678 creates the Energy Equity Task Force (task force). The task force is adjunct to the Department of Agriculture and Consumer Services (DACS). The bill specifies that the task force must provide recommendations for fostering a fair and equitable transition of Florida's energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities.

The task force must comply with the requirements of section 20.052, Florida Statutes, which establishes the mandatory provisions for advisory bodies, commissions, and boards adjunct to an executive agency. The bill requires the task force to submit a report of its recommendations to the Governor, the Commissioner of Agriculture and Consumer Services, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2023.

The DACS is required to provide staffing and administrative support for the task force. Temporary staff may be needed in the future to implement the administrative responsibilities required by the bill.

The bill's provisions expire on July 1, 2025.

The bill is effective July 1, 2022.

II. Present Situation:

Advisory Bodies, Commissions, and Boards

Any advisory body, commission, board of trustees, or collegial body created by statute as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with s. 20.052, F.S. To be created, such a body must be found necessary and beneficial to further a public purpose.¹ The relevant executive agency must advise the Legislature when the body is no longer essential and beneficial to the public purpose and the body must be terminated.²

The Legislature and the public must be currently informed of the numbers, purpose, membership, activities, and expenses of such bodies.³ Such a body may only be created or reestablished if:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform to the definitions in s. 20.03, F.S., relating to terms throughout the structure of the executive branch;
- Its members are appointed for four-year staggered terms, unless otherwise provided in the Florida Constitution; and
- Its members serve without additional compensation and receive only per diem and reimbursement for travel expenses.⁴

Meetings by such bodies are considered public meetings, and minutes including vote records, must be maintained.⁵ If the body is abolished, such records must be appropriately stored within 30 days of abolition.⁶

Land Use Implications of Different Forms of Energy Production

A utility-scale solar generation system requires larger quantities of land per unit of power produced than traditional power plants.⁷ Solar generation requires ten times the land per unit of power produced than coal or natural gas plants.⁸ As a result of the large scale nature of such projects and the fact that they must be located in a place where the natural resource is most available, such as less industrially-developed areas, siting such facilities can be challenging and viewed as unpopular by those who do not want these large projects near their homes.⁹

¹ Section 20.052(1), F.S.

² Section 20.052(2), F.S.

³ Section 20.052(3), F.S.

⁴ Section 20.052(4), F.S.

⁵ Section 20.052(5)(c), F.S.

⁶ Section 20.052(5)(d), F.S.

⁷ Samantha Gross, *Renewables, land use, and local opposition in the United States*, <https://www.brookings.edu/research/renewables-land-use-and-local-opposition-in-the-united-states/> (last visited Jan. 31, 2022).

⁸ *Id.*

⁹ *Id.*

In Archer, Florida, a proposed solar power farm was opposed by Alachua County commissioners.¹⁰ In evaluating the project, the commissioners took into consideration health, environmental, and property value concerns of the historically black community.¹¹

Local Land Development Regulations and Comprehensive Plans

The Community Planning Act (act) directs the manner in which local governments create and adopt their local comprehensive plans.¹² The act prescribes certain principles, guidelines, standards, and strategies to allow for an orderly and balanced future land development.¹³ Section 163.3177, F.S., outlines the required and optional elements of a comprehensive plan and includes provisions which govern agricultural lands and practices.¹⁴ The act does not specifically address how agricultural lands with solar electric generation facilities should be considered for purposes of local government comprehensive plans.

Solar Facility Approval Process

The Legislature enacted s.163.3205, F.S., in 2021, to require solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area.¹⁵ Solar facilities must comply with setback and landscape buffer area criteria for similar uses in the agricultural district.¹⁶ A county may adopt ordinances specifying buffer and landscaping requirements for solar facilities.¹⁷ Such requirements may not exceed those for similar uses involving construction of other facilities permitted in agricultural land use categories and zoning districts.¹⁸

Florida's Demographics

According to the United States Census Bureau, Florida has a population of 21,781,128, with the following demographics:¹⁹

- Age and sex:
 - Persons over the age of 65 – 20.9 percent
 - Female persons – 51.1 percent
- Race and Hispanic Origin:
 - Black or African American alone – 16.9 percent
 - American Indian and Alaska Native alone – 0.5 percent
 - Asian alone – 3.0 percent

¹⁰ Melissa Hernandez, *County says no to proposed solar power farm near Archer*, <https://www.gainesville.com/story/news/local/2020/10/07/alachua-county-says-no-solar-power-farm-proposed-near-archer/5897167002/> (last visited Jan. 31, 2022).

¹¹ *Id.*

¹² Section 163.3167(2), F.S.

¹³ *Id.*

¹⁴ Section 163.3162, F.S.

¹⁵ See Ch. 2021-178, s. 5, Laws of Fla.

¹⁶ Section 163.3205(3), F.S.

¹⁷ *Id.*

¹⁸ Section 163.3205(4), F.S.

¹⁹ U.S. Census Bureau, *QuickFacts Florida*, <https://www.census.gov/quickfacts/fact/table/FL/NES010218#NES010218> (last visited Jan. 31, 2022).

- Native Hawaiian and Other Pacific Islander alone – 0.1 percent
- Two or More Races – 2.2 percent
- Hispanic or Latino – 26.4 percent
- White alone, not Hispanic or Latino – 53.2 percent
- Median Household Income Average – \$55,660
- Persons in poverty – 12.4 percent

Energy Burden

According to the United States Energy Information Administration, 31 percent of United States households face a challenge in meeting energy needs.²⁰ The American Council for an Energy-Efficient Economy, reports that low-income households in Florida cities face high energy burdens.²¹ The report states that on “average, half of low-income households in Jacksonville, Tampa, Orlando, and Miami have an energy burden greater than 7.2 [percent], and a quarter of them, over 12 [percent].”²²

An energy burden is the percent of gross household income spent on energy costs.²³ Low-income households face a disproportionately higher energy burden.²⁴ Factors influencing high energy burden include higher-cost fuels and energy-inefficient homes which lack adequate insulation or have older appliances.²⁵ Low-income communities face barriers to energy technologies such as renewable energy which can drive down energy costs.²⁶

According to the DACS, the Office of Energy has commissioned an energy equity study, scheduled for publication during summer of 2022.²⁷ The DACS plans to use this information in developing programs and policies to achieve a more equitable economy that is more energy efficient, “reduces energy costs, and promotes the health, safety, and well-being of all.”²⁸

Rural Economic Development Initiative

The Legislature has recognized that “rural communities and regions continue to face extraordinary challenges in their efforts to significantly improve their economies, specifically in terms of personal income, job creation, average wages, and strong tax bases.”²⁹ In response, the

²⁰ U.S. Energy Information Administration, Today in Energy, <https://www.eia.gov/todayinenergy/detail.php?id=37072> (last visited Jan. 31, 2022).

²¹ American Council for an Energy-Efficient Economy, *How energy efficiency can help low-income households in Florida*, <https://www.aceee.org/sites/default/files/pdf/fact-sheet/ses-florida-100917.pdf> (last visited Jan 31, 2022).

²² *Id.*

²³ U.S. Department of Energy, Low-Income Community Energy Solutions, <https://www.energy.gov/eere/slsc/low-income-community-energy-solutions#:~:text=Energy%20burden%20is%20defined%20as,income%20spent%20on%20energy%20costs.&text=In%20some%20areas%20C%20depending%20on,are%20defined%20as%20low%20income> (last visited Jan. 31, 2022).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Florida Department of Agriculture and Consumer Services, *2022 Legislative Bill Analysis for SB 1678*, p. 2 (Jan. 10, 2022) (on file with the Senate Committee on Regulated Industries).

²⁸ *Id.*

²⁹ Section 288.0656(1)(a), F.S.

Legislature created the Rural Economic Development Initiative (REDI) within the Department of Economic Opportunity (DEO).³⁰

Under current law, a rural area of opportunity (RAO) is “a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.”³¹ The following are considered rural communities:

- Counties with fewer than 75,000 people;
- Counties with fewer than 125,000 people that are contiguous to a county with fewer than 75,000 people;
- Municipalities within a county with fewer than 75,000 people;
- Municipalities within a county with fewer than 125,000 people that is contiguous to a county with fewer than 75,000 people; and
- An unincorporated federal enterprise community or an incorporated rural city with fewer than 25,000 people and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of economic distress factors and verified by the DEO.³²

Economic distress means conditions affecting the fiscal and economic viability of a rural community.³³ This includes factors such as low per capita income, high unemployment, high underemployment, and low weekly wages.³⁴

III. Effect of Proposed Changes:

The bill creates the task force, which is adjunct to the DACS. The bill specifies that the task force must provide recommendations for fostering a fair and equitable transition of Florida’s energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities.

The task force must comply with the requirements of s. 20.052, F.S., which establishes the mandatory provisions for advisory bodies, commissions, and boards adjunct to an executive agency.

The bill requires the task force to have at least 11 members, reflecting Florida’s ethnic and gender diversity, as follows:

- Four representatives from minority, underserved, rural, or low-income communities from different regions of the state;
- At least one environmental justice expert;
- At least one representative from the electrical workers profession;

³⁰ Section 288.0656(1)(b), F.S.

³¹ Section 288.0656(2)(d), F.S.

³² Section 288.0656(2)(e), F.S.

³³ Section 288.0656(2)(C), F.S.

³⁴ *Id.*

- At least two energy industry liaisons;
- At least one representative from a statewide environmentally focused group;
- One member appointed by the President of the Senate; and
- One member appointed by the Speaker of the House of Representatives.

The bill requires the task force to recommend appropriate policies, including necessary statutory changes, for the equitable siting of energy infrastructure. This includes utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities; as well as industrial solar array facility sites in a manner compatible with county or municipal comprehensive plans.

The task force must also examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs.

The bill requires the DACS to provide the task force with staffing and administrative support to perform its duties.

Under the bill, the task force must submit a recommendations report to the Governor, the Commissioner of Agriculture and Consumer Services, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2023.

The bill's provisions expire on July 1, 2025.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DACS has indicated the need for additional resources to provide staffing and administrative support for the task force. Temporary staff may be needed in the future for the administrative responsibilities required by the bill.³⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Committee on February 1, 2022:**

The committee substitute:

- Changes the composition requirements of the task force to include:
 - One environmental justice expert, instead of two; and
 - At least one representative from the electrical workers profession;
- Requires a recommendations report to be filed by September 30, 2023, instead of requiring an interim report by that date; and
- Provides that the bill's provisions expire upon submission of the report, instead of July 2025.

B. Amendments:

None.

³⁵ Department of Agriculture and Consumer Services, *Bill Analysis of SB 1678* (Jan. 25, 2022) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

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

By the Committee on Regulated Industries; and Senators Gibson and Powell

580-02616-22

20221678c1

A bill to be entitled

An act relating to the Energy Equity Task Force; creating the task force adjunct to the Department of Agriculture and Consumer Services for a specified purpose; providing for the membership and duties of the task force; requiring the department to provide staffing and administrative support to the task force; requiring the task force to submit a report to certain officials by a specified date; providing for expiration of the task force; providing an effective date.

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

Section 1. Energy Equity Task Force.-

(1) The Energy Equity Task Force, a task force as defined in s. 20.03(8), Florida Statutes, is created adjunct to the Department of Agriculture and Consumer Services to provide recommendations for fostering a fair and equitable transition of this state's energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities. The task force shall comply with the requirements of s. 20.052, Florida Statutes.

(2) The task force shall consist, at a minimum, of the following 11 members who reflect the ethnic and gender diversity of this state:

(a) The following private citizen members appointed by the Commissioner of Agriculture:

1. Four representatives from minority, underserved, rural,

Page 1 of 3

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

580-02616-22

20221678c1

or low-income communities from different regions of this state.

2. At least one environmental justice expert.

3. At least one representative from the electrical workers profession.

4. At least two energy industry liaisons.

5. At least one representative from a statewide environmentally focused group.

(b) One member appointed by the President of the Senate.

(c) One member appointed by the Speaker of the House of Representatives.

(3) The task force shall:

(a) Recommend appropriate policies, including any necessary statutory changes, for the equitable siting of energy infrastructure throughout this state, including, but not limited to:

1. The siting of utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities; and

2. The siting of industrial solar array facility sites in a manner compatible with county or municipality comprehensive plans.

(b) Examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods, to benefit from lower energy costs.

(4) The department shall provide staffing and administrative support to the task force in performing its duties.

Page 2 of 3

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

580-02616-22

20221678c1

59 (5) The task force shall submit a report of its
60 recommendations to the Governor, the Commissioner of
61 Agriculture, the President of the Senate, and the Speaker of the
62 House of Representatives by September 30, 2023, and this section
63 shall expire upon submission of the report.

64 Section 2. This act shall take effect July 1, 2022.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE “NIKKI” FRIED

January 25, 2022

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Carlos Nathan, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 1678

Senate Bill Sponsor: Sen. Gibson

Bill Title: Energy Equity Task Force

Effective Date: July 1, 2022

Similar Bill(s): Yes ☐ No ☐

Similar Bill(s):

Identical Bill: Yes ☒ No ☐

Identical Bill: HB 1285 by Hinson

1. SUMMARY

The bill creates the Energy Equity Task Force (Task Force) adjunct to the Florida Department of Agriculture and Consumer Services (FDACS). The Task Force will be made up of at a minimum 11 appointed positions and will be responsible for developing recommendations on policies and programs that encourage the fair and equitable transition to renewable energy sources.

The findings and recommendations will be presented to the Governor, Commissioner of Agriculture, President of the Senate, and Speaker of the House by September 30, 2023.

2. PRESENT SITUATION

Florida Demographics Facts¹ –

- Population: 21,781,128
- Persons over 65: 20.9%
- Female Persons: 51.1%

¹ US Census - <https://www.census.gov/quickfacts/fact/table/FL/NES010218#NES010218>

- Race-
 - Caucasian (non latino): 53.2%
 - Black/African American: 16.9%
 - Hispanic or Latino: 26.4%
- Median Household Income Average: \$55,660
- Persons in poverty: 12.4%

Florida Energy Insecurity/ FDACS Energy Equity Study

Many Floridians, especially those in vulnerable or underserved populations, struggle with high energy burdens. This means that an outsized portion of their income goes to home energy bills, even with Florida having some of the lowest energy rates in the nation. The Energy Information Administration estimates that one in three households have reported challenges in meeting energy needs². This is exemplified in the low-income households in Jacksonville, Tampa, Orlando, and Miami, whose energy burden is greater than 7.2%, with a quarter of them over 12%³. These higher energy burdens are correlated with greater risk for respiratory diseases, increased stress and economic hardship, and difficulty in moving out of poverty.

The full extent to which energy equity affects Floridians statewide has not yet been analyzed, which drove the FDACS Office of Energy to commission an Energy Equity Study. The study will be published summer of 2022, and information gained will prove useful in the development of programs and policies designed to achieve a more equitable economy that uses energy more efficiently, reduces energy costs, and promotes the health, safety, and well-being of all.

Rural Economic Development Initiative (REDI) Eligible Counties and Communities

288.0656, F.S., defines and acknowledges REDI as rural communities and regions continue to face extraordinary challenges in their efforts to significantly improve their economies, specifically in terms of personal income, job creation, average wages, and strong tax bases.

Further, the statute distinguishes rural area of opportunity (RAO) as rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. The following counties and communities are designated as Rural Areas of Opportunity⁴.

- Northwest Rural Areas of Opportunity – re-designated by Executive Order 15-133 - All communities within Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty,

² EIA - <https://www.eia.gov/todayinenergy/detail.php?id=37072>

³ Energy Efficiency in Florida – ACEEE - <https://www.aceee.org/sites/default/files/pdf/fact-sheet/ses-florida-100917.pdf>

⁴ REDI Eligible Communities List: <https://files.floridados.gov/media/700740/redi-eligible-communities-list-january-14-2019-sl.pdf>

Wakulla, Washington, and the area north of the Choctawhatchee Bay and intercoastal waterway in Walton County, is designated as a Rural Area of Opportunity including the City of Freeport, DeFuniak Springs, and Paxton.

- South Central Rural Areas of Opportunity – re-designated by Executive Order 16-150
- All communities within, DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties, and the Cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central Rural Areas of Opportunity – re-designated by Executive Order 18-158
- All communities within, Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor and Union.

3. EFFECT OF PROPOSED CHANGES

The bill creates the Energy Equity Task Force adjunct to the FDACS. The Task Force is charged with developing recommendations for fostering the fair and equitable transition of the state's infrastructure to renewable energy technologies. Specifically, the Task Force will look at the transition within minority, underserved, rural, and low-income communities.

The members of the Task Force must consist of at least 11 members, all of whom reflect the ethnic and gender diversity of the state. The Task Force will be appointed in the following manner:

Appointment Authority	Number of Positions on Task Force	Field/Industry
Commissioner of Agriculture	4	Representatives from minority, underserved, or low-income communities
	2	Environmental Justice
	2	Energy Industry
	1	Statewide Environmental Group
President of the Senate	1	Liaison/Representative
Speaker of the House	1	Liaison/Representative

The objective of the Task Force is to recommend appropriate policies, including any statutory changes, for the equitable siting of energy infrastructure. The following must be considered:

- Site selection of utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities;
- Site selection of industrial solar array facility sites in a manner compatible with county or municipality comprehensive plans;
- Examination of strategies to assist minority, underserved, rural and low-income in the transition to energy efficiency (including appliances, weatherization, and other methods).

The Task Force must submit its findings to the Governor, Commissioner of Agriculture, President of the Senate, and Speaker of the House. The interim report will be submitted no later than September 30, 2023.

FDACS will provide staffing and administrative support to the Task Force.

If passed the bill is effective on July 1, 2022 and expires July 1, 2025.

4. FISCAL IMPACT ON FDACS

	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE	(FY 24-25) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			
TOTAL REVENUES			
B. Expenditures			
Recurring	\$73,934	\$73,934	\$73,934
Non-Recurring	\$4,492		
TOTAL EXPENDITURES	\$78,426	\$73,934	\$73,934
C. NET TOTAL	\$78,426	\$73,934	\$73,934
COMMENTS: Costs include 1 FTE Governmental Analyst I position and associated expense package.			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?

No.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

No.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)

No.

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: ☐ No: ☒

b. If yes please explain:

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

a. Yes: ☒ No: ☐

b. If yes please explain:

Yes, the bill requires an interim report of its recommendations to be submitted to the Governor, Commissioner of Agriculture, President of the Senate, and the Speaker of the House by 9/30/2023.

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

a. Yes: ☒ No: ☐

b. If yes please explain:

The bill proposes the creation of the Energy Equity Task Force. Additionally, the Commissioner of Agriculture will be granted authority to appoint 9 of the 11 members of the Energy Equity Task Force.

LEGAL ISSUES

10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?

No.

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

No.

12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?

Unknown.

COMMENTS:



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AUDREY GIBSON

6th District

COMMITTEES:
Judiciary, Vice Chair
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Military and Veterans Affairs, Space,
and Domestic Security
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission

February 1, 2022

Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture,
Environment, and General Government
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Albritton:

I respectfully request that SB 1678, relating to establishing an Energy Equity Task Force, be placed on the next committee agenda.

SB 1678, the Energy Equity Task Force will recommend appropriate policies for the equitable siting of energy infrastructure throughout the state. The task force will examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs. This bill passed unanimously in the first committee.

Thank you for your time and consideration.

Sincerely,

Audrey Gibson
State Senator
District 6

*Thank you
for your
Vote!*

SENATE APPROPRIATIONS
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STATE

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2-22-2022

Meeting Date

SB1678 - Energy equity

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Shakhea Hinton

Phone

(352) 602-6876

Address

134 E. Colonial Drive

Email

Shakhea@floridarising.org

Street

Orlando

City

FL

State

32808

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:

Florida Rising

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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5-001 (08/10/2021)

The Florida Senate
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2/20/22

Meeting Date

SB 1678

Bill Number or Topic

AEG

Committee

Amendment Barcode (if applicable)

Name

Michelle Rutledge

Phone

Address

Email

Street

Archer

FL

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. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/22/2022

Meeting Date

1678

Bill Number or Topic

Approps Ag, Environment & GG

Committee

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Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

850-321-9386

Address

579 E. Call St.

Email

fcfe@yahoo.com

Street

Tallahassee, FL

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:

FL Center for Fiscal
& Economic Policy

☐

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. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

February 22, 2022

Meeting Date

Ag, Enviro, and General Government Approp

Committee

The Florida Senate

APPEARANCE RECORD

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SB 1678 - Energy Equity Task Force

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jonathan Webber**

Phone **954-593-4449**

Address **1700 N. Monroe St. #11-286**
Street

Email **jwebber@fcvoters.org**

Tallahassee

FL

32303

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 Conservation Voters

☐ 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, [2020-2022 Joint Rules.pdf](#) ([fl.senate.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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

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:

FLORIDA LEAGUE OF WOMEN VOTERS

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. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

2/22/22

Meeting Date

AEG Appropriations

Committee

The Florida Senate

APPEARANCE RECORD

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SB 1678

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jeff Scala**

Phone **(727) 637-4081**

Address **100 S Monroe Street**
Street

Email **jscala@fl-counties.com**

Tallahassee

City

FL

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 Association of Counties

☐ 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

2/22/22

The Florida Senate

APPEARANCE RECORD

1678

Meeting Date

AEG 2-6 110 SoB

Deliver both copies of this form to
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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Email **cullenasea@gmail.com**

Street

OCEAN CITY

MD

21842

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:

SIERRA CLUB 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. §11.043 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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CS-001

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 1874 (565284)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senator Boyd

SUBJECT: Department of Financial Services

DATE: February 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Sanders	Betta	AEG	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1874 amends sections of Florida Statutes relating to the powers and duties of the Department of Financial Services (DFS). The Chief Financial Officer (CFO) is the head of the DFS. The bill, as originally filed, revises service of process requirements by providing the service of process is valid and binding upon the insurer on the date the process served on the CFO is delivered to the insurer, or the insurer has been notified by the DFS that such information has been made available on the DFS online portal. In addition, the committee substitute provides the following additional changes:

Division of Insurance Agents and Agencies

- Adds an exemption to the examination requirements for an all-lines adjuster who has received the designation of a Certified All Lines Adjuster from Kaplan Financial Education;
- Authorizes an adjuster who holds an adjuster license and who is an unaffiliated insurance agent to obtain an adjuster appointment while maintaining his or her unaffiliated agent appointment. This will allow the adjuster to adjust claims and receive compensation;
- Limits the appointment of a public adjuster apprentice to a public adjusting firm who may appoint a public adjuster apprentice. Currently a public adjuster may also appoint an apprentice;
- Revises provisions relating to fingerprinting requirements to comply with federal law;
- Creates notice requirements for agencies that cease doing business, and creates penalties for noncompliance;

- Increases the authority of the DFS to investigate and prosecute violations committed by a licensee while licensed under ch. 626, F.S., even if the license has expired, is not renewed, or is surrendered; and
- Revises compensation for public adjusters by requiring the compensation be based on the recovery allocated to the insured for covered damage, exclusive of attorney fees and costs.

Funeral, Cemetery, and Consumer Services

- Eliminates the fee cap of \$50 for a consumer transferring the burial rights from one purchaser to another and revises the licensure requirements for embalmers and funeral directors.

State Fire Marshal

- Authorizes expenditure of funds from the Firefighter Assistance Grant Program for the purchase of other equipment and tools and protective clothing and equipment compliant with certain standards;
- Revises firefighter certification requirements; and
- Revises provisions relating to the inspection of boiler rooms.

Division of Workers' Compensation

- Exempts the schedules of maximum reimbursement allowances adopted by the three-member panel from rule ratification requirements by the Legislature;
- Requires a carrier to reimburse a physician, hospital, or ambulatory surgical center at the agreed-upon contract price, or if there is no contract price, the lesser of the provider's billed charge or the maximum reimbursement allowance. Currently, the carrier must reimburse at the agreed-upon contract price or the maximum reimbursement allowance;
- Clarifies the definition of employer;
- Clarifies an employer applying for an exemption from workers' compensation coverage to provide a *valid* driver license or *valid* identification card. An applicant is also required to complete an online the FS coverage and compliance tutorial as a condition for application;
- Revises the formula for calculating coverage penalties to reduce the period subject to a penalty with exceptions;
- Provides a penalty credit for an employer who has been issued a stop-work order or an enforcement action if the employer successfully completes an online coverage and compliance tutorial;
- Extends the deadline for an employer to produce requested business records from 10 business days to 21 days before the DFS can take an administrative action;
- Requires an employer to pay any outstanding assessed payment prior to entering into a new penalty payment program with the DFS;
- Requires the carrier to send an informational brochure to the injured worker within three business days, instead of three days, after the employee or employer notifies the carrier of an injury. A carrier or its third party administrator is authorized to provide the informational brochure to an injured worker or an employer by e-mail or regular mail; and
- Revises onsite audit requirements for construction classes by requiring such annual audits if the estimated annual premium is \$10,000 or more. Currently, there is no minimum threshold.

Division of Accounting and Auditing

- Amends provisions relating to the Planning and Accounting, Ledger Management system (PALM) and local government financial reporting.

Division of Rehabilitation and Liquidation

- Provides employees and retired employees of the Division of Rehabilitation and Liquidation or their surviving spouses are enrollees of the state group insurance program.

Florida Patient's Compensation Fund (Fund)

- Revises structure and authority of the Fund by eliminating the board of governors of the Fund and transferring the supervision of the Fund to the CFO or his or her designee.
- Prescribes duties of the CFO and the DFS to wind down the Fund, and to dissolve the Fund on or before December 31, 2023.

The bill may have an insignificant but indeterminate impact on state revenues and expenditures. See Section V. Fiscal Impact Statement.

Except as otherwise expressly provided, this act takes effect July 1, 2022.

II. Present Situation:

The Chief Financial Officer (CFO) is the chief fiscal officer of Florida and is responsible for settling and approving accounts against the state and keeping all state funds and securities.¹ The CFO serves as the head of the Department of Financial Services (DFS or department). Offices and divisions within the DFS include:

- Insurance Consumer Advocate;
- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.²

¹ Section 17.001, F.S.

² Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited Jan. 17, 2022).

Division of Accounting and Auditing

Section 215.93, F.S., establishes the Florida Financial Management Information System (FFMIS) for the state. The intent of the FFMIS is to ensure the efficient operation of an integrated financial management information system and to provide necessary information for the effective operation of state government.³ The Florida Accounting Information Resource Subsystem (FLAIR) is the state's accounting system, and it is a subsystem of the FFMIS.⁴ The functions of FLAIR include accounting and reporting of information to producing financial statements for the state and auditing and settling claims against the state.⁵ In 2014, DFS created the Florida Planning, Accounting, and Ledger Management (PALM) Project to replace the State of Florida's current accounting and cash management systems with an integrated, enterprise financial management solution that will allow the state to organize, define, and standardize its financial management processes. The Florida PALM Project is a multiyear project.⁶

The Division of Accounting and Auditing, Bureau of Financial Reporting (Bureau), is responsible for the oversight of local government financial reports and the Comprehensive Annual Financial Reports (CAFR). The Chief Financial Officer is required to publish a CAFR in accordance with generally accepted accounting principles (GAAP).⁷ The CAFR includes the audited financial statements, other disclosures, and supplementary information, presenting the state's financial condition and results of operations during the fiscal year.⁸ The Government Accounting Standards Board (GASB) establishes accounting and financial reporting standards for U.S. state and local governments that follow GAAP and recently changed the term, "Comprehensive Annual Financial Report" (CAFR)⁹ to the term, "Annual Comprehensive Financial Report" (ACFR).

Chapter 218, F.S., prescribes financial management and reporting requirements for local governments, which include counties, municipalities, and special districts. The Division of Accounting and Auditing's website provides resources to assist local governments in fulfilling their reporting requirements.¹⁰ Local governments must submit their annual financial reports (AFRs) to the DFS and provide their audited financial statements.¹¹ The AFR is available to the public in the local government electronic reporting (LOGGER).

³ Section 215.93(1), F.S.

⁴ Section 215.93(1)(b), F.S. The DFS is the functional owner of FLAIR. Section 215.94(2), F.S.

⁵ Section 215.94(2), F.S.

⁶ *Id.*

⁷ Section 216.102(3), F.S.

⁸ See Florida's Comprehensive Annual Financial Report, Fiscal Year ended June 30, 2020, <https://www.myfloridacfo.com/division/aa/reports/documents/DeptofFinServ-StateofFLCAFR2020-FINAL-2-26-2021.pdf> (last visited Feb. 7, 2022).

⁹ GASB, Statement No. 98, The Annual Comprehensive Financial Report, (Oct. 2021), https://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176178723455&acceptedDisclaimer=true (last visited Feb. 7, 2022).

¹⁰ Department of Financial Services, Division of Accounting and Auditing, Local Governments, <https://www.myfloridacfo.com/division/aa/localgovernments/> (last visited Feb. 7, 2022).

¹¹ Section 218.32, F.S.

In 2018,¹² legislation was enacted to require the DFS to create an interactive repository of financial statement information, known as the Florida Open Financial Statement System.¹³ This system must have standardized taxonomies for state, county, municipal, and special district financial filings. The Division of Accounting & Auditing and the Office of Information Technology are designing the Florida Open Financial Statement System.¹⁴

Division of Rehabilitation and Liquidation

Federal law provides insurance companies may not file for bankruptcy.¹⁵ The state, through the Division of Rehabilitation (division or receiver), is instead responsible for rehabilitating or liquidating an insurer.¹⁶ States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. The receiver administers insurance companies placed into receivership in Florida.¹⁷

Insurance companies in receivership fund positions within the division. Since these positions are not appropriated from state funds, the positions are not state employee positions and are not eligible for the state group insurance program.¹⁸ Because the division must purchase health insurance in the small group market, it is unable to leverage the economies of scale, and faces yearly premium increases. The division anticipates these increases will continue to occur in the future, which ultimately affects the claimants in the receivership estates. The division is a participating entity of the Florida Retirement System.¹⁹ The division also participates in the State's Deferred Compensation program.

Division of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (board) within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The board acts as the licensing and rulemaking authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.²⁰

¹² Ch. 2018-102, s. 4, Laws of Fla.

¹³ Section 218.32(1)(h), F.S.

¹⁴ Department of Financial Services, Florida Open Financial Statement Project, <https://www.myfloridacfo.com/division/aa/projects/floopenfinancialstmtproject.htm> (last visited Feb. 7, 2021).

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

¹⁶ Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

¹⁷ *Id.*

¹⁸ Department of Financial Services, Division of Rehabilitation and Liquidation, <https://myfloridacfo.com/division/receiver/career-opportunities/humanresources-recruitmentandselection> (last visited Feb. 7, 2022).

¹⁹ *Id.*

²⁰ *See* s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S. sets forth who may apply for which licenses.

Fees

Current law imposes a maximum charge to consumers of \$50 for transference of burial rights from one purchaser to another.²¹

Licensure

There are several options available for embalmers or funeral directors to obtain reciprocal licensure in Florida.²² One method to receive a reciprocal licensure for an embalmer is to hold a valid licensure in a state that has requirements at the time of original licensure that are substantially equivalent to or more stringent than Florida's requirements at the same time.²³

A funeral director may apply to obtain a reciprocal licensure in Florida if the provisions of s. 497.374, F.S., are met. The applicant must hold a valid license to practice funeral directing in another state, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida.²⁴

Current law prescribes the scope of practice of funeral directing a licensed funeral director may perform.²⁵ These duties include:

- Selling or offering to sell funeral services;
- Planning or arranging the details of the funeral services;
- Embalming, cremation, or other services relating to the final disposition of human remains; including the removals of such remains from the state;
- Setting the time of the service;
- Establishing the type of services to be rendered;
- Acquiring the services of the clergy;
- Obtaining vital information for the filing of death certificates and burial transit permits; or
- Directing any memorial services that is held prior to or within 72 hours of the burial or cremation if such service is old or arranged by the licensee.

Division of Insurance Agents and Agencies

Chapter 626, F.S., governs the regulation of insurance field representatives, navigators, insurance administrators, unauthorized insurers and surplus lines, viatical settlements, structured settlements, and operations.²⁶ The powers and duties of the CFO and the DFS in part I of ch. 626, F.S., apply only with respect to insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer

²¹ Section 497.277(2), F.S.

²² Section 497.369, F.S.

²³ Section 497.369

²⁴ Section 497.374(1)(b), F.S.

²⁵ Section 497.372(1), F.S.

²⁶ This includes licensing and other requirements (part I), general lines agents (part II), life insurance agents (part III), health insurance agents (part IV), title insurance agents (part V), insurance adjusters (part VI), insurance administrators (part VII), and viatical settlements (part X).

representatives, service representatives, and agencies.²⁷ Further, the DFS has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons engaged in actions for which a license issued by the DFS is required.²⁸ The powers and duties of the Financial Service Commission and the Office of Insurance Regulation (OIR)²⁹ specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.³⁰ The OIR has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons who engage in actions for which a license or certificate of authority issued by the OIR is required.³¹ However, s. 626.016, F.S., is not intended to limit the authority of the DFS and the Division of Investigative and Forensic Services within the DFS, as specified in s. 626.989, F.S.

The Division of Insurance Agent and Agency Services (division) licenses and appoints individuals and entities authorized to transact insurance in Florida as provided in s. 626.016, F.S. Further, the division receives and reviews applications for insurance licenses and oversees the examination, licensing, and continuing education of licensees. The division also conducts investigations of alleged violations of the Florida Insurance Code and refers suspected criminal violations of the Florida Insurance Code to the Division of Investigative and Forensic Services' Bureau of Insurance Fraud within the DFS or other law enforcement agencies as appropriate.³²

Section 626.112, F.S., states that no person may be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, customer representative, service representative, or managing general agent unless he or she is currently licensed by the department and appointed by an appropriate appointing entity or person. All licenses require an appointment with the exception of insurance agency licenses.

Agents with Unaffiliated appointments

Unaffiliated insurance agents, are those licensees, except a limited lines agent, who are self-appointed and who practice as an independent consultant in the business of analyzing and abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance in a written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents.³³ According to the DFS, unaffiliated appointments were intended to allow a licensee to hold their license in good standing, giving the licensee credentials in the knowledge for holding a license, without soliciting insurance coverage.³⁴

²⁷ Section 626.016(1), F.S.

²⁸ Section 626.016(3), F.S.

²⁹ Pursuant to s. 20.121(3), F.S., the Office of Insurance Regulation is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.

³⁰ Section 626.016(2), F.S.

³¹ Sections 626.016(3), F.S.

³² Sections 624.307, 624.317, and 624.321, F.S.

³³ Section 626.015(20), F.S.

³⁴ Department of Financial Services, *2022 Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

Insurance Adjuster Licensure Examination

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.³⁵ An adjuster may be licensed as either an “all-lines adjuster” or a “public adjuster.”³⁶ An all-lines adjuster “is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage.”³⁷ Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against his or her insurer.³⁸

Among other requirements, an applicant must pass an examination to obtain an adjuster’s license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants that obtains certain specified professional designations.³⁹ The DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard the DFS testing for the all-lines adjuster license.⁴⁰

Closure of an Insurance Agency

Currently an agency is not required to provide notification to a policyholder or premium finance company or follow protocols when an agency is closing for an extended period or closing permanently.

