

Tab 1	SB 2-B by Burgess ; (Identical to H 00001B) COVID-19 Mandates
Tab 2	SB 4-B by Burgess ; (Identical to CS/H 00003B) Public Records/Employer COVID-19 Vaccination Policies
Tab 3	SB 6-B by Hutson (CO-INTRODUCERS) Gruters, Perry ; (Identical to H 00005B) Florida Occupational Safety and Health State Plan
Tab 4	SB 8-B by Bean (CO-INTRODUCERS) Gruters, Perry ; (Identical to H 00007B) Vaccinations During Public Health Emergencies

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Stargel, Chair
Senator Bean, Vice Chair

MEETING DATE: Tuesday, November 16, 2021
TIME: 9:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Baxley, Book, Bracy, Brandes, Broxson, Diaz, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 2-B Burgess (Identical H 1-B, Compare CS/H 3-B, Linked S 4-B)	COVID-19 Mandates; Prohibiting private employers from imposing a COVID-19 vaccination mandate for employees unless certain individual exemptions are made available; specifying conditions for claiming exemptions; requiring the Department of Health to notify a noncompliant private employer and allow such employer the opportunity to cure a violation; prohibiting educational institutions and elected or appointed local officials from imposing COVID-19 vaccination mandates on students; prohibiting educational institutions and governmental entities from imposing COVID-19 vaccination mandates for any employees; prohibiting district school boards, district school superintendents, elected or appointed local officials, and district school board employees from mandating facial coverings or restricting certain activities for students based on quarantine policies unless certain conditions are met, etc. JU 11/15/2021 Favorable AP 11/16/2021 Favorable	Favorable Yeas 13 Nays 6
2	SB 4-B Burgess (Identical CS/H 3-B, Compare H 1-B, Linked S 2-B)	Public Records/Employer COVID-19 Vaccination Policies; Providing an exemption from public records requirements for employee complaints alleging a private employer's violation of state law regarding employer COVID-19 vaccination policies or practices and all information held by the Department of Legal Affairs pursuant to an active investigation of such complaints; specifying information that remains confidential and exempt after an investigation is completed or ceases to be active; providing for future repeal of the exemption; providing a statement of public necessity, etc. JU 11/15/2021 Favorable AP 11/16/2021 Favorable	Favorable Yeas 13 Nays 6

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Tuesday, November 16, 2021, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 6-B Hutson (Identical H 5-B)	Florida Occupational Safety and Health State Plan; Defining the term "state plan"; requiring the Executive Office of the Governor to develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees; requiring the Division of Risk Management and the Division of Workers' Compensation within the Department of Financial Services, the Department of Health, and the Department of Business and Professional Regulation to assist the office with development of the proposal upon request, etc. JU 11/15/2021 Favorable AP 11/16/2021 Favorable	Favorable Yeas 12 Nays 7
4	SB 8-B Bean (Identical H 7-B)	Vaccinations During Public Health Emergencies; Removing the authority of the State Health Officer to order the vaccination of individuals upon declaration of a public health emergency; revising a requirement that the Department of Health adopt certain rules, etc. JU 11/15/2021 Favorable AP 11/16/2021 Favorable	Favorable Yeas 13 Nays 6

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 2-B

INTRODUCER: Senator Burgess

SUBJECT: COVID-19 Mandates

DATE: November 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 2-B regulates COVID-19 mandates. The bill:

- Prohibits private employers from mandating COVID-19 vaccination without providing employees the ability to opt out of the mandate.
- Requires private employers that choose to impose a COVID-19 vaccination mandate to authorize all of the following exemptions: medical, which includes pregnancy or anticipated pregnancy; religious; COVID-19 immunity; periodic testing; or use of employer-provided personal protective equipment. These exemptions must be submitted to the employer on forms adopted by the Department of Health (DOH) or substantially similar forms.
- Authorizes the Attorney General to receive and investigate complaints and impose administrative fines of up to \$50,000 per violation, if an employee was terminated for refusing vaccination and the employer failed to follow the exemption procedures.
- Prohibits public educational institutions and governmental entities from requiring COVID-19 vaccination as a condition of employment and authorizes the DOH to impose a fine not to exceed \$5,000 per violation.
- Specifies that employees improperly terminated on the basis of COVID-19 vaccination mandates may be eligible for reemployment benefits, and establishes that reemployment benefits may not be denied or discontinued based on a new job offer that would require COVID-19 vaccination.
- Prohibits educational institutions and elected or appointed local officials from mandating COVID-19 vaccination for students, allows parents and students to bring an action against educational institutions for declaratory and injunctive relief, and requires courts to award attorney fees and court costs to prevailing parents and students.
- Prohibits school boards and local officials from requiring students to wear a face mask, face shield, or other face covering without providing for parental exemption from such requirements and limits the quarantining of asymptomatic students and teachers for exposure to COVID-19.

- Appropriates \$5 million from the General Revenue Fund for the Department of Legal Affairs to investigate complaints and to take legal action to stop the enforcement of vaccination mandates imposed by the federal government.
- Sunsets the above provisions on June 1, 2023.

The fiscal impact of the bill is indeterminate. See Section V.

The bill is effective upon becoming a law.

II. Present Situation:

COVID-19

The COVID-19 pandemic has drastically affected the state since the outbreak began affecting the United States in early 2020. The toll on individuals, businesses, and the economy has been severe. Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak. The order was extended several times, the last by Executive Order No. 21-94, issued on April 27, 2021, which expired in June 2021.

In general, the methods for the prevention of contracting COVID-19 have been washing hands, wearing a face mask or other covering for a person's nose and mouth, social distancing, cleaning and disinfecting "high-touch" surfaces, improving ventilation, and receiving a COVID-19 vaccination.¹ The federal Food and Drug Administration (FDA) first issued emergency authorized use for COVID-19 vaccinations in December 2020; in August 2021, the FDA fully approved the first vaccine, produced by Pfizer, for use in individuals 16 years of age and older (emergency use for children 5 through 15 years of age is also available as is a "booster" shot for certain individuals).² COVID-19 vaccines are readily available and to-date in Florida nearly 14 million people have been vaccinated.³

Recommended or Required Vaccines

Vaccines have routinely been recommended for various reasons in the United States. For example, the Centers for Disease Control and Prevention (CDC) provides recommendations for vaccinations for travel abroad, and the U.S. Department of State provides notice to travelers that some countries require travelers to carry proof of certain inoculations.⁴ Additionally, the CDC

¹ Florida Department of Health (FDOH), Florida COVID-19 Response, *How do I prevent and prepare for COVID-19?*, available at <https://floridahealthcovid19.gov/prevention/> (last visited Nov. 10, 2021).

² See U.S. Food and Drug Administration, COVID-19 Frequently Asked Questions, *Q: What is the FDA's role in approving vaccines and what is being done to produce a COVID-19 vaccine?*, available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-frequently-asked-questions> (last visited Nov. 10, 2021). Emergency use for the Pfizer and Moderna vaccines was first issued in December 2020, and for the Janssen (Johnson and Johnson) vaccine in February 2021.

³ FDOH, Florida COVID-19 Response, *COVID-19 Vaccines in Florida*, available at <https://floridahealthcovid19.gov/vaccines/> (last visited Nov. 10, 2021).

⁴ See generally U.S. Department of State, Travel.State.Gov, *Your Health Abroad*, available at <https://travel.state.gov/content/travel/en/international-travel/before-you-go/your-health-abroad.html> (last visited Nov. 10, 2021).

recommends vaccines for children and adults and publishes schedules for recommendations for specific vaccines, including the age at which a person should receive them.⁵

Vaccines have also been required for certain activities, such as for enrollment and attendance at school. Such vaccines include diphtheria-tetanus-acellular pertussis (DTaP), inactivated polio vaccine (IPV), measles-mumps-rubella (MMR), varicella (chickenpox), haemophilus influenzae type b (Hib), pneumococcal conjugate (PCV13), and hepatitis B (Hep B).⁶ Medical and religious exemptions are generally allowed for required vaccinations.⁷

Currently, the CDC recommends primary COVID-19 vaccinations for people aged 5 years and older and booster shots for some people aged 18 years and older who are at higher risk for COVID-19 exposure or severe illness or who received the one-dose Janssen vaccine.⁸

COVID-19 Vaccination Mandates for Employment

Since the FDA's full approval of COVID-19 vaccinations, some employers have begun to mandate vaccination.⁹ For example on August 6, 2021, United Airlines became the first major airline to announce a COVID-19 vaccination mandate for its employees.¹⁰ The airline terminated more than 230 employees who have not complied with the mandate.¹¹ In response to employer COVID-19 vaccination mandates, some states have restricted the use of such mandates. Seven of these states ban state entities imposing vaccine mandates on employees; while one state, Montana, bans both public and private employers from imposing vaccine mandates.¹²

The Occupational Safety and Health Administration (OSHA) is a regulatory agency within the United States Department of Labor, created "to ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education and

⁵ Centers for Disease Control and Prevention (CDC), *Vaccines & Immunizations*, (last reviewed February 16, 2021), available at <https://www.cdc.gov/vaccines/> (last visited Nov. 10, 2021).

⁶ See FDOH, *School Immunizations Requirements*, (last reviewed March 8, 2021), available at <http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/school-immunization-requirements/index.html> (last visited Nov. 10, 2021). See also CDC, *Vaccines for Your Children, Required Vaccines for Child Care and School*, (last reviewed May 17, 2019), available at <https://www.cdc.gov/vaccines/parents/records/schools.html> (last visited Nov. 10, 2021).

⁷ See FDOH, *Exemption from Required Immunizations*, (last reviewed March 27, 2021), available at <http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/immunization-exemptions/index.html> (last visited Nov. 10, 2021). Section 381.003(1)(e), F.S.

⁸ CDC, COVID-19, *COVID-19 Vaccines for Specific Groups of People* (last updated November 3, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups.html> (last visited Nov. 10, 2021); see also CDC, *Some COVID-19 Vaccine Recipients Can Get Booster Shots* (last updated November 9, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/booster-shot.html> (last visited Nov. 10, 2021).

⁹ NBC News, *From McDonald's to Goldman Sachs, here are the companies mandating vaccines for all or some employees* (August 3, 2021), available at <https://www.nbcnews.com/business/business-news/here-are-companies-mandating-vaccines-all-or-some-employees-n1275808> (last visited Nov. 10, 2021).

¹⁰ United, *COVID-19 vaccine required for United employees*, (Aug. 6, 2021) available at <https://www.united.com/en/us/newsroom/announcements/COVID-19-vaccine-required-for-United-employees> (last visited Nov. 8, 2021).

¹¹ Fox Business, *United Airlines in the process of firing 232 unvaccinated employees*, (October 13, 2021), available at <https://www.foxbusiness.com/lifestyle/united-airlines-firing-unvaccinated-employees> (last visited Nov. 8, 2021).

¹² Littler, *COVID-19 Resources, Mandatory Employee Vaccines – Coming to A State Near You?*, (current as of November 10, 2021), available at <https://www.littler.com/publication-press/publication/mandatory-employee-vaccines-coming-state-near-you> (last visited Nov. 10, 2021).

assistance.”¹³ The Occupational Safety and Health Act (OSH Act) regulates most private sector employers as well as certain public sector employers. The OSH Act applies to employees of an organization, and does not apply to self-employed workers, immediate family members of farm employers, volunteers, or unpaid students.¹⁴ The OSHA is authorized to set emergency temporary standards in certain limited circumstances which take effect immediately and are in effect until superseded by a permanent standard. “OSHA must determine that workers are in grave danger and that an emergency standard is needed to protect them. Then, OSHA publishes the emergency temporary standard in the Federal Register, where it also serves as a proposed permanent standard.” The validity of an emergency temporary standard may be challenged in a U.S. Court of Appeals.¹⁵

On November 5, 2021, OSHA published an emergency temporary standard that requires every employer having 100 or more employees to implement a COVID-19 vaccination mandate.¹⁶ All employers having 100 or more employees must ensure that their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work and to wear personal protective equipment. Employees may be exempt from the requirement due to religious beliefs or having a severe allergic reaction to the vaccine or its ingredients. These employers are also required to provide paid time off to employees who decide to be vaccinated, to allow the employee time to receive the vaccination and recover in the event of experiencing any short-term side effects from the shot. The penalty for violation of the emergency temporary standard is up to \$14,000 per violation. The employer must comply with the emergency temporary standard by January 4, 2022. The OSHA estimated that the total cost per entity to comply with the emergency temporary standard is \$11,298 per entity, for an estimated total of nearly \$3 billion.¹⁷ As of October 4, 2021, OSHA estimated that 61.3 percent of covered employees are fully vaccinated.¹⁸

On November 5, 2021, the federal Centers for Medicare and Medicaid Services (CMS) published an interim final rule to require that a healthcare employer¹⁹ participating in Medicare or Medicaid implement a COVID-19 vaccination mandate.²⁰ The vaccination mandate applies to employees, licensed practitioners, students and trainees, volunteers, and contractors (individuals who provide care, treatment, or other services for the provider and/or its residents, under contract

¹³ Occupation Health and Safety Administration (OSHA), United States Department of Labor, *About OSHA*, <https://www.osha.gov/aboutosha> (last visited Nov. 4, 2021).

¹⁴ OSHA, *All About OSHA*, 8, https://www.osha.gov/sites/default/files/publications/all_about_OSHA.pdf (last visited Nov. 4, 2021.)

¹⁵ OSHA, *OSHA Standards Development*, available at <https://www.osha.gov/laws-regs/standards-development> (last visited Nov. 11, 2021).

¹⁶ 86 Fed. Reg. 61402 (Nov. 5, 2021).

¹⁷ *Id.* at Table IV.B.13., p. 61493.

¹⁸ *Id.* at Table IV.B.6., p. 61471.

¹⁹ The following entities are included: ambulatory surgical centers (ASCs); hospices; psychiatric residential treatment facilities; programs of all-inclusive care for the elderly (PACE); hospitals; long term care facilities; intermediate care facilities for individuals with intellectual disabilities; home health agencies; comprehensive outpatient rehabilitation facilities; critical access hospitals; clinics, rehabilitation agencies, and public health agencies as providers of outpatient physical therapy and speech-language pathology services; community mental health centers; home infusion therapy suppliers; rural health clinics; federally qualified health centers; and end-stage renal disease facilities.

²⁰ 86 Fed. Reg. 61555 (Nov. 5, 2021).

or by other arrangement).²¹ A person may be exempt from the requirement due to religious beliefs or having a severe allergic reaction to the vaccine or its ingredients.

