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|--------------|---|---|-----|-----------|--------------|----------------|
| Tab 1 | CS/SB 108 by TR, Rodriguez ; (Similar to H 00055) Trees and Vegetation Within the Rights-of-way of Certain Roads and Rail Corridors | | | | | |
| Tab 2 | SB 114 by Book (CO-INTRODUCERS) Stewart, Hutson, Perry, Berman ; (Identical to H 00029) Tax Exemption for Diapers and Incontinence Products | | | | | |
| Tab 3 | SB 192 by Avila (CO-INTRODUCERS) Calatayud, Rodriguez, Gruters ; (Similar to H 00175) Everglades Protection Area | | | | | |
| 420662 | A | S | RCS | CA, Avila | Delete L.48: | 03/09 11:42 AM |
| Tab 4 | SB 216 by Burgess ; (Similar to H 00525) Public Records/Current and Former County and City Attorneys | | | | | |
| Tab 5 | SB 358 by Burgess (CO-INTRODUCERS) Calatayud ; (Identical to H 00475) Residential Graywater System Tax Credits | | | | | |
| Tab 6 | SB 408 by Perry ; (Compare to CS/CS/H 00327) Fire Sprinkler System Project Permitting | | | | | |
| Tab 7 | SB 678 by Powell ; (Identical to H 00763) Disposal of Property | | | | | |
| Tab 8 | SB 942 by Calatayud (CO-INTRODUCERS) Martin ; (Identical to H 00941) Authorization of Restrictions Concerning Dogs | | | | | |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Calatayud, Chair
Senator Osgood, Vice Chair

MEETING DATE: Tuesday, March 7, 2023
TIME: 4:00—6:00 p.m.
PLACE: James E. "Jim" King, Jr Committee Room, 401 Senate Building

MEMBERS: Senator Calatayud, Chair; Senator Osgood, Vice Chair; Senators Baxley, Berman, Bradley, Brodeur, Gruters, Martin, and Pizzo

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 1 | CS/SB 108 Transportation / Rodriguez (Similar H 55) | Trees and Vegetation Within the Rights-of-way of Certain Roads and Rail Corridors; Providing that the prohibition against the removal, cutting, marring, defacing, or destruction of trees or other vegetation in certain rights-of-way does not apply if the Department of Transportation suspends such prohibition pursuant to a declared state of emergency; requiring the department to publish informational guidelines regarding the removal of debris from certain emergencies, etc. TR 02/14/2023 Fav/CS CA 03/07/2023 Favorable RC | Favorable Yeas 9 Nays 0 |
| 2 | SB 114 Book (Identical H 29) | Tax Exemption for Diapers and Incontinence Products; Exempting the sale for human use of diapers, incontinence undergarments, incontinence pads, and incontinence liners from the sales and use tax, etc. CA 03/07/2023 Favorable FT AP | Favorable Yeas 9 Nays 0 |
| 3 | SB 192 Avila (Similar H 175) | Everglades Protection Area; Requiring comprehensive plans and plan amendments that apply to certain lands within or near the Everglades Protection Area to follow the state coordinated review process; requiring the Department of Environmental Protection, in consultation with specified entities, to make certain determinations for such plans and amendments, to provide written determinations to the local government and specified entities within a specified timeframe, and to coordinate with the local government and specified entities on certain planning strategies and mitigation measures; authorizing site-specific text changes for small-scale future land use map amendments; prohibiting the adoption of small-scale development amendments for properties located within or near the Everglades Protection Area, etc. CA 03/07/2023 Fav/CS EN RC | Fav/CS Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, March 7, 2023, 4:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|----------------------------|
| 4 | SB 216 Burgess (Similar H 525) | Public Records/Current and Former County and City Attorneys; Providing an exemption from public records requirements for the personal identifying and location information of current and former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys, and the names and personal identifying and location information of the spouses and children of such attorneys; providing applicability; providing for future legislative review and repeal; providing a statement of public necessity, etc. CA 03/07/2023 Favorable GO RC | Favorable Yeas 8 Nays 1 |
| 5 | SB 358 Burgess (Identical H 475) | Residential Graywater System Tax Credits; Providing a tax credit to developers and homebuilders for certain graywater systems purchased during the taxable year; specifying information the developer or homebuilder must provide to the Department of Revenue; revising the definition of the term "adjusted federal income" to include credits created by the act, etc. CA 03/07/2023 Favorable FT AP | Favorable Yeas 9 Nays 0 |
| 6 | SB 408 Perry (Compare CS/H 327) | Fire Sprinkler System Project Permitting; Defining terms; requiring replacement fire sprinkler system components to meet certain criteria; requiring local enforcement agencies to perform at least one inspection for a fire sprinkler system project; requiring contractors to keep certain documentation available at a worksite for a fire sprinkler system project and make such documentation available for inspection, etc. CA 03/07/2023 Favorable RI RC | Favorable Yeas 9 Nays 0 |
| 7 | SB 678 Powell (Identical H 763) | Disposal of Property; Providing that the use of property as affordable housing qualifies as use for a public purpose in the context of the authorization of the Department of Transportation to convey property without consideration to a governmental entity, etc. CA 03/07/2023 Favorable TR RC | Favorable Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, March 7, 2023, 4:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|----------------------------|
| 8 | SB 942 Calatayud (Identical H 941) | Authorization of Restrictions Concerning Dogs; Authorizing public housing authorities to adopt certain policies relating to dogs; removing an exemption for local breed-specific ordinances adopted before a specified date, etc. CA 03/07/2023 Favorable AG RC | Favorable Yeas 9 Nays 0 |
| 9 | 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 Community Affairs

BILL: CS/SB 108

INTRODUCER: Transportation Committee and Senator Rodriguez

SUBJECT: Trees and Vegetation Within the Rights-of-way of Certain Roads and Rail Corridors

DATE: March 6, 2023 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Price | Vickers | TR | Fav/CS |
| 2. | Hunter | Ryon | CA | Favorable |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 108 revises provisions relating to a prohibition against removal, cutting, or destruction of any trees or other vegetation within the rights-of-way of roads located on the State Highway System. The bill provides that the prohibition does not apply if the Florida Department of Transportation (FDOT) suspends such prohibition pursuant to a declared state of emergency.

The FDOT is required to adopt informational guidelines related to the removal process for debris from an emergency that is subject to an emergency declaration, including, but not limited to, a hurricane or a tropical storm.

The bill takes effect July 1, 2023.