Division of State Fire Marshal

The Division of State Fire Marshal protects people and property throughout Florida and has authority to inspect buildings, structures, equipment, vehicles and chemicals when there is reasonable cause to believe a violation of the Florida Fire Code has occurred.⁴¹ The Division of State Fire Marshal:

- Conducts safety inspections and reviews construction plans for all state-owned buildings, regulates fireworks and the fire sprinkler industry, inspects and licenses boilers, and certifies persons working in the fire suppression industry; and
- Approves curricula and training at the Florida State Fire College and certifies that fire service members meet industry standards.⁴²

³⁵ Insurance Information Institute. *III Glossary* (defining “adjuster”), <https://www.iii.org/resource-center/iii-glossary/A> (last visited Feb. 7, 2022).

³⁶ Section 626.864, F.S.

³⁷ Sections 626.015 and 626.8548, F.S.

³⁸ Section 626.854(1), F.S.

³⁹ Section 626.221, F.S.

⁴⁰ Section 626.221(2)(j), F.S.

⁴¹ Department of Financial Services, Division of State Fire Marshal, <https://www.myfloridacfo.com/division/sfm/> (last visited Feb. 7, 2022).

⁴² *Id.*

Firefighter Certification

To be certified as a firefighter, a person must complete a minimum standards course and examination established by the State Fire Marshal or show proof of equivalent training in another state, and pass an exam within one year of completing the minimum standards course.⁴³

Additionally, the applicant must be in good physical condition, as determined by a medical examination, and have good moral character, as determined by a background investigation that includes the processing of fingerprints for a national criminal background check.⁴⁴

To serve as an administrative and command head of a fire service provider, or to work in a position directing incident outcomes, a certified firefighter must earn a Special Certificate of Compliance.⁴⁵ Such person must be active as a firefighter, maintain a valid fire service instructor certificate and teach at least 40 hours of instruction during a four-year period, and complete a Firefighter Retention Refresher Course prior to expiration of the four-year period.⁴⁶

To renew a certification, a firefighter must:

- Be active as a firefighter, meaning the certificate holder was employed as a firefighter or served as a volunteer firefighter for at least six months during a four-year period; or
- Hold a fire service instructor certificate and instruct at least 40 hours during a four-year period, or
- Complete a Firefighter Retention Refresher Course during the six months before the four-year period expires, or
- Retake and pass the Minimum Standards Course examination during the six months before the four-year period expires.⁴⁷

Firefighter Assistance Grant Program

The Firefighter Assistance Grant was created to improve the emergency response capability of volunteer fire departments and combination fire departments.⁴⁸ The program is required to provide financial assistance to improve firefighter safety and to enable such fire departments to provide firefighting, emergency medical, and rescue services to their communities.⁴⁹ Funding is available for training, personal protective equipment, self-contained breathing apparatus, and fire engine pumper apparatus.⁵⁰ According to the DFS, many of the fire departments that are eligible to participate in this grant program are in rural economically challenged areas of the state and have limited funding opportunities to purchase additional crucially needed tools and equipment.⁵¹

⁴³ Section 633.408(4), F.S.

⁴⁴ Sections 633.408 and 633.412, F.S.

⁴⁵ Section 633.408(6), F.S.

⁴⁶ *Id.*

⁴⁷ Section 633.414, F.S.

⁴⁸ Section 633.135(1), F.S. Combination fire department is a fire department that is composed of career and volunteer firefighters.

⁴⁹ Section 633.135, F.S., and Rule 69A-37-501, F.A.C.

⁵⁰ Section 633.135(4), F.S.

⁵¹ The Department of Financial Services, *2022 Legislative Bill Analysis of HB 959* (Similar to SB 1874) (Dec. 22, 2022).

Boiler Safety Act

Chapter 554, F.S., is the “Boiler Safety Act.”⁵² The DFS is authorized to adopt by rule a State Boiler Code for the safe construction, installation, inspection, maintenance, and repair of boilers in Florida.⁵³ The State Fire Marshall performs inspections to ensure the safety of boilers in public buildings.⁵⁴ Boiler inspectors must meet initial and ongoing certification requirements.⁵⁵ The DFS may impose various fees, such as, initial and annual certificates of competency, certificate inspections.

According to the DFS, some provisions within ch. 554 are outdated. For example, a requirement for American Society of Mechanical Engineers (ASME)⁵⁶ stamping of boilers between 200,000 and 400,000 BTU has been in the statute for several years but did not have a phase in date to allow for utilization of manufacturer’s inventory.⁵⁷ Additionally, the carbon monoxide detector requirement of ch. 509, F.S., lacks clarity as to the enforcement ability of authorized third-party inspectors.⁵⁸

Division of Workers’ Compensation

The workers’ compensation law⁵⁹ requires an employer⁶⁰ to obtain coverage for their “employees” that provides for lost income and all medically necessary remedial treatment, attendance, and care resulting from work related injuries and occupational diseases. The Division of Workers’ Compensation⁶¹ within the DFS provides regulatory oversight of the system.⁶² The DFS’ responsibilities include enforcing employer compliance with coverage requirements,⁶³ administration of the workers’ compensation health care delivery system, collecting system data, educating and assisting employers and injured workers.

⁵² Section 554.1011, F.S.

⁵³ Section 554.103, F.S.

⁵⁴ Department of Financial Services, Division of State Fire Marshal, Boiler Safety Section, <https://www.myfloridacfo.com/Division/sfm/BFP/BoilerSafety/default.htm> (last visited Feb. 7, 2022).

⁵⁵ Section 554.104, F.S.

⁵⁶ “ASME Code” is the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code published by that Society, which are incorporated by reference in Rule 69A-51.010, F.A.C. See Rule 69A-51.005(6), F.A.C.

⁵⁷ The Department of Financial Services (DFS), *2022 Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁵⁸ *Id.*

⁵⁹ Ch. 440, F.S.

⁶⁰ “Employer” means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. “Employer” also includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons. s. 440.02(16), F.S. The most common exception to this is non-construction industry employers with fewer than four employees. There are a number of other exceptions, exclusions, and exemptions that affect whether an employer must provide workers’ compensation coverage generally or to a particular individual. See s. 440.02(15)–(17), F.S.

⁶¹ Department of Financial Services, Division of Workers’ Compensation, *About the Division*, <https://www.myfloridacfo.com/Division/WC/contactUs.htm> (last visited Feb. 7, 2022).

⁶² Section 440.191, F.S.

⁶³ Section 440.107, F.S.

Coverage Requirements; Enforcement

Whether an employer is required to have workers' compensation insurance depends upon the employer's industry (i.e., construction, non-construction, or agricultural) and the number of employees.⁶⁴ The coverage thresholds are as follows:

- Construction – one or more “employees;”
- Non-construction – four or more “employees;” and
- Agricultural - six or more regular employees and/or 12 or more seasonal employees who work for more than 30 days.⁶⁵

Employers may obtain coverage by purchasing a workers' compensation insurance policy from an insurer; purchasing coverage from the Workers' Compensation Joint Underwriting Association (for employers that are unable to purchase a workers' compensation insurance policy from an authorized insurance company); or qualifying as a self-insurer.⁶⁶ In order to apply for or renew an exemption from workers' compensation law, the exemption applicant must complete and submit a Notice of Election to be Exempt application online. The notice must list the name, date of birth, and driver's license number of Florida identification card number, and other specified information.⁶⁷

The DFS has the authority to enter and inspect any place of business for purposes of ensuring employer compliance with workers' compensation law, and the DFS can request an employer's business records.⁶⁸ An employer must produce the required business records within ten business days of receiving the written request for records. The failure of an employer to comply with the workers' compensation coverage requirements is considered to pose an immediate danger to public health, safety, and welfare; the DFS must issue a Stop-Work Order within 72 hours of determination of non-compliance, which requires the employer to cease all business operations.⁶⁹ The DFS may release a Stop-Work Order when an employer provides proof of compliance and pays \$1,000, as a down payment, and agrees to enter into a penalty payment agreement with the DFS for the full amount.⁷⁰ The penalty is a minimum of \$1,000 and is based on the insurance premiums, which should have been paid, but were not, multiplied by two for the prior two years.⁷¹

⁶⁴ The terms “injured employee” and “injured worker” are used interchangeably throughout ch. 440, F.S., in relation to individuals claiming or receiving workers' compensation benefits. However, neither term is expressly defined in the workers' compensation law. Since the term “injured employee” implies a continuing employment relationship that may not in fact exist following an injury, this analysis will use the term “injured worker” exclusively, but it is intended to mean both “injured employee” and “injured worker” wherever it is used, unless the context or law requires otherwise. The term “injured employee” is not same as “employee.” The former denotes one who is claiming benefits following an injury, while the latter denotes one who may be subject to the coverage requirements of the workers' compensation law, depending upon the circumstances of their employment and nature of their employer.

⁶⁵ Department of Financial Services, Division of Workers' Compensation, *Coverage Requirements*, <https://www.myfloridacfo.com/division/wc/employer/coverage.htm> (last visited Feb. 7, 2022).

⁶⁶ Sections 440.38 and 627.311(5), F.S.

⁶⁷ Section 440.05(3), F.S.

⁶⁸ Section 440.107(7)(a), F.S.

⁶⁹ *Id.*

⁷⁰ Section 440.107(7)(d), F.S.

⁷¹ *Id.*

Reporting by Carriers and Audits by Carriers

Within three days after the employer or the employee informs the carrier of an injury, the carrier must mail to the injured worker an informational brochure approved by the DFS that provides an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law.⁷²

Further, the carrier or its third-party administrator is required to mail the same brochure annually to employers.⁷³

Three-member Panel; Guides of Maximum Reimbursement Allowances; Rulemaking

Florida's workers' compensation law provides for medically necessary treatment and care of injured employees. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program must be reimbursed at either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.⁷⁴ The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).⁷⁵

A three-member panel (panel) consisting of the Chief Financial Officer (CFO) or CFO's designee and two Governor's appointees sets the MRAs.⁷⁶ The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;⁷⁷ the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.⁷⁸ Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.⁷⁹

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,⁸⁰ while reimbursement for surgical procedures is limited to 140 percent of Medicare.⁸¹ The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,⁸² while other outpatient services are limited to 75 percent of usual and

⁷² Section 440.185(3), F.S.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Section 440.13(12), F.S.

⁷⁶ Section 440.13(12)(a), F.S.

⁷⁷ Section 440.13(12)(d)1., F.S.

⁷⁸ Section 440.13(12)(d)2., F.S.

⁷⁹ Section 440.13(12)(d)3., F.S.

⁸⁰ Section 440.13(12)(b)4., F.S.

⁸¹ Section 440.13(12)(b)5., F.S.

⁸² Section 440.13(12)(b)3., F.S.

customary charges.⁸³ Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.⁸⁴ The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.⁸⁵ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.⁸⁶ Fees may not exceed the schedules adopted under Ch. 440, F.S., and department rule.⁸⁷

Rulemaking Authority and Legislative Ratification

A rule is an “agency statement of general applicability that implements, interprets, or prescribes law or policy.”⁸⁸ Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.⁸⁹ An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.⁹⁰ The statutory authority for rulemaking must be specific enough to guide an agency’s rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.⁹¹

Prior to the adoption, amendment, or repeal of any rule, an agency must file a notice of the proposed rule in the Florida Administrative Register.⁹² The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and
- A summary of the agency’s statement of estimated regulatory costs (SERC), if one is prepared.⁹³

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.⁹⁴

SERC Requirements

Agencies must prepare the SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within one year after implementation of the rule.⁹⁵

⁸³ Section 440.13(12)(a), F.S.

⁸⁴ Section 440.13(12)(a), F.S.

⁸⁵ Section 440.13(12)(c), F.S.

⁸⁶ *Id.*

⁸⁷ Section 440.13(13)(b), F.S. The department also has broad rulemaking authority under s. 440.591, F.S.

⁸⁸ Section 120.52(16), F.S.

⁸⁹ Section 120.52(17), F.S.

⁹⁰ See ss. 120.52(8) and 120.536, F.S.

⁹¹ See *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla 1st DCA 2000).

⁹² See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

⁹³ Section 120.54(3)(a)1., F.S.

⁹⁴ See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

⁹⁵ Section 120.541(1)(a), F.S.

A SERC must include estimates of the following:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.⁹⁶

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of one million dollars within the first five years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,⁹⁷ productivity, or innovation; or
- Regulatory costs, including any transactional costs.⁹⁸

If the economic analysis results in an adverse impact or regulatory costs in excess of one million dollars within five years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.⁹⁹

The Legislature previously ratified Rule 69L-7.020, F.A.C., of the DFS, which incorporates by reference the 2016 Edition of the Florida Workers' Compensation Health Care Provider Manual, providing for reimbursement of healthcare providers under the increased MRAs approved by the panel. The DFS has subsequently adopted amended versions of the rule, incorporating by referenced the Manual. The updated Manual is estimated to increase workers' compensation system costs by 0.2 percent (eight million dollars).¹⁰⁰ According to the SERC, the revisions to the MRAs in the updated manual are projected to result in increased costs to the overall compensation system of eight million dollars over the next five years.¹⁰¹

In 2022, SB 1274 was filed, which would ratify Rule 69L-7.020, F.A.C.

The Chief Financial Officer as Agent for Service of Process on Insurers

Florida's Chief Financial Officer¹⁰² (CFO) is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, F.S., any unauthorized insurer under s. 626.906, F.S. or s. 626.937, F.S., domestic reciprocal insurers,

⁹⁶ Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of five million dollars or less.

⁹⁷ Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

⁹⁸ Section 120.541(2)(a), F.S.

⁹⁹ Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. *See* s. 120.541(4), F.S.

¹⁰⁰ National Council on Compensation Insurance, Inc., *Analysis of Florida Medical Fee Schedule Changes Proposed to be Effective July 1, 2021*, November 16, 2020 (on file with the Senate Committee on Banking and Insurance).

¹⁰¹ Florida Department of Financial Services, *Statement of Estimated Regulatory Costs Rule 69L-7.020, F.A.C.* (November 2021) (on file with the Senate Committee on Banking and Insurance).

¹⁰² The CFO's assistant, deputy, or another person in charge of the office may also serve as the agent for service of process.

fraternal benefit societies under ch. 632, F.S., warranty associations under ch. 634, F.S., prepaid limited health service organizations under ch. 636, F.S., and persons required to file statements under s. 628.461, F.S.¹⁰³

Service of process on the CFO is made by mail, personal service, or internet-based transmission system created by the DFS.¹⁰⁴ Upon receipt of service of process, the CFO retains a record copy in paper or electronic form and promptly forwards one copy of the process documents to the insurer's designated process agent by registered or certified mail.¹⁰⁵ The CFO may also make the process documents available from a secure website created by the DFS and provide notice of availability and retrieval instructions to the insurer's designated process agent under s. 624.307(9), F.S. Under current law, service of process is considered valid and binding service on the insurer when the process documents are served on the CFO and sent or made available to the insurer pursuant to s. 624.307(9), F.S., rather than at such time the insurer receives the process documents.¹⁰⁶

Recent court cases have addressed similar questions related to whether service of process on an insurer is perfected at the time served on the CFO or at the time received by the insurer. For example, in *Markovits*,¹⁰⁷ an uninsured motorist lawsuit that also involved an award of attorney fees for a rejected proposal for settlement, the court was asked to determine whether a proposal for settlement served on the insurer 91 days after service of the complaint on the CFO but 88 days after the complaint was forwarded by the CFO to the insurer, constituted valid service within a 90-day deadline for proposals for settlement on the insurer. In addition to finding statutory authority under s. 624.423(3), F.S., the court ultimately based its decision on s. 48.151(1), F.S., relating to service on statutory agents for certain persons, citing in part “[w]hen any law designates a public officer, board, agency, or commission as agent for service of process” and the person or entity so designated is served with process, then “service is valid service for all purposes,” and holding that service of process is considered valid and binding on the insurer when served on the CFO.¹⁰⁸

Fingerprints for Background Checks

The Florida Insurance Code authorizes the DFS to investigate any applicant or licensee, and further states that licensing statutes, which require an evaluation of an applicant's character or fitness must include the submission of fingerprints for a national criminal records check.¹⁰⁹ Applicants and licensees submit fingerprints to the Florida Department of Law Enforcement (FDLE), which forwards the fingerprints to the Federal Bureau of Investigations (FBI) for a federal background check.¹¹⁰ The federal check is conducted through the FBI, which manages a criminal history record information (CHRI) system, through which this information can be obtained. The purpose of the CHRI system is to assure criminal history record information

¹⁰³ Section 48.151(3), F.S.

¹⁰⁴ *Id.*

¹⁰⁵ Section 624.423(1), F.S.

¹⁰⁶ Section 624.423(3), F.S.

¹⁰⁷ *Markovits v. Stater Farm Mutual Automobile Insurance*, 235 So. 3d 1018 (Fla. 1st DCA 2018).

¹⁰⁸ *Markovitz* at 1020.

¹⁰⁹ Section 626.201, F.S.

¹¹⁰ Section 624.34, F.S.

wherever it appears is collected, stored, and disseminated in a manner to ensure the accuracy, completeness, currency, integrity, and security of such information and to protect individual privacy.¹¹¹

Federal law authorizes the exchange of CHRI with officials of state and local governmental agencies for licensing and employment purposes.¹¹² However, this access can only be authorized by a state statute, which has been subsequently approved by the Attorney General of the United States. The FBI processes fingerprints only if the criteria established by the U.S. Department of Justice has been satisfied. To satisfy federal law, a state licensing statute must identify the specific categories of licenses that require the submission of fingerprints as part of an application and expressly state the applicant's fingerprints will be submitted to the FBI or submitted for a national criminal records background check.

The DFS has recommended many technical amendments to licensing laws including chs. 626 and 648, F.S., to ensure compliance with federal law and continuation of FBI background checks for applicants seeking licensure with DFS.¹¹³

Florida's Patient Compensation Fund

In response to the mid-1970's medical malpractice crisis, the Florida Legislature enacted comprehensive medical malpractice reforms with the passage of "The Medical Malpractice Reform Act of 1975."¹¹⁴ One of the main features of the 1975 Medical Malpractice Act was the creation of the Florida Patient's Compensation Fund (Fund), which was designed to provide medical malpractice coverage to doctors, practitioners, hospitals, and health care facilities that were unable to purchase coverage in the commercial market. Participants had to show proof of \$100,000 coverage from an insurer or self-insurance plan and deposit an annual fee into the Fund.¹¹⁵ The Fund paid the excess over \$100,000 for any judgment or settlement against a member. The Fund was capped at \$25 million and could not pay more than one million dollars on a given claim in any single year.¹¹⁶ The Fund commenced operations on July 1, 1975, in accordance with s. 766.105, F.S. The Fund is a political subdivision of the state; however, it is not a state agency, board, or commission.¹¹⁷

The Fund is subject to the supervision of a Board of Governors (board) consisting of 11 representatives.¹¹⁸ Seven representatives, one each from the insurance industry, physicians' insurance, physicians' self-insurance, hospital insurance, hospital self-insurance, osteopathic or podiatric physicians' insurance or self-insurance, and the general public, are appointed by the CFO.¹¹⁹ The Florida Bar appoints one attorney, the Florida Medical Association appoints one

¹¹¹ 28 C.F.R. s. 20.1

¹¹² Pub. L. 92-544.

¹¹³ Department of Financial Services (DFS), *2022 Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

¹¹⁴ Ch. 75-9, Laws of Fla.

¹¹⁵ Section 766.105(2)(d)2, F.S.

¹¹⁶ Section 765,105, F.S.

¹¹⁷ Section 766.105(1)(a), F.S.

¹¹⁸ Section 766.105(3)(b), F.S.

¹¹⁹ *Id.*

physician's representative, and the Florida Hospital Association appoints two hospital representatives.¹²⁰

The Fund attracted providers and ran smoothly for a few years but was not actuarially sound, so substantial losses began to accumulate.^{121, 122} In 1982, the Fund assessed its members to cover deficits, hospitals dropped out because most of the claims were against physicians, and the Fund was unable to continue operating.¹²³ During its short tenure, the Fund received \$72 million in membership fees and \$280 million in assessments; closed 4,595 claims and paid more than \$311 million to victims of medical malpractice.¹²⁴

Initially, the Fund was scheduled for sunset in 1991 and repeal in 1995; however, during a special session in 1991 the Legislature revived and readopted all statutes that had been subject to future repeal, including Section 766.105, F.S.¹²⁵ As a result, the law has not been subject to sunset review even though the Fund has not accepted new members since June 30, 1983.¹²⁶

Hospitals licensed pursuant to ch. 395, F.S., are mandatory members unless they can demonstrate financial responsibility to pay claims and costs described in s. 766.105(2)(c), F.S. Other health care providers¹²⁷ such as physicians, osteopaths, and professional associations are allowed to participate in the Fund. To become members of the Fund, all licensed Florida hospitals and health care providers electing to enroll in the fund must pay an annual membership fee and any applicable assessments based upon past and prospective loss and expense experience; and prior claims experience of the members covered under the fund. Members receive coverage for claims arising from rendering or failure to render medical care or services resulting in injury or death to a patient. Health care providers choose between two coverage limits afforded by the Fund. Coverage may not exceed one million dollars per claim, three million dollars annual aggregate, or two million dollars per claim, four million dollars annual aggregate. Health care providers are responsible for paying claim amounts in excess of the selected limit and the Fund is not responsible for paying punitive damages that may be awarded to plaintiffs. Coverage limits afforded by the Fund to hospitals may not exceed two and one-half million dollars per claim and does not provide an annual aggregate.¹²⁸

¹²⁰ *Id.*

¹²¹ *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, Section 766.105(3)(h), F.S., provides that the Fund must determine whether it has minimum membership levels to offer coverage one week prior to the beginning of each fiscal year. The minimum membership thresholds of \$5 million for non-hospital providers and \$12.5 million for hospitals could not be met when hospitals stopped participating.

¹²² U.S. General Accounting Office, *Medical Malpractice Case Study on Florida, Report to Congressional Requestors*, December 1986, at 8, www.gao.gov/assets/hrd-87-21s-3.pdf (last visited Feb. 8, 2022); and Florida House of Representatives Committee on Insurance, *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, at 1-7 (December 10, 1994).

¹²³ U.S. General Accounting Office, *Medical Malpractice Case Study on Florida, Report to Congressional Requestors*, December 1986, at 10, www.gao.gov/assets/hrd-87-21s-3.pdf (last visited Feb. 8, 2022)

¹²⁴ Florida House of Representatives Committee on Insurance, *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund*, at 17-18 (December 10, 1994).

¹²⁵ *Id.*, at 1.

¹²⁶ Office of Insurance Regulation, *Target Market Conduct Final Examination Report of the Florida Patient's Compensation Fund*, April 25, 2014, at 4, <https://www.floir.com/siteDocuments/FLPatientsCompensationFund04252014.pdf> (last visited Jan. 30, 2022).

¹²⁷ Section 766.105(1)(b), F.S.

¹²⁸ Section 766.105, F.S.

The OIR has supervisory authority over the Fund's Plan of Operation and any changes to the Plan of Operation, including repeal.¹²⁹

The law requires the OIR to review any request for assessments of plan participants or refunds of plan participants, and further states the Fund is required to furnish audited financial reports annually, upon request, to any Fund participant and to the OIR and the Joint Legislative Auditing Committee.¹³⁰ The board may authorize refunds when revenues exceed known liabilities and expenses.¹³¹ Excesses or unearned fees are refunded to members in proportion to the contributions made in accordance with procedures adopted by the board and approved by the OIR. The Fund has certified to the OIR twelve assessments, and the OIR has approved 11 refunds.¹³² The last year the hospitals contributed member fees was in 1982; the last year the physician class contributed member fees was in 1983.¹³³ The last refund approved by the OIR was in March 2004.¹³⁴

The Fund ceased to offer coverage effective July 1, 1983, because it failed to attain the necessary minimum membership levels to offer coverage.¹³⁵ The Fund purchased structured settlement annuities to fulfill the terms and conditions of settlement agreements with claimants in medical malpractice cases.¹³⁶ According to the DFS, the Fund has represented that there are no open or active claims that are not being serviced through a structured settlement.¹³⁷

In 2021, an actuarial report conducted for the Fund found the Fund retains an ownership interest in 15 annuities that have an aggregate future value of \$12,680,687. In the event of an insurer insolvency, many of the annuities would be covered by Florida Life and Health Insurance Guaranty Association (FLHIGA); therefore the actuary concluded Fund's exposure to contingent liability is \$2,403,590. About half of the remaining annuitants were children when their parents entered into structured settlements with the Fund; therefore, some of the remaining annuities may continue for another 40 years.¹³⁸

As of December 2020, the Fund reported a reserve for unearned fees of \$15,135,541, which includes \$14,888,634 held in investment accounts.¹³⁹

¹²⁹ Section 766.105(3)(c)2, F.S.

¹³⁰ Section 766.105(3)(e)4, F.S.

¹³¹ Section 766.105(3), F.S.

¹³² Office of Insurance Regulation, *Target Market Conduct Examination Report of the Florida Patient's Compensation Fund* (Apr. 25, 2014) <https://www.florir.com/siteDocuments/FLPatientsCompensationFund04252014.pdf> (last visited Feb. 8, 2022).

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Section 766.105(3)(h), F.S., provides at least seven days prior to the beginning of each fiscal year, the Florida's Patient Compensation Fund shall determine whether it will attain the minimum membership levels to offer coverage. The minimum membership thresholds are total membership fees of five million dollars for non-hospital health care provider members and \$12.5 million for hospitals members.

¹³⁶ Florida House of Representatives Committee on Insurance, *The Florida Patient's Compensation Fund: Status Report on Terminating Activities of the Fund* (December 10, 1994). (On file with the Senate Committee on Banking and Insurance.

¹³⁷ Department of Financial Services, *2022 Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

¹³⁸ Jack Swisher, ACAS, MAAA, *Florida Patient's Compensation Fund Annuity Insolvency Analysis* (June 28, 2021) at 4-5; and Correspondence from David Yon, Esq., on behalf of the Florida Patient's Compensation Fund, to Jane Nelson of the Office of Insurance Regulation (Aug. 4, 2021).

¹³⁹ Carr Riggs & Ingram CPAs and Advisors, *Florida Patient's Compensation Fund Financial Statements* (Dec. 31, 2020) at 4.

Operating costs have increased in recent years, because the board approved the general manager's request for an assistant in 2015 and approved four percent annual salary increases for the two Fund employees for 2017, 2018, 2019 and 2020.¹⁴⁰ The Fund contributes to an employee pension plan and pays for legal counsel, accounting and auditing, rent and utilities, travel, and insurance.¹⁴¹

The following comes from financial statements the Fund shared with its board and the OIR:

Year	2016	2017	2018	2019	2020
Salaries	\$181,754	\$213,668	\$221,600	\$229,764	\$240,417
Pension Plan	\$59,684	\$52,303	\$55,677	\$54,424	\$45,891
Rent, Utilities & Janitorial	\$20,336	\$16,704	\$16,158	\$16,758	\$12,841
General Counsel	\$3,500	\$42,195	\$36,992	\$35,339	\$37,065
Accounting and Auditing	\$73,513	\$58,294	\$52,578	\$52,821	\$39,126
Travel & Expense (Staff)	\$1,463	\$4,087	\$3,841	\$1,962	\$4,404
Travel & Expense (Board)	\$7,125	\$20,327	\$17,627	\$21,905	\$22,751

Division of State Group Insurance

The Division of State Group Insurance within the Department of Management Services administers the state group health insurance program (program) under a cafeteria plan consistent with s. 125 of the Internal Revenue Code for state employees.¹⁴² Eligible Employees of the program include, state officers; state employees paid from “salaries and benefits” appropriation categories, regardless of the number of hours worked; retired state officers and state employees; surviving spouses of deceased state officers and state employees; certain terminated state officers and state employees; and certain state employees paid from “other-personal-services” appropriation categories.¹⁴³

III. Effect of Proposed Changes:

Division of Accounting and Auditing

Sections 1 and 6-10 repeals s. 17.0315, and amends ss. 215.34, 215.93, 215.94, 216.102, and 218.32, respectively, relating to financial and cash management programs and local government financial reporting. Section 1 repeals s. 17.0315, F.S., relating to the Chief Financial Officer's (CFO) financial and cash management task force due to the creation of the Florida Planning, Accounting and Ledger Management (PALM) financial and cash management system and its executive steering committee. Section 6 eliminates the requirement for an agency to post journal

¹⁴⁰ Memo to the Florida Patient's Compensation Fund Operating Committee from General Manager Charles Portrero, November 19, 2018.

¹⁴¹ The Office of Insurance Regulation monitors meetings of the Florida Patient's Compensation Fund by telephone and receives copies of meeting materials the Fund provides to its Board of Governors. The OIR provided copies of meeting materials from 2011-2020 to the Florida House of Representatives, Insurance and Banking Subcommittee. House of Representatives *Staff Analysis* CS/CS/HB 959 (January 28, 2022), available at <https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=75756&SessionId=93> (last visited Feb. 3, 2022).

¹⁴² Section 110.123, F.S.

¹⁴³ *Id.*

entries since PALM records debit memorandums. Sections 7 and 8 remove the term, “cash management subsystem” and replaces it with the term, “financial management system.” Section 9 replaces the term, “comprehensive annual financial report, with the term, “annual comprehensive financial report,” to conform to a change in Governmental Accounting Standards Board (GASB) standards. Section 10 revises the local government reporting system to designate the Florida Open Government Financial Statement System as the primary location for governmental financial reporting.

Service of Process

Section 2 amends s. 48.151, F.S., relating to service on statutory agents, to clarify that the CFO is the agent for service of process on all insurers applying for authority to transact insurance and other specified entities licensed under the Florida Insurance Code. The section also requires the Department of Financial Services (DFS or department) to create a secure online portal as the sole means to accept service of process on the CFO under this section.

Section 25 amends s. 624.307, F.S., to require any regulated person or any unauthorized insurer under s. 626.906, F.S., to appoint the CFO as its agent to receive services of all legal process. Further, the CFO must make the process available through a secure online portal to the person designated by the regulated person or unauthorized insurer to receive the process. The notice must disclose the uniform resource locator (URL) where the process may be obtained.

Section 26 amends s. 624.422, F.S., relating to service of process, to require each licensed insurer to file with the DFS designation of the name and e-mail address of the person to whom process against it served upon the CFO is to be made through the online portal. The online portal is the sole method for service of process.

Section 27 amends s. 624.423, F.S., to clarify that service of process is valid and binding upon the insurer on the date the process is served upon the CFO and is delivered to the insurer or the DFS has notified the insurer that such information has been made available upon a secured online portal.

Section 28 amends s. 624.610, F.S., relating to reinsurance, to provide conforming changes relating to service of process referencing s. 48.151(3), F.S., and to provide service to agents of insurers solely through the department’s online portal.

Sections 54-56 amend ss. 626.906, 626.912, and 626.937, F.S., respectively, to provide conforming changes.

Division of Rehabilitation and Liquidation

Sections 3 and 4 amend ss. 110.123 and 110.131, F.S., respectively, to allow full-time and part-time employees, retired employees, and surviving spouses of employees of the Division of Rehabilitation and Liquidation to participate in the state group insurance program.

Rule Ratification

Section 5 amends s. 120.541, F.S., to exempt the schedules of maximum reimbursement allowances adopted by the three-member panel within the DFS from the rule ratification requirements.

Division of Workers' Compensation

Section 12 amends s. 440.02, F.S., to revise the definition of the term, “employer,” to include employment agencies and employment leasing companies that provide employees to other business entities or persons. Currently, the definition includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons. The term, “similar agents,” is an undefined term, and is removed.

Section 13 amends s. 440.05, F.S. relating to the election of exemption from workers' compensation insurance coverage requirements to provide the following changes:

- Requires an applicant for an exemption to provide a valid driver's license number or valid identification card number as a prerequisite for the DFS to process the application. Currently, the statute does not specify such documents must be valid;
- Eliminates the requirement for an applicant for an exemption from coverage to provide a social security number as a requirement for processing the application;
- Requires an applicant for a workers' compensation exemption to certify he or she has completed an online workers' compensation coverage and compliance tutorial developed by the DFS;
- Replaces the mandatory exemption and revocation of exemption notification requirement to carriers with a carrier opt-in via electronic notification process;
- Adds disclosures to the Certificate of Election to be Exempt that provide the exemption is not a license issued by the Department of Business and Professional Regulation (DBPR) and the DBPR's website has information that can be used to verify an exemption holder's licensure status;
- Eliminates a duplicative business records requirement for exemption holders in the construction industry; and
- Eliminates the scope of business or trade to disclosure on the notice of election to be exempt.

Section 14 amends s. 440.107, F.S., relating to the DFS' powers to enforce employer compliance with coverage requirements. The bill extends the deadline for an employer to submit business records to the DFS from 10 business days to 21 days before the DFS can take an administrative action. The section eliminates the requirement for the DFS to update the Stop-Work Order database on a daily basis. The bill also clarifies an employer must pay any outstanding assessed penalty prior to entering into a new payment agreement schedule with the DFS. In addition, the bill modifies the timeframe for an employer to enter into a payment agreement schedule with the DFS or pay the penalty in full from 28 days after the service of the stop work order to within 21 days after service of the first penalty assessment. For first time employers that do not comply with coverage requirements, the timeframe to calculate a penalty for an employer's penalty formula is reduced from a 24-month period to a 12-month period, thereby reducing the penalty. The 24-month period will remain for employers who were previously issued a stop-work order or materially or understated payroll. The section allows an employer who has not been issued a

Stop-Work Order or an enforcement action an opportunity to reduce their penalty by 15 percent by completing and correctly answering 80 percent of the questions from an on-line workers' compensation coverage and compliance tutorial.

Section 15 amends s. 440.13, F.S., relating to maximum reimbursement allowances for medical services by allowing a carrier to reimburse a health care provider the lesser of the billed charge of a provider or the maximum reimbursement allowance, if an agreed-upon contract price is not in effect. Currently, a carrier must reimburse a provider at the agreed-upon contract or the maximum reimbursement allowance. The section provides rulemaking authority for implementing this section. *See also Section 5.*

Sections 16 and 17 amend ss. 440.185 and 440.381, F.S., relating to employer and carrier reporting and carrier audits of employers, respectively. **Section 16** extends the amount of time an employer has to notify a carrier of an injury from three days to three business days and authorizes a carrier to send specified information to an injured worker or employer by e-mail as an option to regular mail. **Section 17** provides that a carrier must conduct a physical onsite audit of construction class employers with policies with an estimated annual premium of \$10,000 or more. Currently, there is no minimum premium threshold for physical onsite audits.

Division of Funeral, Cemetery, and Consumer Services

Section 18 amends s. 497.277, F.S., to eliminate the fee cap of \$50 for the transference of burial rights from the purchaser to another.

Section 19 amends s. 497.369, F.S., to revise the requirements for obtaining an embalmer's license in Florida. The changes would allow an applicant to obtain a reciprocal licensure in Florida if they held a valid license in another state and had engaged in the full-time licensed practice of embalming in that state for at least five years.

Section 20 amends s. 497.372, F.S., to revise the duties that only a licensed funeral director may perform. The changes will result in non-licensed individuals being able to handle more clerical responsibilities, including obtaining information from families for the filing of death certificates and setting a time for services. Further, the section removes the current period during which funeral directors must direct memorial services. As a result, a funeral director would be responsible for directing any memorial service arranged by the funeral establishment following burial or cremation, regardless of when the memorial service takes place.