On September 29, 2021, the President of the United States issued an Executive Order requiring that every new federal contract after October 15, 2021, include a requirement to impose a COVID-19 vaccination requirement on the employees of federal contractors.²²

Employment in Florida

Florida is an “at will” state. This means that where there is not an agreed upon, definite term of employment, an employment agreement is terminable at the will of either the employer or the employee without cause. “An at-will employee may be discharged at any time as long as he or she is not terminated for a reason prohibited by law such as retaliation or unlawful discrimination.”²³

“An employer owes its employees the duty to furnish a reasonably safe place in which to work.”²⁴ On May 28, 2021, the federal Equal Employment Opportunity Commission (EEOC) released technical assistance related to the COVID-19 pandemic which said employers could legally require COVID-19 vaccinations to re-enter a physical workplace as long as the employer follows requirements to find alternative arrangements for employees unable to be vaccinated for medical reasons or because they have religious objections.²⁵

The COVID-19 technical assistance only addresses questions from the perspective of the federal equal employment opportunity (EEO) laws. It does not cover other federal, state, or local laws that may be related to the COVID-19 pandemic for employers and employees. The technical assistance states:

Federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, so long as employers comply with the reasonable accommodation provisions of the ADA and Title VII of the Civil Rights Act of 1964 and other EEO considerations. Other laws, not in EEOC’s jurisdiction, may place additional restrictions on employers. From an EEO perspective, employers should keep in mind that because some individuals or demographic groups may face greater barriers to receiving a COVID-19 vaccination than others,

²¹ The requirement does not apply to staff working remotely 100 percent of the time, or to staff providing offsite support services, if they have no direct contact with patients or other staff who are subject to the requirement. Similarly, it does not apply to one-time or infrequent non-health service providers or contractors who have no contact with patients or staff who are subject to the requirement.

²² *Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors* (September 9, 2021), available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/> (last visited Nov. 8, 2021). See Safer Federal Workforce, *COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors*, available at <https://www.saferfederalworkforce.gov/overview/> (last visited Nov. 10, 2021).

²³ 2A Fla. Jur 2d Agency and Employment 199.

²⁴ 2A Fla. Jur 2d Agency and Employment 252.

²⁵ Equal Employment Opportunity Commission, *EEOC Issues Updated Covid-19 Technical Assistance* (May 28, 2021) available at <https://content.govdelivery.com/accounts/USEEOC/bulletins/2e1bfc4> (last visited Nov. 8, 2021).

some employees may be more likely to be negatively impacted by a vaccination requirement.²⁶

COVID-19 Vaccination, Mask, and Quarantine Requirements in Schools

Vaccination & Immunization Requirements in Schools

The Department of Health (DOH) administers a program for the immunization against, the testing for, and the control of preventable communicable diseases for children in the state.²⁷ For school admission or attendance, a child must obtain the following vaccinations.

- Diphtheria, tetanus, and pertussis.
- Polio.
- Measles, mumps, rubella (MMR).
- Haemophilus influenza type b (Hib).
- Hepatitis B.
- Varicella (Chickenpox).²⁸

The DOH also requires meningococcal meningitis and hepatitis B vaccinations for individuals residing in on-campus housing of a postsecondary educational institution, and recommends them for every student.²⁹ Other than this requirement, current law does not require any vaccination for an adult.

Exemptions from Immunization and Health Requirements

The DOH is required to provide procedures for exempting a child from school-entry immunization requirements.³⁰ Additionally, current law authorizes parents to opt their children out of immunization requirements. Under these procedures:

- Public and private school entry health examinations and school immunization requirements do not apply if:
 - A physician licensed under ch. 458, F.S., or ch. 459, F.S., certifies in writing that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;³¹
 - A physician licensed under ch. 458, F.S., ch. 459, F.S., or ch. 460, F.S., certifies in writing that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;³²

²⁶ *Id.*

²⁷ Section 1003.22, F.S.

²⁸ FDOH, *Immunization Guidelines: Florida Schools, Childcare Facilities, and Family Daycare Homes* (March 2013) incorporated by reference in Rule 64D-3.046, F.A.C., <http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/documents/school-guide.pdf> (last visited Nov. 10, 2021). The schedule and the number of doses required varies by age.

²⁹ Section 1006.69, F.S. A student or the parent of a minor who is required to have such vaccines, may refuse by signing a waiver for each vaccine.

³⁰ Section 1003.22, F.S.

³¹ Section 1003.22(5)(b), F.S.

³² Section 1003.22(5)(c), F.S.

- The DOH determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or³³
- An authorized school official issues a temporary exemption, for up to 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained.³⁴
- Children in childcare facilities may be exempt from medical or physical examination or medical or surgical treatment upon written request of the parent or guardian who objects to the examination and treatment. However, the laws, rules, and regulations relating to contagious or communicable diseases and sanitary matters may not be violated because of any exemption from or variation of the health and immunization minimum standards.³⁵
- Individuals who apply to participate in the temporary family assistance (TANF) program are exempt from the requirement to have their children's childhood immunization completed if the failure to immunize the child is because of religious reasons or other good cause, as defined in rules adopted by the Department of Children and Families.³⁶
- Parents may opt their children out of public and private school entry health examinations or school immunization requirements by submitting a written request stating objections on religious grounds.³⁷

Immunization Records

The DOH is required to maintain an electronic registry of immunizations. The Florida State Health Online Tracking System (SHOTS) is the statewide, online immunization registry employed by the DOH to track immunization records. Only authorized health care practitioners, schools, childcare providers, and parents may access the system. A health care practitioner voluntarily enrolls to access SHOTS and, once enrolled, may upload patient immunization history into the system.³⁸ A health care practitioner who provides an immunization that is required for school admission or attendance submits that information to SHOTS or documents the immunization on a Florida Certification of Immunization Form. The DOH must maintain the confidentiality of the information stored in SHOTS, and any health care practitioner or other agency that obtains such information must maintain the confidentiality.³⁹ The DOH uses SHOTS to record data on COVID-19 vaccinations provided by practitioners.⁴⁰

Mask & Quarantine Requirements in Schools

COVID-19 infection “is transmitted predominately by inhalation of respiratory droplets generated when people cough, sneeze, sing, talk, or breathe.”⁴¹ The CDC recommends that schools implement strategies for lowering the chance of COVID-19 transmission in schools, and

³³ Section 1003.22(5)(d), F.S.

³⁴ Section 1003.22(5)(e), F.S.

³⁵ Section 402.305(9)(e), F.S.

³⁶ Section 414.13, F.S.

³⁷ Sections 1002.20(3)(a)-(b) and 1003.22(5)(a), F.S.

³⁸ FDOH, Frequently Asked Questions, available at <http://www.floridahealth.gov/programs-and-services/immunization/immunization-faq.html> (last visited Nov. 10, 2021).

³⁹ Section 381.003(1)(e), F.S.

⁴⁰ FDOH, *COVID-19: Vaccine Reporting Requirements*, Emergency Rule 64DER21-4, F.A.C.

⁴¹ CDC, *COVID-19, Science Brief: Community Use of Cloth Masks to Control the Spread of SARS-CoV-2*, available at <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov-2.html> (last accessed Nov. 9, 2021).

mask and quarantine mandates are two of those strategies.⁴² Over the course of the pandemic, many local school districts imposed mask mandates and quarantine policies as a part of their reopening plans.

On July 30, 2021, the Governor issued an executive order directing the Department of Health and the Department of Education to work together to adopt emergency rules to address COVID-19 in schools, including mask and quarantine requirements for students.⁴³

On August 6, 2021, the DOH published an emergency rule requiring schools to allow a parental opt-out of any student mask mandate.⁴⁴ The rule was amended on September 22, 2021.⁴⁵ As amended, the rule clarifies that the opt-out for masks is at the sole discretion of the parent and revises the requirements for quarantining students who may have been exposed to COVID-19, but who are asymptomatic. According to the DOH, it was observed that a large number of students were required to quarantine for long periods of time, resulting in the loss of hundreds of thousands of days of in-person learning. In addition, the DOH observed no meaningful difference in the number of COVID-19 cases in school-aged children in counties where school districts have imposed mask mandates. The DOH found it necessary to “minimize the amount of time students are removed from in-person learning based solely on direct contact with an individual that is positive for COVID-19, to ensure parents and legal guardians are allowed the flexibility to control the education and health care decisions of their own children, and to protect the fundamental rights of parents guaranteed under Florida law.”⁴⁶

The emergency rule was upheld by an administrative law judge, who found that while children can be infected by COVID-19, children are unlikely to suffer serious side effects from COVID-19. The administrative law judge found the testimony that “for children up to 19 years old, a child infected with COVID survives 99.997 percent of the time” to be well-supported and credible⁴⁷ and found that “it was not proven that masks provide any significant protection to children against COVID-19.”⁴⁸ Furthermore, the administrative law judge found that a comparison between schools with and without mask mandates offered no statistically significant difference in protection against COVID-19.⁴⁹

⁴² CDC, COVID-19, *Guidance for COVID-19 Prevention in K-12 Schools #2*, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html> (last accessed Nov 5, 2021).

⁴³ *Ensuring Parents’ Freedom to Choose - Masks in Schools*, Executive Order 21-175 (July 30, 2021), available at https://www.flgov.com/wp-content/uploads/orders/2021/EO_21-175.pdf.

⁴⁴ FDOH, *Protocols for Controlling COVID-19 in School Settings*, Rule 64DER21-12, F.A.C., available at <https://www.flgov.com/wp-content/uploads/2021/08/8.6.21-DOH-Rule.pdf>.

⁴⁵ FDOH, *Protocols for Controlling COVID-19 in School Settings*, Rule 64DER21-15, F.A.C., available at <https://floridahealthcovid19.gov/wp-content/uploads/2021/09/64DER21-15.pdf>.

⁴⁶ *Id.*

⁴⁷ *School Board of Miami-Dade County, Florida, et.al., v. Department of Health*, DOAH Case No. 21-3066 (Final Order, Nov. 5, 2021), at page 14, available at <https://www.doah.state.fl.us/ROS/2021/21003066.pdf> (internal quotations omitted).

⁴⁸ *Id.* at 15.

⁴⁹ *Id.*

Florida Attorney General

The Attorney General (AG) is the state's chief legal officer.⁵⁰ The AG is tasked with duties prescribed by the State Constitution and those duties appropriate to her office as may be required by law,⁵¹ including:

- Appearing in, on behalf of the state, all suits or prosecutions in which the state is a party or in any way interested.⁵²
- Acting as co-counsel of record in capital collateral proceedings.⁵³
- Serving as a member of the cabinet.⁵⁴
- Exercising a general superintendence and direction over the several state attorneys of the state judicial circuits as to the manner of discharging their official duties.⁵⁵
- Performing all powers and duties incident to her office.⁵⁶

Department of Legal Affairs

The Department of Legal Affairs (DLA) is a state department headed by the AG.⁵⁷ The AG is responsible for overseeing the various prosecutorial and enforcement functions of the DLA.⁵⁸ The DLA's functions in part include:

- Providing all legal services required by any state department or agency where required by law.⁵⁹
- Investigating and prosecuting various criminal offenses through the Office of Statewide Prosecution.⁶⁰
- Investigating and initiating actions authorized by chapter 760, F.S., through the Office of Civil Rights, including the Florida Civil Rights Act and the Fair Housing Act.⁶¹
- Investigating all violations relating to Medicaid provider fraud and any related criminal violations discovered during such investigations through the Medicaid Fraud Control Unit.⁶²
- Instituting civil actions to enforce other state laws, including the:
 - Florida Deceptive and Unfair Trade Practices Act.⁶³
 - Florida False Claims Act.⁶⁴
 - State public nuisance laws.⁶⁵

⁵⁰ FLA. CONST. art. IV, s. 4.

⁵¹ *Id.*; s. 16.01(2), F.S.

⁵² Section 16.01, F.S.

⁵³ Capital collateral proceedings are proceedings following an affirmed criminal conviction and death sentence imposed by a trial court, including any appellate review of the sentence. Sections 16.01(6) and 27.711(1)(c), F.S.

⁵⁴ The cabinet is an executive branch body that engages in the collective governance of the state. Other cabinet members include the chief financial officer, the commissioner of agriculture, and the governor. FLA. CONST. art. IV, s. 4.

⁵⁵ Section 16.08, F.S.

⁵⁶ Section 16.01(7), F.S.

⁵⁷ Section 20.11, F.S.

⁵⁸ Section 16.015, F.S.

⁵⁹ *Id.*

⁶⁰ Section 16.56, F.S.

⁶¹ Section 16.57, F.S.

⁶² Section 16.59, F.S.

⁶³ Part II, ch. 501, F.S.

⁶⁴ Section 68.083, F.S.

⁶⁵ Section 823.05, F.S.

- Environmental Protection Act.⁶⁶

Administrative Procedures Act

Chapter 120, F.S., is the state’s Administrative Procedures Act. It is a comprehensive administrative process that requires agencies to follow uniform procedures when enacting rules and issuing orders and allows individuals to challenge agency decisions.⁶⁷

The term “agency action” includes an order or its equivalent issued by an agency. “An agency will provide notice of the intended decision to substantially affected persons, and such notice must contain a statement of the right to challenge the intended decision. Unless challenged, the preliminary agency decision becomes final 21 days from the point of notice to persons with standing to contest the action.”⁶⁸

Petitions for hearings to contest agency decisions must contain specific information required by statute and the Uniform Rules of Procedure. All such petitions requesting hearings are filed with the agency, and those requests that contain material fact disputes are referred to [the Division of Administrative Hearings], while those that do not are heard by agency personnel assigned as hearing officers. A petition heard at DOAH is assigned to an [administrative law judge] who issues a recommended order at the conclusion of the hearing. The case is then returned to the agency for entry of a final order. Hearing officers also issue recommended orders and the agency head typically issues the final order. All final orders are subject to appeal to district courts of appeal.⁶⁹

III. Effect of Proposed Changes:

Private Employer COVID-19⁷⁰ Vaccination Mandates (Section 1, creating s. 381.00317, F.S.)

The bill prohibits private-employer vaccination mandates for full-time, part-time, or contract employees which do not provide individual exemptions that allow the employee to opt out of the mandate. The bill also prohibits an employer from imposing a policy prohibiting an employee from receiving a COVID-19 vaccination.

⁶⁶ Section 403.412, F.S.

⁶⁷ Florida Legislature, Joint Administrative Procedures Committee, *A Primer on Florida’s Administrative Procedures Act*, 2, available at <https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last visited Nov. 10, 2021).

⁶⁸ The Florida Bar, Robert C. Downie II, *Florida Administrative Procedures Act Remedies Survey*, Vol. 81, No. 7 (July/August 2007), available at <https://www.floridabar.org/the-florida-bar-journal/florida-administrative-procedures-act-remedies-survey/> (last visited Nov. 10, 2021).

⁶⁹ *Id.* (citations omitted). Section 120.569, F.S., contains provisions applicable to all three types of hearings. Section 120.57(1), F.S., contains additional procedures for hearings that involve disputed issues of material fact, or formal hearings. Section 120.57(2), F.S., applies to hearings without material factual disputes, or informal hearings. Section 120.57(3), F.S., applies to contract solicitation or award protests, both formal and informal. *Id.*

⁷⁰ For purposes of the bill, COVID-19 means “the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.” This is the same definition currently in s. 768.381, F.S.