II. Present Situation:

With some exception, utility work in the FDOT's right-of-way requires a permit. Current law prohibits the removal, cutting, marring, defacing, or destruction of any trees or other vegetation, either by direct personal action or by cause any other person to take such action, within the

rights-of-way of roads located on the State Highway System (SHS)¹ or within publicly owned rail corridors unless prior written permission has been granted by the FDOT.²

The only exception to the prior-written-permission requirement is in cases “where normal tree trimming is required to ensure the safe operation of utility facilities, and such tree trimming is performed in accordance with the provisions of its [the FDOT’s] utility accommodations guide, and any subsequent amendments thereto.”³

Vegetation control relating to utility installations in the FDOT’s right-of-way which is performed by a utility agency/owner (UAO) in compliance with the FDOT’s *Utility Accommodation Manual (UAM)* may be completed *without* applying for a new permit (one that is in addition to the permit issued for the initial utility installation) under certain conditions.⁴

Rule 14-46.001, F.A.C., incorporates by reference the FDOT’s UAM which contains a number of provisions that regulate vegetation control relating to utility installations in the right-of-way. A UAO may cut vegetation manually or mechanically on a routine or periodic basis provided the work does not exceed limits necessary for proper utility maintenance. Where vegetation interferes with safe utility maintenance and operation, the utility shall do all the following:

- Trim trees in accordance with UAM Section 3.18.2.⁵
- Remove brush cuttings or debris discharged into routinely maintained area.
- Stockpile debris outside the mowing limits and clear zone for later disposal.
- Leave in place all undergrowth.

Section 3.18.2 of the UAM provides:

The UAO shall trim trees to ensure the safe installation, maintenance, and operation of the UAO’s utilities. Where the UAO trims trees, the UAO shall comply with the ANSI A300 Standard Practices.⁶ The UAO shall not cause irreparable damage to a tree by trimming. Such trimming shall employ recognized and approved methods of modern vegetation control, with emphasis on tree health. The UAO may use mechanical tree trimming machines for routine maintenance. The UAO shall remove all waste and debris associated with the trimming from the R/W unless FDOT specifies otherwise in writing.

¹ “State highway system” means the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state’s jurisdiction. These facilities shall be facilities to which access is regulated. Section 334.03(24), F.S.

² Section 337.405, F.S. As examples of the required “prior written permission,” requests to remove, cut, or trim vegetation screening outdoor advertising signs for which sign permits have been issued pursuant to ch. 479, F.S., are initiated by application to the FDOT under Rule 14-10.057, F.A.C. Requests for approval to alter, remove, or install landscaping on the FDOT’s right-of-way are initiated through submission of a landscape plan under Rule 14-40.003, F.A.C.

³ *Id.*

⁴ See the FDOT’s *Utility Accommodation Manual*, 2.3, *Work Not Requiring New Permits*, 2.3.1, *Work Types*, at p. 13 of 44, available at [uam2017.pdf \(windows.net\)](#) (last visited February 28, 2023).

⁵ *Id.*, 3.18. *Vegetation Control*, at p. 23 of 44.

⁶ ANSI A300 Standards are described as “the generally accepted industry standards for tree care practices.” See TCIA, *ANSI A300 Standards*, available at [\(1\) New Message \(tcia.org\)](#) (last visited February 28, 2023).

A violator of these provisions is guilty of a second degree misdemeanor,⁷ punishable by a definite term of imprisonment not exceeding 60 days,⁸ plus a possible additional \$500 fine.⁹

III. Effect of Proposed Changes:

The bill amends s. 337.405, F.S., revising the exceptions under which the removal, cutting, marring, defacing, or destruction of any trees or other vegetation with the rights-of-way of roads on the SHS or within publicly owned rail corridors. The prohibition applies unless:

- The FDOT suspends the prohibition pursuant to a declaration of a state of emergency,
- The FDOT grants written permission before the removal or cutting of such trees or other vegetation, or
- Normal tree trimming is required to ensure the safe operation of utility facilities and such tree trimming is performed in accordance with the provisions of the FDOT's UAM.

The FDOT's authority to suspend the prohibition appears to be entirely within its discretion under a declared state of emergency unless, of course, suspension is in response to issuance by the Governor of an executive order or proclamation declaring a state of emergency which *orders* the FDOT to suspend the prohibition. The existing exception for written permission is unchanged, except for editorial revision to improve readability, as is the exception from permitting for normal tree trimming where such trimming is required to ensure safe operation of utility facilities and is performed in accordance with the FDOT's UAM.

The bill also requires the FDOT to adopt informational guidelines related to the removal process for debris from an emergency that is subject to an emergency declaration, including, but not limited to, a hurricane or a tropical storm.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Section 337.405(2), F.S.

⁸ Section 775.082(4)(b), F.S.

⁹ Section 775.083(1)(e), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDOT would be required to adopt informational guidelines related to the removal process for debris from an emergency that is subject to an emergency declaration. The fiscal impact to the FDOT is indeterminate but likely insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 337.405 of Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Transportation on February 14, 2023:

The committee substitute restores the FDOT's authority to adopt rules to implement the entire section of law being amended (s. 337.405, F.S.), rather than just one paragraph, and clarifies the FDOT's responsibility with respect to guidelines for removal of debris from an emergency that is subject to an emergency declaration, by providing that such guidelines are informational.

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 the Committee on Transportation; and Senator Rodriguez

596-02086-23

2023108c1

1 A bill to be entitled

2 An act relating to trees and vegetation within the
3 rights-of-way of certain roads and rail corridors;
4 amending s. 337.405, F.S.; providing that the
5 prohibition against the removal, cutting, marring,
6 defacing, or destruction of trees or other vegetation
7 in certain rights-of-way does not apply if the
8 Department of Transportation suspends such prohibition
9 pursuant to a declared state of emergency; requiring
10 the department to publish informational guidelines
11 regarding the removal of debris from certain
12 emergencies; providing an effective date.

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

15
16 Section 1. Section 337.405, Florida Statutes, is amended to
17 read:

18 337.405 Trees or other vegetation within rights-of-way of
19 State Highway System or publicly owned rail corridors;
20 prohibited acts; exceptions; penalties; debris removal
21 guidelines required removal or damage; penalty.-

22 (1) The removal, cutting, marring, defacing, or destruction
23 of any trees or other vegetation, either by direct personal
24 action or by causing any other person to take such action,
25 within the rights-of-way of roads located on the State Highway
26 System or within publicly owned rail corridors is prohibited
27 unless one of the following applies:

28 (a) The department suspends this subsection pursuant to a
29 declaration of a state of emergency.

596-02086-23

2023108c1

30 (b) The department grants ~~Prior~~ written permission before
31 the removal or cutting of ~~to remove or cut~~ such trees or other
32 vegetation. ~~has been granted by the department, except where~~

33 (c) Normal tree trimming is required to ensure the safe
34 operation of utility facilities and such tree trimming is
35 performed in accordance with the provisions of the department's
36 ~~its~~ utility accommodations guide, and any subsequent amendments
37 thereto.