Section 21 amends s. 497.374, F.S. to revise the requirements for a funeral director to obtain a reciprocal license by allowing individuals licensed in another state to obtain licensure in Florida if they have a current license in that state and have practiced funeral directing for at least five years. As an alternative, a funeral directors may obtain a reciprocal license if the applicant has a diploma or certificate from an accredited program of mortuary science instead of an associate degree or higher, and meets other current requirements.

Division of State Fire Marshal

Section 22 amends s. 554.108, F.S., relating to boiler inspections, to clarify a boiler with an input of 200,000 British thermal units (Btu) per hour and above, up to an input of 400,000 Btu per hour, is exempt from inspection. However, such an exempt boiler, if manufactured after July 1, 2022, must be stamped with the American Society of Mechanical Engineers (ASME) code symbol. A requirement for ASME stamping of boilers between 200,000 and 400,000 Btu has been in the statute for several years but did not have a phase in date to allow for utilization of a manufacturer's inventory. The addition of the carbon monoxide detector requirements currently found in ch. 509, F.S., clarifies the authority of authorized third party inspectors to enforce this safety feature.

Section 23 amends s. 554.111, F.S., relating to fees, clarifies an additional amount equal to the certification inspection fees may be charged when it is necessary to make a special trip for testing and verification. In addition, this section requires an application for boiler permit to include the manufacturer's data report.

Section 24 amends s. 554.114, F.S., relating to prohibited acts and penalties, to revise compliance deadlines and penalties for an insurer authorized to sell boiler insurance that fails to inspect a boiler pursuant to the requirements of this section.

Division of Insurance Agents and Agencies

Section 29 amends s. 626.015, F.S., to relating to definitions. The definition of licensing authority is created to mean the department or the office.¹⁴⁴ The definition of unaffiliated appointment is revised to provide an exception to the current prohibition that an unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents. This change would allow a licensed adjuster to obtain an adjuster appointment in order to adjust claims on behalf of an insurer while holding an unaffiliated appointment on an agent license.

Section 30 amends s. 626.171, F.S., relating to application for licensure, to provide the fingerprinting requirements in s. 624.34, F.S., apply to all applicants for licensure under ch. 626, F.S.

Section 31 amends s. 626.172, F.S., relating to insurance agency licensure, to clarify fingerprinting must be processed in accordance with the requirements of s. 626.171(4), F.S.

Section 32 creates s. 626.173, F.S., relating to insurance agency closure, to specify an insurance agency's responsibilities, when closing or ceasing to transact business for more than 30 days. Within 35 days after the agency first ceases to transact insurance, the agency owner or an officer listed on the original application for licensure must:

- Cancel the insurance agency's license by notifying the DFS by the submission of completed form prescribed by the DFS;

¹⁴⁴ In this instance department means Department of Financial Services and office refers to the Office of Insurance Regulation.

- Notify all insurers with whom the agency or agent in charge are appointed, that the agency operations have ceased, the date operations ceased, the identity of any agent or agency to whom the agency's current book of business has been transferred, and the method by which the agency records may be obtained during the time stipulated in sections 626.748 and 626.561, F.S.;
- Notify all policyholders currently insured by a policy written, produced, or serviced by the agency that the agency has ceased operations, the date the operations ceased and the identity of the agency or agent to whom the agency's current book of business was transferred. If no transfer has occurred, notification should direct the policyholder to contact the insurance company that will assist the policyholder in locating a licensed agent to service the policy;
- Notify all premium finance companies through which active policies are financed, that the agency has ceased operations, the date operations ceased and the identity of the agent or agency to whom the agency's current book of business has been transferred; and
- Ensure all funds held in a fiduciary capacity are distributed to the rightful owners.

The section provides that in a proceeding initiated pursuant to ch. 120, F.S., the DFS may, impose an administrative fine against the agent in charge or director or officer found in the proceeding to have violated any provision of this section. A proceeding may not be initiated and fine may not accrue until after the person has been notified in writing of the nature of the violation, has been afforded 10 business days to correct the violation, and has failed to do so. Fines imposed pursuant to this section may not exceed the amounts specified in s. 626.681, F.S., per violation. Further, the DFS may also suspend or revoke the license of a licensee fined pursuant to this section. The section provides factors for the DFS to consider when determining the appropriateness of the penalty.

Section 33 amends s. 626.201, F.S., relating to investigations of applicants by the DFS, provides that submission of an applicant's fingerprints must be in accordance with s. 626.171(4), F.S. Further, the section provides that the expiration, nonrenewal, or surrender of a license under ch. 626, F.S., does not eliminate jurisdiction of the licensing authority to investigate and prosecute for a violation committed by the licensee while licensed under ch. 626, F.S. Further, the section provides that notwithstanding the withdrawal of a complaint, the prosecution of any matter may be initiated or continued. According to the DFS, the expiration, nonrenewal, or surrender of a license jeopardizes the licensing authority of the DFS to continue to investigate or prosecute violations committed while an individual was licensed.¹⁴⁵

Section 34 amends s. 626.202, F.S., relating to fingerprinting requirements, to require that the submission of fingerprints must be in accordance with s. 626.171(4), F.S.

Section 35 amends s. 626.221, F.S., to exempt an all-lines adjuster applicant who holds a designation as a Certified All Lines Adjuster (CALA) from Kaplan Financial Education from the statutory examination requirements.

¹⁴⁵ The Department of Financial Services (DFS), *2022 Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

Section 36 amends s. 626.311, F.S., to provide a licensed adjuster may obtain an adjuster appointment in order to adjust claims on behalf of an insurer while holding an unaffiliated appointment on an agent license and may adjust claims and receive compensation as authorized.

Section 37 amends s. 626.321, F.S., to provide a conforming change regarding fingerprint requirements in s. 626.171(4), F.S.

Section 38 amends s. 626.601, F.S., to provide conforming amendment regarding fingerprint requirements provided in s. 626.171(4), F.S.

Section 39 amends s. 626.7845, F.S., to provide technical conforming cross reference.

Section 40 amends s. 626.8411, F.S., relating to application provisions applicable to general lines agents or agencies, to require compliance with fingerprint requirements in s. 626.172(2)(f), F.S. Subsection (2) of the section is amended to clarify that paragraph (2)(f) of s. 626.172, F.S., applies to the agent in full charge.

Section 41 amends s. 626.8412, F.S., to clarify that in addition to the agent, the insurance agency must also hold an appointment issued by an insurer in order to sell a title insurance policy.

Section 42 amends s. 626.8417, F.S., to allow an applicant for a title insurance license to fulfill the 40-hour course requirement in person or online by removing the requirement that it be a classroom course.

Section 43 amends s. 626.8421, F.S., to specify a title agent and a title agency must have a separate appointment as to each insurer by which they are appointed as agents.

Section 44 amends s. 626.843, F.S., relating to the renewal, continuation, reinstatement, or termination of a title insurance agent's or title agency's appointment, to require a title insurance agency to be appointed, as prescribed by section 624.501, F.S., until suspended, revoked, or otherwise terminated. Further, the section requires that title insurance agency appointments must be renewed pursuant to s. 626.381, F.S.

Section 45 amends s. 626.8433, F.S., relating to termination of appointments, to subject title insurance agencies to reporting terminations to the DFS.

Section 46 amends s. 626.8447, F.S., relating to effect of suspension or revocation upon other licensees and appointees, to subject title insurance agencies to the same provisions.

Section 47 amends s. 626.854, F.S., to prohibit compensation of a public adjuster being based on amounts attributable to additional living expenses, unless the insured agrees to a separate agreement with a prescribed disclosure. In addition, the section provides compensation of a public adjuster must be based on the recovery allocated to the insured for covered damages, exclusive of attorney fees and costs. The bill also prohibits increasing public adjuster compensation based on a claim being resolved by litigation.

Section 48 amends s. 626.8561, F.S., relating to the definition of the term, “public adjuster apprentice,” to allow an adjusting firm to appoint, employ, or contract with a public adjuster apprentice. Currently, a public adjuster may only appoint an apprentice.

Section 49 amends s. 626.865, F.S., relating to public adjuster qualifications, to provide that a nonresident public adjuster who has been licensed and appointed on a continual basis for the previous six months to the list of licensed categories considered qualified for the public adjuster license. The section also requires that the \$50,000 bond required as a condition for licensure must remain in effect for one year after the expiration or termination of the license.

Section 50 amends s. 626.8651, F.S., relating to public adjuster apprentice appointment and qualifications, to require only a public adjusting firm that has a designated primary adjuster, as required in s. 626.8695, F.S., to appoint the public adjuster apprentice, while eliminating a public all-lines adjuster’s ability to appoint a public adjuster apprentice.

Further, this section requires an all lines adjuster to maintain bond coverage throughout existence of the license and for one full year after expiration or termination of the license.

Section 51 amends s. 626.8696, F.S., relating to requirements of an application for an adjusting firm license, to require the name and license number of the designated primary adjuster for each adjusting firm location as required in s. 626.8695, F.S. Further, fingerprints of each individual to be disclosed in the application (each majority owner, partner, officer, and director of the adjusting firm) must be filed with the DFS in accordance with s. 626.171(4), F.S., unless an individual is currently licensed and appointed under ch. 626, F.S. Only one of the individuals required to be listed on the application must sign the application. Currently, each owner of the firm must sign the application.

Section 52 amends s. 626.8732, F.S., relating to bond requirements for a nonresident public adjuster, to provide that the mandated bond must be maintained unimpaired throughout the existence of the license and for a period of one year following the expiration or termination of the license.

Section 53 amends s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications, to revise the fingerprinting requirements in accordance with s. 626.17(4), F.S.

Section 57 amends s. 626.9953, F.S., relating to qualifications for registration, to provide conforming fingerprinting requirements.

Division of State Fire Marshal

Section 58 amends s. 633.135, F.S., relating to the Firefighter Assistance Grant Program, to expand the list of purchases eligible for the grant program to include:

- Other equipment and tools that improve fire safety and fire rescue capabilities for firefighters; and
- Protective clothing and equipment compliant with NFPA 1977, “Standard on Protective Clothing Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting.”

Section 59 amends s. 633.216, F.S., relating to inspections of buildings and equipment; training and certification requirements, to eliminate the requirement a previously certified fire safety inspector with a lapsed certification that has lapsed for eight years or more to repeat the fire safety inspector training required by the Division of State Fire Marshal. Current law requires a certificate is valid for four years and renewal is contingent upon the completion of continuing education. An exception allowing a licensee to successfully pass the examination in lieu of the training is deleted.

Section 60 amends s. 633.408, F.S., relating to training and certification, to authorize the Division of Fire Marshal to establish the requirements of the minimum standards course by rule. The section also provides technical changes.

Section 61 amends s. 633.414, F.S., relating to retention of firefighter and volunteer firefighter certifications, to provide that the renewal requirements for the special certificate of compliance is the same as a firefighter certificate of compliance. The bill also changes the definition of an active firefighter.

Section 62 amends s. 648.34, F.S., relating to qualification of bail bond agents, to revise the fingerprinting process to be in accordance with s. 626.171(4), F.S.

Section 63 amends s. 648.355, F.S., relating to temporary limited license as limited surety agent or professional bail bond agent, to revise fingerprinting requirements to conform to s. 626.171(4), F.S.

Section 64 amends s. 648.46, F.S., relating to disciplinary action against bail bond licensees, to provide the expiration, nonrenewal, or surrender of licensure under ch. 648, F.S., does not eliminate the jurisdiction of the licensing authority to investigate and prosecute for a violation committed by a licensee while licensed under this chapter. Notwithstanding the withdrawal of a complaint, the prosecution of any matter may be initiated or continued.

Florida Patient Compensation Fund

Section 65 amends s. 766.105, F.S., relating to the Florida Patient's Compensation Fund (fund), to revise operations and duties of the board of governors of the fund and the Agency for Health Care Administration (agency) relating to financial responsibility or coverage requirements and certification of such coverage. The section provides that the agency would receive and review the documents and determine compliance. The supervision of the fund is transferred from the board of governors to the Chief Financial Officer or his or her designee.

Currently, the agency must review documentation submitted by hospitals demonstrating financial responsibility to pay claims and costs arising out of the rendering or failure to render medical services and for bodily injury or property damage to a person or property arising out of the activities of the hospital, as provided in s. 766.105(2), F.S. Once the agency completes the review, the agency delivers the documents to the board of governors. At least 60 days prior to the issuance or renewal of a hospital's license, the agency must request that the board of governors certify that each hospital complies with coverage requirements. Currently, the board of governors of the Fund are responsible for the supervision and operation of the fund.

The section provides that the fund must operate subject to the supervision of the CFO or his or her designee, subject to the policies and procedures and under the auspices of the Division of Rehabilitation and Liquidation within the DFS until the DFS executes a legal dissolution of the fund on or before December 31, 2023. Prior to the legal dissolution of the fund, DFS must:

- Obtain all existing records and retain necessary records of the fund pursuant to law;
- Identify all remaining property held by the fund and attempt to return such property to its owners and, for property that cannot be returned to the owner, transfer such property to the Division of Unclaimed Property within the DFS;
- Make a final accounting of the finances of the fund;
- Ensure that the fund has met all its obligations pursuant to structured settlements, annuities, or other instruments established to pay covered claims, and, if the fund has not done so, attempt to meet such obligations before final and complete dissolution of the fund;
- Sell or otherwise dispose of all physical assets of the fund;
- Execute a legal dissolution of the fund; and
- Transfer any remaining money or assets of the fund to the CFO for deposit in the General Revenue Fund.

The section also provides s. 766.105, F.S., is repealed effective January 1, 2024, thereby terminating the Florida Patient's Compensation Fund.

Section 11 creates ss. 395.1061 and **section 66 and 67** amend s. 945.6041, F.S., and 985.6441, F.S., respectively, to provide conforming changes relating to the repeal of s. 766.105, F.S., and transferring a provision relating to health care providers and their financial responsibility in complying with professional liability requirements. The provision is being transferred to s. 395.1061, F.S., because the bill repeals the current provision in s. 766.105, F.S., effective January 1, 2024.

Section 68 provides that, except as otherwise expressly provided in this act, this act takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates the current maximum fee of \$50 to consumers for the transference of burial rights.

Reducing the penalty calculation period and increasing credits for businesses that fail to comply with the workers' compensation law, so long as the business has not previously failed to provide workers' compensation coverage for its employees, should reduce the cost of non-compliance for small businesses, particularly those in the construction industry.

Exempting schedules of maximum reimbursement for ambulatory surgical centers, healthcare providers, and hospitals from legislative ratification likely would result in increased fees to providers of healthcare, but could also force insurers to request rate increases to pay such costs.

Permitting payroll audits by mail, rather than in person, for employers in the construction industry that have an estimated annual workers' compensation premium of less than \$10,000 could result in modest cost savings for insurance carriers.

Permitting unaffiliated insurance agents to adjust claims, so long as the agent is also a licensed adjuster, could create employment opportunities for persons who hold both licenses and increase the pool of adjusters who can respond in the aftermath of a large storm or catastrophic event.

Terminating the Florida Patient's Compensation Fund (fund) could result in refunds to doctors and hospitals that were members of the fund in the late 1970s and early 1980s.

C. Government Sector Impact:

The bill may have insignificant but indeterminate impact on state revenues and expenditures.

Service of Process

The Department of Financial Services (DFS) is required to create a secure online portal as the sole means to accept service of process on the CFO under **Section 2** and **Sections 25-28**. The current online portal will meet this requirement. The DFS has

indicated any information technology impact can be absorbed within existing resources.¹⁴⁶

Workers' Compensation Insurance

The implementation of CS/SB 1874 will reduce penalties imposed on employers that do not comply with the workers' compensation insurance coverage requirements. The fiscal impact is unknown.

Firefighter Cancer Assistance Grant

The changes made to the Firefighter Assistance Grant program will allow the program to fund additional necessary tools and equipment to firefighters.

Florida Patients' Compensation Fund

Terminating the Florida Patient's Compensation Fund could result in refunds to doctors and hospitals that were members of the Fund in the late 1970s and early 1980s. In addition, the bill allows for the transfer of any remaining money or assets, after all obligations have been met, to be deposited in the General Revenue Fund.

VI. Technical Deficiencies:

Section 9 amends local governmental entities annual financial reports. The Chief Financial Officer required all work product on the Florida Open Financial Statement System to be completed by December 31, 2021, including the recruitment and selection of contractors to build the eXtensible Business Reporting Language (XBRL) taxonomies and software tools. The section may need to be updated to reflect and conform to the completion of such deadlines.

Section 29 creates a definition for the term, "licensing authority." The term means the respective jurisdiction of the department or the office, as provided by law. **Sections 33 and 63** of the bill amends s. 626.201, F.S., and uses the term, "licensing authority." Other existing provisions in the Florida Insurance Code use the term, "department or office." Currently, the term licensing authority is used in ss. 626.8732 and 626.8734, F.S., in the context of a licensing authority of another state. The replacement of the term, "licensing authority," with "department or office" in **Sections 33 and 65**, and the removal of the definition of "licensing authority" in **Section 29** would provide greater clarity and consistency with the use of the term, "licensing authority," in current law.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 48.151, 110.123, 110.131, 120.541, 215.34, 215.93, 215.94, 216.102, 218.32, 440.02, 440.05, 440.107, 440.13,

¹⁴⁶ The Department of Financial Services (DFS), 2022 *Legislative Bill Analysis of SB 1874* (January 18, 2022) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

440.185, 440.381, 497.277, 497.369, 497.372, 497.374, 554.108, 554.111, 554.114, 624.307, 624.422, 624.423, 624.610, 626.015, 626.171, 626.172, 626.201, 626.202, 626.221, 626.311, 626.321, 626.601, 626.7845, 626.8411, 626.8412, 626.8417, 626.8421, 626.843, 626.8433, 626.8447, 626.854, 626.8561, 626.865, 626.8651, 626.8696, 626.8732, 626.8734, 626.906, 626.912, 626.937, 626.9953, 633.135, 633.216, 633.408, 633.414, 648.34, 648.355, 648.46, 766.105, 945.6041, and 985.6441.

This bill creates sections 395.1061 and 626.173 of the Florida Statutes.

This bill repeals section 17.035 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.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 22, 2022:

The committee substitute retains the Stop Inmate Fraud Program within the Department of Financial Services.

CS by Banking and Insurance on January 25, 2022:

- Revises compensation for public adjuster by requiring that the compensation must be based on the recovery allocated to the insured for covered damage, exclusive of attorney fee and costs.
- Revises service of process requirements and provides conforming changes relating to service of process.
- Transfers responsibilities of the Florida Patient's Compensation Fund relating to hospitals demonstrating financial responsibility for maintaining professional liability coverage to the Agency for Health Care Administration.
- Revising requirements for closing an insurance agency.
- Provides technical changes.

B. Amendments:

None.



975516

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 697 - 761.

Delete lines 2650 - 2656.

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

And the title is amended as follows:

Delete lines 54 - 59

and insert:

amending s. 440.02, F.S.; revising



975516

11

12 Delete lines 236 - 239

13 and insert:

14 medical facility"; providing effective dates.

By the Committee on Banking and Insurance; and Senator Boyd

597-02320-22

20221874c1

1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; repealing s. 17.0315, F.S., relating to the
 4 financial and cash management system and task force;
 5 amending s. 48.151, F.S.; providing an exception to
 6 service of process on public entities under certain
 7 circumstances; deleting the Chief Financial Officer's
 8 assistant or deputy or another person in charge of the
 9 office as agents for service of process on insurers;
 10 requiring the Department of Financial Services to
 11 create a secure online portal as the sole means to
 12 accept certain service of process; amending s.
 13 110.123, F.S.; revising definitions; authorizing
 14 specified persons relating to the Division of
 15 Rehabilitation and Liquidation to purchase coverage in
 16 a state group health insurance plan at specified
 17 premium costs; providing that the enrollment period
 18 for the state group insurance program begins with a
 19 specified plan year for certain persons relating to
 20 the division; amending s. 110.131, F.S.; conforming a
 21 cross-reference; amending s. 120.541, F.S.; revising
 22 applicability of certain provisions relating to a
 23 specified proposed rule; amending s. 215.34, F.S.;
 24 deleting the requirement for specified entities
 25 receiving certain charged-back items to prepare a
 26 journal transfer; amending s. 215.93, F.S.; renaming a
 27 subsystem of the Florida Financial Management
 28 Information System; amending s. 215.94, F.S.;
 29 conforming a provision to changes made by the act;

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30 amending s. 216.102, F.S.; making technical changes;
 31 amending s. 218.32, F.S.; revising legislative intent;
 32 providing functions of the Florida Open Financial
 33 Statement System; requiring local governments to use
 34 the system to file specified reports; providing
 35 requirements for the system; revising the list of
 36 entities with which the Chief Financial Officer may
 37 consult with regard to the system; authorizing, rather
 38 than requiring, certain local governmental financial
 39 statements to be filed in a specified format; deleting
 40 certain requirements for such statements; providing
 41 construction; providing an exception; creating s.
 42 395.1061, F.S.; defining terms; requiring certain
 43 hospitals to demonstrate financial responsibility for
 44 maintaining professional liability coverage;
 45 specifying requirements for such financial
 46 responsibility; requiring hospitals to provide
 47 evidence of compliance and to remain in compliance;
 48 prohibiting the Agency for Health Care Administration
 49 from issuing or renewing licenses of hospitals under
 50 certain circumstances; providing exemptions from
 51 professional liability coverage requirements;
 52 authorizing hospital systems to meet such professional
 53 liability coverage requirements in a specified manner;
 54 amending s. 414.40, F.S.; transferring the Stop Inmate
 55 Fraud Program from the Department of Financial
 56 Services to the Department of Economic Opportunity;
 57 authorizing the program to provide reports of certain
 58 data to the Division of Public Assistance Fraud for a

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59 specified purpose; amending s. 440.02, F.S.; revising
 60 the definition of the term "employer"; amending s.
 61 440.05, F.S.; revising information that must be
 62 submitted with the notice of election to be exempt
 63 from workers' compensation coverage; specifying the
 64 circumstances under which the Department of Financial
 65 Services is required to send certain notifications to
 66 workers' compensation carriers; requiring such
 67 notifications to be electronic; requiring certificates
 68 of election to be exempt to contain a specified
 69 notice; deleting a provision requiring certain
 70 corporation officers to maintain business records;
 71 revising applicability of certificates of election to
 72 be exempt; amending s. 440.107, F.S.; revising the
 73 timeframe for certain employers to produce specified
 74 records under certain circumstances; prohibiting
 75 employers who failed to secure payment of workers'
 76 compensation from entering a payment agreement
 77 schedule with the department unless a specified
 78 condition is met; revising circumstances that result
 79 in immediate reinstatement of stop-work orders;
 80 revising penalty assessments; amending s. 440.13,
 81 F.S.; revising statewide schedules of maximum
 82 reimbursement allowances for medically necessary
 83 treatment, care, and attendance; authorizing the
 84 department to adopt rules; amending s. 440.185, F.S.;
 85 revising the timeline and methods for workers'
 86 compensation carriers to send a certain informational
 87 brochure to injured workers; revising methods by which

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88 such informational brochure is sent to employers;
 89 amending s. 440.381, F.S.; specifying workers'
 90 compensation policies that require physical onsite
 91 audits for a specified class; amending s. 497.277,
 92 F.S.; deleting a cap on transferring burial rights
 93 fees; amending s. 497.369, F.S.; revising requirements
 94 for licenses by endorsement to practice embalming;
 95 amending s. 497.372, F.S.; revising the scope of
 96 funeral directing practice; amending s. 497.374, F.S.;
 97 revising requirements for licenses by endorsement to
 98 practice funeral directing; amending s. 554.108, F.S.;
 99 requiring boilers manufactured after a specified date,
 100 rather than boilers of certain heat input, to be
 101 stamped with a specified code symbol; revising the
 102 boilers' information that must be filed; requiring
 103 that specified spaces and rooms be equipped with
 104 carbon monoxide detector devices; amending s. 554.111,
 105 F.S.; deleting a requirement for a specified fee for a
 106 certificate of competency; requiring applications for
 107 boiler permits to include a specified report; revising
 108 the purpose for special trips that the department is
 109 required to make for boiler inspections; amending s.
 110 554.114, F.S.; revising the schedules of penalties
 111 against boiler insurance companies, inspection
 112 agencies, and other persons for specified violations;
 113 amending s. 624.307, F.S.; providing that certain
 114 regulated persons or unauthorized insurers are
 115 required to appoint the Chief Financial Officer as
 116 their agents, rather than as their attorneys, to

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117 receive service of legal process; revising the method
 118 by which the Chief Financial Officer makes the process
 119 available; requiring the Chief Financial Officer to
 120 promptly send notice of receipt of service of process;
 121 revising requirements for the contents of such notice;
 122 amending s. 624.422, F.S.; requiring insurers to file
 123 with the department e-mail addresses, rather than
 124 addresses, of specified persons; providing that a
 125 specified method by which process is served upon the
 126 Chief Financial Officer is the sole method of service;
 127 conforming provisions to changes made by the act;
 128 amending s. 624.423, F.S.; revising procedures for
 129 service of process; requiring the Chief Financial
 130 Officer to promptly notify certain persons of the
 131 process and to make the process available to such
 132 persons through specified means; revising the method
 133 by which records are retained; amending s. 624.610,
 134 F.S.; conforming provisions to changes made by the
 135 act; amending s. 626.015, F.S.; defining the term
 136 "licensing authority"; revising the definition of the
 137 term "unaffiliated insurance agent"; amending s.
 138 626.171, F.S.; requiring fingerprints for certain
 139 licenses to be processed in accordance with specified
 140 laws; amending s. 626.172, F.S.; revising the method
 141 by which fingerprints for applications for insurance
 142 agency licenses are submitted; deleting a fingerprint
 143 processing fee; creating s. 626.173, F.S.; providing
 144 duties for certain insurance agency persons within a
 145 specified timeframe after cessation of insurance

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146 transactions; authorizing the department to impose
 147 administrative fines against such persons for
 148 specified violations; prohibiting the initiation of
 149 certain proceedings and imposition of fines until
 150 specified prerequisites are completed; providing a cap
 151 on such fines; authorizing the department to suspend
 152 or revoke licenses under certain circumstances;
 153 providing requirements for determining penalties and
 154 remedies; amending s. 626.201, F.S.; conforming a
 155 provision to changes made by the act; providing
 156 continuation of jurisdiction of the licensing
 157 authority to investigate and prosecute specified
 158 violations under certain circumstances; amending s.
 159 626.202, F.S.; conforming provisions to changes made
 160 by the act; amending s. 626.221, F.S.; adding a
 161 designation to the list of designations that allow
 162 applicants for an all-lines adjuster license to be
 163 exempt from an examination; amending s. 626.311, F.S.;
 164 providing an exception to the prohibition against
 165 unaffiliated insurance agents holding appointments
 166 from insurers; authorizing certain adjusters to obtain
 167 adjuster appointments while maintaining unaffiliated
 168 insurance agent appointments and to adjust claims and
 169 receive certain compensation; amending ss. 626.321 and
 170 626.601, F.S.; conforming provisions to changes made
 171 by the act; amending s. 626.7845, F.S.; conforming a
 172 cross-reference; amending ss. 626.8411 and 626.8412,
 173 F.S.; conforming provisions to changes made by the
 174 act; amending s. 626.8417, F.S.; revising requirements

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175 to qualify for title insurance agent licenses;
 176 amending s. 626.8421, F.S.; requiring title agencies
 177 to have separate appointments under certain
 178 circumstances; amending s. 626.843, F.S.; providing
 179 requirements for appointments of title insurance
 180 agencies; amending s. 626.8433, F.S.; requiring title
 181 insurers that terminate appointments of title
 182 insurance agencies to file certain information with
 183 the department; amending s. 626.8447, F.S.; providing
 184 effects of suspension or revocation of title insurance
 185 agency licenses; amending s. 626.854, F.S.; revising
 186 and providing restrictions on public adjuster
 187 compensation; providing exceptions to such
 188 restrictions; amending s. 626.8561, F.S.; revising the
 189 definition of the term "public adjuster apprentice";
 190 amending s. 626.865, F.S.; revising requirements to
 191 qualify for public adjuster licenses; requiring that
 192 certain bonds remain in effect for a specified period
 193 after expiration of the license; amending s. 626.8651,
 194 F.S.; requiring that certain bonds remain in effect
 195 for a specified period after expiration of a public
 196 adjuster apprentice license; revising requirements for
 197 public adjuster apprentices to be, act as, or hold
 198 themselves out to be public adjuster apprentices;
 199 amending s. 626.8696, F.S.; revising requirements for
 200 adjusting firm license applications; amending s.
 201 626.8732, F.S.; requiring applicants for nonresident
 202 public adjuster licenses to maintain certain bonds
 203 after the expiration or termination of licenses;

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204 amending ss. 626.8734, 626.906, 626.912, 626.937, and
 205 626.9953, F.S.; conforming provisions to changes made
 206 by the act; amending s. 633.135, F.S.; providing
 207 additional uses for firefighter funds; amending s.
 208 633.216, F.S.; revising requirements for renewal of
 209 firesafety inspector certificates; amending s.
 210 633.408, F.S.; revising requirements for the issuance
 211 of a Firefighter Certificate of Compliance and Special
 212 Certificate of Compliance; deleting provisions
 213 relating to requirements to retain a Special
 214 Certificate of Compliance; amending s. 633.414, F.S.;
 215 providing requirements to retain a Special Certificate
 216 of Compliance; revising requirements to retain a
 217 Firefighter Certificate of Compliance; redefining the
 218 term "active"; amending ss. 648.34 and 648.355, F.S.;
 219 conforming provisions to changes made by the act;
 220 amending s. 648.46, F.S.; providing continuation of
 221 jurisdiction of the licensing authority to investigate
 222 and prosecute specified violations under certain
 223 circumstances; amending s. 766.105, F.S.; deleting
 224 requirements and procedures for the certification of
 225 hospital compliance with the Florida Patient's
 226 Compensation Fund; providing that the fund is subject
 227 to the supervision and approval of the Chief Financial
 228 Officer or his or her designee, rather than the board
 229 of governors; conforming provisions to changes made by
 230 the act; providing for supervision of the fund until
 231 dissolution; specifying duties of the Department of
 232 Financial Services before dissolution of the fund;

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233 providing for future repeal; amending ss. 945.6041 and
 234 985.6441, F.S.; revising the definition of the term
 235 "health care provider"; defining the term "other
 236 medical facility"; transferring the Stop Inmate Fraud
 237 Program within the Department of Financial Services to
 238 the Department of Economic Opportunity by a type two
 239 transfer; providing effective dates.

240

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

242

243 Section 1. Section 17.0315, Florida Statutes, is repealed.

244 Section 2. Subsections (1) and (3) of section 48.151,
 245 Florida Statutes, are amended to read:

246 48.151 Service on statutory agents for certain persons.—

247

248 (1) When any law designates a public officer, board,
 249 agency, or commission as the agent for service of process on any
 250 person, firm, or corporation, service of process thereunder
 251 shall be made by leaving one copy of the process with the public
 252 officer, board, agency, or commission or in the office thereof,
 253 or by mailing one copy to the public officer, board, agency, or
 254 commission, except as provided in subsection (3). The public
 255 officer, board, agency, or commission so served shall retain a
 256 record copy and promptly send the copy served, by registered or
 257 certified mail, to the person to be served as shown by his or
 258 her or its records. Proof of service on the public officer,
 259 board, agency, or commission shall be by a notice accepting the
 260 process which shall be issued by the public officer, board,
 261 agency, or commission promptly after service and filed in the
 court issuing the process. The notice accepting service shall

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262 state the date upon which the copy of the process was mailed by
 263 the public officer, board, agency, or commission to the person
 264 being served and the time for pleading prescribed by the rules
 265 of procedure shall run from this date. The service is valid
 266 service for all purposes on the person for whom the public
 267 officer, board, agency, or commission is statutory agent for
 268 service of process.

269

(3) The Chief Financial Officer ~~or his or her assistant or
 270 deputy or another person in charge of the office~~ is the agent
 271 for service of process on all insurers applying for authority to
 272 transact insurance in this state, all licensed nonresident
 273 insurance agents, all nonresident disability insurance agents
 274 licensed pursuant to s. 626.835, any unauthorized insurer under
 275 s. 626.906 or s. 626.937, domestic reciprocal insurers,
 276 fraternal benefit societies under chapter 632, warranty
 277 associations under chapter 634, prepaid limited health service
 278 organizations under chapter 636, and persons required to file
 279 statements under s. 628.461. ~~As an alternative to service of
 280 process made by mail or personal service on the Chief Financial
 281 Officer, on his or her assistant or deputy, or on another person
 282 in charge of the office,~~ The Department of Financial Services
 283 shall ~~may~~ create a secure online portal as the sole means ~~an
 284 Internet-based transmission system~~ to accept service of process
 285 on the Chief Financial Officer under this section by electronic
 286 ~~transmission of documents.~~

287

Section 3. Present subsections (9) through (13) of section
 288 110.123, Florida Statutes, are redesignated as subsections (10)
 289 through (14), respectively, a new subsection (9) is added to
 290 that section, and paragraphs (b), (c), (f), (h), (i), and (o) of

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subsection (2) and paragraph (i) of subsection (5) are amended,
to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(b) “Enrollee” means all state officers and employees, retired state officers and employees, surviving spouses of deceased state officers and employees, and terminated employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. The term “Enrollee” includes all state university officers and employees, retired state university officers and employees, surviving spouses of deceased state university officers and employees, and terminated state university employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. As used in this paragraph, state employees and retired state employees also include employees and retired employees of the Division of Rehabilitation and Liquidation.

(c) “Full-time state employees” means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 ~~or more~~ hours per week; employees of the Division of Rehabilitation and Liquidation who work or are expected to work an average of at least 30 hours per week; employees paid from regular salary appropriations for 8 months’ employment, including university personnel on academic contracts; and employees paid from other-personal-services (OPS) funds as described in subparagraphs 1. and 2. The term includes all full-time employees of the state

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universities. The term does not include seasonal workers who are paid from OPS funds.

1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:

a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or

b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.

2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:

a. Is reasonably expected to work an average of at least 30 hours or more per week; or

b. Has worked an average of at least 30 hours or more per week during the person’s measurement period.

(f) “Part-time state employee” means an employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, or an employee of the Division of Rehabilitation and Liquidation, and who is employed for less than an average of 30 hours per week or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months during any 12-month period, but does not include a person paid from other-personal-services (OPS) funds. The term includes all part-time employees of the state universities.

(h) “Retired state officer or employee” or “retiree” means any state or state university officer or employee, or, beginning with the 2023 plan year, an employee of the Division of Rehabilitation and Liquidation, who retires under a state

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retirement system or a state optional annuity or retirement program or is placed on disability retirement, and who was insured under the state group insurance program or the Division of Rehabilitation and Liquidation's group insurance program at the time of retirement, and who begins receiving retirement benefits immediately after retirement from state or state university office or employment. The term also includes any state officer or state employee who retires under the Florida Retirement System Investment Plan established under part II of chapter 121 if he or she:

1. Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or
2. Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has 6 years of creditable service.