The bill establishes a minimum of five exemptions that an employer must offer if the employer imposes a COVID-19 vaccination mandate:

- Medical reasons (including pregnancy or anticipated pregnancy);
- Religious beliefs;
- COVID-19 immunity;
- Agreement to comply with periodic testing; and
- Agreement to comply with using employer-provided personal protective equipment.

To claim an exemption, the employee must submit an exemption statement to the employer. Employers are required to use forms adopted by the Department of Health (DOH) or substantially similar forms. An employer that receives a completed exemption statement from an employee must allow the employee to opt out of the employer's COVID-19 vaccination mandate.

Exemptions

To claim an exemption based on medical reasons, which include but are not limited to pregnancy or anticipated pregnancy, the submitted exemption statement must be dated and signed by a Florida-licensed physician, physician assistant (PA), or advanced practice registered nurse (APRN) who has examined the employee.⁷¹ The statement must provide that in the professional opinion of the physician, PA, or APRN, the vaccination is not in the best medical interest of the employee.

To claim an exemption based on religious beliefs, the submitted exemption statement must indicate that the employee declines the vaccination because of a sincerely held religious belief.

To claim an exemption based on COVID-19 immunity, the submitted exemption statement must demonstrate competent medical evidence that the employee has immunity to COVID-19, documented by the results of a valid laboratory test performed on the employee.

To claim an exemption based on periodic testing, the submitted exemption statement must indicate that the employee agrees to comply with regular testing for the presence of COVID-19. Testing must be done at no cost to the employee.

To claim an exemption based on use of personal protective equipment (PPE), the submitted exemption statement must indicate that the employee agrees to comply with the employer's reasonable written requirement to use PPE. The employer must provide the PPE.

An employee can file a complaint with the Department of Legal Affairs (DLA) if he or she alleges that the employer is not offering a required exemption, has improperly applied the exemption, or has improperly denied the exemption to the employee. If the DLA investigates the complaint and finds that the allegation was valid, then the DLA must notify the employer of the determination and allow the employer the opportunity to cure the noncompliance.

⁷¹ The physician or PA must hold a valid, active license under chs. 458 or 459, F.S. The APRN must hold a valid, active license under ch. 464, F.S.

Terminated Employees

An employer may be subject to fines under the bill if the employer institutes a vaccine mandate, but fails to offer or properly apply the exemptions specified in the bill and terminates an employee based on its vaccine mandate. Moreover, termination includes the functional equivalent of termination.⁷²

A terminated employee may file a complaint with the DLA, alleging that the employer did not offer an exemption, improperly applied the exemption, or improperly denied the exemption to the employee, resulting in the employee's termination. The DLA must conduct an investigation into the complaint and must, at a minimum, determine whether:

- The employer imposed a COVID-19 vaccination mandate;
- The employee submitted a proper exemption statement and complied with any specified condition; and
- The employee was terminated as a result of the COVID-19 vaccination mandate.

If the Attorney General finds that the employee was improperly terminated, the Attorney General must impose an administrative fine, per violation of a wrongful termination, of up to \$10,000 for an employer that has fewer than 100 employees or up to \$50,000 for an employer that has 100 or more employees. However, the Attorney General may not impose a fine on an employer that reinstates the terminated employee with back pay to the date that the complaint of wrongful termination was received by the DLA. Fines collected are deposited in the General Revenue Fund.

The Attorney General, when assessing a fine against an employer, may consider whether the employer:

- Knowingly and willfully violated the law;
- Has shown good faith in attempting to comply with the law;
- Has taken action to correct the violation; and
- Has previously been assessed a fine for violating the law.

The Attorney General may also consider any other mitigating or aggravating factor that fairness or due process requires.

The decision of the Attorney General constitutes agency action for purposes of ch. 120, F.S., the state's Administrative Procedures Act, which sets forth procedures for challenges to an agency's decision.

⁷² For example, under the legal theory of "constructive termination" the courts recognize "that employers have ways of forcing workers out without actually firing them, courts have looked to whether the employer's actions, practices, or course of conduct, under all the facts and circumstances, made working conditions so intolerable that a reasonable person would have felt compelled to resign... At a minimum, the employee must show a significantly adverse change in working conditions. Such changes may include demotion, a freeze or cut in pay, on-the-job harassment, a reassignment to meaningless or menial duties, unreasonably onerous working conditions, a transfer to a remote job site, the infliction of humiliation, or some combination of these or similar factors." 33 Am. Jur. Proof of Facts 3d 235 (Originally published in 1995).

Emergency Rulemaking

The bill authorizes the DOH and the DLA to adopt emergency rules to implement the provisions of the bill. The emergency rules remain in effect until rules are filed under the regular rulemaking process.

The emergency rules must be filed within 15 days after the effective date of the bill. All existing employer COVID-19 vaccination mandates are considered invalid for 15 days after the effective date of the bill or until the emergency rules are filed by the DOH, whichever occurs first.

The DOH must adopt rules to:

- Specify the circumstances that are considered an anticipated pregnancy, including, but not limited to, a maximum timeframe within which one anticipates pregnancy for the purposes of claiming an exemption.
- Specify the standard for demonstrating competent medical evidence of COVID-19 immunity.
- Specify requirements for the frequency and methods of testing which may be used by employers.
- Create forms for the exemption statements.⁷³

The DLA must adopt rules to:

- Prescribe the complaint and notification processes; and
- Specify the functional equivalent of termination.

Appropriation (Section 4)

The bill directs the transfer of \$5 million from the General Revenue Fund to a designated account in the Operating Trust Fund in the DLA; any funds remaining in the account on June 1, 2023, revert back to the General Revenue Fund. The bill appropriates \$5 million from the DLA Operating Trust Fund for Fiscal Year 2021-2022 for complaint and investigation activities and for taking legal action to stop the enforcement of COVID-19 vaccination mandates imposed by the federal government.

Public Employer COVID-19 Vaccination Mandates (Section 3, creating s. 112.0441, F.S.)

Under the bill, a governmental entity⁷⁴ is prohibited from imposing a COVID-19 vaccination mandate for any full time, part-time, or contract employee. Any existing ordinance, rule, or policy imposing such a mandate is null and void as of the effective date of the bill. The DOH may impose a fine of up to \$5,000 against the governmental entity for each employee subject to

⁷³ The exemption statement for the COVID-19 immunity opt-out must include the laboratory criteria for proof of immunity; and the exemption statement for the periodic testing opt-out must include the required frequency of testing and acceptable tests that may be used. Employers are required to use these forms or substantially similar ones if the employers elect to impose a COVID-19 vaccination mandate.

⁷⁴ A governmental entity is the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to ch. 286, F.S. (the “Sunshine” law, which generally applies to any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision. See Office of the Attorney General, *Government-In-The-Sunshine Manual*, 2021 Edition, vol. 43). Section 768.38, F.S.

the vaccination mandate. Fines collected are deposited in the General Revenue Fund. The DOH is also authorized to adopt emergency rules to implement this law; the emergency rules remain in effect until rules are filed under the regular rulemaking process. The emergency rules must be filed within 15 days after the effective date of the bill.

Educational Institution COVID-19 Vaccination Mandates (Section 2, creating s. 381.00319, F.S., and Section 3, creating s. 112.0441, F.S.)

Under the bill, an educational institution may not impose a COVID-19 vaccination mandate on students or employees. An educational institution is an institution under the control of a district school board; a charter school; a state university; a developmental research school; a Florida College System institution; the Florida School for the Deaf and the Blind; and the Florida Virtual School.

Employees

An educational institution is prohibited from imposing a COVID-19 vaccination mandate for any full time, part-time, or contract employee. Any existing ordinance, rule, or policy imposing such a mandate is null and void as of the effective date of the bill. The DOH may impose a fine of up to \$5,000 against the educational institution for each employee subject to the vaccination mandate. Fines collected are deposited in the General Revenue Fund.

The DOH is also authorized to adopt emergency rules to implement this law; the emergency rules remain in effect until rules are filed under the regular rulemaking process. The emergency rules must be filed within 15 days after the effective date of the bill.

Students and Cause of Action

An educational institution or an elected or appointed local official is prohibited from imposing a COVID-19 vaccination mandate for any student. The bill authorizes a parent⁷⁵ of a student, a student who is an emancipated minor, or a student who is 18 years of age or older to bring a cause of action against the educational institution to obtain a declaratory judgment that an act or practice violates this prohibition and an injunction. The prevailing parent or student must be awarded attorney's fees and court costs.

Reemployment Assistance for Terminated Employees (Section 1, creating s. 381.00317, F.S., and Section 3, creating s. 112.0441, F.S.)

If an employee of a private employer, educational institution, or governmental entity is terminated for noncompliance with the employer's COVID-19 vaccination mandate, then the employee may be eligible for reemployment assistance benefits under ch. 443, F.S.

Under current law, an individual may be disqualified for reemployment assistance benefits if the Department of Economic Opportunity finds that the individual was discharged or suspended by

⁷⁵ Section 1000.21(5), F.S., defines the term "parent" as "either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent."

the employer for misconduct associated with his or her work.⁷⁶ Under the bill, an employee's refusal to comply with the employer's COVID-19 vaccination mandate may not be deemed misconduct, if the:

- Private employer does not offer and properly apply the exemptions required to impose a COVID-19 vaccination mandate and terminates the employee for refusing to comply with the mandate; or
- Educational institution or governmental entity employer terminates the employee for refusing to comply with any COVID-19 vaccination mandate.

Under current law, each qualified individual must report at least biweekly to receive reemployment assistance benefits and to attest to the fact that she or he is able and available for work, has not refused suitable work, and is seeking work.⁷⁷ For any week for which the Department of Economic Opportunity finds that the individual has failed without good cause to apply for available suitable work or accept suitable work when offered to him or her, the person may be disqualified for benefits for the weeks claimed.⁷⁸ Under the bill, work is not deemed suitable and benefits may not be denied for a terminated employee for refusing to accept new work if the terminated employee is otherwise eligible and the position requires compliance with a COVID-19 vaccination mandate contrary to the provisions on vaccination mandates created by the bill.

The Department of Economic Opportunity is authorized to adopt emergency rules to implement this law; the emergency rules remain in effect until rules are filed under the regular rulemaking process. The emergency rules must be filed within 15 days after the effective date of the bill.

Prohibition of Student Mask Mandates and Quarantine Mandates (Section 5, creating s. 1002.20(3)(n), F.S.)

Under the bill, a district school board, a district school superintendent, an elected or appointed local official, or any district school board employee may not require a student to wear a face mask, face shield, or any other facial covering that fits over the mouth or nose. This prohibition does not apply to safety equipment required as part of a course of study consistent with occupational or laboratory safety requirements. However, a parent, at the parent's sole discretion, can allow his or her student to wear a facial covering.

⁷⁶ Section 443.101(1), F.S. Misconduct includes conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee; and a violation of an employer's rule. See s. 443.036, F.S., and Rule 73B-11.020 (Determinations Regarding Discharge for Misconduct), F.A.C.

⁷⁷ Sections 443.091(1)(d) and 443.111(1)(b), F.S. "Available for work" means actively seeking and being ready and willing to accept suitable work. Section 443.036(6), F.S.

⁷⁸ In determining whether or not any work is suitable for an individual, the Department of Economic Opportunity must consider the degree of risk to the individual's health, safety, and morals. Section 443.101(2), F.S. The statute also sets forth conditions for when work is not deemed suitable and benefits may not be denied to any otherwise eligible individual for refusing to accept new work.

Additionally, for any student exposed to COVID-19, the bill prohibits a district school board, a district school superintendent, an elected or appointed local official, or any district school board employee from:

- Prohibiting a student from attending school or school-sponsored activities;
- Prohibiting a student from being on school property; or
- Subjecting the student to restrictions or disparate treatment.

However, this prohibition only applies so long as the student remains asymptomatic and has not received a positive test for the presence of COVID-19.

Cause of Action

The bill authorizes a parent of a student, a student who is an emancipated minor, or a student who is 18 years of age or older to bring a cause of action against the educational institution to obtain a declaratory judgment that an act or practice violates this prohibition and an injunction. The prevailing parent or student must be awarded attorney's fees and court costs.

Prohibition of School Board Employee Quarantine Mandates (Section 5, creating s. 1002.20(3)(n), F.S.)

Under the bill, for any employee exposed to COVID-19, the bill prohibits a district school board, a district school superintendent, an elected or appointed local official, or any district school board employee from:

- Prohibiting an employee from returning to work; or
- Subjecting the employee to restrictions or disparate treatment.

However, this prohibition only applies so long as the employee remains asymptomatic and has not received a positive test for the presence of COVID-19.

Effective Dates (Sections 6 and 7)

The bill is effective upon becoming a law. The provisions of the bill expire June 1, 2023. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in the bill with the date that the bill becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The federal government announced plans to require many private employers to enact COVID-19 vaccination mandates. It is possible that such regulations may preempt portions of the bill.⁷⁹

Whether a federal regulation preempts state law depends on whether the agency that prescribed the regulations meant to preempt state law, and, if so, whether that action is within the scope of the agency's delegated authority.⁸⁰ A state law is only preempted to the extent that it actually conflicts with federal law so that "compliance with both federal and state regulations is a physical impossibility."⁸¹ Federal agencies have authority to issue regulations to the extent that the authority has been granted to the agency by an act of Congress. A regulation may not exceed the authority granted, and may not be arbitrary nor one that Congress would not have sanctioned.⁸² Congress must clearly authorize regulations that have vast economic and political significance.⁸³ An agency attempt to exert broad new power over a significant portion of the American economy is suspect.⁸⁴

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

See Private Sector Impact.

B. Private Sector Impact:

SB 2-B provisions prohibiting businesses from requiring COVID-19 vaccination for employees may limit their ability to attract some types of customers and students and may prevent or delay full operation of some business, educational, and governmental activities.

Employers with existing COVID-19 vaccination mandates will need to modify their policies in order to comply with the requirements of the bill.

⁷⁹ U.S. CONST. art. VI, cl. 2.

⁸⁰ *Drake v. Laborator Corp. of America Holdings*, 458 F.3d 48 (2nd Cir. 2006).

⁸¹ *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-143 (1963) (declining to block California state law that discriminated against Florida produce in part based on lack of conflict between federal regulation and state law).

⁸² *Fidelity Fed. Sav. & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 154 (1982) (upholding federal regulation requiring due-on-sale clauses in certain home mortgages contrary to state law).

⁸³ *Alabama Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 141 S. Ct. 2485, 2489 (2021) (invalidating federal regulation by the Centers for Disease Control creating a COVID-19-related eviction moratorium).

⁸⁴ *Util. Air Regul. Grp. v. E.P.A.*, 573 U.S. 302, 324 (2014) (invalidating federal regulation by the Environmental Protection Agency limiting greenhouse gas emissions).

Students and parents may recover the costs related to pursuing an action to see a declaratory judgment and injunction to stop the imposition of mandates prohibited by the bill.