38 (2) The department shall adopt rules to implement ~~for the~~
39 ~~implementation of~~ this section to achieve protection of
40 vegetation while at the same time assuring safe utility
41 operations.

42 (3) ~~(2)~~ A Any person who violates ~~the provisions of~~ this
43 section commits ~~is guilty of~~ a misdemeanor of the second degree,
44 punishable as provided in s. 775.082 or s. 775.083.

45 (4) The department shall publish informational guidelines
46 related to the removal process for debris from an emergency that
47 is subject to an emergency declaration, including, but not
48 limited to, a hurricane or a tropical storm.

49 Section 2. This act shall take effect July 1, 2023.

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 Community Affairs

BILL: SB 114

INTRODUCER: Senator Book and others

SUBJECT: Tax Exemption for Diapers and Incontinence Products

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Hackett</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 2. | _____ | _____ | <u>FT</u> | _____ |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

SB 114 exempts the sale of diapers, incontinence undergarments, incontinence pads, and incontinence liners from the sales and use tax.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$22.7 million beginning in Fiscal Year 2023-2024, and by at least \$54.5 million each year thereafter. The bill will reduce local government receipts by \$6.1 million in Fiscal Year 2023-2024, and by at least \$14.5 million each year thereafter.

The bill takes effect January 1, 2024.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. In addition to the 6 percent sales tax, Florida law authorizes counties to levy discretionary sales surtaxes.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale. Sales tax receipts accounted for approximately 70 percent of the state's General Revenue in Fiscal Year 2021-2022.⁵

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.055, F.S.

⁵ Office of Tax Research Collections and Distributions, *State and Local Tax Receipts, Fiscal Year 2021-22*, available at <https://floridarevenue.com/DataPortal/Pages/TaxResearch.aspx> (last visited Mar. 2, 2023).

Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 270 exemptions, exclusions, deduction, and credits from sales and use tax.⁶

Exemptions for Diapers and Incontinence Products

In the first year of a child's life, parents can expect to use approximately 3,000 diapers, or an average of eight diapers per day.⁷ The average cost for a diaper is around \$0.30, but some brands are closer to \$0.75 per diaper.⁸ The average state sales tax paid for disposable diapers for a single child over one year, based on those numbers, is anywhere from \$54 to \$135.

Some medical products are among the items exempt from sales and use tax.⁹ Such products include ostomy pouches, catheters, and mastectomy pads.¹⁰ Common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease, such as alcohol wipes, bandages, and gauze, are also exempt from sales and use tax.¹¹ Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.¹²

Diapers and incontinence products are not statutorily exempt from sales and use tax in Florida. However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during certain sales tax holidays.¹³ Additionally, Children's diapers including single-use diapers, reusable diapers, and reusable diaper inserts are currently exempt from sales tax until June 30, 2023.¹⁴

Other States

Of the 45 states that impose a sales tax,¹⁵ California, Colorado, Connecticut, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode

⁶ Office of Economic and Demographic Research, *Florida Tax Handbook (2022)*, at 166-171, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2022.pdf> (last visited Mar. 2, 2023).

⁷ Buying Diapers, American Academy of Pediatrics healthychildren.org website, available at <https://www.healthychildren.org/English/ages-stages/baby/diapers-clothing/Pages/Buying-Diapers.aspx> (last visited February 13, 2022)

⁸ *Id.* In addition, a search of major retailers showed a significant variety in prices for name brand diapers.

⁹ Section 212.08(2)(a), F.S.

¹⁰ The Department of Business and Professional Regulation is responsible for prescribing and approving a list of common household remedies, which is then certified by the Department of Revenue. See Department of Revenue, *Nontaxable Medical Items and Grocery List, 2*, available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited Mar. 2, 2023).

¹¹ *Id.* at 1.

¹² *Id.* at 3.

¹³ See, e.g., Department of Revenue, *2022 Back-to-School Sales Tax Holiday Tax Information Publication*, p.4, available at https://floridarevenue.com/taxes/tips/Documents/TIP_22A01-08.pdf (last visited Mar. 2, 2023).

¹⁴ Ch. 2022-97, s. 50, Laws of Fla.

¹⁵ Alaska, Delaware, Montana, New Hampshire, and Oregon do not levy a state sales tax. See Tax Foundation, *State and Local Sales Tax Rates (2020)*, available at <https://files.taxfoundation.org/20200115132659/State-and-Local-Sales-Tax-Rates-2020.pdf> (last visited Mar. 2, 2023).

Island, Vermont, Virginia, and the District of Columbia do not subject the sale of diapers to state sales tax.¹⁶ North Dakota exempts diapers used for incontinence, but not baby diapers.¹⁷

III. Effect of Proposed Changes:

The bill amends s. 212.08, F.S., to exempt diapers, incontinence undergarments, incontinence pads, and incontinence liners from state sales and use tax.

The bill takes effect January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Article VII, Section 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The Revenue Estimating Conference determined that the bill will reduce local government receipts by \$6.1 million in Fiscal Year 2023-2024, and by at least \$14.5 million each year thereafter. Therefore, the bill may have a significant impact on local governments and the mandate provisions may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

¹⁶ National Diaper Bank Network, *Sales Tax on Diaper Purchases by State*, available at <https://nationaldiaperbanknetwork.org/diaper-tax/> (last visited Mar. 2, 2023).

¹⁷ *Id.*

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

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$22.7 million beginning in Fiscal Year 2023-2024, and by at least \$54.5 million each year thereafter. The bill will reduce local government receipts by \$6.1 million in Fiscal Year 2023-2024, and by at least \$14.5 million each year thereafter.

B. Private Sector Impact:

Individuals will see a reduction in the cost of purchasing diapers and incontinence products. Daycare providers, diaper service providers, hospitals, and other businesses will also see a reduction in the cost of diapers and incontinence products.

C. Government Sector Impact:

The Department of Revenue estimates that they will incur a cost associated with printing and mailing a Tax Information Publication (TIP) to businesses advising of the new sales tax exemption. The estimated cost to print and mail the TIP is \$77,220.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

¹⁸ Department of Revenue, *SB 114, 2023 Agency Legislative Bill Analysis* (on file with the Committee on Community Affairs).

By Senator Book

35-00407-23

2023114__

1 A bill to be entitled
2 An act relating to a tax exemption for diapers and
3 incontinence products; amending s. 212.08, F.S.;
4 exempting the sale for human use of diapers,
5 incontinence undergarments, incontinence pads, and
6 incontinence liners from the sales and use tax;
7 providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Paragraph (qqq) is added to subsection (7) of
12 section 212.08, Florida Statutes, to read:

13 212.08 Sales, rental, use, consumption, distribution, and
14 storage tax; specified exemptions.—The sale at retail, the
15 rental, the use, the consumption, the distribution, and the
16 storage to be used or consumed in this state of the following
17 are hereby specifically exempt from the tax imposed by this
18 chapter.