(i) "State agency" or "agency" means any branch, department, or agency of state government. "State agency" or "agency" includes any state university and the Division of Rehabilitation and Liquidation for purposes of this section only.

(o) "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan, TRICARE supplemental insurance plan, ~~or~~ a health maintenance organization plan established pursuant to this section, or the Division of Rehabilitation and Liquidation's group insurance program at the time of the death of the deceased officer, employee, or retiree. "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state

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warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage.

(5) DEPARTMENT POWERS AND DUTIES.—The department is responsible for the administration of the state group insurance program. The department shall initiate and supervise the program as established by this section and shall adopt such rules as are necessary to perform its responsibilities. To implement this program, the department shall, with prior approval by the Legislature:

(i) Contract with a single custodian to provide services necessary to implement and administer the health savings accounts authorized in subsection (13) ~~(12)~~.

Final decisions concerning enrollment, the existence of coverage, or covered benefits under the state group insurance program shall not be delegated or deemed to have been delegated by the department.

(9) COVERAGE AND ENROLLMENT PERIOD FOR EMPLOYEES, RETIREES, AND WIDOWS AND WIDOWERS OF EMPLOYEES AND RETIREES OF THE DIVISION OF REHABILITATION AND LIQUIDATION.—

(a) Beginning with the 2023 plan year:

1. A retired employee insured under the Division of Rehabilitation and Liquidation's group insurance program, or a widow or widower of an employee or of a retired employee of the Division of Rehabilitation and Liquidation who is covered as a dependent under the Division of Rehabilitation and Liquidation's

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group insurance program, may purchase coverage in a state group health insurance plan at the same premium cost as that for a retiree or a surviving spouse, respectively, enrolled in the state group insurance program.

2. A terminated employee of the Division of Rehabilitation and Liquidation or an individual with continuation coverage who is insured under the Division of Rehabilitation and Liquidation's group insurance program may purchase coverage in a state group health insurance plan at the same premium cost as that for a terminated employee or an individual with continuation coverage, respectively, enrolled in the state group insurance program.

(b) The enrollment period for the state group insurance program begins with the 2023 plan year for:

1. Current and retired employees of the Division of Rehabilitation and Liquidation.

2. Widows and widowers of employees and of retired employees of the Division of Rehabilitation and Liquidation.

3. Terminated employees of the Division of Rehabilitation and Liquidation or individuals with continuation coverage who are insured under the Division of Rehabilitation and Liquidation's group insurance program.

Section 4. Subsection (5) of section 110.131, Florida Statutes, is amended to read:

110.131 Other-personal-services employment.—

(5) Beginning January 1, 2014, an other-personal-services (OPS) employee who has worked an average of at least 30 or more hours per week during the measurement period described in s. 110.123(14)(c) or (d) ~~s. 110.123(13)(c) or (d)~~, or who is

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reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program as provided under s. 110.123.

Section 5. Paragraph (d) is added to subsection (4) of section 120.541, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of that section are republished, to read:

120.541 Statement of estimated regulatory costs.—

(2) A statement of estimated regulatory costs shall include:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and

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Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

(4) Subsection (3) does not apply to the adoption of:

(d) Schedules of maximum reimbursement allowances by the three-member panel which are expressly authorized by s. 440.13.

Section 6. Subsection (1) of section 215.34, Florida Statutes, is amended to read:

215.34 State funds; noncollectible items; procedure.—

(1) Any check, draft, or other order for the payment of money in payment of any licenses, fees, taxes, commissions, or charges of any sort authorized to be made under the laws of the state and deposited in the State Treasury as provided herein, which may be returned for any reason by the bank or other payor upon which same shall have been drawn shall be forthwith returned by the Chief Financial Officer for collection to the state officer, the state agency, or the entity of the judicial branch making the deposit. In such case, the Chief Financial Officer may issue a debit memorandum charging an account of the agency, officer, or entity of the judicial branch which originally received the payment. The original of the debit memorandum shall state the reason for the return of the check, draft, or other order and shall accompany the item being returned to the officer, agency, or entity of the judicial branch being charged. The officer, agency, or entity of the judicial branch receiving the charged-back item shall ~~prepare a journal transfer which shall~~ debit the charge against the fund or account to which the same shall have been originally credited. Such procedure for handling noncollectible items shall

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not be construed as paying funds out of the State Treasury without an appropriation, but shall be considered as an administrative procedure for the efficient handling of state records and accounts.

Section 7. Paragraph (c) of subsection (1) of section 215.93, Florida Statutes, is amended to read:

215.93 Florida Financial Management Information System.—

(1) To provide the information necessary to carry out the intent of the Legislature, there shall be a Florida Financial Management Information System. The Florida Financial Management Information System shall be fully implemented and shall be upgraded as necessary to ensure the efficient operation of an integrated financial management information system and to provide necessary information for the effective operation of state government. Upon the recommendation of the coordinating council and approval of the board, the Florida Financial Management Information System may require data from any state agency information system or information subsystem or may request data from any judicial branch information system or information subsystem that the coordinating council and board have determined to have statewide financial management significance. Each functional owner information subsystem within the Florida Financial Management Information System shall be developed in such a fashion as to allow for timely, positive, preplanned, and prescribed data transfers between the Florida Financial Management Information System functional owner information subsystems and from other information systems. The principal unit of the system shall be the functional owner information subsystem, and the system shall include, but shall

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not be limited to, the following:

(c) Financial ~~Cash~~ Management Subsystem.

Section 8. Subsection (3) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(3) The Chief Financial Officer shall be the functional owner of the Financial ~~Cash~~ Management Subsystem. The Chief Financial Officer shall design, implement, and operate the subsystem in accordance with the provisions of ss. 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Recording and reconciling credits and debits to treasury fund accounts.

(b) Monitoring cash levels and activities in state bank accounts.

(c) Monitoring short-term investments of idle cash.

(d) Administering the provisions of the Federal Cash Management Improvement Act of 1990.

Section 9. Subsection (3) of section 216.102, Florida Statutes, is amended to read:

216.102 Filing of financial information; handling by Chief Financial Officer; penalty for noncompliance.—

(3) The Chief Financial Officer shall:

(a) Prepare and furnish to the Auditor General annual financial statements for the state on or before December 31 of each year, using generally accepted accounting principles.

(b) Prepare and publish an annual ~~a comprehensive annual~~ financial report for the state in accordance with generally

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accepted accounting principles on or before February 28 of each year.

(c) Furnish the Governor, the President of the Senate, and the Speaker of the House of Representatives with a copy of the annual comprehensive ~~annual~~ financial report prepared pursuant to paragraph (b).

(d) Notify each agency and the judicial branch of the data that is required to be recorded to enhance accountability for tracking federal financial assistance.

(e) Provide reports, as requested, to executive or judicial branch entities, the President of the Senate, the Speaker of the House of Representatives, and the members of the Florida Congressional Delegation, detailing the federal financial assistance received and disbursed by state agencies and the judicial branch.

(f) Consult with and elicit comments from the Executive Office of the Governor on changes to the Florida Accounting Information Resource Subsystem which clearly affect the accounting of federal funds, so as to ensure consistency of information entered into the Federal Aid Tracking System by state executive and judicial branch entities. While efforts shall be made to ensure the compatibility of the Florida Accounting Information Resource Subsystem and the Federal Aid Tracking System, any successive systems serving identical or similar functions shall preserve such compatibility.

The Chief Financial Officer may furnish and publish in electronic form the financial statements and the annual comprehensive ~~annual~~ financial report required under paragraphs

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(a), (b), and (c).

Section 10. Paragraph (h) of subsection (1) of section 218.32, Florida Statutes, is amended, and paragraph (i) is added to that subsection, to read:

218.32 Annual financial reports; local governmental entities.—

(1)

(h) ~~It is the intent of the Legislature to create~~ The Florida Open Financial Statement System must serve as, an interactive repository for governmental financial statements. This system serves as the primary reporting location for government financial information. A local government shall use the system to file with the department copies of all audit reports compiled pursuant to ss. 11.45 and 218.39. The system must be accessible to the public and must be open to inspection at all times by the Legislature, the Auditor General, and the Chief Inspector General.

1. The Chief Financial Officer may consult with stakeholders with regard to, ~~including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector, for input on the design and implementation of~~ the Florida Open Financial Statement System.

2. The Chief Financial Officer may choose contractors to build one or more eXtensible Business Reporting Language (XBRL) taxonomies suitable for state, county, municipal, and special district financial filings and to create a software tool that enables financial statement filers to easily create XBRL

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documents consistent with such taxonomies. The Chief Financial Officer must recruit and select contractors through an open request for proposals process pursuant to chapter 287.

3. The Chief Financial Officer must require that all work products be completed no later than December 31, 2021.

4. If the Chief Financial Officer deems the work products adequate, all local governmental financial statements for fiscal years ending on or after September 1, 2022, may ~~must~~ be filed in XBRL format as prescribed by the Chief Financial Officer and ~~must meet the validation requirements of the relevant taxonomy.~~

5. A local government that begins filing in XBRL format may not be required to make filings in Portable Document Format.

(i) Each local governmental entity that enters all required information in the Florida Open Financial Statement System is deemed to be compliant with this section, except as otherwise provided in this section.

Section 11. Section 395.1061, Florida Statutes, is created to read:

395.1061 Professional liability coverage.—

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

(a) "Committee" means a committee or board of a hospital established to make recommendations, policies, or decisions regarding patient institutional utilization, patient treatment, or institutional staff privileges or to perform other administrative or professional purposes or functions.

(b) "Covered individuals" means the officers; trustees; volunteer workers; trainees; committee members, including physicians, osteopathic physicians, podiatric physicians, and dentists; and employees of the hospital other than employed

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physicians licensed under chapter 458, physician assistants licensed under chapter 458, osteopathic physicians licensed under chapter 459, dentists licensed under chapter 466, and podiatric physicians licensed under chapter 461. However, with respect to a hospital, the term also includes house physicians, interns, employed physician residents in a resident training program, and physicians performing purely administrative duties for the hospital instead of treating patients. The coverage applies to the hospital and those included in the definition of health care provider as provided in s. 985.6441(1).

(c) "Hospital system" means two or more hospitals associated by common ownership or corporate affiliation.

(d) "House physician" means any physician, osteopathic physician, podiatric physician, or dentist at a hospital, except:

1. The physician, osteopathic physician, podiatric physician, or dentist who has staff privileges at a hospital, provides emergency room services, or performs a medical or dental service for a fee; or

2. An anesthesiologist, a pathologist, or a radiologist.

(e) "Occurrence" means an accident or incident, including continuous or repeated exposure to certain harmful conditions, which results in patient injuries.

(f) "Per claim" means all claims per patient arising out of an occurrence.

(2) Each hospital, unless exempted under paragraph (3)(b), must demonstrate financial responsibility for maintaining professional liability coverage to pay claims and costs ancillary thereto arising out of the rendering of or failure to

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render medical care or services and for bodily injury or property damage to the person or property of any patient arising out of the activities of the hospital or arising out of the activities of covered individuals, to the satisfaction of the agency, by meeting one of the following requirements:

(a) Establish an escrow account in an amount equivalent to \$10,000 per claim for each bed in such hospital, not to exceed a \$2.5 million annual aggregate.

(b) Obtain professional liability coverage in an amount equivalent to \$10,000 or more per claim for each bed in such hospital from a private insurer, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357. However, a hospital may not be required to obtain such coverage in an amount exceeding a \$2.5 million annual aggregate.

(3)(a) Each hospital, unless exempted under paragraph (b), shall provide evidence of compliance and remain in continuous compliance with the professional liability coverage provisions of this section. The agency may not issue or renew the license of any hospital that does not provide evidence of compliance or that provides evidence of insufficient coverage.

(b) Any hospital operated by an agency, subdivision, or instrumentality of the state is exempt from the provisions of this section.

(4) A hospital system may meet the professional liability coverage requirement with an escrow account, insurance, or self-insurance policies if the \$10,000 per claim and \$2.5 million annual aggregate are met for each hospital in the hospital system.

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697 Section 12. Section 414.40, Florida Statutes, is amended to
698 read:

699 414.40 Stop Inmate Fraud Program established; guidelines.—

700 (1) There is created within the Department of Economic
701 Opportunity Financial Services a Stop Inmate Fraud Program.

702 (2) The Department of Economic Opportunity Financial
703 Services is directed to implement the Stop Inmate Fraud Program
704 in accordance with the following guidelines:

705 (a) The program shall establish procedures for sharing
706 public records not exempt from the public records law among
707 social services agencies regarding the identities of persons
708 incarcerated in state correctional institutions, as defined in
709 s. 944.02, and ~~or~~ in county, municipal, or regional jails or
710 other detention facilities of local governments under chapter
711 950 and ~~or~~ chapter 951 who are wrongfully receiving public
712 assistance benefits or entitlement benefits.

713 (b) Pursuant to these procedures, the program shall have
714 access to records containing correctional information not exempt
715 from the public records law on incarcerated persons which have
716 been generated as criminal justice information. As used in this
717 paragraph, the terms "record" and "criminal justice information"
718 have the same meanings as provided in s. 943.045.

719 (c) Database searches shall be conducted of the inmate
720 population at each correctional institution or other detention
721 facility. A correctional institution or a detention facility
722 shall provide the Stop Inmate Fraud Program with the information
723 necessary to identify persons wrongfully receiving benefits in
724 the medium requested by the Stop Inmate Fraud Program if the
725 correctional institution or detention facility maintains the

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726 information in that medium.

727 (d) Data obtained from correctional institutions or other
728 detention facilities shall be compared with the client files of
729 the Department of Children and Families, the Department of
730 Economic Opportunity, and other state or local agencies as
731 needed to identify persons wrongfully obtaining benefits. Data
732 comparisons shall be accomplished during periods of low
733 information demand by agency personnel to minimize inconvenience
734 to the agency.

735 (e) Results of data comparisons shall be furnished to the
736 appropriate office for use in the county in which the data
737 originated. The program may provide reports of the data it
738 obtains to appropriate state, federal, and local government
739 agencies or governmental entities, including, but not limited
740 to:

741 1. The Child Support Enforcement Program of the Department
742 of Revenue, so that the data may be used as locator information
743 on persons being sought for purposes of child support.

744 2. The Social Security Administration, so that the data may
745 be used to reduce federal entitlement fraud within the state.

746 3. The Division of Public Assistance Fraud of the
747 Department of Financial Services, so that an investigation of
748 the fraudulent receipt of public assistance may be facilitated.

749 (f) Reports by the program to another agency or entity
750 shall be generated bimonthly, or as otherwise directed, and
751 shall be designed to accommodate that agency's or entity's
752 particular needs for data.

753 (g) Only those persons with active cases, or with cases
754 that were active during the incarceration period, shall be

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reported, in order that the funding agency or entity, upon verification of the data, may take whatever action is deemed appropriate.

(h) For purposes of program review and analysis, each agency or entity receiving data from the program shall submit reports to the program which indicate the results of how the data was used.

Section 13. Paragraph (a) of subsection (16) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(16)(a) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. The term "Employer" also includes employment agencies and, employee leasing companies that, and similar agents who provide employees to other business entities or persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 14. Effective January 1, 2023, subsections (3), (4), (10), and (12) of section 440.05, Florida Statutes, are amended to read:

440.05 Election of exemption; revocation of election;

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notice; certification.—

(3) The notice of election to be exempt must be electronically submitted to the department by the officer of a corporation who is allowed to claim an exemption as provided by this chapter and must list the name, date of birth, valid driver license number or Florida identification card number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, the registration number of the corporation filed with the Division of Corporations of the Department of State, and the percentage of ownership evidencing the required ownership under this chapter. The notice of election to be exempt must identify each corporation that employs the person electing the exemption and must list the ~~social security number or~~ federal tax identification number of each such employer and the additional documentation required by this section. In addition, the notice of election to be exempt must provide that the officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers provided in s. 440.02, ~~and~~ must certify that any employees of the corporation whose officer elects an exemption are covered by workers' compensation insurance, and must certify that the officer electing an exemption has completed an online workers' compensation coverage and compliance tutorial developed by the department. Upon receipt of the notice of the election to be exempt, receipt of all application fees, and a determination by the department that the notice meets the requirements of this subsection, the department shall issue a certification of the election to the officer, unless the department determines that

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the information contained in the notice is invalid. The department shall revoke a certificate of election to be exempt from coverage upon a determination by the department that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid. The certificate of election must list the name of the corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new or different corporation that is not listed on the certificate of election. Upon written request from a workers' compensation carrier, the department shall send thereafter an electronic notification to the carrier identifying each of its policyholders for which a notice of election to be exempt has been issued or for which a notice of revocation to be exempt has been received. ~~A notice of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption.~~ Upon filing a notice of revocation of election, an officer who is a subcontractor or an officer of a corporate subcontractor must notify her or his contractor. ~~Upon revocation of a certificate of election of exemption by the department, the department shall notify the workers' compensation carriers identified in the request for exemption.~~

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the department or any employer or employee, insurance company, or any other person, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third

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degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice. The certificate of election to be exempt must contain the following notice: "This certificate of election to be exempt is NOT a license issued by the Department of Business and Professional Regulation (DBPR). To determine if the certificateholder is required to have a license to perform work or to verify the license of the certificateholder, go to (insert DBPR's website address for where to find this information)."

~~(10) Each officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter shall maintain business records as specified by the department by rule.~~

(11)(12) Certificates of election to be exempt issued under subsection (3) ~~shall~~ apply only to the corporate officer named on the notice of election to be exempt ~~and apply only within the scope of the business or trade listed on the notice of election to be exempt.~~

Section 15. Effective January 1, 2023, paragraphs (a) and (d) of subsection (7) of section 440.107, Florida Statutes, are amended to read:

440.107 Department powers to enforce employer compliance with coverage requirements.—

(7) (a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under

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871 subsection (5) within 21 ~~10 business~~ days after receipt of the
 872 written request of the department, such failure shall be deemed
 873 an immediate serious danger to public health, safety, or welfare
 874 sufficient to justify service by the department of a stop-work
 875 order on the employer, requiring the cessation of all business
 876 operations. If the department makes such a determination, the
 877 department shall issue a stop-work order within 72 hours. The
 878 order shall take effect when served upon the employer or, for a
 879 particular employer worksite, when served at that worksite. In
 880 addition to serving a stop-work order at a particular worksite
 881 which shall be effective immediately, the department shall
 882 immediately proceed with service upon the employer which shall
 883 be effective upon all employer worksites in the state for which
 884 the employer is not in compliance. A stop-work order may be
 885 served with regard to an employer's worksite by posting a copy
 886 of the stop-work order in a conspicuous location at the
 887 worksite. Information related to an employer's stop-work order
 888 shall be made available on the division's website, ~~be updated~~
 889 ~~daily~~, and remain on the website for at least 5 years. The order
 890 shall remain in effect until the department issues an order
 891 releasing the stop-work order upon a finding that the employer
 892 has come into compliance with the coverage requirements of this
 893 chapter and has paid any penalty assessed under this section.
 894 The department may issue an order of conditional release from a
 895 stop-work order to an employer upon a finding that the employer
 896 has complied with the coverage requirements of this chapter,
 897 paid a penalty of \$1,000 as a down payment, and agreed to remit
 898 periodic payments of the remaining penalty amount pursuant to a
 899 payment agreement schedule with the department or pay the

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900 remaining penalty amount in full. An employer may not enter into
 901 a payment agreement schedule unless the employer has fully paid
 902 any previous penalty assessed under this section. If an order of
 903 conditional release is issued, failure by the employer to pay
 904 the penalty in full or enter into a payment agreement with the
 905 department within 21 ~~20~~ days after service of the first penalty
 906 assessment calculation ~~stop-work order~~ upon the employer, or to
 907 meet any term or condition of such penalty payment agreement,
 908 shall result in the immediate reinstatement of the stop-work
 909 order and the entire unpaid balance of the penalty shall become
 910 immediately due.

911 (d)1. In addition to any penalty, stop-work order, or
 912 injunction, the department shall assess against an ~~any~~ employer
 913 who has failed to secure the payment of compensation as required
 914 by this chapter a penalty equal to 2 times the amount the
 915 employer would have paid in premium when applying approved
 916 manual rates to the employer's payroll during periods for which
 917 it failed to secure the payment of workers' compensation
 918 required by this chapter within the preceding 12-month ~~2-year~~
 919 period or \$1,000, whichever is greater. However, for an employer
 920 who is issued a stop-work order for materially understating or
 921 concealing payroll or has been previously issued a stop-work
 922 order or an order of penalty assessment, the preceding 24-month
 923 period shall be used to calculate the penalty as specified in
 924 this subparagraph.

925 a. For an employer ~~employers~~ who has ~~have~~ not been
 926 previously issued a stop-work order or order of penalty
 927 assessment, the department must allow the employer to receive a
 928 credit for the initial payment of the estimated annual workers'

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929 compensation policy premium, as determined by the carrier, to be
 930 applied to the penalty. Before applying the credit to the
 931 penalty, the employer must provide the department with
 932 documentation reflecting that the employer has secured the
 933 payment of compensation pursuant to s. 440.38 and proof of
 934 payment to the carrier. In order for the department to apply a
 935 credit for an employer that has secured workers' compensation
 936 for leased employees by entering into an employee leasing
 937 contract with a licensed employee leasing company, the employer
 938 must provide the department with a written confirmation, by a
 939 representative from the employee leasing company, of the dollar
 940 or percentage amount attributable to the initial estimated
 941 workers' compensation expense for leased employees, and proof of
 942 payment to the employee leasing company. The credit may not be
 943 applied unless the employer provides the documentation and proof
 944 of payment to the department within 21 ~~20~~ days after the
 945 employer's receipt of the written request to produce business
 946 records for calculating the penalty under this subparagraph
 947 ~~service of the stop work order or first order of penalty~~
 948 ~~assessment upon the employer.~~

949 b. For an employer ~~employers~~ who ~~has~~ have not been
 950 previously issued a stop-work order or order of penalty
 951 assessment, the department must reduce the final assessed
 952 penalty by 25 percent if the employer has complied with
 953 administrative rules adopted pursuant to subsection (5) and has
 954 provided such business records to the department within 21 ~~10~~
 955 ~~business~~ days after the employer's receipt of the written
 956 request to produce business records for calculating the penalty
 957 under this subparagraph.

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958 c. For an employer who has not been previously issued a
 959 stop-work order or an order of penalty assessment, the
 960 department must reduce the final assessed penalty by 15 percent
 961 if the employer correctly answers at least 80 percent of the
 962 questions from an online workers' compensation coverage and
 963 compliance tutorial, developed by the department, within 21 days
 964 after the employer's receipt of the written request to produce
 965 business records for calculating the penalty under this
 966 subparagraph. The online tutorial must be taken in a department
 967 office location identified by rule.
 968

969 The \$1,000 penalty shall be assessed against the employer even
 970 if the calculated penalty after the credit provided in sub-
 971 paragraph a., the ~~and~~ 25 percent reduction provided in sub-
 972 paragraph b., and the 15 percent reduction provided in sub-
 973 paragraph c., as applicable, have been applied is less than
 974 \$1,000.

975 2. Any subsequent violation within 5 years after the most
 976 recent violation shall, in addition to the penalties set forth
 977 in this subsection, be deemed a knowing act within the meaning
 978 of s. 440.105.

979 Section 16. Subsection (12) of section 440.13, Florida
 980 Statutes, is amended to read:

981 440.13 Medical services and supplies; penalty for
 982 violations; limitations.—

983 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
 984 REIMBURSEMENT ALLOWANCES.—

985 (a) A three-member panel is created, consisting of the
 986 Chief Financial Officer, or the Chief Financial Officer's

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987 designee, and two members to be appointed by the Governor,
 988 subject to confirmation by the Senate, one member who, on
 989 account of present or previous vocation, employment, or
 990 affiliation, shall be classified as a representative of
 991 employers, the other member who, on account of previous
 992 vocation, employment, or affiliation, shall be classified as a
 993 representative of employees. The panel shall determine statewide
 994 schedules of maximum reimbursement allowances for medically
 995 necessary treatment, care, and attendance provided by
 996 physicians, hospitals, ambulatory surgical centers, work-
 997 hardening programs, pain programs, and durable medical
 998 equipment. The maximum reimbursement allowances for inpatient
 999 hospital care shall be based on a schedule of per diem rates, to
 1000 be approved by the three-member panel no later than March 1,
 1001 1994, to be used in conjunction with a precertification manual
 1002 as determined by the department, including maximum hours in
 1003 which an outpatient may remain in observation status, which
 1004 shall not exceed 23 hours. All compensable charges for hospital
 1005 outpatient care shall be reimbursed at 75 percent of usual and
 1006 customary charges, except as otherwise provided by this
 1007 subsection. Annually, the three-member panel shall adopt
 1008 schedules of maximum reimbursement allowances for physicians,
 1009 hospital inpatient care, hospital outpatient care, ambulatory
 1010 surgical centers, work-hardening programs, and pain programs. An
 1011 individual physician, hospital, ambulatory surgical center, pain
 1012 program, or work-hardening program shall be reimbursed:
 1013 1. either The agreed-upon contract price; or
 1014 2. If there is no agreed-upon contract price, the lesser of
 1015 the provider's billed charge or the maximum reimbursement

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1016 allowance in the appropriate schedule.
 1017 (b) It is the intent of the Legislature to increase the
 1018 schedule of maximum reimbursement allowances for selected
 1019 physicians effective January 1, 2004, and to pay for the
 1020 increases through reductions in payments to hospitals. Revisions
 1021 developed pursuant to this subsection are limited to the
 1022 following:
 1023 1. Payments for outpatient physical, occupational, and
 1024 speech therapy provided by hospitals shall be reduced to the
 1025 schedule of maximum reimbursement allowances for these services
 1026 which applies to nonhospital providers.
 1027 2. Payments for scheduled outpatient nonemergency
 1028 radiological and clinical laboratory services that are not
 1029 provided in conjunction with a surgical procedure shall be
 1030 reduced to the schedule of maximum reimbursement allowances for
 1031 these services which applies to nonhospital providers.
 1032 3. Outpatient reimbursement for scheduled surgeries shall
 1033 be reduced from 75 percent of charges to 60 percent of charges.
 1034 4. Maximum reimbursement for a physician licensed under
 1035 chapter 458 or chapter 459 shall be increased to 110 percent of
 1036 the reimbursement allowed by Medicare, using appropriate codes
 1037 and modifiers or the medical reimbursement level adopted by the
 1038 three-member panel as of January 1, 2003, whichever is greater.
 1039 5. Maximum reimbursement for surgical procedures shall be
 1040 increased to 140 percent of the reimbursement allowed by
 1041 Medicare or the medical reimbursement level adopted by the
 1042 three-member panel as of January 1, 2003, whichever is greater.
 1043 (c) As to reimbursement for a prescription medication, the
 1044 reimbursement amount for a prescription shall be the average

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1045 wholesale price plus \$4.18 for the dispensing fee. For
 1046 repackaged or relabeled prescription medications dispensed by a
 1047 dispensing practitioner as provided in s. 465.0276, the fee
 1048 schedule for reimbursement shall be 112.5 percent of the average
 1049 wholesale price, plus \$8.00 for the dispensing fee. For purposes
 1050 of this subsection, the average wholesale price shall be
 1051 calculated by multiplying the number of units dispensed times
 1052 the per-unit average wholesale price set by the original
 1053 manufacturer of the underlying drug dispensed by the
 1054 practitioner, based upon the published manufacturer's average
 1055 wholesale price published in the Medi-Span Master Drug Database
 1056 as of the date of dispensing. All pharmaceutical claims
 1057 submitted for repackaged or relabeled prescription medications
 1058 must include the National Drug Code of the original
 1059 manufacturer. Fees for pharmaceuticals and pharmaceutical
 1060 services shall be reimbursable at the applicable fee schedule
 1061 amount except where the employer or carrier, or a service
 1062 company, third party administrator, or any entity acting on
 1063 behalf of the employer or carrier directly contracts with the
 1064 provider seeking reimbursement for a lower amount.

1065 (d) Reimbursement for all fees and other charges for such
 1066 treatment, care, and attendance, including treatment, care, and
 1067 attendance provided by any hospital or other health care
 1068 provider, ambulatory surgical center, work-hardening program, or
 1069 pain program, must not exceed the amounts provided by the
 1070 uniform schedule of maximum reimbursement allowances as
 1071 determined by the panel or as otherwise provided in this
 1072 section. This subsection also applies to independent medical
 1073 examinations performed by health care providers under this

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1074 chapter. In determining the uniform schedule, the panel shall
 1075 first approve the data which it finds representative of
 1076 prevailing charges in the state for similar treatment, care, and
 1077 attendance of injured persons. Each health care provider, health
 1078 care facility, ambulatory surgical center, work-hardening
 1079 program, or pain program receiving workers' compensation
 1080 payments shall maintain records verifying their usual charges.
 1081 In establishing the uniform schedule of maximum reimbursement
 1082 allowances, the panel must consider:

1083 1. The levels of reimbursement for similar treatment, care,
 1084 and attendance made by other health care programs or third-party
 1085 providers;

1086 2. The impact upon cost to employers for providing a level
 1087 of reimbursement for treatment, care, and attendance which will
 1088 ensure the availability of treatment, care, and attendance
 1089 required by injured workers;

1090 3. The financial impact of the reimbursement allowances
 1091 upon health care providers and health care facilities, including
 1092 trauma centers as defined in s. 395.4001, and its effect upon
 1093 their ability to make available to injured workers such
 1094 medically necessary remedial treatment, care, and attendance.
 1095 The uniform schedule of maximum reimbursement allowances must be
 1096 reasonable, must promote health care cost containment and
 1097 efficiency with respect to the workers' compensation health care
 1098 delivery system, and must be sufficient to ensure availability
 1099 of such medically necessary remedial treatment, care, and
 1100 attendance to injured workers; and

1101 4. The most recent average maximum allowable rate of
 1102 increase for hospitals determined by the Health Care Board under

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chapter 408.

(e) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel and may adopt rules necessary to administer this subsection. For prescription medication

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purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 17. Subsection (3) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(3) Within 3 business days after the employer or the employee informs the carrier of an injury, the carrier shall send by regular mail or e-mail to the injured worker an informational brochure approved by the department which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. Annually, the carrier or its third-party administrator shall send by regular mail or e-mail to the employer an informational brochure approved by the department which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. All such informational brochures shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or

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1161 deceive any employer or employee, insurance company, or self-
 1162 insured program, files a statement of claim containing any false
 1163 or misleading information commits a felony of the third degree.”

1164 Section 18. Subsection (3) of section 440.381, Florida
 1165 Statutes, is amended to read:

1166 440.381 Application for coverage; reporting payroll;
 1167 payroll audit procedures; penalties.—

1168 (3) The Financial Services Commission, in consultation with
 1169 the department, shall establish by rule minimum requirements for
 1170 audits of payroll and classifications ~~in order~~ to ensure that
 1171 the appropriate premium is charged for workers’ compensation
 1172 coverage. The rules must ~~shall~~ ensure that audits performed by
 1173 both carriers and employers are adequate to provide that all
 1174 sources of payments to employees, subcontractors, and
 1175 independent contractors are ~~have been~~ reviewed and that the
 1176 accuracy of classification of employees is ~~has been~~ verified.
 1177 The rules must require ~~shall provide~~ that employers in all
 1178 classes other than the construction class be audited at least
 1179 ~~not less frequently than~~ biennially and may provide for more
 1180 frequent audits of employers in specified classifications based
 1181 on factors such as amount of premium, type of business, loss
 1182 ratios, or other relevant factors. ~~In no event shall~~ Employers
 1183 in the construction class, generating more than the amount of
 1184 premium required to be experience rated must, be audited at
 1185 least less than annually. The annual audits required for
 1186 construction classes must ~~shall~~ consist of physical onsite
 1187 audits for policies only if the estimated annual premium is
 1188 \$10,000 or more. Payroll verification audit rules must include,
 1189 but need not be limited to, the use of state and federal reports

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1190 of employee income, payroll and other accounting records,
 1191 certificates of insurance maintained by subcontractors, and
 1192 duties of employees. At the completion of an audit, the employer
 1193 or officer of the corporation and the auditor must print and
 1194 sign their names on the audit document and attach proof of
 1195 identification to the audit document.

1196 Section 19. Subsection (2) of section 497.277, Florida
 1197 Statutes, is amended to read:

1198 497.277 Other charges.—Other than the fees for the sale of
 1199 burial rights, burial merchandise, and burial services, no other
 1200 fee may be directly or indirectly charged, contracted for, or
 1201 received by a cemetery company as a condition for a customer to
 1202 use any burial right, burial merchandise, or burial service,
 1203 except for:

1204 (2) Charges paid for transferring burial rights from one
 1205 purchaser to another, ~~however, no such fee may exceed \$50.~~

1206 Section 20. Paragraph (b) of subsection (1) of section
 1207 497.369, Florida Statutes, is amended to read:

1208 497.369 Embalmers; licensure as an embalmer by endorsement;
 1209 licensure of a temporary embalmer.—

1210 (1) The licensing authority shall issue a license by
 1211 endorsement to practice embalming to an applicant who has
 1212 remitted an examination fee set by rule of the licensing
 1213 authority not to exceed \$200 and who the licensing authority
 1214 certifies:

1215 (b)1. Holds a valid license in good standing to practice
 1216 embalming in another state of the United States and has engaged
 1217 in the full-time, licensed practice of embalming in that state
 1218 for at least 5 years, ~~provided that, when the applicant secured~~

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1219 ~~her or his original license, the requirements for licensure were~~
 1220 ~~substantially equivalent to or more stringent than those~~
 1221 ~~existing in this state; or~~

1222 2. Meets the qualifications for licensure in s. 497.368,
 1223 except that the internship requirement shall be deemed to have
 1224 been satisfied by 1 year's practice as a licensed embalmer in
 1225 another state, and has, within 10 years ~~before~~ prior to the date
 1226 of application, successfully completed a state, regional, or
 1227 national examination in mortuary science, which, as determined
 1228 by rule of the licensing authority, is substantially equivalent
 1229 to or more stringent than the examination given by the licensing
 1230 authority.

1231 Section 21. Paragraphs (b) and (f) of subsection (1) of
 1232 section 497.372, Florida Statutes, are amended to read:

1233 497.372 Funeral directing; conduct constituting practice of
 1234 funeral directing.—

1235 (1) The practice of funeral directing shall be construed to
 1236 consist of the following functions, which may be performed only
 1237 by a licensed funeral director:

1238 (b) Planning or arranging, on an at-need basis, the details
 1239 of funeral services, embalming, cremation, or other services
 1240 relating to the final disposition of human remains, and
 1241 ~~including the removal of such remains from the state; setting~~
 1242 ~~the time of the services; establishing the type of services to~~
 1243 ~~be rendered; acquiring the services of the clergy; and obtaining~~
 1244 ~~vital information for the filing of death certificates and~~
 1245 ~~obtaining of burial transit permits.~~

1246 (f) Directing, being in charge or apparent charge of, or
 1247 supervising, directly or indirectly, any memorial service ~~held~~

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1248 ~~prior to or within 72 hours of the burial or cremation, if such~~
 1249 memorial service is sold or arranged by a licensee.