Some employers may incur costs related to resolving complaints related to COVID-19 vaccination mandates. Additionally, any reemployment assistance benefits paid to employees terminated as provided by the bill may impact an employer's reemployment assistance tax rate.

C. Government Sector Impact:

The bill requires the Attorney General to impose fines on an employer if it is determined that an employer violates provisions of the bill relating to the termination of employees based on a COVID-19 vaccination mandate. Any revenue receipts from the imposition of such fines must be deposited into the General Revenue Fund. The amount of revenue anticipated from the imposition of fines is indeterminate. To the extent that the Attorney General imposes such fines, the General Revenue Fund will experience an increase in revenue.

The bill authorizes the DOH to impose fines on an educational institution or a governmental entity that requires individuals to be vaccinated against COVID-19 as a condition of employment. Any revenue receipts from the imposition of such fines must be deposited into the General Revenue Fund. The amount of revenue anticipated from the imposition of fines is indeterminate. To the extent that the DOH imposes such fines, the General Revenue Fund will experience an increase in revenue.

The bill provides for a transfer of \$5 million from the General Revenue Fund to a designated account within the Department of Legal Affairs Operating Trust Fund. Additionally, the bill appropriates the \$5 million in nonrecurring funding from the Department of Legal Affairs Revolving Trust Fund for the purpose of implementing provisions of the act relating to complaint investigation and legal action activities that may arise as a result of COVID-19 vaccination mandates imposed by the federal government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.20 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 112.0441, 381.00317, and 381.00319.

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 Burgess

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1 A bill to be entitled
 2 An act relating to COVID-19 mandates; creating s.
 3 381.00317, F.S.; prohibiting private employers from
 4 imposing a COVID-19 vaccination mandate for employees
 5 unless certain individual exemptions are made
 6 available; defining the term "COVID-19"; requiring
 7 employers to use certain forms for submission of
 8 employee exemption statements; specifying conditions
 9 for claiming exemptions; requiring the Department of
 10 Health to adopt certain rules; requiring an employer
 11 to exempt an employee from a vaccination upon
 12 submission of a completed exemption statement form;
 13 authorizing an employee to file a complaint with the
 14 Department of Legal Affairs; requiring the department
 15 to notify a noncompliant private employer and allow
 16 such employer the opportunity to cure a violation;
 17 providing a penalty; providing construction;
 18 authorizing an employee who is terminated to file a
 19 complaint with the department; requiring the
 20 department to investigate such complaints; providing
 21 requirements for such investigations; requiring the
 22 Attorney General to impose an administrative fine for
 23 such violations, with an exception; specifying factors
 24 that the Attorney General may consider in determining
 25 the amount of a fine; specifying that the Attorney
 26 General's determination regarding a fine constitutes
 27 agency action; providing for the deposit of fine
 28 proceeds in the General Revenue Fund; specifying
 29 eligibility for reemployment assistance for an

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30 unlawfully terminated employee; authorizing the
 31 Department of Health, the Department of Legal Affairs,
 32 and the Department of Economic Opportunity to adopt
 33 emergency rules for specified purposes; specifying
 34 timeframes for the adoption of such rules;
 35 invalidating private employer COVID-19 vaccination
 36 mandates for a specified timeframe; specifying
 37 requirements for the emergency rules; providing that
 38 the emergency rules remain in effect until replaced;
 39 prohibiting an employer from imposing a specified
 40 policy; providing for expiration; creating s.
 41 381.00319, F.S.; defining terms; prohibiting
 42 educational institutions and elected or appointed
 43 local officials from imposing COVID-19 vaccination
 44 mandates on students; providing a right of action to
 45 obtain a declaratory judgment and injunctive relief
 46 for violations; providing for attorney fees and court
 47 costs; providing for expiration; creating s. 112.0441,
 48 F.S.; defining terms; prohibiting educational
 49 institutions and governmental entities from imposing
 50 COVID-19 vaccination mandates for any employees;
 51 declaring null and void any ordinance, rule, or policy
 52 that imposes such mandates; specifying what
 53 constitutes a single violation; authorizing the
 54 Department of Health to impose a fine per violation;
 55 providing for deposit of fine proceeds in the General
 56 Revenue Fund; specifying eligibility for reemployment
 57 assistance for an unlawfully terminated employee;
 58 authorizing the Department of Health and the

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59 Department of Economic Opportunity to adopt emergency
 60 rules for specified purposes; specifying timeframes
 61 for the adoption of such rules; specifying
 62 requirements for the emergency rules; providing that
 63 the emergency rules remain in effect until replaced;
 64 providing for expiration; directing the Chief
 65 Financial Officer to transfer a specified sum to an
 66 account within the Department of Legal Affairs
 67 Operating Trust Fund; providing an appropriation;
 68 providing for the transfer of remaining funds as of a
 69 specified date; amending s. 1002.20, F.S.; prohibiting
 70 district school boards, district school
 71 superintendents, elected or appointed local officials,
 72 and district school board employees from mandating
 73 facial coverings or restricting certain activities for
 74 students based on quarantine policies unless certain
 75 conditions are met; providing that parents may allow
 76 their children to wear facial coverings; providing
 77 applicability; providing a right of action to obtain a
 78 declaratory judgment and injunctive relief for
 79 violations; providing for attorney fees and court
 80 costs; prohibiting district school boards, district
 81 school superintendents, elected or appointed local
 82 officials, and school district employees from
 83 prohibiting employees from returning to work or
 84 subjecting employees to restrictions or disparate
 85 treatment under certain circumstances; providing for
 86 expiration; providing a directive to the Division of
 87 Law Revision; providing an effective date.

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88
 89 Be It Enacted by the Legislature of the State of Florida:
 90
 91 Section 1. Section 381.00317, Florida Statutes, is created
 92 to read:
 93 381.00317 Private employer COVID-19 vaccination mandates
 94 prohibited.—
 95 (1) A private employer may not impose a COVID-19
 96 vaccination mandate for any full-time, part-time, or contract
 97 employee without providing individual exemptions that allow an
 98 employee to opt out of such requirement on the basis of medical
 99 reasons, including, but not limited to, pregnancy or anticipated
 100 pregnancy; religious reasons; COVID-19 immunity; periodic
 101 testing; and the use of employer-provided personal protective
 102 equipment. For purposes of this section, the term "COVID-19"
 103 means the novel coronavirus identified as SARS-CoV-2; any
 104 disease caused by SARS-CoV-2, its viral fragments, or a virus
 105 mutating therefrom; and all conditions associated with the
 106 disease which are caused by SARS-CoV-2, its viral fragments, or
 107 a virus mutating therefrom. Employers shall use forms adopted by
 108 the Department of Health, or substantially similar forms, for
 109 employees to submit exemption statements.
 110 (a) To claim an exemption based on medical reasons,
 111 including, but not limited to, pregnancy or anticipated
 112 pregnancy, the employee must present to the employer an
 113 exemption statement, dated and signed by a physician or a
 114 physician assistant who holds a valid, active license under
 115 chapter 458 or chapter 459, or an advanced practice registered
 116 nurse who holds a valid, active license under chapter 464, who

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117 has examined the employee. The statement must provide that, in
 118 the professional opinion of the physician, physician assistant,
 119 or advanced practice registered nurse, COVID-19 vaccination is
 120 not in the best medical interest of the employee. The Department
 121 of Health shall adopt rules specifying circumstances that are
 122 considered an anticipated pregnancy, including, but not limited
 123 to, a maximum timeframe within which one anticipates pregnancy
 124 for the purpose of claiming an exemption under this paragraph.

125 (b) To claim an exemption based on religious reasons, the
 126 employee must present to the employer an exemption statement
 127 indicating that the employee declines COVID-19 vaccination
 128 because of a sincerely held religious belief.

129 (c) To claim an exemption based on COVID-19 immunity, the
 130 employee must present to the employer an exemption statement
 131 demonstrating competent medical evidence that the employee has
 132 immunity to COVID-19, documented by the results of a valid
 133 laboratory test performed on the employee. The Department of
 134 Health shall adopt a standard for demonstrating competent
 135 medical evidence of such immunity.

136 (d) To claim an exemption based on periodic testing, the
 137 employee must present to the employer an exemption statement
 138 indicating that the employee agrees to comply with regular
 139 testing for the presence of COVID-19 at no cost to the employee.

140 (e) To claim an exemption based on employer-provided
 141 personal protective equipment, the employee must present to the
 142 employer an exemption statement indicating that the employee
 143 agrees to comply with the employer's reasonable written
 144 requirement to use employer-provided personal protective
 145 equipment when in the presence of other employees or other

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146 persons.

147 (2) If an employer receives a completed exemption statement
 148 authorized by subsection (1), the employer must allow the
 149 employee to opt out of the employer's COVID-19 vaccination
 150 mandate.

151 (3) An employee may file a complaint with the Department of
 152 Legal Affairs alleging that an exemption has not been offered or
 153 has been improperly applied or denied in violation of this
 154 section. If the department investigates and finds that the
 155 exemption was not offered or was improperly applied or denied,
 156 it must notify the employer of its determination and allow the
 157 employer the opportunity to cure the noncompliance.

158 (4) (a) An employer who fails to comply with this section
 159 and terminates an employee based on a COVID-19 vaccination
 160 mandate commits a violation of this section. Termination
 161 includes the functional equivalent of termination. The
 162 terminated employee may file a complaint with the Department of
 163 Legal Affairs alleging that an exemption has not been offered or
 164 has been improperly applied or denied, resulting in the
 165 employee's termination. The Department of Legal Affairs shall
 166 conduct an investigation of the complaint filed by a terminated
 167 employee. The investigation, at a minimum, must determine
 168 whether the employer has imposed a COVID-19 vaccination mandate,
 169 whether the employee has submitted a proper exemption statement
 170 and complied with any specified condition, and whether the
 171 employee was terminated as a result of the COVID-19 vaccination
 172 mandate. If the Attorney General finds that an employee has been
 173 improperly terminated, the Attorney General must impose an
 174 administrative fine not to exceed:

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- 175 1. For an employer with fewer than 100 employees, \$10,000
 176 per violation of this subsection.
- 177 2. For an employer with 100 or more employees, \$50,000 per
 178 violation of this subsection.
- 179
- 180 However, the Attorney General may not impose a fine on an
 181 employer that reinstates, prior to the issuance of a final
 182 order, a terminated employee with back pay to the date that the
 183 complaint was received by the department under this subsection.
- 184 (b) In determining the amount of fine to be levied for a
 185 violation, the Attorney General may consider any of the
 186 following factors:
- 187 1. Whether the employer knowingly and willfully violated
 188 this section.
- 189 2. Whether the employer has shown good faith in attempting
 190 to comply with this section.
- 191 3. Whether the employer has taken action to correct the
 192 violation.
- 193 4. Whether the employer has previously been assessed a fine
 194 for violating this section.
- 195 5. Any other mitigating or aggravating factor that fairness
 196 or due process requires.
- 197 (c) The decision of the Attorney General under this
 198 subsection constitutes agency action for purposes of chapter
 199 120.
- 200 (d) Fines collected pursuant to this subsection must be
 201 deposited in the General Revenue Fund.
- 202 (5) (a) If an employer fails to comply with subsections (1)
 203 and (2) and terminates an employee based on the employee's

Page 7 of 14

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- 204 noncompliance with a COVID-19 vaccination mandate, the
 205 terminated employee may be eligible for reemployment assistance
 206 under chapter 443 in addition to any other remedy available to
 207 the employee.
- 208 (b) If an employee is terminated for refusing to comply
 209 with a COVID-19 vaccination mandate and the employer did not
 210 offer and properly apply the exemptions required under this
 211 section:
- 212 1. Such refusal may not be deemed misconduct for the
 213 purpose of reemployment assistance under chapter 443.
- 214 2. Notwithstanding any provision of chapter 443, work is
 215 not deemed suitable and benefits may not be denied under s.
 216 443.101 to the terminated employee for refusing to accept new
 217 work if the terminated employee is otherwise eligible and the
 218 position requires compliance with a COVID-19 vaccination mandate
 219 contrary to this section or s. 112.0441.
- 220 (6) Notwithstanding s. 120.74(4) and (5), the Department of
 221 Health, the Department of Legal Affairs, and the Department of
 222 Economic Opportunity are authorized, and all conditions are
 223 deemed met, to adopt emergency rules pursuant to s. 120.54(4)
 224 and this section. Such rulemaking must occur initially by filing
 225 emergency rules within 15 days after the effective date of this
 226 act. An employer COVID-19 vaccination mandate is deemed invalid
 227 until the Department of Health files its emergency rules or 15
 228 days after the effective date of this act, whichever occurs
 229 first.
- 230 (a) The Department of Health shall adopt emergency rules to
 231 specify requirements for the frequency and methods of testing
 232 which may be used by employers, to establish standards for

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233 competent medical evidence that the employee has immunity to
 234 COVID-19, to specify circumstances that are considered an
 235 anticipated pregnancy, and to create the following:

236 1. A form for use by a physician, a physician assistant, or
 237 an advanced practice registered nurse to document an exemption
 238 based on medical reasons, including, but not limited to,
 239 pregnancy or anticipated pregnancy.

240 2. A form for use by an employee to document an exemption
 241 based on religious reasons.

242 3. A form for use by an employee to document an exemption
 243 based on COVID-19 immunity. Such form must include the
 244 laboratory criteria for proof of immunity for the virus that
 245 causes COVID-19.

246 4. A form for use by an employee to document an exemption
 247 based on periodic testing. Such form must include the required
 248 frequency of testing and acceptable tests that may be used.

249 5. A form for use by an employee to document an exemption
 250 based on employer-provided personal protective equipment.

251 (b) The Department of Economic Opportunity shall adopt
 252 emergency rules to implement subsection (5).

253 (c) The Department of Legal Affairs shall adopt emergency
 254 rules to implement subsections (3) and (4), including
 255 prescribing the complaint and notification processes and
 256 specifying the functional equivalent of termination.

257 Notwithstanding s. 120.54(4)(c), emergency rules adopted
 258 pursuant to this subsection remain in effect until replaced by
 259 rules adopted under regular rulemaking. The Department of
 260 Health, the Department of Legal Affairs, and the Department of
 261

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262 Economic Opportunity shall begin rulemaking under s. 120.54(2)
 263 and (3) immediately after filing the emergency rules.

264 (7) An employer may not impose a policy that prohibits an
 265 employee from choosing to receive a COVID-19 vaccination.

266 (8) This section expires June 1, 2023.

267 Section 2. Section 381.00319, Florida Statutes, is created
 268 to read:

269 381.00319 Prohibition on COVID-19 vaccination mandates for
 270 students.-

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

272 (a) "COVID-19" has the same meaning as in s. 381.00317(1).
 273 (b) "Educational institution" has the same meaning as in s.
 274 112.0441(1).

275 (c) "Parent" has the same meaning as in s. 1000.21(5).

276 (2) Notwithstanding any other law to the contrary, an
 277 educational institution or elected or appointed local official
 278 may not impose a COVID-19 vaccination mandate for any student.