19 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
20 entity by this chapter do not inure to any transaction that is
21 otherwise taxable under this chapter when payment is made by a
22 representative or employee of the entity by any means,
23 including, but not limited to, cash, check, or credit card, even
24 when that representative or employee is subsequently reimbursed
25 by the entity. In addition, exemptions provided to any entity by
26 this subsection do not inure to any transaction that is
27 otherwise taxable under this chapter unless the entity has
28 obtained a sales tax exemption certificate from the department
29 or the entity obtains or provides other documentation as

35-00407-23

2023114__

30 required by the department. Eligible purchases or leases made
31 with such a certificate must be in strict compliance with this
32 subsection and departmental rules, and any person who makes an
33 exempt purchase with a certificate that is not in strict
34 compliance with this subsection and the rules is liable for and
35 shall pay the tax. The department may adopt rules to administer
36 this subsection.

37 (qqq) Diapers and incontinence products.—The sale for human
38 use of diapers, incontinence undergarments, incontinence pads,
39 or incontinence liners is exempt from the tax imposed by this
40 chapter.

41 Section 2. This act shall take effect January 1, 2024.



2023 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

FD
AY

BILL INFORMATION

| | |
|------------------------|---|
| BILL NUMBER: | SB 114 |
| BILL TITLE: | Tax Exemption for Diapers and Incontinence Products |
| BILL SPONSOR: | Senator Book |
| EFFECTIVE DATE: | 01/01/2024 |

COMMITTEES OF REFERENCE

| |
|--------|
| 1) N/A |
| 2) |
| 3) |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|-----|
| N/A |
|-----|

SIMILAR BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

IDENTICAL BILLS

| | |
|---------------------|-------------------------|
| BILL NUMBER: | HB 29 |
| SPONSOR: | Representative Eskamani |

PREVIOUS LEGISLATION

| |
|--|
| YEAR/BILL NUMBER/SPONSOR/LAST ACTION: 2022/HB 85/ Representative Eskamani/ Died in Ways and Means Committee 2022/SB 246/ Senator Book/ Died in Commerce and Tourism 2021 SB 806/ Senator Book/ Died in Appropriations 2020 SB 54/ Senator Book/ Died in Finance and Tax |
|--|

BILL ANALYSIS INFORMATION

| | |
|--------------------------|----------------------------|
| DATE OF ANALYSIS: | 01/10/2023 |
| AGENCY CONTACT: | Alec Yarger (850) 717-6153 |

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Sales, rental, use, consumption, distribution, and storage tax; specified exemptions. (pp. 1-2):

PRESENT SITUATION

Tangible personal property is subject to sales and use tax, unless specifically exempt. Diapers and incontinence products are generally subject to sales tax. Retail sales of children's diapers, including single-use diapers, reusable diapers, and reusable diaper inserts are temporarily exempt from sales tax under an exemption period that lasts until June 30, 2023.

EFFECT OF THE BILL

The bill provides an exemption from sales and use tax for sales of diapers, incontinence undergarments, incontinence pads, and incontinence liners for human use.

Section 2. (p. 2): Provides for an effective date of January 1, 2024.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

| | |
|--|--|
| If yes, explain: | Updates will need to be made to the list of nontaxable medical items and general grocery list, Form DR-46NT. Additionally, possible updates will need to be made to the definition of personal hygiene products that are exempt from tax. |
| Rule(s) impacted (provide references to F.A.C., etc.): | <ul style="list-style-type: none"> • Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies (definition of personal hygiene products) • Form DR-46NT incorporated by reference into Rule 12A-1.097, F.A.C., Public Use Forms |

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

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

| | |
|--|--|
| Revenues: | The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government. |
| Expenditures: <i>(Department of Revenue expenditures and operational impacts)</i> | <input type="checkbox"/> NO IMPACT <input type="checkbox"/> LESS THAN \$25,000 <input checked="" type="checkbox"/> MORE THAN \$25,000 <input type="checkbox"/> UNABLE TO DETERMINE <input type="checkbox"/> OPERATIONAL IMPACT ONLY |
| Does the legislation contain an appropriation to the Department? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 212.08, F.S.

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO **If no, briefly explain.**

C. Are new issues/problems created? YES NO **If yes, briefly identify.**

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. RECOMENDED CORRECTIONS: None

14. OTHER: None

2023
DEPARTMENT OF REVENUE
FISCAL (OPERATIONAL) IMPACT ANALYSIS

Bill number SB 114
Short title Tax Exemption for Diapers and Incontinence Products
Bill sponsor Senator Book

Date of Analysis: January 12, 2023

Agency Contact: Alec Yarger

Telephone: (850) 717-6153

Estimate amounts required to administer the bill's provisions by appropriation categories (Salaries & Benefits, OPS, Expenses, Operating Capital Outlay, etc.)

| I. FISCAL IMPACT ON STATE AGENCY: | (FY 22-23) \$ / FTE | (FY 23-24) \$ / FTE | (FY 24-25) \$ / FTE | (FY 25-26) \$ / FTE |
|--|------------------------|------------------------|------------------------|------------------------|
| A. REVENUES: All revenue estimates will be provided by the Revenue Estimating Conference. | | | | |
| B. EXPENDITURES: | | | | |
| 1. Recurring | \$0 | \$0 | \$0 | \$0 |
| FTE | | | | |
| Salaries | | | | |
| OPS | | | | |
| Expense | | | | |
| HR Contract | | | | |
| Contracted Services | | | | |
| 2. Non-Recurring | \$0 | \$77,220 | \$0 | \$0 |
| OPS | | | | |
| Expense | | \$77,220 | | |
| OCO | | | | |
| Contracted Services | | | | |
| C. TOTAL: | \$0 | \$77,220 | \$0 | \$0 |
| GR | | | | |
| TF | | | | |

II. EXPLANATION OF COST ANALYSIS (Include methodology and assumptions):

The proposed bill provides an exemption from sales and use tax on the sale of diapers, incontinence undergarments, incontinence pads, and incontinence liners for human use. Provides for an effective date of January 1, 2024.

Tax Information Publication (TIP): FY 23/24 - \$77,220 (Non-Recurring)

A Tax Information Publication (TIP) will be sent to approximately 185,000 businesses advising of the new sales tax exemption effective January 1, 2024. The estimated cost to print and mail the TIP is \$77,220. The TIP will also be posted to the Department's TIP website.

Form

Form DR-46NT will be updated to add the exempt items proposed in the bill.

III. Is an appropriation for the Department of Revenue provided in the bill? YES NO
If yes, provide amount(s) and fiscal year(s) for the appropriation.