1250 Section 22. Paragraph (b) of subsection (1) of section
 1251 497.374, Florida Statutes, is amended to read:

1252 497.374 Funeral directing; licensure as a funeral director
 1253 by endorsement; licensure of a temporary funeral director.—

1254 (1) The licensing authority shall issue a license by
 1255 endorsement to practice funeral directing to an applicant who
 1256 has remitted a fee set by rule of the licensing authority not to
 1257 exceed \$200 and who:

1258 (b)1. Holds a valid license in good standing to practice
 1259 funeral directing in another state of the United States and has
 1260 engaged in the full-time, licensed practice of funeral directing
 1261 in that state for at least 5 years, provided that, when the
 1262 applicant secured her or his original license, the requirements
 1263 for licensure were substantially equivalent to or more stringent
 1264 than those existing in this state; or

1265 2. Meets the qualifications for licensure in s. 497.373,
 1266 except that the applicant need not hold an associate degree or
 1267 higher if the applicant holds a diploma or certificate from an
 1268 accredited program of mortuary science, and has successfully
 1269 completed a state, regional, or national examination in mortuary
 1270 science or funeral service arts, which, as determined by rule of
 1271 the licensing authority, is substantially equivalent to or more
 1272 stringent than the examination given by the licensing authority.

1273 Section 23. Present subsection (6) of section 554.108,
 1274 Florida Statutes, is redesignated as subsection (7), a new
 1275 subsection (6) is added to that section, and subsection (1) of
 1276 that section is amended, to read:

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1277 554.108 Inspection.—

1278 (1) The inspection requirements of this chapter apply only
 1279 to boilers located in public assembly locations. A ~~potable hot~~
 1280 ~~water supply~~ boiler with ~~an a heat~~ input of 200,000 British
 1281 thermal units (Btu) per hour and above, up to ~~an a heat~~ input
 1282 not exceeding 400,000 Btu per hour, is exempt from inspection;
 1283 however, such an exempt boiler, if manufactured after July 1,
 1284 2022, ~~but~~ must be stamped with the A.S.M.E. code symbol.
 1285 Additionally, ~~"HLW" and the boiler's~~ A.S.M.E data report of a
 1286 boiler with an input of 200,000 to 400,000 Btu per hour must be
 1287 filed as required under s. 554.103(2).

1288 (6) Each enclosed space or room containing a boiler
 1289 regulated under this chapter which is fired by the direct
 1290 application of energy from the combustion of fuels and which is
 1291 located in any portion of a public lodging establishment under
 1292 s. 509.242 shall be equipped with one or more carbon monoxide
 1293 detector devices.

1294 Section 24. Paragraphs (a) and (e) of subsection (1) and
 1295 paragraph (a) of subsection (2) of section 554.111, Florida
 1296 Statutes, are amended to read:

1297 554.111 Fees.—

1298 (1) The department shall charge the following fees:

1299 (a) For an applicant for a certificate of competency, the
 1300 initial application fee shall be \$50, and the annual renewal fee
 1301 shall be \$30. ~~The fee for examination shall be \$50.~~

1302 (e) An application for a boiler permit must include the
 1303 manufacturer's data report ~~applicable certificate inspection fee~~
 1304 ~~provided in paragraph (b).~~

1305 (2) Not more than an amount equal to one certificate

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1306 inspection fee may be charged or collected for any and all
 1307 boiler inspections in any inspection period, except as otherwise
 1308 provided in this chapter.

1309 (a) When it is necessary to make a special trip for testing
 1310 and verification inspections ~~to observe the application of a~~
 1311 ~~hydrostatic test~~, an additional fee equal to the fee for a
 1312 certificate inspection of the boiler must be charged.

1313 Section 25. Subsection (4) of section 554.114, Florida
 1314 Statutes, is amended to read:

1315 554.114 Prohibitions; penalties.—

1316 (4) A boiler insurance company, authorized inspection
 1317 agency, or other person in violation of this section for more
 1318 than 30 days shall pay a fine of \$10 per day for the subsequent
 1319 ~~first~~ 10 days of noncompliance, \$50 per day for the subsequent
 1320 20 days of noncompliance, and \$100 per day for each subsequent
 1321 day ~~over 20 days~~ of noncompliance thereafter.

1322 Section 26. Subsection (9) of section 624.307, Florida
 1323 Statutes, is amended to read:

1324 624.307 General powers; duties.—

1325 (9) Upon receiving service of legal process issued in any
 1326 civil action or proceeding in this state against any regulated
 1327 person or any unauthorized insurer under s. 626.906 or s.
 1328 626.937 ~~that which~~ is required to appoint the Chief Financial
 1329 Officer as its agent ~~attorney~~ to receive service of all legal
 1330 process, the Chief Financial Officer shall make the process
 1331 available through a secure online portal, as attorney, may, in
 1332 lieu of sending the process by registered or certified mail,
 1333 ~~send the process or make it available by any other verifiable~~
 1334 ~~means, including, but not limited to, making the documents~~

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1335 ~~available by electronic transmission from a secure website~~
 1336 established by the department to the person last designated by
 1337 the regulated person or the unauthorized insurer to receive the
 1338 process. When process documents are made available
 1339 electronically, the Chief Financial Officer shall promptly send
 1340 a notice of receipt of service of process to the person last
 1341 designated by the regulated person or unauthorized insurer to
 1342 receive legal process. The notice must state the date ~~and manner~~
 1343 ~~in which the copy of~~ the process was made available to the
 1344 regulated person or unauthorized insurer being served and
 1345 contain the uniform resource locator (URL) where for a hyperlink
 1346 ~~to access files and information on the department's website to~~
 1347 ~~obtain a copy of~~ the process may be obtained.

1348 Section 27. Section 624.422, Florida Statutes, is amended
 1349 to read:

1350 624.422 Service of process; appointment of Chief Financial
 1351 Officer as process agent.—

1352 (1) Each licensed insurer, whether domestic, foreign, or
 1353 alien, shall be deemed to have appointed the Chief Financial
 1354 Officer and her or his successors in office as its agent
 1355 ~~attorney~~ to receive service of all legal process issued against
 1356 it in any civil action or proceeding in this state; and process
 1357 so served shall be valid and binding upon the insurer.

1358 (2) ~~Before~~ Prior to its authorization to transact insurance
 1359 in this state, each insurer shall file with the department
 1360 designation of the name and e-mail address of the person to whom
 1361 process against it served upon the Chief Financial Officer is to
 1362 be made available through the department's secure online portal
 1363 ~~forwarded~~. Each insurer shall also file with the department

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1364 designation of the name and e-mail address of the person to whom
 1365 the department shall forward civil remedy notices filed under s.
 1366 624.155. The insurer may change a designation at any time by a
 1367 new filing.

1368 (3) Service of process submitted through the department's
 1369 secure online portal upon the Chief Financial Officer as the
 1370 insurer's agent ~~attorney~~ pursuant to such an appointment shall
 1371 be the sole method of service of process upon an authorized
 1372 domestic, foreign, or alien insurer in this state.

1373 Section 28. Subsection (1) of section 624.423, Florida
 1374 Statutes, is amended to read:

1375 624.423 Serving process.—

1376 (1) Service of process upon the Chief Financial Officer as
 1377 process agent of the insurer under s. 624.422 and s. 626.937
 1378 shall be made ~~by serving a copy of the process upon the Chief~~
 1379 ~~Financial Officer or upon her or his assistant, deputy, or other~~
 1380 ~~person in charge of her or his office. Service may also be made~~
 1381 ~~by mail or~~ electronically as provided in s. 48.151(3) ~~s. 48.151~~.
 1382 Upon receiving such service, the Chief Financial Officer shall
 1383 retain a record of the process ~~copy~~ and promptly notify and make
 1384 ~~forward one copy of~~ the process available through the
 1385 department's secure online portal ~~by registered or certified~~
 1386 ~~mail or by other verifiable means~~, as provided under s.
 1387 624.307(9), to the person last designated by the insurer to
 1388 receive the same, as provided under s. 624.422(2). For purposes
 1389 of this section, records shall may be retained electronically ~~as~~
 1390 ~~paper or electronic copies~~.

1391 Section 29. Paragraph (f) of subsection (3) and paragraph
 1392 (d) of subsection (4) of section 624.610, Florida Statutes, are

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amended to read:

624.610 Reinsurance.—

(3)

(f) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) or paragraph (d) must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(4) Credit must be allowed when the reinsurance is ceded to an assuming insurer meeting the requirements of this subsection.

(d) The assuming insurer must, in a form specified by the commission:

1. Agree to provide prompt written notice and explanation

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to the office if the assuming insurer falls below the minimum requirements set forth in paragraph (b) or paragraph (c), or if any regulatory action is taken against it for serious noncompliance with applicable law of any jurisdiction.

2. Consent in writing to the jurisdiction of the courts of this state and to the designation of the Chief Financial Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and lawful agent attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer. This subparagraph does not limit or alter in any way the capacity of parties to a reinsurance agreement to agree to an alternative dispute resolution mechanism, except to the extent that such agreement is unenforceable under applicable insolvency or delinquency laws.

3. Consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor which have been declared enforceable in the jurisdiction where the judgment was obtained.

4. Confirm in writing that it will include in each reinsurance agreement a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement, if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or enforcement of a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

5. Confirm in writing that it is not presently

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participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the office and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer if the assuming insurer enters into such a solvent scheme of arrangement. Such security must be consistent with subsection (5) or as specified by commission rule.

Section 30. Present subsections (12) through (21) of section 626.015, Florida Statutes, are redesignated as subsections (13) through (22), respectively, a new subsection (12) is added to that section, and present subsection (20) of that section is amended, to read:

626.015 Definitions.—As used in this part:

(12) "Licensing authority" means the respective jurisdiction of the department or the office, as provided by law.

(21) ~~(20)~~ "Unaffiliated insurance agent" means a licensed insurance agent, except a limited lines agent, who is self-appointed and who practices as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents. A licensed adjuster who is also an unaffiliated insurance agent may obtain an adjuster appointment in order to

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adjust claims while holding an unaffiliated appointment on the agent license.

Section 31. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(4) An applicant for a license issued by the department under this chapter as an agent, customer representative, adjuster, service representative, or reinsurance intermediary must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints must be processed in accordance with s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity. The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee. The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 32. Paragraph (f) of subsection (2) of section 626.172, Florida Statutes, is amended to read:

626.172 Application for insurance agency license.—

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(2) An application for an insurance agency license must be signed by an individual required to be listed in the application under paragraph (a). An insurance agency may permit a third party to complete, submit, and sign an application on the insurance agency's behalf; however, the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. The application for an insurance agency license must include:

(f) The fingerprints submitted in accordance with s. 626.171(4) of each of the following:

1. A sole proprietor;
2. Each individual required to be listed in the application under paragraph (a); and
3. Each individual who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange.

~~Fingerprints must be taken by a law enforcement agency or other entity approved by the department and must be accompanied by the fingerprint processing fee specified in s. 624.501. Fingerprints must be processed in accordance with s. 624.34. However,~~ Fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

Section 33. Section 626.173, Florida Statutes, is created to read:

626.173 Insurance agency closure; cancellation of

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licenses.

(1) If a licensed insurance agency permanently ceases the transaction of insurance or ceases the transaction of insurance for more than 30 days, the agent in charge, the director of the agency, or other officer listed on the original application for licensure must, within 35 days after the agency first ceases the transaction of insurance, do all of the following:

(a) Cancel the insurance agency's license by completing and submitting a form prescribed by the department to notify the department of the cancellation of the license.

(b) Notify all insurers by which the agency or agent in charge is appointed of the agency's cessation of operations, the date on which operations ceased, the identity of any agency or agent to which the agency's current book of business has been transferred, and the method by which agency records may be obtained during the time periods specified in ss. 626.561 and 626.748.

(c) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed agent to service the policy.

(d) Notify all premium finance companies through which active policies are financed of the agency's cessation of operations, the date on which operations ceased, and the identity of the agency or agent to which the agency's current

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book of business has been transferred.

(e) Ensure that all funds held in a fiduciary capacity are properly distributed to the rightful owners.

(2) (a) The department may, in a proceeding initiated pursuant to chapter 120, impose an administrative fine against the agent in charge or director or officer of the agency found in the proceeding to have violated any provision of this section. A proceeding may not be initiated and a fine may not accrue until after the person has been notified in writing of the nature of the violation, has been afforded 10 business days to correct the violation, and has failed to do so.

(b) A fine imposed under this subsection may not exceed the amounts specified in s. 626.681 per violation.

(c) The department may, in addition to the imposition of an administrative fine under this subsection, suspend or revoke the license of a licensee fined under this subsection.

(d) In imposing any administrative penalty or remedy provided under this subsection, the department shall take into account the appropriateness of the penalty with respect to the size of the financial resources and the good faith of the person charged, the gravity of the violation, the history of previous violations, and other matters as justice may require.

Section 34. Subsection (3) of section 626.201, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.201 Investigation.—

(3) An inquiry or investigation of the applicant's qualifications, character, experience, background, and fitness must include submission of the applicant's fingerprints, in

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accordance with s. 626.171(4), to the Department of Law Enforcement and the Federal Bureau of Investigation and consideration of any state criminal records, federal criminal records, or local criminal records obtained from these agencies or from local law enforcement agencies.

(4) The expiration, nonrenewal, or surrender of a license under this chapter does not eliminate jurisdiction of the licensing authority to investigate and prosecute for a violation committed by the licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of a complaint.

Section 35. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—

(1) The requirements for completion and submission of fingerprints under this chapter in accordance with s. 626.171(4) are deemed to be met when an individual currently licensed under this chapter seeks additional licensure and has previously submitted fingerprints to the department within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this state or any other state or jurisdiction.

(2) If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department or office within 30 days after

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the change. The acquisition of 10 percent or more of the voting securities of a licensed entity is considered a change of ownership or control. The fingerprints must be submitted in accordance with s. 626.171(4) taken by a law enforcement agency or other department approved entity and be accompanied by the fingerprint processing fee in s. 624.501.

Section 36. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, Certified All Lines Adjuster (CALA) from Kaplan Financial Education, Associate in Claims (AIC) from the Insurance Institute of America, Professional Claims Adjuster (PCA) from the Professional Career Institute, Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster (CCA) from AE21 Incorporated, Claims Adjuster Certified Professional (CACP) from WebCE, Inc., Accredited Insurance Claims Specialist (AICS) from Encore Claim Services, or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt

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rules establishing standards for the approval of curriculum.

Section 37. Subsection (6) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an unaffiliated insurance agent may not hold an appointment from an insurer for any license he or she holds, with the exception of an adjuster license; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are received. An adjuster who holds an adjuster license and who is also an unaffiliated insurance agent may obtain an adjuster appointment while maintaining his or her unaffiliated insurance agent appointment and may adjust claims and receive compensation in accordance with the authority granted by the adjuster license and appointment.

Section 38. Paragraph (h) of subsection (1) of section

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626.321, Florida Statutes, is amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(h) *Portable electronics insurance.*—License for property insurance or inland marine insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics.

1. The license may be issued only to:

a. Employees or authorized representatives of a licensed general lines agent; or

b. The lead business location of a retail vendor that sells portable electronics insurance. The lead business location must have a contractual relationship with a general lines agent.

2. Employees or authorized representatives of a licensee under subparagraph 1. may sell or offer for sale portable electronics coverage without being subject to licensure as an insurance agent if:

a. Such insurance is sold or offered for sale at a licensed location or at one of the licensee's branch locations if the branch location is appointed by the licensed lead business location or its appointing insurers;

b. The insurer issuing the insurance directly supervises or appoints a general lines agent to supervise the sale of such insurance, including the development of a training program for the employees and authorized representatives of vendors that are directly engaged in the activity of selling or offering the

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insurance; and

c. At each location where the insurance is offered, brochures or other written materials that provide the information required by this subparagraph are made available to all prospective customers. The brochures or written materials may include information regarding portable electronics insurance, service warranty agreements, or other incidental services or benefits offered by a licensee.

3. Individuals not licensed to sell portable electronics insurance may not be paid commissions based on the sale of such coverage. However, a licensee who uses a compensation plan for employees and authorized representatives which includes supplemental compensation for the sale of noninsurance products, in addition to a regular salary or hourly wages, may include incidental compensation for the sale of portable electronics insurance as a component of the overall compensation plan.

4. Brochures or other written materials related to portable electronics insurance must:

a. Disclose that such insurance may duplicate coverage already provided by a customer's homeowners insurance policy, renters insurance policy, or other source of coverage;

b. State that enrollment in insurance coverage is not required in order to purchase or lease portable electronics or services;

c. Summarize the material terms of the insurance coverage, including the identity of the insurer, the identity of the supervising entity, the amount of any applicable deductible and how it is to be paid, the benefits of coverage, and key terms and conditions of coverage, such as whether portable electronics

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may be repaired or replaced with similar make and model
reconditioned or nonoriginal manufacturer parts or equipment;

d. Summarize the process for filing a claim, including a
description of how to return portable electronics and the
maximum fee applicable if the customer fails to comply with
equipment return requirements; and

e. State that an enrolled customer may cancel coverage at
any time and that the person paying the premium will receive a
refund of any unearned premium.

5. A licensed and appointed general lines agent is not
required to obtain a portable electronics insurance license to
offer or sell portable electronics insurance at locations
already licensed as an insurance agency, but may apply for a
portable electronics insurance license for branch locations not
otherwise licensed to sell insurance.

6. A portable electronics license authorizes the sale of
individual policies or certificates under a group or master
insurance policy. The license also authorizes the sale of
service warranty agreements covering only portable electronics
to the same extent as if licensed under s. 634.419 or s.
634.420.

7. A licensee may bill and collect the premium for the
purchase of portable electronics insurance provided that:

a. If the insurance is included with the purchase or lease
of portable electronics or related services, the licensee
clearly and conspicuously discloses that insurance coverage is
included with the purchase. Disclosure of the stand-alone cost
of the premium for same or similar insurance must be made on the
customer's bill and in any marketing materials made available at

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the point of sale. If the insurance is not included, the charge
to the customer for the insurance must be separately itemized on
the customer's bill.

b. Premiums are incidental to other fees collected, are
maintained in a manner that is readily identifiable, and are
accounted for and remitted to the insurer or supervising entity
within 60 days of receipt. Licensees are not required to
maintain such funds in a segregated account.

c. All funds received by a licensee from an enrolled
customer for the sale of the insurance are considered funds held
in trust by the licensee in a fiduciary capacity for the benefit
of the insurer. Licensees may receive compensation for billing
and collection services.

8. Notwithstanding any other provision of law, the terms
for the termination or modification of coverage under a policy
of portable electronics insurance are those set forth in the
policy.

9. Notice or correspondence required by the policy, or
otherwise required by law, may be provided by electronic means
if the insurer or licensee maintains proof that the notice or
correspondence was sent. Such notice or correspondence may be
sent on behalf of the insurer or licensee by the general lines
agent appointed by the insurer to supervise the administration
of the program. For purposes of this subparagraph, an enrolled
customer's provision of an electronic mail address to the
insurer or licensee is deemed to be consent to receive notices
and correspondence by electronic means if a conspicuously
located disclosure is provided to the customer indicating the
same.

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1799 10. The ~~provisions of this chapter requiring submission of~~
 1800 fingerprints requirements in s. 626.171(4) do not apply to
 1801 licenses issued to qualified entities under this paragraph.

1802 11. A branch location that sells portable electronics
 1803 insurance may, in lieu of obtaining an appointment from an
 1804 insurer or warranty association, obtain a single appointment
 1805 from the associated lead business location licensee and pay the
 1806 prescribed appointment fee under s. 624.501 if the lead business
 1807 location has a single appointment from each insurer or warranty
 1808 association represented and such appointment applies to the lead
 1809 business location and all of its branch locations. Branch
 1810 location appointments shall be renewed 24 months after the
 1811 initial appointment date of the lead business location and every
 1812 24 months thereafter. Notwithstanding s. 624.501, the renewal
 1813 fee applicable to such branch location appointments is \$30 per
 1814 appointment.

1815 12. For purposes of this paragraph:

1816 a. "Branch location" means any physical location in this
 1817 state at which a licensee offers its products or services for
 1818 sale.

1819 b. "Portable electronics" means personal, self-contained,
 1820 easily carried by an individual, battery-operated electronic
 1821 communication, viewing, listening, recording, gaming, computing
 1822 or global positioning devices, including cell or satellite
 1823 phones, pagers, personal global positioning satellite units,
 1824 portable computers, portable audio listening, video viewing or
 1825 recording devices, digital cameras, video camcorders, portable
 1826 gaming systems, docking stations, automatic answering devices,
 1827 and other similar devices and their accessories, and service

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1828 related to the use of such devices.

1829 c. "Portable electronics transaction" means the sale or
 1830 lease of portable electronics or a related service, including
 1831 portable electronics insurance.

1832 Section 39. Subsection (5) of section 626.601, Florida
 1833 Statutes, is amended to read:

1834 626.601 Improper conduct; inquiry; fingerprinting.—
 1835 (5) If the department or office, after investigation, has
 1836 reason to believe that an individual may have been found guilty
 1837 of or pleaded guilty or nolo contendere to a felony or a crime
 1838 related to the business of insurance in this or any other state
 1839 or jurisdiction, the department or office may require the
 1840 individual to file with the department or office a complete set
 1841 of his or her fingerprints, in accordance with s. 626.171(4),
 1842 which shall be accompanied by the fingerprint processing fee set
 1843 forth in s. 624.501. The fingerprints shall be taken by an
 1844 authorized law enforcement agency or other department-approved
 1845 entity.

1846 Section 40. Subsection (2) of section 626.7845, Florida
 1847 Statutes, is amended to read:

1848 626.7845 Prohibition against unlicensed transaction of life
 1849 insurance.—
 1850 (2) Except as provided in s. 626.112(6), with respect to
 1851 any line of authority specified in s. 626.015(13) ~~or~~
 1852 ~~626.015(12)~~, an individual may not, unless licensed as a life
 1853 agent:

1854 (a) Solicit insurance or annuities or procure applications;
 1855 (b) In this state, engage or hold himself or herself out as
 1856 engaging in the business of analyzing or abstracting insurance

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1857 policies or of counseling or advising or giving opinions to
 1858 persons relative to insurance or insurance contracts, unless the
 1859 individual is:

- 1860 1. A consulting actuary advising insurers;
- 1861 2. An employee of a labor union, association, employer, or
 1862 other business entity, or the subsidiaries and affiliates of
 1863 each, who counsels and advises such entity or entities relative
 1864 to their interests and those of their members or employees under
 1865 insurance benefit plans; or
- 1866 3. A trustee advising a settlor, a beneficiary, or a person
 1867 regarding his or her interests in a trust, relative to insurance
 1868 benefit plans; or

1869 (c) In this state, from this state, or with a resident of
 1870 this state, offer or attempt to negotiate on behalf of another
 1871 person a viatical settlement contract as defined in s. 626.9911.

1872 Section 41. Paragraph (d) of subsection (2) of section
 1873 626.8411, Florida Statutes, is amended, and paragraph (f) is
 1874 added to subsection (1) of that section, to read:

1875 626.8411 Application of Florida Insurance Code provisions
 1876 to title insurance agents or agencies.—

1877 (1) The following provisions applicable to general lines
 1878 agents or agencies also apply to title insurance agents or
 1879 agencies:

1880 (f) Section 626.172(2)(f), relating to fingerprints.

1881 (2) The following provisions of part I do not apply to
 1882 title insurance agents or title insurance agencies:

1883 (d) Section 626.172, except for paragraph (2)(f) of that
 1884 section, relating to agent in full-time charge.

1885 Section 42. Paragraph (b) of subsection (1) of section

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1886 626.8412, Florida Statutes, is amended to read:

1887 626.8412 License and appointments required.—

1888 (1) Except as otherwise provided in this part:

1889 (b) A title insurance agent may not sell a title insurance
 1890 policy issued by an insurer for which the agent and the agency
 1891 ~~do~~ ~~does~~ not hold a current appointment.

1892 Section 43. Paragraph (a) of subsection (3) of section
 1893 626.8417, Florida Statutes, is amended to read:

1894 626.8417 Title insurance agent licensure; exemptions.—

1895 (3) The department may not grant or issue a license as a
 1896 title insurance agent to an individual who is found by the
 1897 department to be untrustworthy or incompetent, who does not meet
 1898 the qualifications for examination specified in s. 626.8414, or
 1899 who does not meet the following qualifications:

1900 (a) Within the 4 years immediately preceding the date of
 1901 the application for license, the applicant must have completed a
 1902 40-hour ~~classroom~~ course in title insurance, 3 hours of which
 1903 are on the subject matter of ethics, as approved by the
 1904 department, or must have had at least 12 months of experience in
 1905 responsible title insurance duties, under the supervision of a
 1906 licensed title insurance agent, title insurer, or attorney while
 1907 working in the title insurance business as a substantially full-
 1908 time, bona fide employee of a title insurance agency, title
 1909 insurance agent, title insurer, or attorney who conducts real
 1910 estate closing transactions and issues title insurance policies
 1911 but who is exempt from licensure under subsection (4). If an
 1912 applicant's qualifications are based upon the periods of
 1913 employment at responsible title insurance duties, the applicant
 1914 must submit, with the license application, an affidavit of the

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applicant and of the employer affirming the period of such employment, that the employment was substantially full time, and giving a brief abstract of the nature of the duties performed by the applicant.

Section 44. Section 626.8421, Florida Statutes, is amended to read:

626.8421 Number of appointments permitted or required.—A title agent and a title agency shall be required to have a separate appointment as to each insurer by which they are ~~he or she is~~ appointed as agents ~~agent~~. As a part of each appointment there shall be a certified statement or affidavit of an appropriate officer or official of the appointing insurer stating that to the best of the insurer's knowledge and belief the applicant, or its principals in the case of a corporation or other legal entity, has met the requirements of s. 626.8417.

Section 45. Subsections (1) and (2) of section 626.843, Florida Statutes, are amended to read:

626.843 Renewal, continuation, reinstatement, termination of title insurance agent's and title insurance agency's appointments ~~appointment~~.—

(1) ~~Appointments the appointment~~ of a title insurance agent and a title insurance agency shall continue in force until suspended, revoked, or otherwise terminated, but subject to a renewed request filed by the insurer every 24 months after the original issue ~~dates~~ ~~date~~ of the ~~appointments~~ ~~appointment~~, accompanied by ~~payments~~ ~~payment~~ of the renewal appointment ~~fees~~ ~~fee~~ and taxes as prescribed in s. 624.501.

(2) Title insurance agent and title insurance agency appointments shall be renewed pursuant to s. 626.381 for

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insurance representatives in general.

Section 46. Subsection (1) of section 626.8433, Florida Statutes, is amended to read:

626.8433 Filing of reasons for terminating appointment of title insurance agent and title insurance agency; confidential information.—

(1) Any title insurer that is terminating the appointment of a title insurance agent or title insurance agency, whether such termination is by direct action of the appointing title insurer or by failure to renew or continue the appointment as provided, shall file with the department a statement of the reasons, if any, for, and the facts relative to, such termination.

Section 47. Section 626.8447, Florida Statutes, is amended to read:

626.8447 Effect of suspension or revocation upon other licensees, appointees.—In case of the suspension or revocation of the license and appointment of any title insurance agent or title insurance agency, the licenses and appointments of all other title insurance agents who knowingly were parties to the act ~~that~~ ~~which~~ formed the ground for such suspension or revocation may likewise be suspended or revoked for the same period as that of the offending title insurance agent or title insurance agency, but such suspension or revocation ~~does~~ ~~shall~~ not prevent any title insurance agent, except the one whose license and appointment was first suspended or revoked, from being issued an appointment for some other title insurer.

Section 48. Subsection (10) of section 626.854, Florida Statutes, is amended to read:

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626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(10) (a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the recovery allocated to the insured for covered damages, exclusive of attorney fees and costs, ~~claim payments or settlement~~ obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance recovery allocated to the insured for covered damages, exclusive of attorney fees and costs, ~~claim payments made~~ by the insurer for claims based on events that are the subject of a declaration of

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a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance recovery allocated to the insured for covered damages, exclusive of attorney fees and costs, ~~claim payments made~~ by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster compensation may not be increased based on a claim being resolved by litigation.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

Section 49. Section 626.8561, Florida Statutes, is amended to read:

626.8561 "Public adjuster apprentice" defined.—The term

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"public adjuster apprentice" means a person licensed as an all-lines adjuster who:

- (1) Is appointed and employed or contracted by ~~a public adjuster or~~ a public adjusting firm;
- (2) Assists the ~~public adjuster or~~ public adjusting firm in ascertaining and determining the amount of any claim, loss, or damage payable under an insurance contract, or who undertakes to effect settlement of such claim, loss, or damage; and
- (3) Satisfies the requirements of s. 626.8651.

Section 50. Paragraph (e) of subsection (1) and subsection (2) of section 626.865, Florida Statutes, are amended to read:

626.865 Public adjuster's qualifications, bond.—

(1) The department shall issue a license to an applicant for a public adjuster's license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(e) Has been licensed and appointed in this state as a nonresident public adjuster on a continual basis for the previous 6 months, or has been licensed as an all-lines adjuster, and has been appointed on a continual basis for the previous 6 months as a public adjuster apprentice under s. 626.8561, as an independent adjuster under s. 626.855, or as a company employee adjuster under s. 626.856.

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has

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applied, and thereafter maintain the bond unimpaired throughout the existence of the license ~~and for at least 1 year after termination of the license.~~

(a) The bond must ~~shall~~ be in favor of the department and ~~must shall~~ specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster.

(b) The bond must remain in effect for 1 year after the expiration or termination of the license.

(c) The aggregate liability of the surety for all such damages may not ~~shall in no event~~ exceed the amount of the bond. ~~The Such~~ bond may ~~shall~~ not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 51. Paragraph (a) of subsection (1) and subsection (3) of section 626.8651, Florida Statutes, are amended to read:

626.8651 Public adjuster apprentice appointment; qualifications.—

(1) (a) The department shall issue an appointment as a public adjuster apprentice to a licensee who:

- 1. Is licensed as an all-lines adjuster under s. 626.866;
- 2. Has filed with the department a bond executed and issued by a surety insurer that is authorized to transact such business in this state in the amount of \$50,000, which is conditioned upon the faithful performance of his or her duties as a public adjuster apprentice; and

3. Maintains such bond unimpaired throughout the existence of the appointment. The bond must remain in effect for 1 year

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after the expiration or termination of the license ~~and for at least 1 year after termination of the appointment.~~

(3) A public adjuster apprentice has the same authority as the licensed public adjuster or public adjusting firm that employs the apprentice except that an apprentice may not execute contracts for the services of a public adjuster or public adjusting firm. An individual may not be, act as, or hold himself or herself out to be a public adjuster apprentice unless the individual is licensed as an all-lines adjuster and holds a current appointment by a licensed ~~public all-lines adjuster or a~~ public adjusting firm that has designated with the department a primary ~~employs a licensed public adjuster as required by s.~~ 626.8695.

Section 52. Section 626.8696, Florida Statutes, is amended to read:

626.8696 Application for adjusting firm license.—

(1) The application for an adjusting firm license must include:

(a) The name of each majority owner, partner, officer, and director of the adjusting firm.

(b) The resident address of each person required to be listed in the application under paragraph (a).

(c) The name of the adjusting firm and its principal business address.

(d) The location of each adjusting firm office and the name under which each office conducts or will conduct business.

(e) The name and license number of the designated primary adjuster for each adjusting firm location as required in s. 626.8695.

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(f) The fingerprints of each individual required to be listed in the application under paragraph (a), filed in accordance with s. 626.171(4). However, fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter.

(g) Any additional information that the department requires.

(2) An application for an adjusting firm license must be signed by one of the individuals required to be listed in the application under paragraph (1)(a) each owner of the firm. ~~If the firm is incorporated, the application must be signed by the president and secretary of the corporation.~~

~~(3) Each application must be accompanied by payment of any applicable fee as prescribed in s. 624.501.~~

~~(4) License fees are not refundable.~~

~~(5) An adjusting firm required to be licensed pursuant to s. 626.8695 must remain so licensed for a period of 3 years from the date of licensure, unless the license is suspended or revoked. The department may suspend or revoke the adjusting firm's authority to do business for activities occurring during the time the firm is licensed, regardless of whether the licensing period has terminated.~~

Section 53. Subsection (3) of section 626.8732, Florida Statutes, is amended to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

(3) At the time of application for license as a nonresident public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to

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transact surety business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a nonresident public adjuster under the license applied for. Thereafter, the applicant shall maintain the bond unimpaired throughout the existence of the license and for 1 year after the expiration or termination of the license.

(a) The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained if the licensee commits fraud or unfair practices in connection with his or her business as nonresident public adjuster.

(b) The aggregate liability of the surety for all the damages may not exceed the amount of the bond. The bond may not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 54. Paragraph (a) of subsection (2) of section 626.8734, Florida Statutes, is amended to read:

626.8734 Nonresident all-lines adjuster license qualifications.—

(2) The applicant must furnish the following with his or her application:

(a) A complete set of his or her fingerprints in accordance with s. 626.171(4). ~~The applicant's fingerprints must be certified by an authorized law enforcement officer.~~

Section 55. Section 626.906, Florida Statutes, is amended to read:

626.906 Acts constituting Chief Financial Officer as process agent.—Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign insurer, alien

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insurer, or person representing or aiding such an insurer is equivalent to and shall constitute an appointment by such insurer or person representing or aiding such insurer of the Chief Financial Officer to be its true and lawful agent ~~attorney~~, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary, arising out of any such contract of insurance; and any such act shall be signification of the insurer's or person's agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer or person representing or aiding such insurer:

(1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) The solicitation of applications for such contracts;

(3) The collection of premiums, membership fees, assessments, or other considerations for such contracts; or

(4) Any other transaction of insurance.

Section 56. Subsection (4) of section 626.912, Florida Statutes, is amended to read:

626.912 Exemptions from ss. 626.904-626.911.—The provisions of ss. 626.904-626.911 do not apply to any action, suit, or proceeding against any unauthorized foreign insurer, alien insurer, or person representing or aiding such an insurer arising out of any contract of insurance:

(4) Issued under and in accordance with the Surplus Lines Law, when such insurer or person representing or aiding such insurer enters a general appearance or when such contract of

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insurance contains a provision designating the Chief Financial Officer or designating a Florida resident agent to be the true and lawful ~~agent attorney~~ of such unauthorized insurer or person representing or aiding such insurer upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or person representing or aiding such insurer or beneficiary arising out of any such contract of insurance; and service of process effected on such Chief Financial Officer or such resident agent shall be deemed to confer complete jurisdiction over such unauthorized insurer or person representing or aiding such insurer in such action.

Section 57. Subsections (3) and (4) of section 626.937, Florida Statutes, are amended to read:

626.937 Actions against insurer; service of process.—

(3) Each unauthorized insurer requesting eligibility pursuant to s. 626.918 shall file with the department its appointment of the Chief Financial Officer, on a form as furnished by the department, as its ~~agent attorney~~ to receive service of all legal process issued against it in any civil action or proceeding in this state, and agreeing that process so served shall be valid and binding upon the insurer. The appointment shall be irrevocable, shall bind the insurer and any successor in interest as to the assets or liabilities of the insurer, and shall remain in effect as long as there is outstanding in this state any obligation or liability of the insurer resulting from its insurance transactions therein.