279 (3) A parent of a student, a student who is an emancipated
 280 minor, or a student who is 18 years of age or older may bring an
 281 action against the educational institution to obtain a
 282 declaratory judgment that an act or practice violates this
 283 section and to seek injunctive relief. A prevailing parent or
 284 student, as applicable, must be awarded reasonable attorney fees
 285 and court costs.

286 (4) This section expires June 1, 2023.

287 Section 3. Section 112.0441, Florida Statutes, is created
 288 to read:

289 112.0441 Prohibition on public employee COVID-19
 290 vaccination mandates.-

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291 (1) For purposes of this section, the term:
 292 (a) "COVID-19" has the same meaning as in s. 381.00317(1).
 293 (b) "Educational institution" means an institution under
 294 the control of a district school board; a charter school; a
 295 state university; a developmental research school; a Florida
 296 College System institution; the Florida School for the Deaf and
 297 the Blind; and the Florida Virtual School.
 298 (c) "Governmental entity" has the same meaning as in s.
 299 768.38.
 300 (2) (a) Notwithstanding any other law to the contrary, an
 301 educational institution or a governmental entity may not impose
 302 a COVID-19 vaccination mandate for any full-time, part-time, or
 303 contract employee. Any existing ordinance, rule, or policy
 304 imposing such mandate is null and void as of the effective date
 305 of this act.
 306 (b) An educational institution or a governmental entity
 307 that imposes a COVID-19 vaccination mandate for any full-time,
 308 part-time, or contract employee commits a violation of this
 309 section for each employee subject to the employer's COVID-19
 310 vaccination mandate. The Department of Health may impose a fine
 311 not to exceed \$5,000 per violation. Fines collected pursuant to
 312 this subsection must be deposited in the General Revenue Fund.
 313 (3) (a) If an educational institution or a governmental
 314 entity fails to comply with subsection (2) and terminates an
 315 employee based on the employee's noncompliance with a COVID-19
 316 vaccination mandate, the terminated employee may be eligible for
 317 reemployment assistance under chapter 443 in addition to any
 318 other remedy available to the employee.
 319 (b) If an employee is terminated by an educational

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320 institution or a governmental entity for refusing to comply with
 321 any COVID-19 vaccination mandate:
 322 1. Such refusal may not be deemed misconduct for the
 323 purpose of reemployment assistance under chapter 443.
 324 2. Notwithstanding any provision of chapter 443, work is
 325 not deemed suitable and benefits may not be denied under s.
 326 443.101 to the terminated employee for refusing to accept new
 327 work if the terminated employee is otherwise eligible and the
 328 position requires compliance with a COVID-19 vaccination mandate
 329 contrary to this section or s. 381.00317.
 330 (4) Notwithstanding s. 120.74(4) and (5), the Department of
 331 Health and the Department of Economic Opportunity are
 332 authorized, and all conditions are deemed met, to adopt
 333 emergency rules pursuant to s. 120.54(4) to implement this
 334 section. Such rulemaking must occur initially by filing
 335 emergency rules within 15 days after the effective date of this
 336 act. Notwithstanding s. 120.54(4)(c), emergency rules adopted
 337 pursuant to this subsection remain in effect until replaced by
 338 rules adopted under regular rulemaking. The Department of Health
 339 and the Department of Economic Opportunity shall begin
 340 rulemaking under s. 120.54(2) and (3) immediately after filing
 341 the emergency rules.
 342 (5) This section expires June 1, 2023.
 343 Section 4. The Chief Financial Officer shall immediately
 344 transfer \$5 million from the General Revenue Fund to a
 345 designated account within the Department of Legal Affairs
 346 Operating Trust Fund. For the 2021-2022 fiscal year, the
 347 nonrecurring sum of \$5 million is appropriated to the Department
 348 of Legal Affairs from the Operating Trust Fund for complaint and

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349 investigation activities and for taking legal action to stop the
 350 enforcement of COVID-19 vaccination mandates imposed by the
 351 Federal Government. Any moneys remaining in the designated
 352 account on June 1, 2023, must be transferred to the General
 353 Revenue Fund unallocated.

354 Section 5. Paragraph (n) is added to subsection (3) of
 355 section 1002.20, Florida Statutes, to read:

356 1002.20 K-12 student and parent rights.—Parents of public
 357 school students must receive accurate and timely information
 358 regarding their child's academic progress and must be informed
 359 of ways they can help their child to succeed in school. K-12
 360 students and their parents are afforded numerous statutory
 361 rights including, but not limited to, the following:

362 (3) HEALTH ISSUES.—

363 (n) Face covering mandates and quarantine mandates in
 364 response to COVID-19.—

365 1. A district school board, a district school
 366 superintendent, an elected or appointed local official, or any
 367 district school board employee may not:

368 a. Require a student to wear a face mask, a face shield, or
 369 any other facial covering that fits over the mouth or nose.
 370 However, a parent, at the parent's sole discretion, may allow
 371 his or her child to wear a face mask, a face shield, or any
 372 other facial covering that fits over the mouth or nose. This
 373 prohibition does not apply to safety equipment required as part
 374 of a course of study consistent with occupational or laboratory
 375 safety requirements.

376 b. Prohibit a student from attending school or school-
 377 sponsored activities, prohibit a student from being on school

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378 property, or subject a student to restrictions or disparate
 379 treatment, based on an exposure to COVID-19, so long as the
 380 student remains asymptomatic and has not received a positive
 381 test for COVID-19 as defined in s. 381.00317(1).
 382

383 A parent of a student, a student who is an emancipated minor, or
 384 a student who is 18 years of age or older may bring an action
 385 against the school district to obtain a declaratory judgment
 386 that an act or practice violates this subparagraph and to seek
 387 injunctive relief. A prevailing parent or student, as
 388 applicable, must be awarded reasonable attorney fees and court
 389 costs.

390 2. A district school board, a district school
 391 superintendent, an elected or appointed local official, or any
 392 school district employee may not prohibit an employee from
 393 returning to work or subject an employee to restrictions or
 394 disparate treatment based on an exposure to COVID-19 so long as
 395 the employee remains asymptomatic and has not received a
 396 positive test for COVID-19 as defined in s. 381.00317(1).

397 3. This paragraph expires June 1, 2023.

398 Section 6. The Division of Law Revision is directed to
 399 replace the phrase "the effective date of this act" wherever it
 400 occurs in this act with the date the act becomes a law.

401 Section 7. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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11/16/2021

Meeting Date

SB 2-B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name Mary K. Winn

Phone (850) 766-2612

Address 1004 Brookwood Dr. Street

Email kathywinnclan@embarq.com mail.com

Tallahassee FL 32308 City State Zip

Speaking: [] For [X] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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:

representing the League of Women Voters of Florida

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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11-16-21

Meeting Date

SB 2B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name Jean-Marie Nacer

Phone 732-895-3355

Address 9473 Glider Way

Email Mrs.JMNacer@gmail.com

Street

Boca Raton FL 33428

City

State

Zip

Speaking: [] For [] Against [x] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] 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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11/14/21 Meeting Date

SB-23 Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Wendy Williams

Phone

(407) 595-0720

Address

26530 Mitchell Way

Email

firegold@cs1037.com

NO. 100

Street

Eustis

FL

32730

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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The Florida Senate

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11/14/21

Meeting Date

SB 2-13

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

SAM BARTON

Phone

561-644-1447

Address

600 S. DIRIE HWY #125

Email

SAMUEL.BARTON1@

Street

HOTMAIL.COM

WPB

FL

33401

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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The Florida Senate

2B

APPEARANCE RECORD

Deliver both copies of this form to
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SPECIAL SESSION COVID MANDATE
Bill Number or Topic

Nov. 16, 2021
Meeting Date

APPROPRIATIONS
Committee

Amendment Barcode (if applicable)

Name JEAN SIERENALER Phone 513-532-5408

Address 7502 OLD BAY POINT RD Email J.SIERENALER@GMAIL.COM
Street

MILTON FL 32583
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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The Florida Senate

APPEARANCE RECORD

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Nov. 16, 2021

Meeting Date

Appropriations SB 2

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name Deborah Baker - Rian

Phone 850.499.0198

Address 3926 Balsam Drive
Street

Email deborah.bakerrian@gmail.com

Niceville FL 32578
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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The Florida Senate

APPEARANCE RECORD

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2-B
Vaccine Mandates

Bill Number or Topic

11/16/21

Meeting Date

Committee

Amendment Barcode (if applicable)

Name Ashley Keiser

Phone (727)-409-1352

Address 11300 Great Commission Way
Street

Email Ashley95.keiser@gmail.com

Orlando
City

FL
State

32832
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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The Florida Senate

APPEARANCE RECORD

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11/16/21
Meeting Date

213
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Pamela Henry

Phone

904-291-0505

Address

PO Box 398

Email

Street

Green Cove Springs FL 32043

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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The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

11-16-21

Meeting Date

SB-213

Bill Number or Topic

Appropriations
Committee

Amendment Barcode (if applicable)

Name Connie Lampinen

Phone 561-315-2656

Address 7424 Seabreeze Dr.
Street

Email douglasconnie@yahoo.com

Lake Worth FL 33467
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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The Florida Senate

APPEARANCE RECORD

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11/16/2021

Meeting Date

appropriations

Committee

28

Bill Number or Topic

Amendment Barcode (if applicable)

Name

David Carcedo

Phone

347-268-9042

David

Address

134 E Colonial Drive

Email

David@studentpower.us

Street

Orlando

FL

32801

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: FL Student Power

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

APPEARANCE RECORD

11-16-2021

Meeting Date

SB-2-B

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Sue Trombino

Phone

561-239-8847

Address

PO Box 1917

Email

Suetron

Street

Boca Raton, FL 33429

City

State

Zip

* w/ ADDED Amendments

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 \(fsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

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11.16.2021

Meeting Date

SB 2-B

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Nikki Murphy

Phone

Address

Street

Email

City

Florida

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. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flisenate.gov

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The Florida Senate

APPEARANCE RECORD

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11/17

Meeting Date

Appropriations

Committee

SB 2B

Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Card

Phone

Address 1121 NW 142 St.

Email

Street

Miami

FL

33168

City

State

Zip

Speaking: [] For [X] 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:

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

Florida Student Power

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

APPEARANCE RECORD

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11/10/21 Meeting Date

SB-2B Bill Number or Topic

Appropriations Committee

Amendment Barcode (if applicable)

Name Cindy Youngs

Phone 904-982-0172

Address 9785 Patton Rd Street

Email N/A

Jacksonville, FL 32246 City State Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] 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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The Florida Senate

APPEARANCE RECORD

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16 NOV 2021

Meeting Date

SB2B

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name SHANNON OTTO

Phone

Address 233 NE 31st St

Email

Street

Boca Raton FL

33431

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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The Florida Senate

APPEARANCE RECORD

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11/14/24

Meeting Date

SB-23

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Stephen DAVIS

Phone

321-538-4599

Address

30106 Inland Ct

Email

Street

MT DORA

FL

32734

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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11-16-2021

Meeting Date

SB-2-B

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

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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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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 4-B

INTRODUCER: Senator Burgess

SUBJECT: Public Records/Employer COVID-19 Vaccination Policies

DATE: November 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 4-B, which is linked to the passage of SB 2-B, makes confidential and exempt from public copying and inspection requirements an employee complaint alleging a private employer's violation of state law regarding such employer's COVID-19 vaccination policy or practices, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs.

After the investigation is completed or ceases to be active, information in records relating to the investigation remain confidential and exempt from public copying and inspection requirements if disclosure of that information:

- Jeopardizes the integrity of another active investigation.
- Reveals medical information about an employee.
- Reveals information regarding the employee's religious beliefs.

The bill permits release of the confidential and exempt information to another governmental entity in the furtherance of that entity's lawful duties and responsibilities. Additionally, the bill permits disclosure of information in an aggregated format.

The bill takes effect on the same date that SB 2-B or similar legislation takes effect, if such legislation is adopted in the same legislative session and becomes law. The public records exemption expires on October 2, 2023.

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2 (2018-2020).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature designates as “exempt” from public records requirements and those the Legislature designates as “confidential and exempt.” A record classified as “exempt” from public disclosure may be disclosed under certain circumstances.¹⁴ If the Legislature designates a record as “confidential and exempt” from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption.¹⁵

SB 2-B – COVID-19 Mandates

SB 2-B, to which this bill is linked, prohibits a private employer from adopting a COVID-19 vaccination mandate for any full-time, part-time, or contract employee without providing individual exemptions that allow an employee to opt out of such requirement. An employee may opt out of such a COVID-19 vaccination mandate on the basis of:

- Medical reasons;
- Religious reasons;
- COVID-19 immunity;
- Periodic testing; and
- Use of employer-provided personal protective equipment.

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc., v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ See Op. Att’y Gen. Fla 85-62 (August 1, 1985).

If an employer fails to comply with the exemption provisions, an employee may file a complaint with the Department of Legal Affairs (DLA) alleging that an exemption has been improperly denied or applied or has not been offered. If the DLA investigates and finds that the exemption was improperly denied or applied, or not offered, it must notify the employer of its determination and allow the employer time to cure the noncompliance.

SB 2-B makes it a violation for an employer to fail to comply with the exemption provisions and to terminate an employee based on a COVID-19 vaccination mandate. The terminated employee may file a complaint with DLA alleging that the exemption has been improperly denied or not offered, resulting in the employee's termination. The DLA must conduct an investigation of the complaint and if the Attorney General determines that a violation has occurred, the Attorney General shall impose an administrative fine, unless the employer rehires the terminated employee and pays the person back pay.¹⁶ The decision of the Attorney General constitutes agency action for purposes of chapter 120, F.S.

III. Effect of Proposed Changes:

Section 1 creates section 381.00318, F.S., to make an employee complaint alleging a private employer's violation of state law regarding such employer's COVID-19 vaccination policy or practices, and all information relating to an investigation of such complaint, held by the DLA confidential and exempt from public copying and inspection requirements until such time as the investigation is completed or ceases to be active.

The exemption applies to records held by the DLA pursuant to an investigation into whether a private employer failed to comply with state law and terminated an employee based on a COVID-19 vaccination mandate.

The bill provides that an investigation is considered "active" while such investigation is being conducted by the DLA with a reasonable good faith belief that it may lead to a determination of whether there was a violation of state law. An investigation does not cease to be active if the DLA is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the DLA.

The bill provides that upon completion of the investigation or at such time it ceases to be active, information in records relating to the investigation remain confidential and exempt from public copying and inspection requirements if disclosure of that information would:

- Jeopardize the integrity of another active investigation.
- Reveal medical information about an employee.
- Reveal information regarding the employee's religious beliefs.

The bill permits release of the confidential and exempt information to another governmental entity in the furtherance of that entity's lawful duties and responsibilities. Additionally, the bill permits disclosure of information in aggregated format.

¹⁶ Fines may not exceed \$10,000 per violation for employers having fewer than 100 employees; and up to \$50,000 for employers having 100 or more employees.