IV. COMMENTS:

The Florida Senate

APPEARANCE RECORD

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

3/7/23

Meeting Date

114

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Sara Clark ~~Veronica Hernandez~~

Phone (850) 644-7472

Address 425 W. Jefferson St. Street

Email rnatman@law.fsu.edu

Tallahassee FL 32304 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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/7/23

Meeting Date

114

Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Veronica Hernandez

Phone (850) 644-7472

Address 425 W. Jefferson St.
Street

Email mcitman@law.fsu.edu

Tallahassee
City

FL
State

32304
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 114

Bill Number or Topic

March 7, 2023

Meeting Date

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name Eileen Segal (Florida PTA) Phone 407-855-7604

Address 1747 Orlando Central Parkway Email legislation@FPTA.org

Street

Orlando

City

FL

State

32809

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] 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. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2-7-23

Meeting Date

114

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

Address 1625 E. Breward St

Email barbandevane1@yahoo.com

Street

Tallahassee

FL 32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FL NOW

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

#114

3-7-23

Meeting Date

Bill Number or Topic

Community Affairs
Committee

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

Amendment Barcode (if applicable)

Name MINERVA GLIDDEN

Phone 407-438-4145

Address 4913 Lake Nelly Dr

Email minervaglidden@gmail.com

Street

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

APPEARANCE RECORD

114

3/7/23

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name

Deborah C. Deland

Phone

407 234-6408

Address

6278 Miramonte DR 104

Email

dcdeland@att.net

Street

Orlando

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-7-23

Meeting Date

114

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name AMY GREENMAN

Phone 407-461-5411

Address 8646 SAVORY DR

Email AMYGREENMAN1@gmail.com

ORLANDO

FL

32825

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

SB 114

03/07/2023

Meeting Date

Community Affairs

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name **Ivonne Fernandez - AARP**

Phone **954-850-7262**

Address **3750 NW 87th Ave Suite 650**

Email **ifernandez@aarp.org**

Street

Doral

FL

33178

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

~~AB114~~ SB 114

03/07/23

Meeting Date

Bill Number or Topic

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Senate professional staff conducting the meeting

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlink

Phone 772-532-1371

Address 10800 Biscayne Blvd.
Street

Email jackson@floridaforall.vote

Miami
City

FL
State

33161
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/8/2023

Meeting Date

114

Bill Number or Topic

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

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Caitlyn Clibbon

Phone (850) 488-9071

Address 2473 Care Dr.

Street

Email caitylnc@disabilityrightsflorida.org

TLH

City

FL

State

32308

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:

Disability Rights 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/7/2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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SB 114

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

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:

SPLC Action Fund

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

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

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S-001 (08/10/2021)

March 7, 2023

Meeting Date

Senate Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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

Senate Bill 114

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Brian Jogerst**

Phone **850-933-1985**

Address **307 West Park Avenue, Suite 101**

Street

Email **brian@waypointstrat.com**

Tallahassee

Florida

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

**Florida Association of Healthy
Start Coalitions**

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

114

3/7/23

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Hansen

Phone 850/251-2672

Address 201 E Park Avenue
Street

Email Chansen@ballardpartners.com

Tallahassee
City

FL
State

32301
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Consumer Healthcare Products Assoc
CHPA

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 192

INTRODUCER: Community Affairs Committee and Senator Avila and others

SUBJECT: Everglades Protection Area

DATE: March 9, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Hunter | Ryon | CA | Fav/CS |
| 2. | | | EN | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 192 requires any proposed comprehensive plan or plan amendment by a county as defined in s. 125.011(1), F.S., or any municipality located therein, applying to land within, or within 2 miles of, the Everglades Protection Area to be reviewed pursuant to the state coordinated review process.

The Department of Environmental Protection (DEP) is tasked with determining whether the plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives in state law. It has 30 days after receipt of the plan or plan amendment to issue a written determination identifying any adverse impacts.

Before adoption, DEP must coordinate with the Department of Economic Opportunity (DEO), the local government, and the Indian tribes to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts. If any portion of the proposed plan or plan amendment will result in adverse impacts, then the local government must either include planning strategies or measures to eliminate or mitigate the adverse impacts, or not adopt that portion of the proposed plan or plan amendment.

The bill also provides that DEO's compliance determination must be limited to not only the objections raised in the objections, recommendations, and comments report (consistent with

existing law), but also a review of planning strategies or measures adopted pursuant to DEP's review and coordination.

The bill takes effect July 1, 2023.

II. Present Situation:

The Everglades/Florida Bay Ecosystem

The Everglades/Florida Bay system covers approximately two million acres in South Florida and contains the largest subtropical wetland in the United States.¹ The area is generally described as a vast sawgrass marsh dotted with tree islands and interspersed with wet prairies and aquatic sloughs.²

Historically, the Everglades covered over seven million acres of South Florida, and water flowed down the Kissimmee River into Lake Okeechobee, then south through the vast Everglades to Florida Bay.³ The present Everglades system has been subdivided by the construction of canals, levees, roads, and other facilities as part of efforts to drain the system for agriculture, development, and flood control. As a result, the Everglades is less than half the size it was a century ago, and connections between the central Everglades and adjacent transitional wetlands have been lost. This separation and isolation can impair the Everglades' wildlife communities and the sustainability of the ecosystem.⁴ Over time, the construction of canals and water control structures along with urban and agricultural expansion contributed to unintended consequences.⁵

In 1994, to address these issues, the Legislature passed the Everglades Forever Act (Act).⁶ The Act established numerous long-term goals and environmental standards to restore and protect the Everglades ecosystem, addressing issues including water quantity, water quality, and excessive levels of phosphorus. The Act contains measures for constructing stormwater treatment areas for water entering the Everglades, sets standards for best management practices to address phosphorous pollution loading, and establishes numeric criteria for water quality in the Everglades.⁷ Generally, the Act outlines Florida's commitment to restoring the Everglades ecosystem, and it authorizes programs for achieving this restoration.⁸ These programs work in

¹ South Florida Water Management District (SFWMD), *Everglades*, <https://www.sfwmd.gov/our-work/everglades> (last visited March 1, 2023).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ SFWMD, *Everglades Restoration Progress*, 1 (2017), available at https://www.sfwmd.gov/sites/default/files/documents/spl_everglades_progress.pdf (last visited March 1, 2023).

⁶ Chapter 94-115, ss. 1-2, Laws of Fla.; Section 373.4592, F.S.

⁷ Section 373.4592, F.S.; University of Florida, Institute of Food and Agricultural Sciences (UF-IFAS), Michael T. Olexa et al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1-2 (2021), available at <https://edis.ifas.ufl.edu/pdf/FE/FE60900.pdf> (last visited March 1, 2023).