(4) At the time of such appointment of the Chief Financial Officer as its process agent, the insurer shall file with the department designation of the name and e-mail address of the

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person to whom process against it served upon the Chief Financial Officer is to be made available through the department's secure online portal ~~forwarded~~. The insurer may change the designation at any time by a new filing.

Section 58. Subsection (5) of section 626.9953, Florida Statutes, is amended to read:

626.9953 Qualifications for registration; application required.—

(5) An applicant must submit a set of his or her fingerprints in accordance with s. 626.171(4) ~~to the department and pay the processing fee established under s. 624.501(23)~~. The department shall submit the applicant's fingerprints to the Department of Law Enforcement for processing state criminal history records checks and local criminal records checks through local law enforcement agencies and for forwarding to the Federal Bureau of Investigation for national criminal history records checks. The fingerprints shall be taken by a law enforcement agency, a designated examination center, or another department-approved entity. The department may not approve an application for registration as a navigator if fingerprints have not been submitted.

Section 59. Paragraphs (e) and (f) are added to subsection (4) of section 633.135, Florida Statutes, to read:

633.135 Firefighter Assistance Grant Program.—

(4) Funds shall be used to:

(e) Purchase other equipment and tools that improve firesafety and fire rescue capabilities for firefighters.

(f) Purchase protective clothing and equipment compliant with NFPA 1977, "Standard on Protective Clothing and Equipment

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for Wildland Fire Fighting and Urban Interface Fire Fighting.”

Section 60. Subsections (4) and (5) of section 633.216, Florida Statutes, are amended to read:

633.216 Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(4) Every firesafety inspector certificate is valid for a period of 4 years from the date of issuance. Renewal of certification is subject to the affected person’s completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by rule adopted under this chapter, which must include completion of at least 54 hours during the preceding 4-year period of continuing education as required by the rule of the department ~~or, in lieu thereof, successful passage of an examination as established by the department.~~

~~(5) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the~~

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~~fire safety inspector training as specified by the division.~~

Section 61. Paragraph (b) of subsection (4) and paragraphs (a) and (c) of subsection (6) of section 633.408, Florida Statutes, are amended to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(4) The division shall issue a Firefighter Certificate of Compliance to an individual who does all of the following:

(b) Passes the Minimum Standards Course certification ~~examination~~ within 12 months after completing the required courses.

(6)(a) The division may issue a Special Certificate of Compliance to an individual who does all of the following:

1. Satisfactorily completes the course established by rule by the division and successfully passes any examination corresponding to such course ~~in paragraph (1)(b)~~ to obtain a Special Certificate of Compliance.

2. ~~Passes the examination established in paragraph (1)(b) to obtain a Special Certificate of Compliance.~~

3. Possesses the qualifications in s. 633.412.

~~(c) In order to retain a Special Certificate of Compliance, every 4 years an individual must:~~

1. ~~Be active as a firefighter;~~

2. ~~Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4 year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division; or~~

3. ~~Within 6 months before the 4-year period expires,~~

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~~successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training as prescribed by rule.~~

Section 62. Subsections (1) and (4) of section 633.414, Florida Statutes, are amended to read:

633.414 Retention of firefighter and volunteer firefighter certifications.—

(1) In order for a firefighter to retain her or his Firefighter Certificate of Compliance or Special Certificate of Compliance, every 4 years he or she must meet the requirements for renewal provided in this chapter and by rule, which must include at least one of the following:

(a) Be active as a firefighter. As used in this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter as evidenced by the individual's name appearing on a fire service provider's employment roster in the Florida State Fire College database or a letter by the fire service provider attesting to dates of employment.

(b) Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division.

(c) ~~Before the expiration of the certificate within 6 months before the 4-year period expires~~, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training to be prescribed by rule.

(d) ~~Before the expiration of the certificate within 6~~

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~~months before the 4-year period expires~~, successfully retake and pass the Minimum Standards Course examination pursuant to s. 633.408.

~~(4) For the purposes of this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter for a cumulative period of 6 months within a 4-year period.~~

The 4-year period may, in the discretion of the department, be extended to 12 months after discharge from military service if the military service does not exceed 3 years, but in no event more than 6 years from the date of issue or renewal, if applicable, for an honorably discharged veteran of the United States Armed Forces or the spouse of such a veteran. A qualified individual must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document that indicates such member is currently in good standing or such veteran is honorably discharged.

Section 63. Subsection (4) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(4) The applicant shall furnish, with his or her application, a complete set of his or her fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not authorize an applicant to take

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the required examination until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 64. Subsection (4) of section 648.355, Florida Statutes, is amended to read:

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination.—

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. ~~The applicant's fingerprints shall be certified by an authorized law enforcement officer.~~ The department shall not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 65. Subsection (4) is added to section 648.46, Florida Statutes, to read:

648.46 Procedure for disciplinary action against licensees.—

(4) The expiration, nonrenewal, or surrender of licensure under this chapter does not eliminate the jurisdiction of the licensing authority to investigate and prosecute for a violation committed by a licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued

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notwithstanding the withdrawal of a complaint.

Section 66. Paragraph (d) of subsection (2) and paragraphs (b), (c), and (e) of subsection (3) of section 766.105, Florida Statutes, are amended, and paragraph (i) is added to subsection (3) and subsection (4) is added to that section, to read:

766.105 Florida Patient's Compensation Fund.—

(2) COVERAGE.—

(d)1. Any health care provider who participates in the fund and who does not meet the provisions of paragraph (b) shall not be covered by the fund.

2. Annually, the Agency for Health Care Administration shall require documentation by each hospital that such hospital is in compliance, and will remain in compliance, with the provisions of this section. ~~The agency shall review the documentation and then deliver the documentation to the board of governors. At least 60 days before the time a license will be issued or renewed, the agency shall request from the board of governors a certification that each hospital is in compliance with the provisions of this section. The board of governors shall not be liable under the law for any erroneous certification. The agency may not issue or renew the license of any hospital which has not been certified by the board of governors. The license of any hospital that fails to remain in compliance or fails to provide such documentation shall be revoked or suspended by the agency.~~

(3) THE FUND.—

(b) Fund administration and operation.—

1. The fund shall operate subject to the supervision and approval of the Chief Financial Officer or his or her designee ~~a~~

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2437 ~~board of governors consisting of a representative of the~~
 2438 ~~insurance industry appointed by the Chief Financial Officer, an~~
 2439 ~~attorney appointed by The Florida Bar, a representative of~~
 2440 ~~physicians appointed by the Florida Medical Association, a~~
 2441 ~~representative of physicians' insurance appointed by the Chief~~
 2442 ~~Financial Officer, a representative of physicians' self-~~
 2443 ~~insurance appointed by the Chief Financial Officer, two~~
 2444 ~~representatives of hospitals appointed by the Florida Hospital~~
 2445 ~~Association, a representative of hospital insurance appointed by~~
 2446 ~~the Chief Financial Officer, a representative of hospital self-~~
 2447 ~~insurance appointed by the Chief Financial Officer, a~~
 2448 ~~representative of the osteopathic physicians' or podiatric~~
 2449 ~~physicians' insurance or self insurance appointed by the Chief~~
 2450 ~~Financial Officer, and a representative of the general public~~
 2451 ~~appointed by the Chief Financial Officer. The board of governors~~
 2452 ~~shall, during the first meeting after June 30 of each year,~~
 2453 ~~choose one of its members to serve as chair of the board and~~
 2454 ~~another member to serve as vice chair of the board. The members~~
 2455 ~~of the board shall be appointed to serve terms of 4 years,~~
 2456 ~~except that the initial appointments of a representative of the~~
 2457 ~~general public by the Chief Financial Officer, an attorney by~~
 2458 ~~The Florida Bar, a representative of physicians by the Florida~~
 2459 ~~Medical Association, and one of the two representatives of the~~
 2460 ~~Florida Hospital Association shall be for terms of 3 years,~~
 2461 ~~thereafter, such representatives shall be appointed for terms of~~
 2462 ~~4 years. Subsequent to initial appointments for 4-year terms,~~
 2463 ~~the representative of the osteopathic physicians' or podiatric~~
 2464 ~~physicians' insurance or self insurance appointed by the Chief~~
 2465 ~~Financial Officer and the representative of hospital self-~~

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2466 ~~insurance appointed by the Chief Financial Officer shall be~~
 2467 ~~appointed for 2 year terms; thereafter, such representatives~~
 2468 ~~shall be appointed for terms of 4 years. Each appointed member~~
 2469 ~~may designate in writing to the chair an alternate to act in the~~
 2470 ~~member's absence or incapacity. A member of the board, or the~~
 2471 ~~member's alternate, may be reimbursed from the assets of the~~
 2472 ~~fund for expenses incurred by him or her as a member, or~~
 2473 ~~alternate member, of the board and for committee work, but he or~~
 2474 ~~she may not otherwise be compensated by the fund for his or her~~
 2475 ~~service as a board member or alternate.~~

2476 2. There shall be no liability on the part of, and no cause
 2477 of action of any nature shall arise against, the fund or its
 2478 agents or employees, professional advisers or consultants, the
 2479 Chief Financial Officer or his or her designee ~~members of the~~
 2480 ~~board of governors or their alternates~~, or the Department of
 2481 Financial Services or the Office of Insurance Regulation of the
 2482 Financial Services Commission or their representatives for any
 2483 action taken by them in the performance of their powers and
 2484 duties pursuant to this section.

2485 (c) *Powers of the fund.*—The fund has the power to:

2486 1. Sue and be sued, and appear and defend, in all actions
 2487 and proceedings in its name to the same extent as a natural
 2488 person.

2489 2. Adopt, change, amend, and repeal a plan of operation,
 2490 not inconsistent with law, for the regulation and administration
 2491 of the affairs of the fund. The plan and any changes thereto
 2492 shall be filed with the Office of Insurance Regulation of the
 2493 Financial Services Commission and are all subject to its
 2494 approval before implementation by the fund. All fund members,

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board members, and employees shall comply with the plan of operation.

3. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the fund is created.

4. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.

5. Employ or retain such persons as are necessary to perform the administrative and financial transactions and responsibilities of the fund and to perform other necessary or proper functions unless prohibited by law.

6. Take such legal action as may be necessary to avoid payment of improper claims.

7. Indemnify any ~~employee, agent, member of the board of governors or his or her alternate, or~~ person acting on behalf of the fund in an official capacity, for expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with any action, suit, or proceeding, including any appeal thereof, arising out of his or her capacity in acting on behalf of the fund, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the fund and, with respect to any criminal action or proceeding, he or she had reasonable cause to believe his or her conduct was lawful.

(e) *Fund accounting and audit.*—

1. Money shall be withdrawn from the fund only upon a voucher as authorized by the Chief Financial Officer or his or her designee ~~board of governors~~.

2. All books, records, and audits of the fund shall be open

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for reasonable inspection to the general public, except that a claim file in possession of the fund, fund members, and their insurers is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of litigation or settlement of the claim, although medical records and other portions of the claim file may remain confidential and exempt as otherwise provided by law. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the Chief Financial Officer or his or her designee ~~board of governors~~, which shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Office of Insurance Regulation and the Joint Legislative Auditing Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Office of Insurance Regulation or the Joint Legislative Auditing Committee.

5. Any money held in the fund shall be invested in interest-bearing investments ~~by the board of governors of the fund as administrator~~. However, in no case may any such money be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by s. 627.351(4) or in the parent company of, or company owning a controlling interest in,

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such insurer. All income derived from such investments shall be credited to the fund.

6. Any health care provider participating in the fund may withdraw from such participation only at the end of a fiscal year; however, such health care provider shall remain subject to any assessment or any refund pertaining to any year in which such member participated in the fund.

(i) Dissolution of the fund.—The fund shall operate subject to the supervision of the Chief Financial Officer or his or her designee, pursuant to the policies and procedures and under the auspices of the Department of Financial Services, Division of Rehabilitation and Liquidation, until the department executes a legal dissolution of the fund on or before December 31, 2023. Before the legal dissolution of the fund, the Department of Financial Services must:

1. Obtain all existing records and retain necessary records of the fund pursuant to law.

2. Identify all remaining property held by the fund and attempt to return such property to its owners and, for property that cannot be returned to the owner, transfer such property to the Department of Financial Services, Division of Unclaimed Property.

3. Make a final accounting of the finances of the fund.

4. Ensure that the fund has met all its obligations pursuant to structured settlements, annuities, or other instruments established to pay covered claims, and, if the fund has not done so, attempt to meet such obligations before final and complete dissolution of the fund.

5. Sell or otherwise dispose of all physical assets of the

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fund.

6. Execute a legal dissolution of the fund.

7. Transfer any remaining money or assets of the fund to the Chief Financial Officer for deposit in the General Revenue Fund.

(4) REPEAL.—This section is repealed January 1, 2024.

Section 67. Paragraph (b) of subsection (1) of section 945.6041, Florida Statutes, is amended to read:

945.6041 Inmate medical services.—

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

(b) "Health care provider" means:

1. A hospital licensed under chapter 395.

2. A physician or physician assistant licensed under chapter 458.

3. An osteopathic physician or physician assistant licensed under chapter 459.

4. A podiatric physician licensed under chapter 461.

5. A health maintenance organization certificated under part I of chapter 641.

6. An ambulatory surgical center licensed under chapter 395.

7. A professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

8. Other medical facility.

a. As used in this subparagraph, the term "other medical facility" means:

(I) A facility the primary purpose of which is to provide

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2611 human medical diagnostic services, or a facility providing
 2612 nonsurgical human medical treatment which discharges patients on
 2613 the same working day that the patients are admitted; and
 2614 (II) A facility that is not part of a hospital.
 2615 b. The term does not include a facility existing for the
 2616 primary purpose of performing terminations of pregnancy, or an
 2617 office maintained by a physician or dentist for the practice of
 2618 medicine ~~has the same meaning as provided in s. 766.105.~~
 2619 Section 68. Paragraph (a) of subsection (1) of section
 2620 985.6441, Florida Statutes, is amended to read:
 2621 985.6441 Health care services.—
 2622 (1) As used in this section, the term:
 2623 (a) "Health care provider" means:
 2624 1. A hospital licensed under chapter 395.
 2625 2. A physician or physician assistant licensed under
 2626 chapter 458.
 2627 3. An osteopathic physician or physician assistant licensed
 2628 under chapter 459.
 2629 4. A podiatric physician licensed under chapter 461.
 2630 5. A health maintenance organization certificated under
 2631 part I of chapter 641.
 2632 6. An ambulatory surgical center licensed under chapter
 2633 395.
 2634 7. A professional association, partnership, corporation,
 2635 joint venture, or other association established by the
 2636 individuals set forth in subparagraphs 2., 3., and 4. for
 2637 professional activity.
 2638 8. Other medical facility.
 2639 a. As used in this subparagraph, the term "other medical

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2640 facility" means:
 2641 (I) A facility the primary purpose of which is to provide
 2642 human medical diagnostic services, or a facility providing
 2643 nonsurgical human medical treatment which discharges patients on
 2644 the same working day that the patients are admitted; and
 2645 (II) A facility that is not part of a hospital.
 2646 b. The term does not include a facility existing for the
 2647 primary purpose of performing terminations of pregnancy, or an
 2648 office maintained by a physician or dentist for the practice of
 2649 medicine ~~has the same meaning as provided in s. 766.105.~~
 2650 Section 69. All powers, duties, functions, records,
 2651 offices, personnel, associated administrative support positions,
 2652 property, pending issues, existing contracts, administrative
 2653 authority, and administrative rules relating to the Stop Inmate
 2654 Fraud Program within the Department of Financial Services are
 2655 transferred by a type two transfer as defined in s. 20.06(2),
 2656 Florida Statutes, to the Department of Economic Opportunity.
 2657 Section 70. Except as otherwise expressly provided in this
 2658 act, this act shall take effect July 1, 2022.

Page 92 of 92

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JIM BOYD

21st District

January 27, 2022

Senator Ben Albritton
404 South Monroe Street
201 The Capitol
Tallahassee, FL 32399

Dear Chairman Albritton:

I respectfully request CS/SB1874: Department of Financial Services, be scheduled for a hearing in the Appropriations Subcommittee on Agriculture, Environment, and General Government, at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in blue ink, appearing to read "Jim Boyd".

Jim Boyd

cc: Giovanni Betta
Caroline Goodner

REPLY TO:

- ☐ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

2/22/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

1874

Bill Number or Topic

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

Aq, Envs, Govt Appr

Committee

Amendment Barcode (if applicable)

Name

Ray Colburn

Phone

Address

P.O. Box 10448

Email

ray@PPCA.org

Street

Tallahassee, FL 32302

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:

Florida Fire Chiefs Association

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. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB1874

Bill Number or Topic

Amendment Barcode (if applicable)

2/22/2022
Appropriations Sub Committee on
Agriculture, Environment, and General
Government
Committee

Name Tasha Carter

Phone (850) 413-2868

Address 200 East Gaines Street
Street

Email tasha.carter@myfloridalefo.com

Tallahassee, Florida 32399
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:

Office of the Insurance
Consumer Advocate

☐ 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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5-001 (08/10/2021)

2/22

Meeting Date

Agriculture Environment & General Gov.

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1874

Bill Number or Topic

Amendment Barcode (if applicable)

Name **AUSTIN STOWERS**

Phone **850 413 5239**

Address **200 E Gaines**
Street

Email **austin.stowers@myfloridachoice.com**

Tallahassee
City

FL
State

32329
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:

Department of Financial Services

☐ 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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 1940

INTRODUCER: Environment and Natural Resources Committee and Senator Brodeur

SUBJECT: Statewide Flooding and Sea Level Rise Resilience

DATE: February 21, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Fav/CS
2. Reagan	Betta	AEG	Recommend: Favorable
3. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1940 establishes the Statewide Office of Resilience (office) within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

The bill requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System. The bill identifies goals of the action plan and requires it to include certain components. It also requires the DOT to submit the action plan to the Governor and the Legislature by June 20, 2023, and a status report every third year on June 30 thereafter.

The bill makes various revisions to section 380.093, Florida Statutes, relating to statewide resiliency funding and planning, including:

- Authorizing the use of Resilient Florida Grant Program funds to fund preconstruction activities for Statewide Flooding and Sea Level Rise Resilience Plan (plan) projects in municipalities and counties meeting certain population thresholds, but not for projects that adapt critical assets to flooding and sea level rise;
- Pushing back by one year (to 2023 and 2024, respectively) the dates by which the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment must be completed; and
- Revising the \$100 million cap on funding proposed for each year of the plan to a minimum threshold of \$100 million.

The bill requires the Florida Flood Hub for Applied Research and Innovation to provide certain data to counties and municipalities for vulnerability assessments.

Beginning January 1, 2023, the bill also directs surveyors and mappers to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on the DEM's website.

The bill will likely cause the DOT to incur costs associated with developing the required resilience action plan for the State Highway System.

II. Present Situation:

Chief Resilience Officer

In January of 2019, Governor DeSantis issued Executive Order 19-12, creating the Office of Resilience and Coastal Protection to help prepare Florida's coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.¹ This office oversees a broad range of state programs.²

In August of 2019, the Governor appointed Florida's first Chief Resilience Officer (CRO), Dr. Julia Nesheiwat. The CRO reports directly to the Executive Office of the Governor and is tasked with preparing Florida for the environmental, physical, and economic impacts of sea level rise.³

In February of 2020, Dr. Nesheiwat stepped down as the CRO. Former Secretary of the Department of Environmental Protection (DEP), Noah Valenstein, served as the interim CRO until he resigned in May 2021. The current Secretary of the DEP, Shawn Hamilton, served as the CRO until Governor DeSantis appointed Wesley Brooks, the current CRO, in November 2021.⁴

Statewide Resilience Programs

Department of Environmental Protection Programs

In 2021, the Legislature, recognizing that Florida is vulnerable to flooding from increasing rainfall, storm surge, and sea level rise, established several statewide resilience programs administered by the DEP.⁵ Those programs include the following:

¹ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Jan. 26, 2022).

² Dep't of Environmental Protection (DEP), *Office of Resilience and Coastal Protection*, <https://floridadep.gov/rcp> (last visited Jan. 26, 2022).

³ See Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida's First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Jan. 26, 2022).

⁴ Governor Ron DeSantis, News Releases, *Governor DeSantis Announces Four Key Appointments to His Administration* (Nov. 19, 2021), <https://www.flgov.com/2021/11/19/governor-desantis-announces-four-key-appointments-to-his-administration/> (last visited Jan. 26, 2022); Renzo Downey, "After 20 months of uncertainty, Gov. DeSantis names Wesley Brooks as Chief Resilience Officer," *FLORIDA POLITICS*, available at <https://floridapolitics.com/archives/474849-after-20-months-of-uncertainty-gov-desantis-names-wesley-brooks-as-chief-resilience-officer/> (last visited Jan. 26, 2022).

⁵ Sections 380.093, 380.0933, 403.928(4), F.S.; see ch. 2021-28, Laws of Fla.

- The DEP’s Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets.⁶ The findings of the assessments must be reported to the DEP.
- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years. The DEP must:
 - By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities; and
 - By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.
- The Statewide Flooding and Sea Level Rise Resilience Plan. By each December 1, the DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature. The plan must consist of ranked projects addressing the risks of flooding and sea level rise to communities in the state. The funding proposed in the plan may not exceed \$100 million in one year and is subject to review and appropriation by the Legislature. Each project must have a minimum 50 percent cost-share, unless it assists or is within a financially disadvantaged small community.⁷ Counties, municipalities, and regional resilience entities⁸ are authorized to submit to the DEP lists of proposed projects for inclusion, and water management districts and flood control districts are authorized to submit to the DEP lists of proposed projects specifically relating to water supplies or water resources for inclusion.⁹ The DEP must assess projects for inclusion by implementing a four-tiered scoring system.¹⁰

Department of Transportation Programs

The Department of Transportation (DOT) regulates access to the facilities forming part of the State Highway System.¹¹ The Florida Transportation Code¹² defines the State Highway System¹³ as meaning:

- The interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995;
- Roads constructed by an agency of the state for the State Highway System; and

⁶ Section 380.093(2)(a), F.S. “Critical asset” is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

⁷ Section 380.093(5)(e), F.S. “Financially Disadvantaged Small Community,” for purposes of s. 380.093, F.S., is defined as a municipality with a population of 10,000 or fewer and a per capita annual income that is less than the state’s per capita annual income, or a county with a population of 50,000 or fewer and a per capita annual income that is less than the state’s per capita annual income.

⁸ Section 380.093(6), F.S. The bill authorizes the DEP to provide funding, subject to specific legislative appropriation, to regional resilience entities for providing technical assistance to counties and municipalities, coordinating multijurisdictional vulnerability assessments, and developing project proposals for the statewide resilience plan.

⁹ Section 380.093(5)(d), F.S.

¹⁰ Section 380.093(5)(h), F.S.

¹¹ Section 334.03(24), F.S.

¹² Chapters 334-339, 341, 348, and 349, F.S., and ss. 332.003-332.007, 351.35, 351.36, 351.37, and 861.011, F.S. *See* s. 334.01, F.S., (identifying the chapters and sections of the Florida Statutes that may be cited as the Florida Transportation Code).

¹³ Section 334.03(24), F.S.

- Roads transferred into the state’s jurisdiction after June 10, 1995 by mutual consent with another governmental entity, but not including roads transferred out of the state’s jurisdiction in the same way.¹⁴

In April 2020, Secretary of the DOT Kevin Thibault signed Policy 000-525-053,¹⁵ entitled Resiliency of State Transportation Infrastructure (Resiliency Policy), to make it the official policy of the DOT to consider the resiliency of the state’s transportation system to support the safety, mobility, quality of life, and economic prosperity of Florida and to preserve the quality of its environment and communities.¹⁶

The Resiliency Policy recognizes that resiliency includes the ability of the transportation system to adapt to changing conditions and prepare for, withstand, and recover from disruption. To that end, the DOT has pledged to:¹⁷

- Continue to identify risks, particularly related to sea level rise, flooding, and storms; assess potential impacts; and employ strategies to avoid, mitigate, or eliminate impacts;
- Collaborate with appropriate agencies and organizations for information sharing and alignment of resiliency strategies; and
- Implement the Resiliency Policy through the DOT’s long-range and modal plans; work program; asset management plans; research efforts; and internal manuals, tools, guidelines, procedures, and related documents, guiding planning, programming, project development, design, construction, operations, and maintenance.¹⁸

Consistent with its Resiliency Policy, the DOT is doing all of the following to advance resiliency:¹⁹

¹⁴ *Id.*

¹⁵ Dep’t of Transportation (DOT), *Resiliency of State Transportation Infrastructure, Topic No. 000-525-053* (Apr. 27, 2020), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/resilience/resiliency_policy_000-525-053.pdf?sfvrsn=4dae64fd_2 (last visited Jan. 28, 2022). The U.S. Department of Transportation, Federal Highway Administration (FHWA), has also issued an order directing FHWA to integrate consideration of climate change and extreme weather event impacts and adaptation responses into the delivery and stewardship of the Federal aid and Federal Lands Highway programs. This includes encouraging state departments of transportation and other agencies to develop, prioritize, implement, and evaluate risk-based and cost-effective strategies to minimize climate and extreme weather risks and protect critical infrastructure using the best available science, technology, and information. *See* U.S. Dep’t of Transportation, Federal Highway Administration, *Transportation System Preparedness and Resilience to Climate Change and Extreme Weather Events, Order 5520* (Dec. 15, 2014), available at <https://www.fhwa.dot.gov/legregs/directives/orders/5520.pdf> (last visited Jan. 31, 2022).

¹⁶ *Id.*

¹⁷ DOT, *Resiliency of State Transportation Infrastructure, Topic No. 000-525-053* (Apr. 27, 2020), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/resilience/resiliency_policy_000-525-053.pdf?sfvrsn=4dae64fd_2 (last visited Jan. 28, 2022).

¹⁸ *Id.*

¹⁹ DOT, *Resiliency Subject Brief, 2*, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheets_resilience_0630.pdf?sfvrsn=1173ebf_2 (last visited Jan. 28, 2022).

- Incorporating resiliency in statewide planning efforts including the Florida Transportation Plan,²⁰ Strategic Intermodal System (SIS) Policy Plan,²¹ Freight Mobility and Trade Plan,²² and Transportation Asset Management Plan;²³
- Providing resources such as the Resilience Quick Guide²⁴ for incorporating resiliency into Metropolitan Planning Organizations' (MPOs') long range plans and the Resilience Primer that establishes a process framework, documents industry best practices, and provides a resiliency toolbox;²⁵
- Laying the groundwork for a SIS Resilience Action Plan as part of phase II of a vulnerability assessment for Florida's high priority transportation facilities;
- Developing and coordinating training for the Sea Level Scenario Sketch Planning Tool²⁶ to aid the assessment of potential long-range sea level rise impacts on transportation infrastructure;
- Designing for rising sea levels and tidal issues by analyzing projected sea levels and tides in the design of bridge replacement projects and incorporating closed drainage system upgrades and backflow devices into coastal projects;
- Supporting research activities that provide a better understanding of the impacts and potential responses to sea level rise, tidal flooding, and other stresses and shocks;
- Managing infrastructure assets like roadway pavements through analysis and implementation of methods that address environmental conditions such as extreme heat; and
- Safeguarding information technology through an agency-wide team established to ensure the protection of critical data and network resources from cyberattacks and other threats.²⁷

²⁰ DOT, *Florida Transportation Plan (FTP)*, available at <http://floridatransportationplan.com/index.htm> (last visited Jan. 29, 2022). The Florida Transportation Plan is the single overarching plan guiding Florida's transportation future. Updated every five years, it is a collaborative effort of state, regional, and local transportation partners in the public and private sectors.

²¹ DOT, *Strategic Intermodal System Policy Plan* (Mar. 2016), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/planning/systems/programs/mspi/plans/sis-policyplan.pdf?sfvrsn=4d7341ad_0 (last visited Jan. 29, 2022). The Strategic Intermodal System Policy Plan establishes the policy framework for planning and managing Florida's Strategic Intermodal System, the high priority network of transportation facilities important to the state's economic competitiveness. *Id.* at ii.

²² DOT, *Freight Mobility and Trade Plan* (2020), available at <https://www.fdot.gov/fmtp> (last visited Jan. 29, 2022).

²³ DOT, *Transportation Asset Management Plan* (2015), available at <https://www.fdot.gov/docs/default-source/planning/tamp/TAMP-2015.pdf> (last visited Jan. 29, 2022).

²⁴ DOT, *Resilience Quick Guide: Incorporating Resilience in the MPO Long Range Transportation Plan*, 2 (2020), available at http://www.floridatransportationplan.com/pdf/2020-01-29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf (last visited Jan. 26, 2022). The purpose of the Quick Guide is to help MPOs improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation in the long-range transportation planning process. Florida MPOs must consider resilience as a planning factor when assessing projects, strategies, and services during development of their Long Range Transportation Plans (LRTPs). The Quick Guide outlines the steps for MPOs to consider throughout the development of the LRTP.

²⁵ DOT, *Resiliency Subject Brief*, 2, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheets_resilience_0630.pdf?sfvrsn=1173ebf_2 (last visited Jan. 28, 2022). MPOs must, in cooperation with the state and public transportation operators, "[i]mprove the resilience and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation" in the long range transportation planning process. *See id.*; *see also* 23 C.F.R. s. 450.306(b)(9).

²⁶ University of Florida GeoPlan Center, *Sea Level Scenario Sketch Planning Tool*, <https://sls.geoplan.ufl.edu/> (last visited Jan. 29, 2022). The purpose of the Sea Level Scenario Sketch Planning Tool is to help identify transportation infrastructure exposed to current and future flood risks. It was created by the University of Florida GeoPlan Center with funding from the DOT. *Id.*

²⁷ *Id.*

Division of Emergency Management Programs

The Division of Emergency Management (DEM) in the Executive Office of the Governor maintains a statewide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program (NFIP).²⁸

The NFIP was created by passage of the National Flood Insurance Act of 1968.²⁹ The NFIP is managed by the Federal Emergency Management Agency (FEMA) and enables homeowners, business owners, and renters in flood-prone areas to purchase flood insurance protection from the federal government.³⁰ Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.³¹

The NFIP elevation certificate is used to provide elevation information necessary to ensure compliance to community floodplain management ordinances, to determine the proper insurance premium rate, or to support a request for a Letter of Map Amendment.³² As part of the agreement for making flood insurance available in a community, the NFIP requires each community to adopt floodplain management regulations that specify minimum requirements for reducing flood losses.³³ One such requirement is for the community to obtain the elevation of the lowest floor (including the basement) of all new and substantially improved buildings, and maintain a record of such information. The elevation certificate provides a way for a community to document compliance with the community's floodplain management ordinance.³⁴

In Florida, elevation certificates must be completed by a surveyor and mapper.³⁵ Since January 1, 2017, surveyors and mappers are required to submit, within 30 days after completion, a copy of each elevation certificate that he or she completes to the DEM. The surveyor and mapper must retain a signed and sealed original in his or her records.³⁶ Elevation certificates may be submitted to the DEM using its online web application³⁷ developed for this purpose.³⁸

Other State, Regional, and Local Programs

The following list includes examples of resilience efforts by other government entities in Florida:

²⁸ Division of Emergency Management (DEM), *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Jan. 26, 2022); DEM, *State Floodplain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Jan. 26, 2022).

²⁹ FEMA, *50 Years of the NFIP*, available at https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf (last visited Jan. 29, 2022).

³⁰ Benefits.gov, *National Flood Insurance Program (NFIP)*, <https://www.benefits.gov/benefit/435> (last visited Jan. 29, 2022).

³¹ *Id.*

³² FEMA, *Elevation Certificate and Instructions (2019 Edition)*, available at https://www.fema.gov/sites/default/files/2020-07/fema_nfip_elevation-certificate-form_feb-2020.pdf (last visited Jan. 29, 2022).

³³ *Id.*

³⁴ *Id.*

³⁵ Section 472.0366(1)(b), F.S.

³⁶ Section 472.0366(2), F.S.

³⁷ DEM, *Elevation Certificates Submittal Form*, <https://maps.floridadisaster.org/portal/apps/GeoForm/index.html?appid=d5642b277af24b7191107524b390bada> (last visited Jan. 31, 2022).

³⁸ DEM, *Elevation Certificates*, <https://www.floridadisaster.org/elevation-certificates/> (last visited Jan. 31, 2022).

- Florida’s coastal local governments must have a coastal management element in their comprehensive plans,³⁹ and this element may include an “adaptation action area” designation⁴⁰ and must contain a redevelopment component in compliance with the 2015 “Peril of Flood” law.⁴¹
- The Department of Economic Opportunity assists communities with adaptation planning, and its Office of Long-Term Resiliency supports communities following disasters, which includes administering federal funds that support resiliency efforts.⁴²
- The Fish and Wildlife Conservation Commission (FWC) is Florida’s lead agency on addressing the impacts of climate change on fish and wildlife.⁴³ In 2016, the FWC published a guide of adaptation strategies for the predicted impacts of climate changes.⁴⁴
- The Department of Agriculture and Consumer Services’ Office of Energy develops Florida’s energy policy and works on climate change issues.⁴⁵
- The Department of Business and Professional Regulation’s Florida Building Commission adopts floodplain management and resilience standards into the Florida Building Code.⁴⁶
- The water management districts implement a range of resilience and flood control programs.⁴⁷
- Florida is divided into ten Regional Planning Councils, and some do resilience planning.⁴⁸
 - The Northeast Florida Regional Council’s efforts include grant funding, technical support, and resources including an online mapping tool for determining risk.⁴⁹

³⁹ Sections 380.24, 163.3177(6)(g), and 163.3178(2), F.S.

⁴⁰ Chapter 2011-139, Laws of Fla.; ss. 163.3164(1) and 163.3177(6)(g)10., F.S.

⁴¹ Chapter 2015-69, Laws of Fla.; s. 163.3178(2)(f), F.S.

⁴² Dep’t of Economic Opportunity (DEO), *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Jan. 26, 2022); DEO, *Office of Long-Term Resiliency*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Jan. 26, 2022).

⁴³ Florida Fish and Wildlife Conservation Commission (FWC), *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Jan. 26, 2022).

⁴⁴ FWC, *A Guide to Climate Change Adaptation for Conservation*, 1-1 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Feb. 3, 2021).

⁴⁵ Dep’t of Agriculture and Consumer Services (DACS), *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Jan. 26, 2022).

⁴⁶ Chapter 553, pt. IV, F.S.; Fla. Admin. Code R. 61g20-1.001; see Building a Safer Florida, Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code*, 1 (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Jan. 26, 2022).

⁴⁷ St. John’s River Water Management District, *Sea-Level Rise and Resiliency*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/> (last visited Jan. 26, 2022); Akintunde Owosina, Chief, Hydrology and Hydraulics Bureau, South Florida Water Management District (SFWMD), Governing Board Meeting, June 13, 2019, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6-10 (June 13, 2019), available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Jan. 26, 2022); Dr. Carolina Maran, District Resiliency Officer, SFWMD, Governing Board Meeting, March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, 1 (Mar. 12, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/25445> (last visited Jan. 26, 2022). In 2020, SFWMD appointed a District Resiliency Officer. It also implements a Flood Control Level of Service Program and, in collaboration with the U.S. Army Corps of Engineers, has initiated the Central and South Florida Flood Resiliency Study. See *id.*; see also SFWMD, *Resiliency and Flood Protection*, <https://www.sfwmd.gov/our-work/resiliency-and-flood-protection> (last visited Jan. 29, 2022).