The bill provides for the expiration of this section on October 2, 2023.

Section 2 provides a public necessity statement as required by article I, section 24(c) of the Florida Constitution. The statement provides that it is a public necessity that an employee complaint alleging a private employer's violation of state law regarding such employer's COVID-19 vaccination policy or practices, and all information relating to an investigation, held by the DLA be made confidential and exempt from public copying and inspection requirements, until the investigation is completed or ceases to be active.

The statement provides that it is a public necessity that an employee's medical information or religious information remain confidential and exempt regardless of the status of the investigation as disclosure of such information:

- Would allow the public to gain knowledge of sensitive, personal information that could be used to harass, embarrass, or humiliate a person based on his or her medical or religious information;
- Could enable other persons to gain knowledge of the employee's vulnerabilities and such knowledge could result in the employee becoming a target of an act of violence or other crimes; and
- Could discourage an employee from filing a complaint if he or she knows his or her personal, medical, or religious information will be made available.

Further, the public necessity statement provides that if a complainant's information is made publicly available while an investigation is active, that complainant could become the subject of intimidation tactics and threats; thus, hindering the effective and efficient administration of the investigation by the DLA.

Section 3 provides that the bill takes effect on the same date that SB 2-B or similar legislation takes effect, if such legislation is adopted in the same legislative session.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an 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:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates a new public records exemption. Thus, the bill requires a two-thirds vote for enactment.

Public Necessity Statement

Article 1, section 24(c) of the Florida Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill creates a new public records exemption. Thus, the bill includes a public necessity statement.

Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of this law is to protect the complaint of an employee alleging a private employer's violation of state law regarding such employer's COVID-19 vaccination policy or practices, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs. The bill also provides for an employee's medical information and religious information to remain confidential and exempt regardless of the status of the investigation. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 4-B may have an indeterminate negative fiscal impact on the Department of Legal Affairs, as it requires the DLA to maintain the confidential and exempt status of the designated information in the daily course of business and in response to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.00318 of the Florida Statutes.

The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Burgess

20-00005-21B

20214B__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 381.00318, F.S.; providing an exemption from public
 4 records requirements for employee complaints alleging
 5 a private employer's violation of state law regarding
 6 employer COVID-19 vaccination policies or practices
 7 and all information held by the Department of Legal
 8 Affairs pursuant to an active investigation of such
 9 complaints; defining the term "active"; specifying
 10 information that remains confidential and exempt after
 11 an investigation is completed or ceases to be active;
 12 authorizing the release of confidential and exempt
 13 information to governmental entities for a specified
 14 purpose; providing construction; providing for future
 15 repeal of the exemption; providing a statement of
 16 public necessity; providing a contingent effective
 17 date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Section 381.00318, Florida Statutes, is created
 22 to read:
 23 381.00318 Complaints and investigations regarding private
 24 employer COVID-19 vaccination mandates; public records
 25 exemption.-
 26 (1) An employee complaint alleging a private employer's
 27 violation of s. 381.00317 regarding employer COVID-19
 28 vaccination policies or practices, and all information relating
 29 to an investigation of such complaint, held by the Department of

Page 1 of 4

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20-00005-21B

20214B__

30 Legal Affairs is confidential and exempt from s. 119.07(1) and
 31 s. 24(a), Art. I of the State Constitution until the
 32 investigation is completed or ceases to be active. For purposes
 33 of this section, an investigation is considered "active" while
 34 such investigation is being conducted by the department with a
 35 reasonable good faith belief that it may lead to a determination
 36 of whether there was a violation of s. 381.00317. An
 37 investigation does not cease to be active if the department is
 38 proceeding with reasonable dispatch and there is a good faith
 39 belief that action may be initiated by the department.
 40 (2) After an investigation is completed or ceases to be
 41 active, information in records relating to the investigation
 42 remains confidential and exempt from s. 119.07(1) and s. 24(a),
 43 Art. I of the State Constitution if disclosure of that
 44 information would do any of the following:
 45 (a) Jeopardize the integrity of another active
 46 investigation.
 47 (b) Reveal medical information about an employee.
 48 (c) Reveal information regarding an employee's religious
 49 beliefs.
 50 (3) Information made confidential and exempt under this
 51 section may be released to another governmental entity in the
 52 furtherance of that entity's lawful duties and responsibilities.
 53 (4) This section does not prohibit the disclosure of
 54 information in an aggregated format.
 55 (5) This section shall stand repealed on October 2, 2023.
 56 Section 2. The Legislature finds that it is a public
 57 necessity that an employee complaint alleging a private
 58 employer's violation of s. 318.00317, Florida Statutes,

Page 2 of 4

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20-00005-21B 20214B__

59 regarding such employer's COVID-19 vaccination policies or
 60 practices, and all information relating to an investigation of
 61 such complaint, held by the Department of Legal Affairs be made
 62 confidential and exempt from s. 119.07(1), Florida Statutes, and
 63 s. 24(a), Article I of the State Constitution until the
 64 investigation is completed or ceases to be active. The
 65 Legislature also finds that it is a public necessity that an
 66 employee's medical information and information regarding an
 67 employee's religious beliefs remain confidential and exempt from
 68 public records requirements regardless of the status of the
 69 investigation. The disclosure of such information would allow
 70 the public to gain knowledge of sensitive, personal information
 71 that could be used to harass, embarrass, or humiliate a person
 72 based on his or her medical information or religious beliefs. In
 73 addition, release of such information could enable other persons
 74 to gain knowledge of the employee's vulnerabilities, and such
 75 knowledge could result in the employee becoming a target of an
 76 act of violence or other crimes. Furthermore, the public
 77 disclosure of such information could discourage an employee from
 78 filing a complaint if he or she knows that his or her personal
 79 medical information or religious beliefs will be made available
 80 pursuant to a public records request. Finally, if a
 81 complainant's information is made publicly available while an
 82 investigation is active, that complainant could become the
 83 subject of intimidation tactics and threats, thus hindering the
 84 effective and efficient administration of the investigation by
 85 the Department of Legal Affairs. Therefore, the Legislature
 86 finds that it is a public necessity that an employee complaint
 87 alleging a private employer's violation of s. 381.00317, Florida

Page 3 of 4

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20-00005-21B 20214B__

88 Statutes, regarding such employer's COVID-19 vaccination
 89 policies or practices, and all information relating to an
 90 investigation of such complaint, held by the Department of Legal
 91 Affairs, be made confidential and exempt from s. 119.07(1),
 92 Florida Statutes, and s. 24(a), Article I of the State
 93 Constitution.
 94 Section 3. This act shall take effect on the same date that
 95 SB 2B or similar legislation takes effect, if such legislation
 96 is adopted in the same legislative session and becomes a law.

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11-16-21

Meeting Date

SB 4B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

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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.

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:

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11/16/2021

Meeting Date

SB 4-B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

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Tallahassee FL 32308

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:

representing the League of Women Voters of Florida

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 6-B

INTRODUCER: Senator Hutson and others

SUBJECT: Florida Occupational Safety and Health State Plan

DATE: November 15, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 6-B provides legislative intent to establish a Florida Occupational Safety and Health State Plan. Currently, the federal Occupational Safety and Health Administration (OSHA) has jurisdiction over health and safety regulations for most private sector employers in this state. OSHA’s authority includes a variety of administrative regulations such as overtime requirements for employees, as well as workplace safety requirements such as respiratory protection at certain construction sites.

Federal law allows for a state to assert its own regulatory state plan in lieu of the standard OSHA regulations so long as the state plan is at least as effective as OSHA and applies to public sector employees. There are 27 states plus the U.S. Virgin Islands that operate an OSHA-approved plan of some form.

The bill directs the Executive Office of the Governor to develop a proposal for a state plan and requires the office to submit a status report of its efforts to the President of the Senate and the Speaker of the House of Representatives by January 17, 2022.

The bill appropriates \$1 million to the Executive Office of the Governor from the General Revenue Fund to implement the bill.

The bill is effective upon becoming a law.

II. Present Situation:

Federal Occupational Safety & Health Administration Standards

The Occupational Safety and Health Administration (OSHA) is a regulatory agency within the United States Department of Labor. Pursuant to federal legislation signed into law in 1970, OSHA’s mission is “to ensure safe and healthful working conditions for workers by setting and

enforcing standards and by providing training, outreach, education and assistance.”¹ The Occupational Safety and Health Act (OSH Act) regulates most private sector employers as well as certain public sector employers. The OSH Act applies to employees of an organization and does not apply to self-employed workers, immediate family members of farm employers, volunteers, or unpaid students.²

OSHA standards are designed to protect workers from a wide range of serious workplace hazards. Examples of these standards include requirements for employers to:

- Provide fall protection;
- Prevent trenching cave-ins;
- Prevent exposure to some infectious diseases;
- Ensure the safety of workers who enter confined spaces;
- Prevent exposure to harmful chemicals;
- Put guards on dangerous machines;
- Provide respirators or other safety equipment; and
- Provide training for certain dangerous jobs in a language and vocabulary workers can understand.³

State Run OSHA Programs

Under the OSH Act, states are generally preempted from regulating any health or safety issues governed by the federal OSHA requirements.⁴ A state may, however, submit a “state plan” to OSHA for approval to assume responsibility for the development and enforcement of regulations.⁵ Currently, 22 states have an OSHA approved state program. Additionally, five states and the U.S. Virgin Islands have OSHA approved state plans that only cover public sector employers.⁶

¹ Occupational Health and Safety Administration, United States Department of Labor, *About OSHA*, available at <https://www.osha.gov/aboutosha> (last visited Nov. 4, 2021).

² Occupational Health and Safety Administration, United States Department of Labor, *All About OSHA* at 8, available at https://www.osha.gov/sites/default/files/publications/all_about_OSHA.pdf (last visited Nov. 4, 2021). Regarding volunteers, OSHA has previously interpreted the OSH Act to exclude “volunteers, unless they are compensated in some way and would therefore be considered employees.” Occupational Health and Safety Administration, United States Department of Labor, *Standard Interpretations, OSHA does not cover volunteers, but EPA does in Hazardous Waste Operations*, Standard No. 1975.3;1910.120 (Feb. 12, 1992), available at <https://www.osha.gov/laws-regs/standardinterpretations/1992-02-12>. In a separate interpretation regarding unpaid students shadowing employees in a health care facility, OSHA found that because job shadowing “involves no payment of wage or salary to the student,” the students were not covered under OSHA regulations. Occupational Health and Safety Administration, United States Department of Labor, *Standard Interpretations, OSHA coverage does not extend to unpaid students*, Standard No. 1973.3 (Mar. 5, 1999), available at <https://www.osha.gov/laws-regs/standardinterpretations/1999-03-05>.

³ Occupational Safety and Health Administration, *supra* n. 2, at 11.

⁴ States are not, however, preempted from regulating occupational safety or health issues where no federal standard is in effect. Under 29 U.S.C. § 667(a), states are not preempted from regulations that are not covered under the OSH Act, and the courts have held that states may regulate areas where no federal standard is in effect. *Puffer’s Hardware, Inc. v. Donovan*, 742 F.2d 12, 16 (1st Cir. 1984). Section 448.05, F.S., for example, has specific requirements for employers to provide suitable seating for employees who are required to stand or walk during their active duties.

⁵ 29 U.S.C. § 667(b).

⁶ Occupational Health and Safety Administration, United States Department of Labor, *State Plans*, available at <https://www.osha.gov/stateplans/> (last visited Nov. 4, 2021).

Each state plan must include coverage of public employees of the state, and it must, at a minimum, be at least as effective as the OSHA protections included for private sector employees.⁷ If a state fails to provide protection at least as effective as the standard OSHA guidelines would, the state risks losing the authority to run the program.

Process to Develop and OSHA-Approved State Plan

Congress through the OSH Act encourages states to take actions to protect worker health and safety.⁸ Consistent with this directive, the OSH Act authorizes states to “assume responsibility for development and enforcement . . . of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated . . . [and to] submit a State plan for the development of such standards and their enforcement.”⁹ Significantly, state plans must provide standards for worker protection that are at least as effective as OSHA standards.¹⁰ Once a state plan is approved, the federal government may grant the state up to 50 percent of the costs of the state program.¹¹ The steps for the development and approval of a state plan are summarized in the table below.

State Plan Approval Process¹²
<p>Step 1: Developmental Plan</p> <p>To gain initial approval under Section 18(b) of the OSH Act, a state must assure OSHA that within three years it will have in place all the structural elements necessary for an effective occupational safety and health program. These elements include: appropriate legislation; regulations and procedures for standards setting, enforcement, and review of citations and penalties; and a sufficient number of qualified enforcement personnel.</p>
<p>Step 2: Certification</p> <p>Certification of completion of the state’s developmental steps. This renders no judgment as to actual state performance but merely attests to the structural completeness of the plan.</p>
<p>Step 3: Operational Status Agreement</p>

⁷ OSHA does not have regulation authority over state and local public sector employers. However, any state run plan must include coverage of public sector employers, including public schools and local governments.

⁸ Occupational Safety and Health Administration, United States Department of Labor, State Plan Frequently Asked Questions, *What is an OSHA-Approved State Plan?*, available at <https://www.osha.gov/stateplans/faqs> (last visited Nov. 5, 2021); see 29 U.S.C. § 651(b)(11), which states:

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources—

....

(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this chapter, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith[.]

⁹ 29 U.S.C. § 667.

¹⁰ 29 U.S.C. § 667(c)(2).

¹¹ 29 U.S.C. § 672(g).

¹² This table is adapted from Occupational Safety and Health Administration, U.S. Department of Labor, OSHA Instruction, *State Plan Policies and Procedures, Manual Appendix B*, Directive No. CSP 01-00-005, (effective May 6, 2020) available at https://www.osha.gov/sites/default/files/enforcement/directives/CSP_01-00-005.pdf.

At any time after initial plan approval, when it appears that the state is capable of independently enforcing standards, OSHA may enter into an “operational status agreement” with the state. This commits OSHA to suspend the exercise of discretionary federal enforcement in all or certain activities covered by the State Plan.

Step 4: Final Approval

When OSHA grants final approval to a state under Section 18 (e) of the OSH Act (29 U.S.C.A § 667), it relinquishes its authority to cover occupational safety and health matters covered by the state. After at least one year following certification, the state becomes eligible for final approval if OSHA determines that it is providing, in actual operation, worker protection “at least as effective” as the protection provided by the federal program. The state also must meet 100 percent of the established compliance staffing levels (benchmarks) and participate in OSHA’s computerized inspection data system before OSHA can grant final approval.

State Plans to Incorporate Changes to OSHA Standards

Within 6 months after a new federal standard is adopted or an existing standard is made more stringent, a state plan must generally adopt the federal standard or a standard that is at least as effective as the federal standard.¹³ However, if the new federal standard is an emergency temporary standard (ETS) a state plan must adopt a state emergency temporary standard within 30 days after the adoption of the federal standard.¹⁴ However, the adoption of the ETS is not required if the state demonstrates that it has a standard that is the same as or at least as effective as the ETS.