⁸ See SFWMD, *Long-Term Plan for Achieving Water Quality Goals*, <https://www.sfwmd.gov/our-work/wq-stas/long-term-plan> (last visited March 1, 2023); see SFWMD, *Restoration Strategies for Clean Water for the Everglades*, <https://www.sfwmd.gov/our-work/restoration-strategies> (last visited March 1, 2023).

cooperation with the multi-billion-dollar, multi-decade Comprehensive Everglades Restoration Plan that is a 50-50 partnership between the state and federal government.⁹



The Act establishes monitoring and protection for the “Everglades Protection Area,” defined as “Water Conservation Areas (WCAs) 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.”¹⁰ WCA 1 is the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and it is managed by the U.S. Fish and Wildlife Service.¹¹ Water Conservation Areas 2 and 3 are managed by the Florida Fish and Wildlife Conservation Commission.¹² Everglades National Park is managed by the National Park Service.¹³

The WCAs are mainly large expanses of Everglades marsh habitat, which are closed off with control levees and canals.¹⁴ As part of the Central & Southern Florida Project first authorized by Congress in 1948, central portions of the Everglades were diked to create the

⁹ (UF-IFAS), Michael T. Olexa et. al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1 (2021), available at <https://edis.ifas.ufl.edu/pdf/files/FE/FE60900.pdf> (last visited March 1, 2023); The Water Resources Development Act of 2000 (P.L. 106-541, Dec. 11, 2000); SFWMD, *CERP Project Planning*, <https://www.sfwmd.gov/our-work/cerp-project-planning> (last visited March 1, 2023); DEP, *Comprehensive Everglades Restoration Plan (CERP)*, <https://floridadep.gov/eco-pro/eco-pro/content/comprehensive-everglades-restoration-plan-cerp> (last visited March 1, 2023).

¹⁰ Section 373.4592(2)(i), F.S.; see also FLA. CON. art. II, s. 7(b). Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area are primarily responsible for the abatement costs. *Id.*

¹¹ SFWMD, *Water Conservation Area 1 (Arthur R. Marshall Loxahatchee National Wildlife Refuge)*, <https://www.sfwmd.gov/recreation-site/water-conservation-area-1-arthur-r-marshall-loxahatchee-national-wildlife-refuge> (last visited March 1, 2023).

¹² Florida Fish and Wildlife Conservation Commission, *Everglades Water Conservation Areas*, <https://myfwc.com/fishing/freshwater/sites-forecasts/s/everglades-water-conservation-areas/> (last visited March 1, 2023).

¹³ National Park Service, *Everglades National Park*, <https://www.nps.gov/ever/index.htm> (last visited March 1, 2023); SFWMD, *2016 South Florida Environmental Report*, 3 (2016), available at https://issuu.com/southfloridawatermanagement/docs/2016_sfer_highlights_final?e=4207603/33817547 (last visited Jan. 24, 2022). This document contains the map found on this page.

¹⁴ SFWMD, *Water Conservation Areas 2 and 3 (Everglades & Francis S. Taylor Wildlife Management Area)*, <https://www.sfwmd.gov/recreation-site/water-conservation-areas-2-and-3-everglades-francis-s-taylor-wildlife-management-0> (last visited March 1, 2023).

WCAs.¹⁵ The WCAs have provided numerous benefits for the Everglades and south Florida, including: providing a detention reservoir for excess water from the agricultural area and parts of the lower east coast region, and for flood discharge from Lake Okeechobee; providing levees to prevent Everglades floodwaters from inundating the lower east coast and provide water for agriculture and Everglades National Park; recharging the Biscayne Aquifer for east coast communities; retarding salt water intrusion in coastal well fields; and benefitting fish and wildlife in the Everglades.¹⁶

The long-term water quality objective for the Everglades is to implement the optimal combination of source controls, stormwater treatment areas, advanced treatment technologies, and regulatory programs to ensure that all waters discharged to the Everglades Protection Area achieve water quality standards consistent with the Act.¹⁷ DEP implements a range of responsibilities under the Act, including coordinating programs on research, monitoring, and permitting activities.¹⁸ The Act requires the state of Florida to pursue certain objectives, including all of the following:

- Restore and protect the Everglades ecological system.
- Authorize the South Florida Water Management District to proceed expeditiously with implementation of the Everglades program.¹⁹
- Reduce excessive levels of phosphorus.
- Pursue comprehensive and innovative solutions to the issues of water quality, water quantity, hydroperiod, and invasions of non-native species that affect the Everglades ecosystem.
- Expedite plans and programs for improving water quantity reaching the Everglades.
- Pursue the Everglades Construction Project, while maximizing its benefits and using superior technology when available.
- Achieve the water quality goals of the Everglades program through implementation of stormwater treatment areas and best management practices.²⁰

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.²¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²²

¹⁵ United States Army Corps of Engineers and SFWMD, *Central and Southern Florida Project Comprehensive Review Study, Final Feasibility Report and Programmatic Environmental Impact Statement*, 1-1 (Apr. 1999), available at https://www.sfwmd.gov/sites/default/files/documents/CENTRAL_AND_SOUTHERN_FLORIDA_PROJECT_COMPREHENSIVE_REVIEW_STUDY.pdf (last visited March 1, 2023).

¹⁶ *Id.* at 1-15.

¹⁷ DEP, *Everglades Forever Act (EFA)*, <https://floridadep.gov/eco-pro/eco-pro/content/everglades-forever-act-efa> (last visited March 1, 2023).

¹⁸ *Id.*

¹⁹ Section 373.4592(2)(h), F.S. The “Everglades Program” is defined as the program of projects, regulations, and research provided by the Act. *Id.*

²⁰ *Id.*

²¹ Chapter 85-55, Laws of Fla.

²² Section 163.3177, F.S.

All development, both public and private, and all development orders²³ approved by local governments must be consistent with the local government's comprehensive plan.²⁴ Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.²⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²⁶

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.²⁷ Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."²⁸ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Economic Opportunity (DEO), rather than communicated directly to the permitting local government by each individual reviewing agency. Most plan amendments are required to follow the expedited process. Plan amendments in any of the following categories are required to follow the state coordinated process:

- Located in an area of critical state concern, which contains or has a significant impact on certain resources of regional or statewide importance;²⁹
- Propose a rural land stewardship area, which is designed to establish a long-term incentive-based strategy to balance and guide the allocation of land to accommodate future uses for environmental and economic purposes;³⁰
- Propose a sector plan or an amendment to an adopted sector plan, which emphasizes urban form and protection of regionally significant resources and public facilities;³¹
- Updates to comprehensive plans based on periodic evaluations of compliance with current state requirements;³²
- Propose a development of regional impact, which would have a substantial effect upon the health, safety, or welfare of citizens of more than one county;³³ or
- New plans for newly incorporated municipalities.³⁴

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.³⁵ Then, the local governing

²³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

²⁴ Section 163.3194(3), F.S.

²⁵ Section 163.3177(6)(a), F.S.