⁴⁸ Sections 186.501-186.513, F.S.

⁴⁹ Northeast Florida Regional Council, *Resiliency Services*, <https://www.nefrc.org/resiliency> (last visited Jan. 26, 2022).

- The East Central Florida Regional Planning Council has formed the East Central Florida Regional Resilience Collaborative, which includes 25 member counties and cities and six member organizations and agencies.⁵⁰
- The Tampa Bay Regional Planning Council is active on resiliency planning.⁵¹
- The United States Army Corps of Engineers (USACE) is planning and implementing many projects in Florida related to resilience.
 - The Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study is a three-year study, ending in September of 2021, that has tentatively recommended a plan that may include storm surge barriers, floodproofing of critical infrastructure countywide, and nonstructural measures (including home elevations or floodproofing) in seven refined focus areas determined to be the most socially vulnerable economic damage centers in Miami-Dade County.⁵²
 - The Central and Southern Florida Flood Resiliency Study was proposed by the USACE, with the support of the South Florida Water Management District, to reevaluate the Central and Southern Florida Project to address climate change, sea level rise, and more.⁵³
- The FEMA administers hazard mitigation programs that increase resilience and facilitate hazard mitigation planning and grant funding.⁵⁴ The FEMA also administers the NFIP, which includes insurance, floodplain mapping, and federal, state, and local regulations.⁵⁵

The Office of Economic and Demographic Research

The Legislature's Office of Economic and Demographic Research (EDR) is a research arm principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations.⁵⁶ The EDR conducts an annual assessment of Florida's water resources and conservation lands.⁵⁷ For water resources, the assessment must include historical, current, and estimated future expenditures associated with water supply and demand, water quality protection and restoration, and government revenues dedicated for such purposes.⁵⁸ Also,

⁵⁰ East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://www.ecfrpc.org/resiliencycollaborative> (last visited Jan. 26, 2022).

⁵¹ Tampa Bay Regional Planning Council, *Resiliency Planning*, <https://www.tbrpc.org/resiliency/> (last visited Jan. 26, 2022).

⁵² USACE, *Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study*, <https://www.saj.usace.army.mil/MiamiDadeBackBayCSRMFfeasibilityStudy/> (last visited Jan. 26, 2022); U.S. Army Corps of Engineers, *Miami-Dade Back Bay Coastal Storm Risk management Draft Integrated Feasibility Report and Programmatic Environmental Impact Statement*, 177-178, 181, 222-238 (May 2020), available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll7/id/14453> (last visited Jan. 26, 2022).

⁵³ Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, video begins at 4:50:30 (Mar. 12, 2020), available at <http://sfwmd.ig2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2008&Format=Agenda> (last visited Jan. 26, 2022); see also SFWMD, *Central and Southern Florida Flood Resiliency Study*, <https://www.sfwmd.gov/our-work/central-and-southern-florida-flood-resiliency-study> (last visited Jan. 29, 2022).

⁵⁴ Federal Emergency Management Agency (FEMA), *Hazard Mitigation Assistance Guidance - Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program*, 1-5 (2015), available at https://www.fema.gov/sites/default/files/2020-07/fy15_HMA_Guidance.pdf (last visited Jan. 26, 2022).

⁵⁵ FEMA, *National Flood Insurance Program (NFIP), Floodplain Management Requirements, FEMA 480*, 2-6-2-8 (2005), available at https://www.fema.gov/sites/default/files/documents/fema-480_floodplain-management-study-guide_local-officials.pdf (last visited Jan. 26, 2022); see 44 C.F.R. parts 59 and 60.

⁵⁶ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited Mar. 3, 2021); see s. 1.01(19), F.S.

⁵⁷ Section 403.928, F.S.

⁵⁸ Section 403.928(1), F.S.

beginning with the assessment due January 1, 2022, the assessment must include an analysis of the expenditures necessary to repair, replace, and expand water-related infrastructure.⁵⁹ For conservation lands, the assessment must include expenditures, revenues, and tax implications related to government acquisition and maintenance of conservation lands in the state.⁶⁰

The EDR must submit the assessment to the Legislature by January 1 of each year.⁶¹ In 2021, the EDR published the most recent edition of the Annual Assessment of Florida's Water Resources and Conservation Lands.⁶²

Florida Flood Hub for Applied Research and Innovation

The Florida Flood Hub for Applied Research and Innovation (Flood Hub) is established within the University of South Florida (USF) College of Marine Science.⁶³ Its purpose is to coordinate efforts between the academic and research institutions of the state. The USF's College of Marine Science serves as the lead institution and engages other academic and research institutions, private partners, and financial sponsors to coordinate efforts to support applied research and innovation to address the flooding and sea level rise challenges of the state.⁶⁴

In 2021, the Legislature created the Flood Hub and tasked it with all of the following minimum duties:⁶⁵

- Organize existing data needs for a comprehensive statewide flood vulnerability and sea level rise analysis and perform a gap analysis to determine data needs;
- Develop statewide open source hydrologic models for physically-based flood frequency estimation and real-time forecasting of floods, including hydraulic models of floodplain inundation mapping, real-time compound and tidal flooding forecasts, future groundwater elevation conditions, and economic damage and loss estimates;
- Coordinate research funds from the state, the federal government, or other funding sources for related Flood Hub activities across all participating entities;
- Establish community-based programs to improve flood monitoring and prediction along major waterways, including intracoastal waterways and coastlines, of the state and to support ongoing flood research;
- Coordinate with agencies, including, but not limited to, the DEP and the water management districts;
- Share its resources and expertise;
- Assist in the development of training and in the development of a workforce in the state that is knowledgeable about flood and sea level rise research, prediction, and adaptation and mitigation strategies;
- Develop opportunities to partner with other flood and sea level rise research and innovation leaders for sharing technology or research; and

⁵⁹ *Id.*

⁶⁰ Section 403.928(2), F.S.

⁶¹ Section 403.928(7), F.S.

⁶² EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands* (2021), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2021Edition.pdf (last visited Jan. 28, 2022).

⁶³ Section 380.0933(1), F.S.

⁶⁴ *Id.*

⁶⁵ Ch. 2021-28, s. 2, Laws of Fla., as codified in s. 380.0933(2), F.S.

- Conduct these activities in cooperation with various local, state, and federal government entities as well as other flood and sea level rise research centers.⁶⁶

III. Effect of Proposed Changes:

Section 1 of the bill establishes a Statewide Office of Resilience within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

Section 2 of the bill requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System based on current conditions and forecasted future events. The goals of the resilience action plan are to do all of the following:

- Recommend strategies to enhance infrastructure and the operational resilience of the State Highway System, which may be incorporated into the transportation asset management plan;
- Recommend design changes for retrofitting existing and constructing new state highway facilities; and
- Enhance partnerships for collaboration to address multijurisdictional resilience needs.

The bill requires the resilience action plan to include an assessment of the State Highway System to identify roadway facilities and drainage outfalls that may be subject to vulnerabilities associated with tidal, rainfall, the combination of tidal and rainfall, and storm surge flooding, including future projections of sea-level rise, using existing data for current and forecasted future events. As part of the assessment, the DOT must do all of the following using the most up-to-date National Oceanic and Atmospheric Administration precipitation frequency and sea-level rise data:

- Synthesize historical and current infrastructure resilience issues statewide;
- Evaluate alternatives for retrofitting existing systems and infrastructure;
- Develop prioritization criteria for resilience project identification;
- Develop a prioritized resilience needs project list, in addition to existing projects within the work program, with the associated costs and timeline; and
- Develop a statewide database identifying and documenting those assets vulnerable to current and future flooding. The department shall develop a cost estimate and schedule to enhance existing data to include site-specific details and existing criteria to improve the needs prioritization.

The bill requires the DOT to perform a systemic review of its policies, procedures, manuals, tools, and guidance documents to identify revisions that will facilitate cost-effective improvements to address existing and future State Highway System infrastructure vulnerabilities associated with flooding and sea-level rise.

The DOT must also provide technical assistance to local agencies and modal partners on resilience issues related to the State Highway System and the deployment of local and regional solutions.

⁶⁶ *Id.*

The bill requires the DOT to submit the resilience action plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 20, 2023. Every third year on June 30 thereafter, the DOT must submit a status report reviewing updates to the action plan and the associated implementation activities.

Section 3 of the bill amends s. 380.093, F.S., relating to the Resilient Florida Grant Program; the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment; the Statewide Flooding and Sea Level Rise Resilience Plan; and regional resilience entities.

The bill creates two new definitions:

- “Preconstruction activities” means activities associated with a project which occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys, site development, solicitation, public hearings, local code amendments, establishing local funding sources, and easement acquisition; and
- “Regionally significant assets” means critical assets that support the needs of communities spanning multiple geopolitical jurisdictions, including, but not limited to, regional medical centers, emergency operations centers, regional utilities, major transportation hubs and corridors, airports, and seaports.

The bill clarifies that, subject to appropriation, the Department of Environmental Protection (DEP) may provide grants to a county or municipality to fund vulnerability assessments that identify or address risks of “inland or coastal” flooding and sea-level rise.

The bill provides that subject to appropriation, the DEP may also provide grants to a county or municipality to fund preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea-Level Rise Resilience Plan, which are located in a municipality that has a population of 10,000 or fewer, or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research’s website.

The bill eliminates the authorization for the DEP to provide grants to a county or municipality to fund projects to adapt critical assets to the effects of flooding and sea-level rise.

With respect to vulnerability assessments funded by the Resilient Florida Grant Program, the bill requires noncoastal communities to include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Projections of future rainfall conditions should be utilized, if available.

The bill provides that the DEP must complete the required comprehensive statewide flood vulnerability and sea-level rise data set by July 1, 2023, instead of July 1, 2022, and that in developing the data set, the DEP must work in coordination with the Florida Flood Hub for Applied Research and Innovation. It also requires the DEP to complete the required comprehensive statewide flood vulnerability and sea-level rise assessment by July 1, 2024, instead of July 1, 2023.

The bill provides that all eligible projects submitted to the DEP for inclusion in the statewide flooding and sea-level rise resilience plan must be ranked and included in the plan. Each plan must include:

- A detailed narrative overview describing how the plan was developed, including a description of the methodology used by the DEP to determine project eligibility;
- A description of the methodology used to rank projects;
- The specific scoring system used;
- The project proposal application form;
- A copy of each submitted project proposal application form with projects separated by “eligible” and “not eligible”;
- The total number of project proposals received and deemed eligible;
- The total funding requested; and
- The total funding requested for eligible projects.

The bill provides that the preliminary plan that must be submitted by December 1, 2021, must include projects submitted by the water management districts which mitigate the risks of flooding or sea-level rise on water supplies or water resources of the state. It also provides that the plan submitted by December 1, 2023, will be an update to the preliminary plan, and pushes back by one year (to December 1, 2024) the date by which the plan must address risks of flooding and sea-level rise identified in the comprehensive flood vulnerability and sea-level rise assessment.

The bill expands the list of entities that may submit a list of proposed projects to the DEP that address risks of flooding or sea-level rise identified in the vulnerability assessments funded by the Resilient Florida Grant Program, to include special districts as defined in state law, if they are responsible for the operation and maintenance of an airport or a seaport facility. The bill also provides that for the plans submitted by December 1, 2021; December 1, 2022; and December 1, 2023, counties, municipalities, and special districts may submit projects identified in existing vulnerability assessments which do not comply with Resilient Florida Grant Program requirements.

The bill expands the list of entities that may submit a list of proposed projects to the DEP that mitigate the risks of flooding or sea-level rise on water supplies or water resources to include drainage districts, erosion control districts, and regional water supply authorities.

The bill revises the \$100 million cap on funding proposed for each year of the statewide flooding and sea-level rise resilience plan to a minimum threshold of \$100 million.

Section 4 of the bill requires the Florida Flood Hub for Applied Research and Innovation (Flood Hub) to provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments that are conducted pursuant to the Resilient Florida Grant Program. The Flood Hub must provide rainfall-induced and compound flooding data sets; however, more localized data or modeling may be used.

Section 5 of the bill amends existing law to direct surveyors and mappers, beginning January 1, 2023, to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on the DEM's website.

Section 6 of the bill provides an effective date of July 1, 2022.

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:

Indeterminate.

C. Government Sector Impact:

The bill will likely cause the DOT to incur costs associated with developing the required resilience action plan for the State Highway System.

VI. Technical Deficiencies:

The bill amends s. 472.0366(2), F.S., to direct surveyors and mappers to submit digital copies of the elevation certificates they complete "beginning January 1, 2023." However, this amendment could be interpreted as eliminating the existing requirement to submit copies of elevation

certificates before and through January 1, 2023. Amending the subsection to read as follows would address the issue.

Delete lines 593 – 596 and insert:

(2) ~~Beginning January 1, 2017,~~ A surveyor and mapper shall, within 30 days after completion, submit to the division a copy of each elevation certificate that he or she completes as outlined on the division's website. Beginning January 1, 2023, such copies shall be submitted digitally. The copy must

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 14.2031 and 339.157 of the Florida Statutes, and amends sections 380.093, 380.0933, and 472.0366 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 Environment and Natural Resources on January 31, 2022:

- Retains the creation of the Statewide Office of Resilience headed by a Chief Resilience Officer.
- Requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System. The bill identifies goals of the action plan and requires it to include certain components. It also requires the DOT to submit the action plan to the Governor and the Legislature by June 20, 2023, and a status report reviewing updates to the action plan and associated implementation activities every third year on June 30 thereafter.
- Makes various revisions to s. 380.093, F.S., relating to statewide resiliency funding and planning. It:
 - Defines “Preconstruction activities” and “Regionally significant assets.”
 - Clarifies that the Department of Environmental Protection (DEP) may use the Resilient Florida Grant Program (Grant Program) to fund “inland or coastal” flooding and sea-level rise vulnerability assessments.
 - Provides that the DEP may use the Grant Program to fund preconstruction activities for Statewide Flooding and Sea-Level Rise Resilience Plan (Plan) projects in municipalities and counties meeting certain population thresholds, but may not use such funds for projects to adapt critical assets to flooding and sea-level rise.
 - Specifies when noncoastal communities must and should use certain rainfall data for vulnerability assessments funded by the Grant Program.

- Pushes back by one year (to 2023 and 2024, respectively) the dates by which the Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and the Assessment must be completed.
- Provides that all eligible projects submitted to the DEP for inclusion in the Plan must be included in the Plan and identifies what each Plan must include.
- Provides that the preliminary Plan must include projects submitted by the water management districts that mitigate the risks of flooding or sea-level rise on water supplies or resources.
- Provides that the Plans submitted in 2022 and 2023 will be updates to the preliminary plan, and that the Plan submitted in 2024 and thereafter must address risks of flooding and sea-level rise identified in the assessment.
- Provides that, in addition to counties and municipalities, certain special districts may also submit a list of proposed projects to the DEP that address risks of flooding or sea-level rise identified in the vulnerability assessments funded by the Grant Program. Also provides that for certain Plans, such entities may submit projects that do not comply with Grant Program requirements.
- Adds drainage districts, erosion control districts, and regional water supply authorities to the entities that may submit a list of proposed projects to the DEP that mitigate the risks of flooding or sea-level rise on water supplies or water resources.
- Revises the \$100 million cap on funding proposed for each year of the Plan to a minimum threshold of \$100 million.
- Requires the Florida Flood Hub for Applied Research and Innovation to provide certain data to counties and municipalities for vulnerability assessments.
- Directs surveyors and mappers, beginning January 1, 2023, to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on DEM's website.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and
Senator Brodeur

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1 A bill to be entitled
2 An act relating to statewide flooding and sea-level
3 rise resilience; creating s. 14.2031, F.S.;
4 establishing the Statewide Office of Resilience within
5 the Executive Office of the Governor; providing for
6 the appointment of a Chief Resilience Officer;
7 creating s. 339.157, F.S.; requiring the Department of
8 Transportation to develop a resilience action plan for
9 the State Highway System; providing the goals and
10 required components of the plan; requiring the
11 department to submit the plan to the Governor and the
12 Legislature by a specified date; requiring the plan to
13 be updated every 3 years; providing requirements for
14 the updated plan; amending s. 380.093, F.S.; defining
15 terms; revising the projects the Department of
16 Environmental Protection may fund within the Resilient
17 Florida Grant Program; revising vulnerability
18 assessment requirements for noncoastal communities;
19 extending the dates by which the department must
20 complete a comprehensive statewide flood vulnerability
21 and sea-level rise data set and assessment; requiring
22 the data set to be developed in coordination with the
23 Florida Flood Hub for Applied Research and Innovation;
24 requiring eligible projects submitted to the
25 department to be ranked and included in the Statewide
26 Flood and Sea-Level Rise Resilience Plan; revising the
27 entities authorized to submit proposed projects by
28 specified dates for the plan; amending s. 380.0933,
29 F.S.; requiring the Florida Flood Hub for Applied

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

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30 Research and Innovation to provide tidal and storm
31 surge flooding data to counties and municipalities for
32 vulnerability assessments; amending s. 472.0366, F.S.;
33 revising the effective date of a requirement that a
34 surveyor and mapper submit a copy of completed
35 elevation certificates to the Division of Emergency
36 Management; requiring the surveyor and mapper to
37 submit a digital copy of a completed elevation
38 certificate to the division; providing an effective
39 date.
40

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

42
43 Section 1. Section 14.2031, Florida Statutes, is created to
44 read:

45 14.2031 Statewide Office of Resilience.—The Statewide
46 Office of Resilience is established within the Executive Office
47 of the Governor. The office shall be headed by a Chief
48 Resilience Officer, who is appointed by and serves at the
49 pleasure of the Governor.

50 Section 2. Section 339.157, Florida Statutes, is created to
51 read:

52 339.157 Resilience action plan.—

53 (1) The department shall develop a resilience action plan
54 for the State Highway System based on current conditions and
55 forecasted future events. The goals of the action plan are to do
56 all of the following:

57 (a) Recommend strategies to enhance infrastructure and the
58 operational resilience of the State Highway System which may be

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incorporated into the transportation asset management plan.

(b) Recommend design changes for retrofitting existing and constructing new state highway facilities.

(c) Enhance partnerships for collaboration to address multijurisdictional resilience needs.

(2) The resilience action plan must include all of the following components:

(a) An assessment of the State Highway System to identify roadway facilities and drainage outfalls that may be subject to vulnerabilities associated with tidal, rainfall, the combination of tidal and rainfall, and storm surge flooding, including future projections of sea-level rise, using existing data for current and forecasted future events. As part of the assessment, the department shall do all of the following using the most up-to-date National Oceanic and Atmospheric Administration precipitation frequency and sea-level rise data:

1. Synthesize historical and current infrastructure resilience issues statewide.

2. Evaluate alternatives for retrofitting existing systems and infrastructure.

3. Develop prioritization criteria for resilience project identification.

4. Develop a prioritized resilience needs project list, in addition to existing projects within the work program, with the associated costs and timeline.

5. Develop a statewide database identifying and documenting those assets vulnerable to current and future flooding. The department shall develop a cost estimate and schedule to enhance existing data to include site-specific details and existing

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criteria to improve the needs prioritization.

(b) A systemic review of the department's policies, procedures, manuals, tools, and guidance documents to identify revisions that will facilitate cost-effective improvements to address existing and future State Highway System infrastructure vulnerabilities associated with flooding and sea-level rise.

(c) Provision of technical assistance to local agencies and modal partners on resilience issues related to the State Highway System and the deployment of local and regional solutions.

(3) By June 20, 2023, the department shall submit the resilience action plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Every third year on June 30 thereafter, the department shall submit a status report reviewing updates to the action plan and the associated implementation activities.

Section 3. Section 380.093, Florida Statutes, is amended to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise data set and assessment; Statewide Flooding and Sea-Level ~~Sea-Level~~ Rise Resilience Plan; regional resilience entities.—

(1) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that this ~~the~~ state is particularly vulnerable to adverse impacts from flooding resulting from increases in frequency and duration of rainfall events, storm surge from more frequent and severe weather systems, and sea-level ~~sea-level~~ rise. Such adverse impacts pose economic, social, environmental, and public health and safety challenges to this ~~the~~ state. To most effectively address these

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challenges, funding should be allocated in a manner that prioritizes addressing the most significant risks.

(b) The Legislature further recognizes that the adverse impacts of flooding and sea-level ~~sea-level~~ rise affect coastal and inland communities all across the state. Consequently, a coordinated approach is necessary to maximize the benefit of efforts to address such impacts and to improve the state's resilience to flooding and sea-level ~~sea-level~~ rise.

(c) The Legislature further recognizes that to effectively and efficiently address and prepare for the adverse impacts of flooding and sea-level ~~sea-level~~ rise in this ~~the~~ state, it is necessary to conduct a comprehensive statewide assessment of the specific risks posed to this ~~the~~ state by flooding and sea-level ~~sea-level~~ rise and develop a statewide coordinated approach to addressing such risks.

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

(a) "Critical asset" includes:

1. Transportation assets and evacuation routes, including airports, bridges, bus terminals, ports, major roadways, marinas, rail facilities, and railroad bridges.

2. Critical infrastructure, including wastewater treatment facilities and lift stations, stormwater treatment facilities and pump stations, drinking water facilities, water utility conveyance systems, electric production and supply facilities, solid and hazardous waste facilities, military installations, communications facilities, and disaster debris management sites.

3. Critical community and emergency facilities, including schools, colleges, universities, community centers, correctional facilities, disaster recovery centers, emergency medical service

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facilities, emergency operation centers, fire stations, health care facilities, hospitals, law enforcement facilities, local government facilities, logistical staging areas, affordable public housing, risk shelter inventory, and state government facilities.

4. Natural, cultural, and historical resources, including conservation lands, parks, shorelines, surface waters, wetlands, and historical and cultural assets.

(b) "Department" means the Department of Environmental Protection.

(c) "Preconstruction activities" means activities associated with a project which occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys, site development, solicitation, public hearings, local code amendments, establishing local funding sources, and easement acquisition.

(d) "Regionally significant assets" means critical assets that support the needs of communities spanning multiple geopolitical jurisdictions, including, but not limited to, regional medical centers, emergency operations centers, regional utilities, major transportation hubs and corridors, airports, and seaports.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(a) The Resilient Florida Grant Program is established within the department.

(b) Subject to appropriation, the department may provide grants to a county or municipality to fund:

1. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan

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amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).⁺

2. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea-level ~~sea-level~~ rise.⁺

3. The development of projects, plans, and policies that allow communities to prepare for threats from flooding and sea-level ~~sea-level~~ rise.⁺ and

4. Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea-Level Rise Resilience Plan which are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website ~~projects to adapt critical assets to the effects of flooding and sea level rise.~~

(c) A vulnerability assessment conducted pursuant to paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or

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municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea-level ~~sea-level~~ rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. A list of critical assets, including regionally significant assets, that are impacted by flooding and sea-level ~~sea-level~~ rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must include all of the following, if applicable:

1. Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Economic Opportunity.

2. The depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the

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department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset.

c. To the extent practicable, rainfall-induced flooding using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea-level ~~sea level~~ rise and high tide conditions. Vulnerability assessments for noncoastal communities must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Projections of future rainfall conditions should be utilized, if available.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. The following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. At least two local sea-level ~~sea level~~ rise scenarios, which must include the 2017 National Oceanic and Atmospheric Administration intermediate-low and intermediate-high sea-level ~~sea level~~ rise projections.

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c. At least two planning horizons that include planning horizons for the years 2040 and 2070.

d. Local sea-level ~~sea level~~ data that has been interpolated between the two closest National Oceanic and Atmospheric Administration tide gauges. Local sea-level ~~sea level~~ data may be taken from one such gauge if the gauge has a higher mean sea level. Data taken from an alternate tide gauge may be used with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA-LEVEL ~~SEA LEVEL~~ RISE DATA SET AND ASSESSMENT.—

(a) By July 1, 2023 ~~2022~~, the department shall complete the development of a comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment. In developing the data set, the department, in coordination with the Florida Flood Hub for Applied Research and Innovation, shall compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with necessary experts and resources, develop statewide sea-level ~~sea level~~ rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

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291 2. The data set must include information necessary to
 292 determine the risks to inland and coastal communities,
 293 including, but not limited to, elevation, tidal levels, and
 294 precipitation.

295 (b) By July 1, ~~2024~~ ~~2023~~, the department shall complete a
 296 comprehensive statewide flood vulnerability and sea-level ~~sea~~
 297 ~~level~~ rise assessment that identifies inland and coastal
 298 infrastructure, geographic areas, and communities in this the
 299 state that are vulnerable to flooding and sea-level ~~sea-level~~
 300 rise and the associated risks.

301 1. The department shall use the comprehensive statewide
 302 flood vulnerability and sea-level ~~sea-level~~ rise data set to
 303 conduct the assessment.

304 2. The assessment must incorporate local and regional
 305 analyses of vulnerabilities and risks, including, as
 306 appropriate, local mitigation strategies and postdisaster
 307 redevelopment plans.

308 3. The assessment must include an inventory of critical
 309 assets, including regionally significant assets, that are
 310 essential for critical government and business functions,
 311 national security, public health and safety, the economy, flood
 312 and storm protection, water quality management, and wildlife
 313 habitat management, and must identify and analyze the
 314 vulnerability of and risks to such critical assets. When
 315 identifying critical assets for inclusion in the assessment, the
 316 department shall also take into consideration the critical
 317 assets identified by local governments and submitted to the
 318 department pursuant to subsection (3).

319 (c) The department shall update the comprehensive statewide

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

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320 flood vulnerability and sea-level ~~sea-level~~ rise data set and
 321 assessment every 5 years. The department may update the data set
 322 and assessment more frequently if it determines that updates are
 323 necessary to maintain the validity of the data set and
 324 assessment.

325 (5) STATEWIDE FLOODING AND SEA-LEVEL ~~SEA-LEVEL~~ RISE
 326 RESILIENCE PLAN.—

327 (a) By December 1, 2021, and each December 1 thereafter,
 328 the department shall develop a Statewide Flooding and Sea-Level
 329 ~~Sea-Level~~ Rise Resilience Plan on a 3-year planning horizon and
 330 submit it to the Governor, the President of the Senate, and the
 331 Speaker of the House of Representatives. The plan must consist
 332 of ranked projects that address risks of flooding and sea-level
 333 ~~sea-level~~ rise to coastal and inland communities in the state.
 334 All eligible projects submitted to the department under this
 335 section must be ranked and included in the plan. Each plan must
 336 include a detailed narrative overview describing how the plan
 337 was developed, including a description of the methodology used
 338 by the department to determine project eligibility, a
 339 description of the methodology used to rank projects, the
 340 specific scoring system used, the project proposal application
 341 form, a copy of each submitted project proposal application form
 342 with projects separated by "eligible" and "not eligible," the
 343 total number of project proposals received and deemed eligible,
 344 the total funding requested, and the total funding requested for
 345 eligible projects.

346 (b) The plan submitted by December 1, 2021, before the
 347 comprehensive statewide flood vulnerability and sea-level ~~sea~~
 348 ~~level~~ rise assessment is completed, will be a preliminary plan

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that includes projects that address ~~addresses~~ risks of flooding and sea-level ~~sea level~~ rise identified in available local government vulnerability assessments and projects submitted by water management districts which mitigate the risks of flooding or sea-level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates ~~an update~~ to the preliminary plan. The plan submitted by December 1, 2024 ~~2023~~, and each plan submitted by December 1 thereafter, must ~~shall~~ address risks of flooding and sea-level ~~sea level~~ rise identified in the comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include the following information for each recommended project:

1. A description of the project.
2. The location of the project.
3. An estimate of how long the project will take to complete.
4. An estimate of the cost of the project.
5. The cost-share percentage available for the project.
6. A summary of the priority score assigned to the project.
7. The project sponsor.

(d)1. By September 1, 2021, and each September 1 thereafter, the following entities ~~counties and municipalities~~ may submit to the department a list of proposed projects that address risks of flooding or sea-level ~~sea level~~ rise identified in vulnerability assessments that meet the requirements of subsection (3):

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a. Counties.

b. Municipalities.

c. Special districts, as defined in s. 189.012, which are responsible for the operation and maintenance of an airport or a seaport facility.

For the plans submitted by December 1, 2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments which do not comply with subsection (3). A regional resilience entity may also submit ~~such~~ proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities.

2. By September 1, 2021, and each September 1 thereafter, the following entities ~~each water management district and flood control district~~ may submit to the department a list of any proposed projects that mitigate the risks of flooding or sea-level ~~sea level~~ rise on water supplies or water resources of this ~~the~~ state and a corresponding evaluation of each project:

a. Water management districts.

b. Drainage districts.

c. Erosion control districts.

d. Flood control districts.

e. Regional water supply authorities.

3. Each project submitted to the department pursuant to this paragraph ~~by a county, municipality, regional resilience entity, water management district, or flood control district~~ for consideration by the department for inclusion in the plan must include:

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- 407 a. A description of the project.
- 408 b. The location of the project.
- 409 c. An estimate of how long the project will take to
- 410 complete.
- 411 d. An estimate of the cost of the project.
- 412 e. The cost-share percentage available for the project.
- 413 f. The project sponsor.
- 414 (e) Each project included in the plan must have a minimum
- 415 50 percent cost share unless the project assists or is within a
- 416 financially disadvantaged small community. For purposes of this
- 417 section, the term "financially disadvantaged small community"
- 418 means:
- 419 1. A municipality that has a population of 10,000 or fewer,
- 420 according to the most recent April 1 population estimates posted
- 421 on the Office of Economic and Demographic Research's website,
- 422 and a per capita annual income that is less than the state's per
- 423 capita annual income as shown in the most recent release from
- 424 the Bureau of the Census of the United States Department of
- 425 Commerce that includes both measurements; or
- 426 2. A county that has a population of 50,000 or fewer,
- 427 according to the most recent April 1 population estimates posted
- 428 on the Office of Economic and Demographic Research's website,
- 429 and a per capita annual income that is less than the state's per
- 430 capita annual income as shown in the most recent release from
- 431 the Bureau of the Census of the United States Department of
- 432 Commerce that includes both measurements.
- 433 (f) To be eligible for inclusion in the plan, a project
- 434 must have been submitted ~~by a county, municipality, regional~~
- 435 ~~resilience entity, water management district, or flood control~~

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- 436 ~~district~~ pursuant to paragraph (d) or must have been identified
- 437 in the comprehensive statewide flood vulnerability and sea-level
- 438 ~~sea-level~~ rise assessment, as applicable.
- 439 (g) Expenses ineligible for inclusion in the plan include,
- 440 but are not limited to, expenses associated with:
- 441 1. Aesthetic vegetation.
- 442 2. Recreational structures such as piers, docks, and
- 443 boardwalks.
- 444 3. Water quality components of stormwater and wastewater
- 445 management systems, except for expenses to mitigate water
- 446 quality impacts caused by the project or expenses related to
- 447 water quality which are necessary to obtain a permit for the
- 448 project.
- 449 4. Maintenance and repair of over-walks.
- 450 5. Park activities and facilities, except expenses to
- 451 control flooding or erosion.
- 452 6. Navigation construction, operation, and maintenance
- 453 activities.
- 454 7. Projects that provide only recreational benefits.
- 455 (h) The department shall implement a scoring system for
- 456 assessing each project eligible for inclusion in the plan
- 457 pursuant to this subsection. The scoring system must include the
- 458 following tiers and associated criteria:
- 459 1. Tier 1 must account for 40 percent of the total score
- 460 and consist of all of the following criteria:
- 461 a. The degree to which the project addresses the risks
- 462 posed by flooding and sea-level ~~sea-level~~ rise identified in the
- 463 local government vulnerability assessments or the comprehensive
- 464 statewide flood vulnerability and sea-level ~~sea-level~~ rise

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assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the

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project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(i) The total amount of funding proposed for each year of the plan may not be less than ~~exceed~~ \$100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(j) The department shall initiate rulemaking by August 1, 2021, to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for the following purposes to regional entities that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to

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mitigate adverse impacts of flooding and sea-level ~~sea level~~ rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating multijurisdictional vulnerability assessments.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea-Level ~~Sea Level~~ Rise Resilience Plan.

Section 4. Section 380.0933, Florida Statutes, is amended to read:

380.0933 Florida Flood Hub for Applied Research and Innovation.—

(1) The Florida Flood Hub for Applied Research and Innovation is established within the University of South Florida College of Marine Science to coordinate efforts between the academic and research institutions of the state. The University of South Florida College of Marine Science or its successor entity will serve as the lead institution and engage other academic and research institutions, private partners, and financial sponsors to coordinate efforts to support applied research and innovation to address the flooding and sea-level ~~sea level~~ rise challenges of this the state.

(2) The hub shall, at a minimum:

(a) Organize existing data needs for a comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise analysis and perform a gap analysis to determine data needs.

(b) Develop statewide open source hydrologic models for physically based flood frequency estimation and real-time

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forecasting of floods, including hydraulic models of floodplain inundation mapping, real-time compound and tidal flooding forecasts, future groundwater elevation conditions, and economic damage and loss estimates.

(c) Coordinate research funds from the state, the federal government, or other funding sources for related hub activities across all participating entities.

(d) Establish community-based programs to improve flood monitoring and prediction along major waterways, including intracoastal waterways and coastlines, of this the state and to support ongoing flood research.

(e) Coordinate with agencies, including, but not limited to, the Department of Environmental Protection and water management districts.

(f) Share its resources and expertise.

(g) Assist in the development of training and in the development of a workforce in this the state that is knowledgeable about flood and sea-level ~~sea level~~ rise research, prediction, and adaptation and mitigation strategies.

(h) Develop opportunities to partner with other flood and sea-level ~~sea level~~ rise research and innovation leaders for sharing technology or research.

(i) Conduct the activities under this subsection in cooperation with various local, state, and federal government entities as well as other flood and sea-level ~~sea level~~ rise research centers.

(3) The hub must provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments that are conducted pursuant to s. 380.093(3). The

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581 hub must provide rainfall-induced and compound flooding data
582 sets; however, more localized data or modeling may be used.

583 (4) The hub shall employ an executive director.

584 (5) (4) By July 1, 2022, and each July 1 thereafter, the hub
585 shall provide an annual comprehensive report to the Governor,
586 the President of the Senate, and the Speaker of the House of
587 Representatives that outlines its clearly defined goals and its
588 efforts and progress on reaching such goals.

589 Section 5. Subsection (2) of section 472.0366, Florida
590 Statutes, is amended to read:

591 472.0366 Elevation certificates; requirements for surveyors
592 and mappers.—

593 (2) Beginning January 1, 2023 ~~2017~~, a surveyor and mapper
594 shall, within 30 days after completion, submit to the division a
595 digital copy of each elevation certificate that he or she
596 completes as outlined on the division's website. The copy must
597 be unaltered, except that the surveyor and mapper may redact the
598 name of the property owner. The copy need not be signed and
599 sealed when submitted to the division; however, an original
600 signed and sealed copy must be retained in the surveyor and
601 mapper's records as prescribed by rule of the board.