Withdrawal of Approval of State Plan

The U.S. Department of Labor (USDOL) may withdraw approval of a state plan or a portion of a state plan if it fails to adopt standards that are at least as effective as new or more restrictive federal standards. Before a notice of a formal proceeding to withdraw approval, the USDOL begins the process with a show-cause letter that gives a state 45 days to show cause why approval of the state plan should not be withdrawn.¹⁵ If the USDOL determines that approval of the state plan should be withdrawn, the department will publish and serve a complaint on the state for a formal proceeding, to which the state has up to 30 days to respond.¹⁶ An administrative law judge presides over a formal hearing and issues a decision.¹⁷ Within 30 days after the judge’s decision, any exceptions to the decision can be appealed to the secretary of the USDOL, who issues a final decision.¹⁸ A final decision by the secretary is final 30 days after issuance and a state may request review by a federal appellate court.¹⁹

¹³ 29 C.F.R. § 1953.5(a)(1).

¹⁴ 29 C.F.R. § 1953.5(b)(1).

¹⁵ 29 C.F.R. § 1955.10(a).

¹⁶ 29 C.F.R. §§ 1955.10 and 1955.11.

¹⁷ See 29 C.F.R. § 1955, Subparts B and E, generally.

¹⁸ 29 C.F.R. §§ 1955.41, 1955.42, and 1955.44. The administrative law judge’s decision is final if no exceptions are filed.

¹⁹ 29 U.S.C. § 667(g); 29 C.F.R. §§ 1955.44(b), 1955.45, 1955.46, and 195.47.

III. Effect of Proposed Changes:

The bill provides legislative intent to establish a Florida Occupational Safety and Health State Plan. The bill finds that a state plan will “enhance occupational safety and health in this state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of employee accidents, occupational diseases, and fatalities, while providing the state with the flexibility to adequately address the needs of businesses and employees in this state.” The state plan contemplated by the bill will assume responsibility for the development and enforcement of regulations under the federal Occupational Safety and Health Act.

The bill requires the Executive Office of the Governor to develop a proposal for the state plan. The office may designate or hire appropriate staff as necessary to develop the proposal, and the Department of Health, the Department of Business and Professional Regulation, and the Division of Risk Management, and the Division of Workers’ Compensation within the Department of Financial Services must assist the Executive Office of the Governor with the development of the proposal for the state plan, upon request.

The bill requires the Executive Office of the Governor to submit a status report on its development of a state plan to the President of the Senate and the Speaker of the House of Representatives by January 17, 2022. The status report must include at a minimum:

- A timeline for the completion of proposal and a timeline for completion of the state plan, including the establishment of an agency to oversee the state plan, legislation necessary to implement the state plan, and the scope of coverage to employees covered under, and excluded from, the state plan; and
- An explanation of whether additional employees, consultants, or contractors need to be hired to assist with the development of the state plan and whether additional funds need to be appropriated for that purpose.

The bill appropriates \$1 million to the Executive Office of the Governor from the General Revenue Fund for the purpose of developing a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Regulations issued by the federal Occupational Safety and Health Administration which are within OSHA's authority and properly promulgated preempt state laws regulating the same matter.²⁰

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 6-B requires the Executive Office of the Governor to develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees. The bill appropriates \$1 million from the General Revenue Fund for Fiscal Year 2021-2022 to implement the bill.

The bill also requires the following state agencies to assist in the development of a plan to assert state jurisdiction over occupation safety and health issues for government and private employees: the Department of Health, the Department of Financial Services, and the Department of Business and Professional Regulation. These agencies can likely assist using existing resources.

The bill requires the Executive Office of the Governor to provide a status report in January 2022, which will include information about the necessity of appropriation of additional resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁰ See *Gade v. National Solid Wastes Management Ass'n.*, 505 U.S. 88, 99-100 (1992); *City of Arlington, Tex. v. F.C.C.*, 569 U.S. 290, 297 (2013) (stating that “[n]o matter how it is framed, the question a court faces when confronted with an agency’s interpretation of a statute it administers is always, simply, *whether the agency has stayed within the bounds of its statutory authority.*”)

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Hutson

7-00003-21B

20216B__

A bill to be entitled

An act relating to the Florida Occupational Safety and Health State Plan; providing legislative intent and findings; defining the term "state plan"; requiring the Executive Office of the Governor to develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees; requiring the office to designate or hire necessary staff to develop the proposal; requiring the Division of Risk Management and the Division of Workers' Compensation within the Department of Financial Services, the Department of Health, and the Department of Business and Professional Regulation to assist the office with development of the proposal upon request; requiring the office to submit a status report to the Legislature by a specified date; requiring that the status report contain specified information; providing an appropriation; providing an effective date.

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

Section 1. (1) It is the intent of the Legislature to provide for the establishment of the Florida Occupational Safety and Health State Plan. The Legislature finds that such a plan would enhance occupational safety and health in this state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of employee accidents, occupational diseases, and

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7-00003-21B

20216B__

fatalities, while providing the state with the flexibility to adequately address the needs of businesses and employees in this state.

(2) As used in this section, the term "state plan" refers to a Florida Occupational Safety and Health State Plan.

(3) The Executive Office of the Governor shall develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees and shall designate or hire appropriate staff as necessary to develop the proposal.

(4) The Division of Risk Management and the Division of Workers' Compensation within the Department of Financial Services, the Department of Health, and the Department of Business and Professional Regulation shall assist the Executive Office of the Governor with the development of the proposal upon request of the office.

(5) On or before January 17, 2022, the Executive Office of the Governor shall submit a status report to the President of the Senate and the Speaker of the House of Representatives. The status report must contain, at a minimum, all of the following information:

(a) Timelines for the completion of the proposal and for the completion of the state plan, including the establishment of an agency to oversee the state plan, legislation necessary to implement the state plan, and the scope of coverage with respect to employees covered under, and excluded from, the state plan.

(b) An explanation of whether additional employees, consultants, or contractors need to be hired to assist with the development of the proposal and the state plan and whether

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20216B__

59 additional funds need to be appropriated for that purpose.

60 Section 2. For the 2021-2022 fiscal year, the nonrecurring
61 sum of \$1 million is appropriated to the Executive Office of the
62 Governor from the General Revenue Fund for the purpose of
63 implementing this act.

64 Section 3. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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

11/16/2021

Meeting Date

SB 6-B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

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Tallahassee FL 32308 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [x] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

representing the League of Women Voters of Florida

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

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

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

11/16/21

Meeting Date

The Florida Senate APPEARANCE RECORD

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OSHA

Bill Number or Topic

App.

Committee

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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](#) ([flisenate.gov](#))

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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10/NOV/21

Meeting Date

OSHA

Bill Number or Topic

APP

Committee

Amendment Barcode (if applicable)

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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.

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:

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 8-B

INTRODUCER: Senators Bean and Gruters

SUBJECT: Vaccinations During Public Health Emergencies

DATE: November 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 8-B amends section 381.00315, Florida Statutes, to repeal the State Health Officer’s authority to order an individual to be vaccinated for communicable diseases that have significant morbidity or mortality and present a severe danger to public health, potentially by any means necessary, during a public health emergency.

The bill takes effect upon becoming a law.

II. Present Situation:

State Health Officer Authority Related to Public Health Emergencies and Vaccinations

Specific to vaccinations, the State Surgeon General has the authority under s. 381.00315, F.S., to:

- Order an individual to be vaccinated for communicable diseases that pose a severe danger to public health;
- If the individual is unable or unwilling to be vaccinated for reasons of health, religion, or conscience, order such individual into isolation or quarantine; and
- Vaccinate an individual by any means necessary if the individual poses a danger to public health and there is no practical method to isolate or quarantine the individual.¹

Legislative History of Authority in Section 381.00315, F.S.

Section 381.00315, F.S., was created by the Legislature in 1996² and, when originally created, consisted of one paragraph granting the State Health Officer (the State Surgeon General) the authority to take any appropriate actions necessary to enforce public health advisories. The

¹ Section 381.00315(2)(d), F.S.

² Chapter 96-403, Laws of Fla.

section did not provide a definition of a public health advisory and it did not detail what the State Health Officer may or may not do as an “appropriate action” to enforce a public health advisory.

Not long after the terrorist attacks that occurred on September 11, 2001, America was soon thrown into turmoil once again due to a series of anthrax attacks in which letters laced with the deadly bacteria killed five Americans and sickened 17 others.³ Some of the first anthrax attacks occurred in Florida between October 4 and October 8, 2001, when a journalist named Bob Stevens with American Media was hospitalized and later died of anthrax inhalation, and anthrax was found at the company’s Boca Raton offices.⁴

In November of 2001, the Florida Legislature held Special Session C (from November 27-December 6, 2001) for the purpose of enacting a number of bills to provide for increased security measures in the event of subsequent terrorist attacks. As part of the special session, the Legislature established select committees to review the security needs of the state.⁵ During this review, issues came to light regarding the ability of hospitals to respond to large-scale bioterrorism attacks and provide treatment in situations where their capacity and systems of care were overwhelmed by large numbers of victims.⁶

To respond to the threat of potential bioterrorism, the Legislature significantly expanded the authority of the State Surgeon General to use the police power of the state to maintain public health. In the 2002 Session, the Legislature amended s. 381.00315, F.S., to grant the State Surgeon General the authority to declare public health emergencies and authorize the State Surgeon General to take actions necessary to protect the public health including, but not limited to:

- Directing prescription drug manufacturers to give priority to the shipping of specified drugs to pharmacies and health care providers within specified geographic areas;
- Directing pharmacists employed by the Department of Health (DOH) to compound necessary bulk medications;
- Temporarily reactivating certain inactive health care practitioner licenses; and
- Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to the public health.⁷

In 2015, the statute was updated to include isolation as a tool for the State Surgeon General to use to protect the public health and to draw a distinction between the definitions of isolation and quarantine.⁸

³ See Federal Bureau of Investigation, *Amerithrax or Anthrax Investigation*, <https://www.fbi.gov/history/famous-cases/amerithrax-or-anthrax-investigation> (last visited Nov. 8, 2021).

⁴ See National Public Radio, *Timeline: How The Anthrax Terror Unfolded* (Feb. 15, 2011), <https://www.npr.org/2011/02/15/93170200/timeline-how-the-anthrax-terror-unfolded>.

⁵ See Florida Senate Committee on Health, Aging, and Long-Term Care, Staff Analysis and Economic Impact Statement: CS/SB 1262 (Mar. 6, 2002), https://www.flsenate.gov/Session/Bill/2002/1262/Analyses/20021262SHC_2002s1262.hc.pdf.

⁶ *Id.*

⁷ See s. 2, ch. 2002-269, Laws of Fla.

⁸ Chapter 2015-120, Laws of Fla.

Public Health Emergency Declarations

A public health emergency is any occurrence, or threat, whether natural or manmade, that results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.⁹

Public health emergencies declared since the inception of the revised statute in 2002 include:¹⁰

- In 2009, Governor Charlie Crist directed Surgeon General Ana Viamonte Ros to declare a public health emergency for two cases of swine flu in Lee and Broward counties.¹¹
- In 2011, the Florida Legislature passed a bill directing Surgeon General Frank Farmer to issue a statewide public health emergency in response to the ongoing problem of prescription drug abuse.¹²
- In 2014, Governor Rick Scott directed the DOH to quarantine high-risk individuals traveling to Florida from Ebola virus affected countries; however, this order does not appear to be in conjunction with a formal public health emergency declaration.¹³
- In 2016, Surgeon General John Armstrong declared a public health emergency to respond to the emerging threat of Zika fever in south Florida.¹⁴
- In 2018, Governor Rick Scott directed Surgeon General Celeste Philip to declare a statewide public health emergency to combat the opioid epidemic.¹⁵
- In 2019, Surgeon General Scott Rivkees declared a public health emergency to respond to the outbreak of Hepatitis A in several counties in Florida.¹⁶
- In 2020, Governor Ron DeSantis directed State Surgeon General Rivkees to declare a public health emergency resulting from the outbreak of the COVID-19 pandemic.¹⁷

Treatment of Vaccinations during Public Health Emergencies

To date, Florida has not required the administration of a vaccine due to a public health emergency. Vaccines have been addressed as preventative measures for two of the diseases for

⁹ Section 381.00315(1)(c), F.S.

¹⁰ The listed public health emergencies are all the public health emergency declarations which the DOH has records of since the passage of the expanded s. 381.00315, F.S., in 2002. A full list of all public health emergency declarations, including supplemental declarations, is on file with the staff of the Senate Health Policy Committee.

¹¹ Don Browne, Southwest Florida Online – Sunday Morning News, *Florida Declares Health Emergency* (May 2, 2009), <http://swflorida.blogspot.com/2009/05/florida-declares-health-emergency.html> (last visited Nov. 8, 2021).

¹² Section 28, ch. 2011-141, Laws of Fla.

¹³ Office of the Governor, Executive Order 14-280 (Establishes Ebola Virus Disease Response Protocol), Oct. 25, 2014, https://www.flgov.com/wp-content/uploads/2014/10/SKMBT_C35314102515490.pdf.

¹⁴ Florida Department of Health, Declaration of Public Health Emergency for Miami-Dade, Hillsborough, Lee, and Santa Rosa Counties (Feb. 3, 2016), http://www.floridahealth.gov/documents/newsroom/press-releases/2016/02/020416-declaration-public-health-emergency.pdf?utm_source=article.

¹⁵ Office of the Governor, Executive Order 17-146 (Opioid Epidemic), May 3, 2017, <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf>.

¹⁶ Florida Department of Health, Declaration of Public Health Emergency (Aug. 1, 2019), available at <http://www.floridahealth.gov/documents/newsroom/press-releases/2019/08/phe-hav-filed-08-01-2019.pdf>.

¹⁷ Office of the Governor, Executive Orders 20-52 (Emergency Management – COVID-19 Public Health Emergency), Mar. 9, 2020, https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf, and 20-51 (Establishes COVID-19 Response Protocol and Directs Public Health Emergency), Mar. 1, 2020, https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-51.pdf.

which public health emergencies were declared, but in neither case were vaccines considered mandatory. During the swine flu public health emergency, the DOH planned for the distribution of a vaccine. Documentation for the vaccine campaign plan provided that “everyone is encouraged to receive their season flu vaccine and the H1N1 flu vaccine when they become available” and that the state should “vaccinate all Floridians who choose to be vaccinated in accordance with federal guidance.”¹⁸ Additionally, the public health emergency declaration for Hepatitis A stated that Hepatitis A is a vaccine-preventable, communicable disease. The declaration stated that “health care practitioners *should* actively screen for and vaccinate” patients but did not require anyone to be vaccinated.¹⁹

Legal Authority in Florida for the Maintenance of Public Health

As detailed above, the DOH and the State Surgeon General are vested with a wide range of powers for the purpose of protecting the public health. However, the ultimate authority and responsibility for protecting the public health is vested in the Florida Legislature.