²⁶ *Id.*

²⁷ Chapter 2011-139, s. 17, Laws of Fla.

²⁸ Section 163.3184(3) and (4), F.S.

²⁹ See s. 380.05, F.S.

³⁰ See s. 163.3248, F.S.

³¹ See s. 163.3245, F.S.

³² See s. 163.3191, F.S.

³³ See s. 380.06, F.S.

³⁴ Section 163.3184(2)(c), F.S.; see s. 163.3167, F.S.

³⁵ Sections 163.3174(4)(a), F.S.

body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.³⁶ If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as “reviewing agencies”:

- DEO, designated as the “state land planning agency”;³⁷
- The appropriate regional planning council;
- The appropriate water management district;
- DEP;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;
- The commanding officer of an affected military installation;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.³⁸

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.³⁹ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.⁴⁰ Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.⁴¹ Alternatively, the state coordinated review requires agencies to provide comments to DEO.⁴² DEO then has a total of 60 days from receipt to provide the local government with a report containing the state’s objections, recommendations, and comments.⁴³

In both processes, comments from each governmental entity must be limited to their statutory purview.⁴⁴ For example, DEP must limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.⁴⁵

³⁶ Sections 163.3184(11), F.S.

³⁷ Section 163.3164(44), F.S.

³⁸ Section 163.3184(1)(c) and (3)(b)1., F.S.

³⁹ Section 163.3184(3)(b)2. and (4)(c), F.S. DEO has special requirements for providing comments on plans or plan amendments following the state coordinated review process.

⁴⁰ *Id.*

⁴¹ Section 163.3184(3)(b)2.

⁴² Section 163.3184(4)(c)-(d), F.S.

⁴³ Section 163.3184(4)(d), F.S.; see DEO, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited March 1, 2023).

⁴⁴ Section 163.3184(3)(b)3.-4. and (4)(c), F.S.

⁴⁵ Section 163.3184(3)(b)4.a., F.S.

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by DEO, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.⁴⁶ The second public hearing must be conducted within 180 days after the agency comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.⁴⁷

Following adoption, the local government must transmit the plan or plan amendment to DEO within 10 days of the second public hearing, and DEO must notify the local government of any deficiencies with the plan amendment within five working days.⁴⁸ DEO must determine that a plan or plan amendment is complete before it can go into effect. A plan or plan amendment must be deemed complete if it contains:

- A full, executed copy of the adoption ordinance or ordinances;
- In the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined and words deleted stricken with hyphens;
- In the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and
- A copy of any data and analyses the local government deems appropriate.⁴⁹

Under the State Coordinated Review Process, following the determination of completeness, DEO has 45 days to determine whether the plan or plan amendment is in compliance with applicable law.⁵⁰ DEO must issue a notice of intent to find that the plan or plan amendment is either in compliance or not in compliance, and the notice must be published on DEO's website. A plan or plan amendment adopted under the State Coordinated Review Process goes into effect pursuant to DEO's notice of intent.⁵¹ Under the Expedited State Review Process, a plan amendment goes into effect 31 days after DEO notifies the local government that the plan amendment package is complete.⁵²

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 163.3184, F.S., to require any proposed plan or plan amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County)⁵³ or any municipality

⁴⁶ Section 163.3184(1), F.S.

⁴⁷ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to DEO and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

⁴⁸ Section 163.3184(3)(c) and (4)(e), F.S.

⁴⁹ *Id.*

⁵⁰ Section 163.3184(4)(e)4., F.S.

⁵¹ Section 163.3184(4)(e)4.-5., F.S.

⁵² Section 163.3184(3)(c)4., F.S.

⁵³ Section 125.011(1), F.S., defines county as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VII of the Constitution of 1885, as preserved by Art. VIII, s. (6)(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred." Counties authorized to operate under a home rule charter pursuant to the constitutional provisions are Monroe County, Miami-Dade and Hillsborough Counties. Of these, only Miami-Dade County currently operates under a home-rule charter and meets the definition of "county" in s. 125.011(1), F.S.

located therein, applying to land within, or within 2 miles of, the Everglades Protection Area as defined in state law, to be reviewed pursuant to the state coordinated review process. The review must be performed by the Department of Environmental Protection (DEP) in consultation with all federally recognized Indian tribes in the state.

Under the bill, DEP must determine whether the proposed plan or plan amendment, or any portion thereof, will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S. DEP must issue a written determination to the Department of Economic Opportunity (DEO), the local government, and all federally recognized Indian tribes in the state within 30 days after receipt of the proposed plan or plan amendment. The determination must identify any adverse impacts and may be provided as part of DEP's reviewing comments.

Additionally, before adoption of the proposed plan or plan amendment, DEP must coordinate with DEO, the local government, and all federally recognized Indian tribes in the state to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts to the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S.

If DEP determines that any portion of the proposed plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S., the local government must modify that portion of the proposed plan or plan amendment to include planning strategies or measures to eliminate or mitigate such adverse impacts before adopting the proposed plan or plan amendment, or that portion of the proposed plan or plan amendment may not be adopted.

The bill provides that comprehensive plan amendments that apply to any land within, or within 2 miles of, the Everglades Protection Area must be transmitted within 10 working days after the second public hearing to DEP.

The bill also provides that DEO's compliance determination must be limited not only to the objections raised in the objections, recommendations, and comments report (consistent with existing law), but also a review of planning strategies or measures adopted pursuant to the new provision.

Section 2 of the bill amends s. 163.3187, F.S., to:

- Clarify that site-specific text changes relating directly to, and adopted simultaneously with, a small scale future land use map amendment are permissible under that section.
- Provide that a small scale development amendment may not be adopted for a property that is located in whole or in part within, or within 2 miles of, the Everglades Protection Area as defined under state law.
- Provide that within 10 days after the adoption of a small scale development amendment, a county whose boundaries include any portion of the Everglades Protection Area as defined under state law, and the municipalities within the county, must transmit a copy of the amendment to DEO for recordkeeping purposes.

Section 3 of the bill amends s. 420.615(5), F.S., to implement a conforming change.

Section 4 of the bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Landowners and private interests seeking to develop land within two miles of the Everglades Protection Area may see an increase in the time to approve such developments.

C. Government Sector Impact:

The Department of Environmental Protection – and to a lesser degree local governments, reviewing agencies, and the Department of Economic Opportunity – may incur an indeterminate increase in costs associated with reviewing plans and plan amendments for potential impacts to the Everglades Protection Area.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3184, 163.3187, and 420.615

IX. Additional Information:

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

CS by Community Affairs on March 7, 2023:

The committee substitute limits proposed plans and plan amendments that must follow the state coordinated review process if land is within 2 miles of the Everglades Protection Area to a county as defined in s. 125.011(1), F.S., or any municipality located therein.