602 Section 6. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: February 1, 2022

I respectfully request that **Senate Bill 1940**, relating to **Statewide Flooding and Sea Level Rise Resilience**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

2/22/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1940

Bill Number or Topic

Committee

Name

Elyse Bogdanoff

Phone

954-232-5678

Amendment Barcode (if applicable)

Address

1 E. Broward #1800

Email

Street

Ft. Lauderdale

33334

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 Flood Coalition

☐

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. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

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S-001 (08/10/2021)

2/22/22

Meeting Date

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1940

Bill Number or Topic

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Amendment Barcode (if applicable)

Subcommittee on Ag, Environ
Committee

Name ~~Mr~~ Jason King

Phone 954-610-3064

Address 1 E Broward Blvd #1800
Street

Email jking@beckerlawyers.com

Fort Lauderdale FL 33334
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 Flood Coalition

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

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. [2020-2022 Joint Rules.pdf](#) | [flsenate.gov](#)

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S-001 (08/10/2021)

22 February 2022

Meeting Date

Appropriations Subcommittee AG, ENV and GG

Committee

Name **Edgar G. Fernandez**

Address **201 W Park Avenue, Suite 100**

Street

Tallahahassee

City

FL

State

32301

Zip

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Bill Number or Topic

Amendment Barcode (if applicable)

Phone **(866) 960-5939**

Email **Edgar@Anfieldflorida.com**

Reset Form

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:

City of Flagler Beach

☐ 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

2/23/22

APPEARANCE RECORD

SB 1940

Meeting Date

AEG Approps Subcommittee

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone **850 222 9684**

Address **PO Box 1757**

Email **rohara@flcities.com**

Street

Tallahassee

FL

32302

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 League of Cities

☐ 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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2/22/22

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APPEARANCE RECORD

SB 1940

Meeting Date
AEG Appropriations

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Jeff Scala**

Phone **(727) 637-4081**

Address **100 S Monroe Street**

Email **jscala@fl-counties.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:

Florida Association of Counties

☐ 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

02.22.22

Meeting Date
Appropriations Subcommittee on Agriculture, Environment, and General Government

The Florida Senate
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SB 1940

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Slater Bayliss**

Phone **8502228900**

Address **204 S Monroe St**

Email **swb@cardenaspartners.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:

Environmental Defense Fund

☐ 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

02.22.22

Meeting Date

Appropriations Subcommittee on Agriculture, Environment, and General Government

Committee

Name

Slater Bayliss

Phone

8502228900

Address

204 S Monroe St

Email

swb@cardenaspartners.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:

Environmental Defense Fund

☐

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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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DUPLICATE

SB 1940

Bill Number or Topic

Amendment Barcode (if applicable)

02/22/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1940

Bill Number or Topic

APPROPS sub on Agriculture, Environment

Committee

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Amendment Barcode (if applicable)

Name Garrett Wallace

Phone 561-504-6877

Address 2500 Maitland Center Pkwy
Street

Email garrett.wallace@TNC.org

Maitland
City

FL
State

32751
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 Nature Conservancy

☐ 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. [2020-2022 Joint Rules.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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 7022

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State Group Health Insurance Program

DATE: February 21, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Limones-Borja</u>	<u>McVaney</u>		GO Submitted as Committee Bill
1.	<u>Shettle</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
2.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SPB 7022 makes various changes to the State Group Insurance Program (SGI Program) administered by the Department of Management Services (DMS) to provide health insurance benefits to state employees. Specifically, the bill requires the DMS to provide an online education program relating to all health insurance plans offered under the SGI Program, and to contract with the State Board Administration to provide at least two hours of tax and financial education relating to retirement and health care planning to enrollees. The bill establishes a minimum monthly state contribution into a member's health savings account whose annual rate of pay is less than \$38,000. The bill expands the preventative care benefits for high deductible health plans offered in the SGI Program.

The impact on state revenues and expenditures is unknown at this time. The DMS will incur costs implementing the online education program and the tax and financial education programs. The State Employee Health Insurance Trust Fund will incur higher costs associated with higher contributions into the health savings accounts as well higher costs associated with the trust fund covering additional preventative care benefits for participants in the high deductible health plans. However, the purpose of the bill is to encourage higher participation in the high deductible health insurance plans which have historically experienced lower claims, potentially resulting in overall savings for the SGI Program.

The bill takes effect July 1, 2022.

II. Present Situation:

State Group Insurance Program

Overview

The SGI Program is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the DMS. The SGI Program is an optional benefit for all state employees including all state agencies, state universities, the court system, and the Legislature. The SGI Program health, life, dental, vision, disability, and other supplemental insurance benefits.

State Health Insurance Plans

The SGI Program provides four options for employees and retirees to choose as their health plan:

- The standard Preferred Provider Organization (PPO) plan, administered by Florida Blue.
 - This plan allows enrollees to receive care from any doctor or health care provider, although when using the PPO the cost is lower.¹
 - In this plan enrollees have a deductible they must meet before the plan pays towards the cost of their healthcare services, except for most preventive care services.²
- The high deductible PPO plan, administered by Florida Blue.
 - This plan has a higher deductible, and once you meet the deductible enrollees pay coinsurance on the health care services they receive.³
 - This plan comes with a health savings account (HSA).
- The standard health maintenance organization (HMO) plans.⁴
 - This plan has no deductible, enrollees pay a copayment once they receive care from network providers.⁵
- The high deductible HMO plans.⁶
 - This plan has a higher deductible, and once enrollees meet the deductible they pay coinsurance on the health care services they receive.⁷

Pharmacy Benefit

The SGI Program also has a pharmacy benefit for members of the plan. The SGI Program covers all federal legend drugs (open formulary) for covered medical conditions, and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. The DMS contracts with CVS/Caremark, a pharmacy benefits manager, to administer the Prescription Drug Plan.⁸

¹ myBenefits, Health Insurance Plans, https://www.mybenefits.myflorida.com/health/health_insurance_plans (last visited Jan. 9, 2022).

² *Id.*

³ *Id.*

⁴ These are provided by Aetna, AvMed, Capital Health Plan, and UnitedHealthcare. One of these HMO plans is offered in each county in the State of Florida.

⁵ See Supra note 1.

⁶ See Supra note 4.

⁷ *Id.*

⁸ myBenefits, Prescription Drug Plan, https://www.mybenefits.myflorida.com/health/health_insurance_plans/prescription_drug_plan (last viewed Jan. 6, 2022).

Health Savings Accounts

An HSA is an account associated with a high deductible health plan (HDHP) that allows the participant to use pretax dollars to pay a portion of the cost for eligible medical, prescription, dental, or vision care services not covered by the insurance plan.⁹ To open up an HSA, an eligible employee must first enroll into an HDHP.¹⁰ Once enrolled online into an HDHP, People First will automatically open an HSA.¹¹ The state contributes pretax money into the employee's HSA each month to pay for eligible health expenses.¹² For Fiscal Year 2021-2022, the state contributes \$41.66 monthly for a member electing single coverage, and \$83.33 monthly a member electing family coverage.¹³ Any unused funds in the HSA carry over each year. The funds in a member's HSA remains even after the member terminates employment with the state.¹⁴

Eligible Employees

The SGI Program is open to the following individuals:

- All state officers;
- All state employees paid from "salaries and benefits" appropriation categories, regardless of the number of hours worked;
- Retired state officers and state employees;
- Surviving spouses of deceased state officers and state employees;
- Certain terminated state officers and state employees; and
- Certain state employees paid from "other personal services" (OPS) appropriation categories.

For OPS employees hired after April 1, 2013, to be eligible to participate in the health insurance program, the employee must:¹⁵

- Be reasonably expected to work an average of at least 30 hours per week; and
- Have worked an average of at least 30 hours per week during the person's measurement period (which is 12 consecutive months¹⁶ of employment).

State Employee Health Insurance Program

Health Insurance Premiums and Revenues

The health insurance benefit for active employees has premium rates for single, spouse program,¹⁷ or family coverage regardless of plan selection. These premiums cover both medical

⁹ myBenefits, Health Savings Account, https://www.mybenefits.myflorida.com/health/savings_and_spending_accounts/health_savings_account (last viewed Jan. 9, 2022).

¹⁰ myBenefits, Savings and Spending Accounts, https://www.mybenefits.myflorida.com/health/savings_and_spending_accounts (last viewed Jan. 9, 2022).

¹¹ *Id.*

¹² *Id.*

¹³ Section 110.123(12)(a)1., F.S.

¹⁴ See Supra note 9.

¹⁵ Section 110.123(2)(c)2., F.S.

¹⁶ Section 110.123(13)(d), F.S.

¹⁷ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

and pharmacy claims. For Fiscal Year 2022-2023, the SGI Program revenue is estimated to be roughly \$2.9 billion.¹⁸ The state will contribute \$2.2 billion, active employees will contribute \$170 million, retirees and Consolidated Omnibus Budget Reconciliation Act participants will contribute \$240 million from premiums, and lastly there will be an additional \$260 million from other revenue.¹⁹

State Employee Health Insurance (Medical Claims)

The DMS provides medical services to health plan members through a self-insured PPO plan, self-insured HMO plans, and a fully-insured HMO plan. Under current contracts, a single provider (Florida Blue) administers the statewide PPO plan.

Three providers (Aetna, AvMed, and United Health Care) administer the self-insured HMO plans providing services in 60 counties combined. Capital Health Plan is a fully-insured HMO plan providing services in seven counties. The current HMO contracts were awarded on a county-by-county basis with service based on the county in which the member works or resides.

Based on information provided by the DSGI, the average costs per member for each plan are noted in the table below for Plan Year 2020.

Plan Year 2020	
Plan Type	Cost Per Member
Standard HMO (Self-Insured)	\$6,768.68
Standard HMO (Fully-Insured)*	\$6,618.85
Standard PPO (Self-Insured)	\$7,156.00
HDHP HMO (Self-Insured)	\$2,706.32
HDHP HMO (Fully-Insured)*	\$5,716.03
HDHP PPO (Self-Insured)	\$3,056.30

Enrollment

For Fiscal Year 2020-21, the final enrollment reflected 175,046 subscribers and 187,244 dependents, totaling 362,290 covered lives.²⁰ Approximately 47.1 percent of subscribers were enrolled in PPO plans, 52.3 percent were enrolled in HMO plans, and 0.6 percent were enrolled in a Medicare Advantage Prescription Drug plan.²¹ Subscriber enrollment in individual coverage was 47.8 percent, and 52.2 percent were enrolled in family coverage, which had an average size of 3.05 members.²²

¹⁸ State Employee's Group Health Self-Insurance Trust Fund, Report on Financial Outlook, For the Fiscal Years Ending June 30, 2021 through June 30, 2026, <http://edr.state.fl.us/content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited Jan. 7, 2022).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at p. 1.

²² *Id.*

Expansion of Preventative Care Benefits

In 2019, President Trump issued Executive Order 13877, Improving Price & Quality Transparency in American Healthcare to Put Patients First.²³ The Executive Order requested the Treasury Department and the Internal Revenue Service (IRS) to issue guidance on how to expand the ability of patients to select HDHPs that can be used alongside HSAs, and that cover low-cost preventative care, before the deductible, that helps maintain the health status for individuals with chronic conditions. Following the Executive Order, the Treasury Department and the IRS issued Notice 2019-45.²⁴ Under s. 223(c)(2)(A), an HDHP may not provide benefits for any year until the yearly minimum deductible is met, however s. 223(c)(2)(C), allows HDHPs to provide preventative care benefits without the annual deductible being met.

The IRS and Treasury Department are aware of the cost barriers for care that have resulted in some individuals who are diagnosed with certain chronic conditions failing to see or utilize effective necessary care that would prevent the exacerbation of the chronic condition. In an effort to address this, the IRS and Treasury Department, in consultation with the Department of Health and Human Services, have determined that certain medical care services received and items purchased, including prescription drugs, for certain chronic conditions should be classified as preventative care for persons with those chronic conditions.

In determining that these particular medical services and items can be classified as preventative care with respect to an individual with the relevant chronic condition, the IRS and Treasury Department considered the following:

- The service or item is low cost;
- There is medical evidence supporting high cost efficiency of preventing exacerbation of the chronic condition or the development of a secondary condition; and
- There is clinical evidence proving a strong likelihood that preventing the exacerbation of the chronic condition or the development of a secondary condition avoids significantly higher cost treatments.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to require the DMS to provide an online education program with impartial and balanced information regarding the plan choices in the state group insurance program. Section 1 requires the department to contract with the State Board Administration and its financial advisors to provide at least two hours per plan year of tax and financial education relating to retirement and health care planning, as an elective benefit at no cost to the enrollee.

Section 1 sets a minimum monthly employer contribution into the HSAs for members whose annual rate of pay is \$38,000 or less, beginning plan year 2023 and thereafter. The state's minimum monthly contribution from the trust fund into a member's HSA is \$55 for an employee with individual coverage and \$110 for an employee with family coverage.

²³See Executive Order 13877, <https://www.federalregister.gov/documents/2019/06/27/2019-13945/improving-price-and-quality-transparency-in-american-healthcare-to-put-patients-first>.

²⁴ See Internal Revenue Service Notice 2019-45, <https://www.irs.gov/pub/irs-drop/n-19-45.pdf>.

Section 1 establishes new preventative care benefits to be covered by HDHPs in the SGI Program prior to the member meeting the yearly deductible. The following services and items²⁵ when prescribed to treat an individual diagnosed with listed chronic conditions will be covered as preventative care:

Preventive Care for Specified Conditions	For Individuals Diagnosed with
Angiotensin Converting Enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International Normalized Ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density Lipoprotein (LDL) testing	Heart disease
Selective Serotonin Reuptake Inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

Section 2 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²⁵ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact on the government sector is unknown at this time. However, the DMS will incur costs implementing the online education program and the tax and financial education programs. The State Employee Health Insurance Trust Fund will incur higher costs associated with higher contributions into the HSAs as well as covering additional preventative care benefits for participants in the HDHPs. However, the purpose of the bill is to encourage higher participation in the HDHPs which have historically experienced lower claims, potentially resulting in overall savings for the SGI Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.123 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 the Committee on Governmental Oversight and Accountability

585-01994-22

20227022__

A bill to be entitled

An act relating to the state group health insurance program; amending s. 110.123, F.S.; requiring the Department of Management Services to provide an online education component relating to all health insurance plans in the State Group Insurance Program; requiring the department to contract with the State Board of Administration to provide retirement and health insurance planning education to members of the state group insurance program; setting a minimum monthly employer contribution to health savings accounts for certain employees; establishing new preventive care benefits to be covered by high deductible health insurance plans in the state group insurance program without the member meeting the required deductible, beginning with a specified plan year; providing an effective date.

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

Section 1. Paragraph (a) of subsection (12) of section 110.123, Florida Statutes, is amended, and paragraphs (j) and (k) of subsection (5) and subsection (14) are added to that section, to read:

110.123 State group insurance program.—

(5) DEPARTMENT POWERS AND DUTIES.—The department is responsible for the administration of the state group insurance program. The department shall initiate and supervise the program as established by this section and shall adopt such rules as are

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20227022__

necessary to perform its responsibilities. To implement this program, the department shall, with prior approval by the Legislature:

(j) Provide to employees eligible to participate in the state group insurance program an online education component with impartial and balanced information about plan choices, including high deductible health plans and associated health savings accounts.

(k) Contract with the State Board of Administration and its financial advisors to provide, as an elective benefit at no cost to the enrollees, at least 2 hours per plan year of tax and financial education relating to retirement and health care planning.

Final decisions concerning enrollment, the existence of coverage, or covered benefits under the state group insurance program shall not be delegated or deemed to have been delegated by the department.

(12) HEALTH SAVINGS ACCOUNTS.—The department is authorized to establish health savings accounts for full-time and part-time state employees in association with a health insurance plan option authorized by the Legislature and conforming to the requirements and limitations of federal provisions relating to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(a) A member participating in this health insurance plan option is eligible to:

1. Receive an employer contribution into the employee's health savings account from the State Employees Health Insurance

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Trust Fund in an amount to be determined by the Legislature. A member is not eligible for an employer contribution upon termination of employment. For the 2013-2014 fiscal year, the state's monthly contribution for employees having individual coverage shall be \$41.66 and the monthly contribution for employees having family coverage shall be \$83.33. For the 2014-2015 fiscal year and thereafter, the state's contribution from the trust fund into the member's health savings account shall be set in the annual General Appropriations Act. However, in the 2023 plan year and thereafter, for a member whose annual rate of pay is \$38,000 or less, the state's monthly contribution from the trust fund into a member's health savings account shall be no less than \$55 for an employee having individual coverage and \$110 for an employee having family coverage.

2. Deposit the member's own funds into a health savings account.

(14) Beginning with the 2023 plan year, a high deductible health plan offered under the state group insurance program must provide coverage for preventive care benefits relating to specific chronic conditions before the member fully meets the deductible otherwise required for coverage by the plan. For purposes of this subsection, the following services and items, when prescribed to treat diagnoses of specified chronic conditions, will be covered as preventive care:

(a) Angiotensin-converting enzyme inhibitors for a member diagnosed with congestive heart failure, diabetes, or coronary artery disease.

(b) Anti-resorptive therapy for a member diagnosed with osteoporosis or osteopenia.

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20227022__

(c) Beta-blockers for a member diagnosed with congestive heart failure or coronary artery disease.

(d) Blood pressure monitors for a member diagnosed with hypertension.

(e) Inhaled corticosteroids and peak flow meters for a member diagnosed with asthma.

(f) Insulin, other glucose-lowering agents, retinopathy screening, glucometers, and hemoglobin A1C testing for a member diagnosed with diabetes.

(g) International normalized ratio testing for a member diagnosed with liver disease or a bleeding disorder.

(h) Low-density lipoprotein testing for a member diagnosed with heart disease.

(i) Selective serotonin reuptake inhibitors for a member diagnosed with depression.

(j) Statins for a member diagnosed with heart disease or diabetes.

Section 2. This act shall take effect July 1, 2022.

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/SB 7028 (827852)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government;
and Agriculture Committee

SUBJECT: Food Policy Advisory Council

DATE: February 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Fink	Becker		AG Submitted as Committee Bill
1.	Blizzard	Betta	AEG	Recommend: Fav/CS
2.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/SB 7028 creates the Food Policy Advisory Council (council). The purpose of the council is to serve as a forum for presenting, investigating, and evaluating barriers to food access for Floridians and for identifying solutions to such barriers. The bill specifies requirements for the membership, meetings, compensation, and duties of the council.

The bill requires the council to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives containing its findings and recommendations on how to best increase access to food in Florida.

The bill has an insignificant fiscal impact on state expenditures.

The bill takes effect upon becoming law.

II. Present Situation:

The Office of Program Policy Analysis and Government Accountability (OPPAGA) prepared a research memorandum to describe low income, low access (LILA) census tracts in the state, which includes describing what is known about LILA food areas and the effects on residents of

those areas.¹ The memorandum outlines the incidence of LILA census tracts statewide, specifically, the number of people that are both low income and have limited access to healthy food options by census tract; provides additional information about LILA areas in Hillsborough, Pinellas, and Suwannee counties; and provides high level policy considerations to expand access to healthy food in LILA areas.

In Florida, the number of LILA tracts has decreased since 2015, but barriers to healthy food access remain.² Approximately 13.5 percent of Floridians live in census tracts that are both low income and low access, with a larger percentage of urban residents compared to rural residents. In Hillsborough and Pinellas counties, residents of LILA census tracts are from a disproportionately lower socioeconomic minority group compared to other areas of the county and the LILA census tracts have high poverty rates, and few, if any major chain supermarkets. Public and private entities have started a range of food access initiatives in these counties, though resource constraints present a challenge. In Suwannee County, the two LILA census tracts have a higher proportion of residents that are 65 and older, have no major chain supermarkets, and stakeholders report that the largest barrier to healthy food access is transportation.

High relative availability of unhealthy food refers to geographic areas where there is a high ratio of unhealthy food sources to healthy food sources. Such areas are sometimes referred to as food swamps. Both low-access and unhealthy food environments have been associated with a range of social, economic, and health concerns. A “low income” census tract is characterized by a poverty rate greater than 20 percent, or median family income of less than or equal to 80 percent of the statewide median family income, or in metropolitan areas, 80 percent of the metropolitan area median family income. A “low access” census tract is characterized by an area where at least 500 people, or 33 percent of the population is greater than one mile or 10 miles from a supermarket, supercenter, or large grocery store.

To address issues related to food access, OPPAGA identified options for legislative consideration. These options include developing or supporting food access planning at the state and local levels, building on existing programs, increasing participation in existing programs such as the Supplemental Nutrition Program (SNAP) and Women, Infants, and Children (WIC), providing assistance for food program matching requirements for federal food programs, addressing root causes by investing in education and workforce development, and providing funding for local food system initiatives.

The Department of Agriculture and Consumer Services’ Food Security Advisory Committee (FSAC) was established in 2020 by the Commissioner of Agriculture and Consumer Services (commissioner) and charged with the responsibility of creating a statewide plan for addressing food security.³

¹ Office of Program Policy and Government Accountability, “Geographic Access to Healthy Food in Florida,” (December 27, 2021).

² *Id.* at 10

³ Florida Department of Agriculture and Consumer Services, “Food Security Advisory Committee,” *see* <https://www.fdacs.gov/About-Us/Advisory-Councils-and-Committees/Food-Security-Advisory-Committee> (last visited Jan. 11, 2022).

The FSAC recommends to the commissioner policies and statewide strategies that would reduce hunger, eradicate food insecurity and increase participation in federally funded nutrition assistance programs. The FSAC also provides, advises and consults with the commissioner and the division directors of the department, at their request or upon its own initiative, regarding the promulgation, administration and enforcement of all laws and rules relating to reducing hunger and enhancing the food security of Florida residents in addition to any other issues within the Advisory Committee's expertise.⁴

III. Effect of Proposed Changes:

The bill creates the Food Policy Advisory Council (council), an advisory council as defined in s. 20.03(7), F.S., adjunct to the Department of Agriculture and Consumer Services (department).

The bill establishes that the purpose of the council is to serve as a forum for presenting, investigating, and evaluating barriers to food access for the residents of Florida and for identifying solutions to such barriers.

The council shall be made up of the following members:

- The Commissioner of Agriculture and Consumer Services (or his or her designee);
- The State Surgeon General (or his or her designee);
- The Commissioner of Education (or his or her designee);
- A person actively participating in the growing of food in this state, appointed by the President of the Senate;
- A food retailer, appointed by the President of the Senate;
- A representative of an anti-hunger organization appointed by the Speaker of the House of Representatives; and
- Each of the following food bank representatives, (or his or her designee):
 - The executive director of Feeding Florida.
 - The chief executive officer of Second Harvest of the Big Bend.
 - The chief executive officer of Feeding the Gulf Coast.
 - The food bank director of Florida Gateway Food Bank.
 - The president of Feeding Northeast Florida.
 - The chief executive officer of Bread of the Mighty Food Bank.
 - The president of First Step Food Bank.
 - The president of Second Harvest of Central Florida.
 - The president of Feeding Tampa Bay.
 - The chief executive officer of All Faiths Food Bank.
 - The president of the Treasure Coast Food Bank.
 - The president of the Harry Chapin Food Bank.
 - The president of Feeding South Florida.
 - The chief executive officer of the Palm Beach County Food Bank.

The bill requires that the council shall elect by a two-thirds vote of the members one member to serve as chair of the council. A majority of the members of the council constitutes a quorum.

⁴ *Id.*

The bill requires the council to meet at least once a quarter at the call of the chair. Council members shall serve without compensation but may be reimbursed for per diem and travel expenses incurred while attending meetings of the council.

The duties of the council are to:

- Identify barriers to food security in Florida;
- Develop a food system policy that takes into consideration economic and transportation challenges faced by Floridians who are food insecure; and
- Submit recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives for increasing access to food.

Additionally, the bill requires that by September 1 of each year, beginning in 2023, the council shall submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives containing its findings and recommendations on how to best increase access to food.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of the bill is insignificant. The department may incur costs associated with the council related to per diem and travel expenses. These costs will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 500.82 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.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 22, 2022:

The committee substitute adds the chief executive officer of the Palm Beach County Food Bank to the Food Policy Advisory Council.

B. Amendments:

None.



223426

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Berman) recommended the following:

Senate Amendment

Between lines 57 and 58
insert:

o. The chief executive officer of the Palm Beach County
Food Bank.

By the Committee on Agriculture

575-01999-22

20227028__

A bill to be entitled

An act relating to the Food Policy Advisory Council; creating s. 500.82, F.S.; creating the council adjunct to the Department of Agriculture and Consumer Services; providing the purpose and membership of the council; requiring the council to meet at least quarterly; providing for per diem and travel expenses for council members; providing the duties of the council; requiring the council to submit an annual report to the Governor and the Legislature by a specified date; providing requirements for the report; providing an effective date.

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

Section 1. Section 500.82, Florida Statutes, is created to read:

500.82 Food Policy Advisory Council.—

(1) CREATION.—The Food Policy Advisory Council, an advisory council as defined in s. 20.03(7), is created adjunct to the Department of Agriculture and Consumer Services. Except as provided in this section, the council shall operate in a manner consistent with s. 20.052.

(2) PURPOSE.—The purposes of the council are to serve as a forum for presenting, investigating, and evaluating barriers to food access for the residents of this state and for identifying solutions to such barriers.

(3) MEMBERSHIP; MEETINGS; COMPENSATION.—

(a) The Food Policy Advisory Council shall be composed of

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the following members:

1. The Commissioner of Agriculture or his or her designee.

2. The State Surgeon General or his or her designee.

3. The Commissioner of Education or his or her designee.

4. A person actively participating in the growing of food in this state, appointed by the President of the Senate.

5. A food retailer, appointed by the President of the Senate.

6. A representative of an anti-hunger organization, appointed by the Speaker of the House of Representatives.

7. Each of the following food bank representatives, or his or her designee:

a. The president of Farm Share.

b. The executive director of Feeding Florida.

c. The chief executive officer of Second Harvest of the Big Bend.

d. The chief executive officer of Feeding the Gulf Coast.

e. The food bank director of Florida Gateway Food Bank.

f. The president of Feeding Northeast Florida.

g. The chief executive officer of Bread of the Mighty Food Bank.

h. The president of First Step Food Bank.

i. The president of Second Harvest of Central Florida.

j. The president of Feeding Tampa Bay.

k. The chief executive officer of All Faiths Food Bank.

l. The president of the Treasure Coast Food Bank.

m. The president of the Harry Chapin Food Bank.

n. The president of Feeding South Florida.

(b) The council shall elect by a two-thirds vote of the

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members one member to serve as chair of the council.

(c) A majority of the members of the council constitutes a quorum.

(d) The council shall meet at least once a quarter at the call of the chair.

(e) Council members shall serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061 incurred while attending meetings of the council.

(4) DUTIES.—The duties of the council include all of the following:

(a) Identifying barriers to food security in this state.

(b) Developing a food system policy in this state which takes into consideration economic and transportation challenges faced by Floridians who are food insecure.

(c) Submitting recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives for increasing access to food in this state.

(5) REPORT.—By September 1 of each year, beginning in 2023, the council shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing its findings pursuant to subsection (4) and recommendations on how to best increase access to food in this state.

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

The Florida Senate

APPEARANCE RECORD

2/22/2022
Meeting Date

7028
Bill Number or Topic

Approp Hq, Enviro + GG
Committee

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

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Call St.
Street

Email fcfep@yahoo.com

Tallahsee 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:

FI Center for Fiscal
& Economic Policy

☐ 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. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Agriculture, Environment, and General Government **Judge:**

Started: 2/22/2022 2:00:14 PM

Ends: 2/22/2022 3:03:44 PM

Length: 01:03:31

2:00:17 PM	Sen. Albritton (Chair)
2:01:23 PM	S 714
2:01:45 PM	Sen. Hooper
2:03:42 PM	Conner Mann, Dept. of Business and Professional Regulation (waives in support)
2:04:26 PM	S 1076
2:04:33 PM	Sen. Gruters
2:05:51 PM	Sen. Berman
2:05:59 PM	Sen. Gruters
2:06:03 PM	Sen. Berman
2:06:10 PM	Sen. Gruters
2:06:25 PM	Sen. Berman
2:06:28 PM	Sen. Gruters
2:07:05 PM	Sen. Berman
2:07:29 PM	Sen. Gruters
2:07:59 PM	Melissa Villar, Director of Administration, The Holistic Cannabis Community
2:10:37 PM	Robert Blair, American Kratom Association (waives in support)
2:11:17 PM	S 1556
2:11:25 PM	Sen. Gruters
2:11:27 PM	Am 856124
2:11:32 PM	Sen. Gruters
2:12:41 PM	S 1556 (con't)
2:12:51 PM	David Shepp, Florida Golf Course Superintendents Association (waives in support)
2:13:32 PM	S 1678
2:13:46 PM	Sen. Gibson
2:15:33 PM	Shakhea Hinton, Florida Rising
2:16:36 PM	Michelle Rutledge, Archer, FL
2:17:10 PM	Karen Woodall, Florida Center for Fiscal and Economic Policy (waives in support)
2:17:17 PM	Jonathan Webber, Florida Conservation Voters (waives in support)
2:17:26 PM	Meta Calder, Florida Leagues of Women Voters (waives in support)
2:17:34 PM	Jeff Scala, Florida Association of Counties (waives in support)
2:17:40 PM	David Cullen, Sierra Club Florida (waives in support)
2:17:53 PM	Sen. Gibson
2:19:06 PM	S 1094
2:19:16 PM	Sen. Rodriguez
2:19:50 PM	George T. Levesque, American Institute of Architects (AIA) Florida (waives in support)
2:19:59 PM	Becky Magdaleno, Florida Association of the American Institute of Architects (waives in support)
2:20:38 PM	S 1434
2:20:46 PM	Sen. Rodriguez
2:21:20 PM	Jason King, Becker Lawyers (waives in support)
2:21:30 PM	Meta Calder, Florida League of Women Voters (waives in support)
2:21:35 PM	Jonathan Webber, Florida Conservation Voters (waives in support)
2:21:46 PM	Sen. Berman
2:22:40 PM	S 7028
2:23:02 PM	Sen. Rouson
2:23:45 PM	Am. 223426
2:23:49 PM	Sen. Berman
2:24:17 PM	S 7028 (con't)
2:24:25 PM	Karen Woodall, Florida Center for Fiscal and Economic Policy (waives in support)
2:24:32 PM	Sen. Albritton
2:24:41 PM	Sen. Rouson
2:25:20 PM	S 7022
2:25:34 PM	Sen. Brandes

2:26:54 PM	Sen. Albritton
2:27:06 PM	Sen. Brandes
2:28:46 PM	S 864
2:28:53 PM	Sen. Ausley
2:30:02 PM	Jim Spratt, Florida Forestry Association (waives in support)
2:30:05 PM	Jonathan Webber, Florida Conservation Voters (waives in support)
2:30:49 PM	S 1562
2:30:50 PM	Sen. Ausley
2:31:18 PM	David Cullen, Sierra Club Florida (waives in support)
2:31:22 PM	Jonathan Webber, Florida Conservation Voters (waives in support)
2:31:35 PM	Sen. Berman
2:32:07 PM	Sen. Ausley
2:32:52 PM	S 1156
2:33:22 PM	Sen. Stewart
2:34:20 PM	Jeff Scala, Florida Association of Counties (waives in support)
2:34:31 PM	Rebecca O'Hara, Florida League of Cities (waives in support)
2:34:35 PM	Kenya Cory, National Waste and Recycling Association Florida Chapter (waives in support)
2:35:24 PM	S 898
2:35:26 PM	Sen. Stewart
2:37:24 PM	Sen. Albritton
2:37:41 PM	Sen. Stewart
2:38:16 PM	S 1474
2:38:20 PM	Sen. Bradley
2:39:34 PM	Am. 174762
2:39:42 PM	Sen. Bradley
2:39:59 PM	S 1474 (con't)
2:40:06 PM	Sen. Berman
2:40:31 PM	Sen. Bradley
2:40:45 PM	Sen. Berman
2:40:58 PM	Sen. Bradley
2:41:10 PM	Cynthia Henderson, Florida Association of Security Companies (FASCO) (waives in support)
2:41:20 PM	Sen. Bradley
2:42:05 PM	S 664
2:42:18 PM	Sen. Bradley
2:43:23 PM	Am. 481724
2:43:27 PM	Sen. Bradley
2:44:05 PM	Steve Zona, Florida State Fraternal Order of Police (waives in support)
2:44:06 PM	Felix Del Rosario, Miami Fraternal Order of Police (waives in support)
2:44:21 PM	S 664 (con't)
2:44:30 PM	Sen. Brodeur
2:44:49 PM	Sen. Bradley
2:45:38 PM	Matt Puckett, Florida Police Benevolent Association (waives in support)
2:45:51 PM	Felix Del Rosario, Miami Fraternal Order of Police (waives in support)
2:46:27 PM	Steve Zona, Florida State Fraternal Order of Police (waives in support)
2:46:28 PM	Sen. Boyd
2:46:44 PM	Sen. Bradley
2:47:28 PM	S 1450
2:47:35 PM	Sen. Jones
2:48:56 PM	Jeff Scala, Florida Association of Counties (waives in support)
2:49:10 PM	Sen. Boyd
2:49:35 PM	Sen. Brodeur
2:50:07 PM	Sen. Rodrigues
2:50:35 PM	Sen. Albritton
2:50:57 PM	Sen. Jones
2:51:28 PM	S 1940
2:51:39 PM	Sen. Brodeur
2:53:08 PM	Ellyn Bogdanoff, American Flood Coalition (waives in support)
2:53:14 PM	Jason King, American Flood Coalition Action (waives in support)
2:53:27 PM	Edgar G. Fernandez, City of Flagler Beach (waives in support)
2:53:32 PM	Rebecca O'Hara, Florida League of Cities (waives in support)
2:53:36 PM	Jeff Scala, Florida Association of Counties (waives in support)
2:53:53 PM	Slater Bayless, Environmental Defense Fund (waives in support)

2:54:07 PM	Garrett Wallace, The Nature Conservancy (waives in support)
2:54:18 PM	Sen. Stewart
2:55:00 PM	S 1874
2:55:11 PM	Sen. Boyd
2:55:53 PM	Am. 975516
2:55:58 PM	Sen. Boyd
2:56:30 PM	S 1874 (con't)
2:56:38 PM	Ray Colburn, Florida Fire Chiefs Association (waives in support)
2:56:44 PM	Tasha Carter, Office of the Insurance Consumer Advocate (waives in support)
2:56:48 PM	Austin Stowers, Department of Financial Services (waives in support)
2:57:09 PM	Sen. Boyd
2:57:37 PM	Sen. Albritton
2:58:45 PM	Sen. Stewart
2:59:44 PM	Sen. Albritton
2:59:51 PM	Sen. Garcia
3:00:04 PM	Sen. Mayfield
3:00:49 PM	Sen. Albritton
3:00:53 PM	Sen. Boyd
3:01:19 PM	Sen. Albritton
3:03:12 PM	Sen. Garcia
3:03:18 PM	Sen. Bradley
3:03:24 PM	Sen. Albritton