In the seminal Florida case on public health authority, *Varholy v. Sweat*, the Florida Supreme Court found in 1943 that “[g]enerally speaking, rules and regulations necessary to protect the public health are legislative questions, and appropriate methods intended and calculated to accomplish these ends will not be disturbed by the courts.”²⁰ Although the “legislative authority in this legitimate field of the police power, like as in other fields, is fenced about by constitutional limitations, and it cannot properly be exercised beyond such reasonable interferences as are really of action of individuals as are really necessary to preserve and protect the public health.”²¹ Every reasonable presumption must “be indulged in favor of the validity of legislative action in this important field, [and] also in favor of the validity of the regulations and actions of the health authorities.”²²

Varholy appears to recognize that the Florida Legislature has broad discretion to protect the public health as it sees fit, within the bounds of the Florida and United States Constitutions, and that the Legislature has the ultimate authority to decide which state police powers may, and may not, be used to protect the public health.

III. Effect of Proposed Changes:

This bill amends s. 381.00315, F.S., to revise the State Health Officer’s authority relating to vaccines during public health emergencies. Specifically, the bill:

- Repeals the authority of the Surgeon General to order an individual to be vaccinated for communicable diseases that have significant morbidity or mortality and pose a severe danger to public health;

¹⁸ See Florida Department of Health, *Novel Influenza A H1N1 Outbreak: The Florida Response* (last updated March 24, 2021), *H1N1 Broadcast Planning for the Vaccine Campaign*, slides 10 (in notes) and 11, <http://www.floridahealth.gov/diseases-and-conditions/influenza/satellite.html> (last visited Nov. 8, 2021).

¹⁹ Florida Department of Health, *supra* note 12 (emphasis added).

²⁰ *Varholy v. Sweat*, 15 So. 2d 267, 269 (Fla. 1943).

²¹ *Id.* at 270.

²² *Id.*

- Removes such an individual's inability or unwillingness to be vaccinated, for reasons of health, religion, or conscience, from a list of conditions making that individual subject to isolation or quarantine; and
- Repeals the authority of the Surgeon General, for cases in which there is no practical method to isolate or quarantine such individual, to order the individual to be vaccinated by any means necessary.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.00315 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 Bean

4-00006-21B

20218B__

A bill to be entitled

An act relating to vaccinations during public health emergencies; amending s. 381.00315, F.S.; removing the authority of the State Health Officer to order the vaccination of individuals upon declaration of a public health emergency; revising a requirement that the Department of Health adopt certain rules; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) and paragraph (c) of subsection (5) of section 381.00315, Florida Statutes, are amended to read:

381.00315 Public health advisories; public health emergencies; isolation and quarantines.—The State Health Officer is responsible for declaring public health emergencies, issuing public health advisories, and ordering isolation or quarantines.

(2)

(d) The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped.

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Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or before the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period

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59 not to exceed 90 days without meeting the requirements of s.
60 456.036 or chapter 401, as applicable.

61 4. Ordering an individual to be examined, tested,
62 ~~vaccinated~~, treated, isolated, or quarantined for communicable
63 diseases that have significant morbidity or mortality and
64 present a severe danger to public health. Individuals who are
65 unable or unwilling to be examined, tested, ~~vaccinated~~, or
66 treated for reasons of health, religion, or conscience may be
67 subjected to isolation or quarantine.

68 a. Examination, testing, ~~vaccination~~, or treatment may be
69 performed by any qualified person authorized by the State Health
70 Officer.

71 b. If the individual poses a danger to the public health,
72 the State Health Officer may subject the individual to isolation
73 or quarantine. If there is no practical method to isolate or
74 quarantine the individual, the State Health Officer may use any
75 means necessary to ~~vaccinate or~~ treat the individual.

76 c. Any order of the State Health Officer given to
77 effectuate this paragraph is immediately enforceable by a law
78 enforcement officer under s. 381.0012.

79 (5) The department shall adopt rules to specify the
80 conditions and procedures for imposing and releasing an
81 isolation or a quarantine. The rules must include provisions
82 related to:

83 (c) The tests or treatment, ~~including vaccination~~, for
84 communicable disease required before employment or admission to
85 the premises or to comply with an isolation or a quarantine.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: November 16, 2021

I respectfully request that **Senate Bill # 8-B**, relating to Vaccinations During Public Health Emergencies, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

The Florida Senate

APPEARANCE RECORD

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

11-16-21

Meeting Date

SB 8B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name Jean-Marie Nacer

Phone 732-895-3355

Address 9473 Glider Way

Email MrsJMNacer@gmail.com

Street

Boca Raton FL 33428

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.

The Florida Senate

APPEARANCE RECORD

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11/16/21
Meeting Date

812
Bill Number or Topic

Senate
Committee

Amendment Barcode (if applicable)

Name Niki Celsa

Phone 904 208 1656

Address 2376 Norman Rd
Street

Email celsasphc@gmail.com

Middleburg FL 32068
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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

11/16/2021

Meeting Date

SB 8-B

Bill Number or Topic

Appropriations

Committee

Amendment Barcode (if applicable)

Name Mary K. Winn

Phone (850) 766-2612

Address 1006 Brookwood Dr.

Street

Email kathywinnclan@embarqmail.com

Tallahassee FL 32308

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:

representing the League of Women Voters of Florida

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 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: KB 412

Case No.: -

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 11/16/2021 9:02:53 AM

Ends: 11/16/2021 11:47:55 AM

Length: 02:45:03

9:03:03 AM Sen. Stargel (Chair)
9:04:28 AM S 6-B
9:04:38 AM Sen. Hutson
9:05:52 AM Sen. Brandes
9:06:04 AM Sen. Hutson
9:06:06 AM Sen. Brandes
9:06:16 AM Sen. Hutson
9:06:19 AM Sen. Brandes
9:06:29 AM Sen. Hutson
9:06:38 AM Sen. Brandes
9:06:48 AM Sen. Hutson
9:07:05 AM Sen. Brandes
9:07:12 AM Sen. Hutson
9:07:17 AM Sen. Brandes
9:07:34 AM Sen. Hutson
9:07:57 AM Sen. Brandes
9:08:15 AM Sen. Hutson
9:08:23 AM Sen. Brandes
9:08:52 AM Sen. Hutson
9:09:09 AM Sen. Stewart
9:09:19 AM Sen. Hutson
9:09:43 AM Mary Winn, League of Women Voters of Florida
9:09:59 AM Clarence Tennell (waives in opposition)
9:10:10 AM Deiedre Jones (waives in opposition)
9:10:24 AM Sen. Gibson
9:11:52 AM Sen. Powell
9:13:15 AM Sen. Brandes
9:16:10 AM Sen. Perry
9:17:15 AM Sen. Stewart
9:18:29 AM Sen. Hutson
9:19:27 AM S 8-B
9:19:30 AM Sen. Bean
9:21:05 AM Sen. Pizzo
9:21:32 AM Sen. Bean
9:21:46 AM Sen. Pizzo
9:22:19 AM Sen. Bean
9:22:29 AM Sen. Powell
9:22:45 AM Sen. Bean
9:23:36 AM Sen. Powell
9:24:14 AM Sen. Bean
9:26:00 AM Sen. Powell
9:27:41 AM Sen. Bean
9:28:59 AM Sen. Brandes
9:29:30 AM Sen. Bean
9:29:44 AM Sen. Brandes
9:30:05 AM Sen. Bean
9:30:07 AM Sen. Brandes
9:30:26 AM Sen. Bean
9:31:21 AM Jean Marie Nacer
9:33:13 AM Nikki Celso
9:39:08 AM Sen. Gibson
9:41:17 AM Sen. Powel

9:43:11 AM	Sen. Pizzo
9:44:38 AM	Sen. Brandes
9:46:06 AM	Sen. Stargel
9:46:53 AM	Sen. Bean
9:46:54 AM	Mary Winn, League of Women Voters of Florida (waives in opposition)
9:48:31 AM	S 2-B
9:48:57 AM	Sen. Burgess
9:53:05 AM	Sen. Pizzo
9:53:20 AM	Sen. Burgess
9:53:22 AM	Sen. Pizzo
9:53:25 AM	Sen. Burgess
9:53:28 AM	Sen. Pizzo
9:53:35 AM	Sen. Burgess
9:53:47 AM	Sen. Pizzo
9:54:01 AM	Sen. Burgess
9:54:07 AM	Sen. Pizzo
9:54:13 AM	Sen. Burgess
9:54:16 AM	Sen. Pizzo
9:54:23 AM	Sen. Burgess
9:54:35 AM	Sen. Pizzo
9:54:42 AM	Sen. Burgess
9:54:46 AM	Sen. Pizzo
9:54:57 AM	Sen. Burgess
9:55:17 AM	Sen. Pizzo
9:55:28 AM	Sen. Stargel
9:55:33 AM	Sen. Burgess
9:55:35 AM	Sen. Pizzo
9:55:42 AM	Sen. Burgess
9:56:02 AM	Sen. Pizzo
9:56:06 AM	Sen. Burgess
9:56:09 AM	Sen. Pizzo
9:56:12 AM	Sen. Burgess
9:56:35 AM	Sen. Pizzo
9:56:42 AM	Sen. Stargel
9:56:55 AM	Sen. Burgess
9:56:57 AM	Sen. Stargel
9:57:00 AM	Sen. Burgess
9:57:03 AM	Sen. Pizzo
9:57:10 AM	Sen. Burgess
9:57:15 AM	Sen. Pizzo
9:57:17 AM	Sen. Burgess
9:57:22 AM	Sen. Pizzo
9:57:29 AM	Sen. Burgess
9:59:11 AM	Sen. Pizzo
9:59:18 AM	Sen. Burgess
9:59:22 AM	Sen. Pizzo
9:59:24 AM	Sen. Burgess
9:59:29 AM	Sen. Pizzo
9:59:41 AM	Sen. Burgess
9:59:46 AM	Sen. Pizzo
10:00:01 AM	Sen. Burgess
10:00:07 AM	Sen. Pizzo
10:00:10 AM	Sen. Burgess
10:00:22 AM	Sen. Pizzo
10:00:39 AM	Sen. Burgess
10:00:46 AM	Sen. Pizzo
10:01:07 AM	Sen. Burgess
10:01:36 AM	Sen. Pizzo
10:01:46 AM	Sen. Burgess
10:02:05 AM	Sen. Pizzo
10:02:38 AM	Sen. Burgess
10:02:43 AM	Sen. Pizzo

10:03:28 AM	Sen. Burgess
10:04:18 AM	Sen. Pizzo
10:04:20 AM	Sen. Burgess
10:04:49 AM	Sen. Pizzo
10:05:00 AM	Sen. Stargel
10:05:04 AM	Sen. Pizzo
10:05:20 AM	Sen. Burgess
10:05:27 AM	Sen. Bracy
10:06:08 AM	Sen. Burgess
10:07:10 AM	Sen. Bracy
10:07:27 AM	Sen. Burgess
10:07:40 AM	Sen. Bracy
10:08:05 AM	Sen. Burgess
10:08:33 AM	Sen. Brandes
10:09:14 AM	Sen. Burgess
10:09:42 AM	Sen. Brandes
10:10:15 AM	Sen. Burgess
10:10:16 AM	Sen. Bracy
10:10:18 AM	Sen. Brandes
10:10:27 AM	Sen. Stargel
10:10:34 AM	Sen. Bracy
10:10:46 AM	Sen. Brandes
10:10:50 AM	Sen. Burgess
10:11:10 AM	Sen. Bracy
10:11:14 AM	Sen. Burgess
10:11:17 AM	Sen. Bracy
10:11:43 AM	Sen. Burgess
10:12:27 AM	Sen. Gibson
10:12:59 AM	Sen. Stargel
10:13:09 AM	Sen. Burgess
10:13:31 AM	Sen. Gibson
10:13:46 AM	Sen. Burgess
10:13:52 AM	Sen. Stargel
10:14:00 AM	Sen. Gibson
10:15:16 AM	Sen. Burgess
10:15:57 AM	Sen. Gibson
10:16:13 AM	Sen. Burgess
10:16:27 AM	Sen. Gibson
10:16:28 AM	Sen. Burgess
10:16:35 AM	Sen. Gibson
10:16:50 AM	Sen. Burgess
10:17:01 AM	Sen. Gibson
10:17:43 AM	Sen. Burgess
10:18:20 AM	Sen. Stargel
10:18:29 AM	Sen. Burgess
10:18:36 AM	Sen. Gibson
10:19:31 AM	Sen. Burgess
10:19:50 AM	Sen. Gibson
10:20:09 AM	Sen. Burgess
10:20:34 AM	Sen. Gibson
10:20:50 AM	Sen. Burgess
10:21:00 AM	Sen. Gibson
10:21:26 AM	Sen. Burgess
10:22:20 AM	Sen. Gibson
10:22:42 AM	Sen. Burgess
10:22:58 AM	Sen. Brandes
10:23:19 AM	Sen. Burgess
10:23:46 AM	Sen. Brandes
10:24:03 AM	Sen. Burgess
10:24:31 AM	Sen. Stargel
10:24:41 AM	Sen. Brandes
10:25:52 AM	Mary Winn, League of Women Voters of Florida

10:28:30 AM Jean Marie Nacer
10:28:41 AM Sen. Gibson
10:29:05 AM J. Nacer
10:31:29 AM Sen. Pizzo
10:32:23 AM Wendy Williams
10:36:08 AM Sen. Stargel
10:36:27 AM Sam Eaten
10:42:00 AM Sen. Pizzo
10:42:38 AM W. Williams
10:43:15 AM Sen. Pizzo
10:43:32 AM Sen. Stargel
10:43:49 AM Jean Siebenaler (waives in opposition)
10:44:09 AM Ashley Keiser
10:47:20 AM Pamela Henry
10:51:17 AM Connie Lampinen
10:54:34 AM David Caicedo, Florida Student Power
10:58:05 AM Sue Trombino
11:01:15 AM Sen. Pizzo
11:01:20 AM S. Trombino
11:01:45 AM Nikki Murphy
11:08:53 AM Michiolail Aard, Florida Student Power
11:12:08 AM Cindy Youngs
11:13:26 AM Shannon Otto
11:17:28 AM Stephen Davis
11:21:04 AM Lori Bontell
11:25:27 AM Sen. Gibson
11:31:48 AM Sen. Pizzo
11:36:49 AM Sen. Burgess
11:36:50 AM Deborah Baker-Rian (waives in opposition)
11:41:31 AM S 4-B
11:41:42 AM Sen. Burgess
11:42:33 AM Sen. Pizzo
11:42:48 AM Sen. Burgess
11:43:02 AM Sen. Pizzo
11:43:23 AM Sen. Burgess
11:43:46 AM Mary Winn, League of Women Voters of Florida
11:44:03 AM Jan Marie
11:44:12 AM Sen. Pizzo
11:45:46 AM Sen. Burgess
11:46:15 AM Sen. Pizzo
11:46:35 AM Sen. Burgess