- B. **Amendments:**

None.



420662

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/09/2023 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Community Affairs (Avila) recommended the following:

Senate Amendment

Delete line 48

and insert:

(d) Proposed plans and plan amendments by a county as defined in s. 125.011(1) or any municipality located therein which apply to any

By Senator Avila

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1 A bill to be entitled
2 An act relating to the Everglades Protection Area;
3 amending s. 163.3184, F.S.; requiring comprehensive
4 plans and plan amendments that apply to certain lands
5 within or near the Everglades Protection Area to
6 follow the state coordinated review process; requiring
7 the Department of Environmental Protection, in
8 consultation with specified entities, to make certain
9 determinations for such plans and amendments, to
10 provide written determinations to the local government
11 and specified entities within a specified timeframe,
12 and to coordinate with the local government and
13 specified entities on certain planning strategies and
14 mitigation measures; providing a condition for the
15 adoption of such plans and plan amendments upon
16 certain determinations by the department; specifying a
17 requirement for the transmittal of certain
18 comprehensive plan amendments to the department;
19 revising the scope of the state land planning agency's
20 compliance determination relating to plans and plan
21 amendments; making technical changes; amending s.
22 163.3187, F.S.; authorizing site-specific text changes
23 for small-scale future land use map amendments;
24 prohibiting the adoption of small-scale development
25 amendments for properties located within or near the
26 Everglades Protection Area; requiring local
27 governments whose boundaries include any portion of
28 the Everglades Protection Area to transmit copies of
29 adopted small-scale development amendments to the

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30 state land planning agency within a specified
31 timeframe; making technical changes; amending s.
32 420.615, F.S.; conforming a cross-reference; providing
33 an effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Paragraph (a) of subsection (2), paragraph (a)
38 of subsection (3), subsection (4), paragraph (b) of subsection
39 (5), and paragraph (a) of subsection (11) of section 163.3184,
40 Florida Statutes, are amended, and paragraph (d) is added to
41 subsection (2) of that section, to read:

42 163.3184 Process for adoption of comprehensive plan or plan
43 amendment.—

44 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

45 (a) Plan amendments adopted by local governments must ~~shall~~
46 follow the expedited state review process in subsection (3),
47 except as set forth in paragraphs (b), (c), and (d) ~~(b) and (c)~~.

48 (d) Proposed plans and plan amendments that apply to any
49 land within, or within 2 miles of, the Everglades Protection
50 Area as defined in s. 373.4592(2) must follow the state
51 coordinated review process in subsection (4).

52 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
53 COMPREHENSIVE PLAN AMENDMENTS.—

54 (a) The process for amending a comprehensive plan described
55 in this subsection applies ~~shall apply~~ to all amendments except
56 as provided in paragraphs (2)(b), (c), and (d) ~~(2)(b) and (c)~~
57 and is ~~shall be~~ applicable statewide.

58 (4) STATE COORDINATED REVIEW PROCESS.—

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59 (a) *Coordination.*—The state land planning agency shall only
60 use the state coordinated review process described in this
61 subsection for review of comprehensive plans and plan amendments
62 described in paragraphs (2) (c) and (d) ~~paragraph (2) (e)~~. Each
63 comprehensive plan or plan amendment proposed to be adopted
64 pursuant to this subsection must ~~shall~~ be transmitted, adopted,
65 and reviewed in the manner prescribed in this subsection. The
66 state land planning agency shall have responsibility for plan
67 review, coordination, and the preparation and transmission of
68 comments, pursuant to this subsection, to the local governing
69 body responsible for the comprehensive plan or plan amendment.

70 (b) *Local government transmittal of proposed plan or*
71 *amendment.*—Each local governing body proposing a plan or plan
72 amendment specified in paragraph (2) (c) or paragraph (2) (d) ~~must~~
73 ~~shall~~ transmit the complete proposed comprehensive plan or plan
74 amendment to the reviewing agencies within 10 working days after
75 the first public hearing pursuant to subsection (11). The
76 transmitted document must ~~shall~~ clearly indicate on the cover
77 sheet that this plan amendment is subject to the state
78 coordinated review process of this subsection. The local
79 governing body must ~~shall~~ also transmit a copy of the complete
80 proposed comprehensive plan or plan amendment to any other unit
81 of local government or government agency in the state that has
82 filed a written request with the governing body for the plan or
83 plan amendment.

84 (c) *Reviewing agency comments.*—Except as provided in
85 paragraph (d), the agencies specified in paragraph (b) may
86 provide comments regarding the plan or plan amendments in
87 accordance with subparagraphs (3) (b)2.-4. However, comments on

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88 plans or plan amendments required to be reviewed under the state
89 coordinated review process must ~~shall~~ be sent to the state land
90 planning agency within 30 days after receipt by the state land
91 planning agency of the complete proposed plan or plan amendment
92 from the local government. If the state land planning agency
93 comments on a plan or plan amendment adopted under the state
94 coordinated review process, it must ~~shall~~ provide comments
95 according to paragraph (e) ~~(d)~~. Any other unit of local
96 government or government agency specified in paragraph (b) may
97 provide comments to the state land planning agency in accordance
98 with subparagraphs (3)(b)2.-4. within 30 days after receipt by
99 the state land planning agency of the complete proposed plan or
100 plan amendment. Written comments submitted by the public must
101 ~~shall~~ be sent directly to the local government.

102 (d) Everglades Protection Area determinations.—A proposed
103 plan or plan amendment that applies to any land within, or
104 within 2 miles of, the Everglades Protection Area as defined in
105 s. 373.4592(2) must be reviewed pursuant to this paragraph by
106 the Department of Environmental Protection in consultation with
107 all federally recognized Indian tribes in this state. The
108 department shall determine whether the proposed plan or plan
109 amendment, or any portion thereof, adversely impacts the
110 Everglades Protection Area or the Everglades restoration and
111 protection objectives identified in s. 373.4592. The department
112 shall issue a written determination to the state land planning
113 agency, the local government, and all federally recognized
114 Indian tribes in this state within 30 days after receipt of the
115 proposed plan or plan amendment. The determination must identify
116 any adverse impacts and may be provided as part of the agency's

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117 comments pursuant to paragraph (c). Before the adoption of the
118 proposed plan or plan amendment, the department shall work in
119 coordination with the state land planning agency, the local
120 government, and all federally recognized Indian tribes in this
121 state to identify any planning strategies or measures that the
122 local government could include in the proposed plan or plan
123 amendment to eliminate or mitigate any adverse impacts to the
124 Everglades Protection Area or the Everglades restoration and
125 protection objectives in s. 373.4592. If the department
126 determines that any portion of the proposed plan or plan
127 amendment will adversely impact the Everglades Protection Area
128 or the Everglades restoration and protection objectives
129 identified in s. 373.4592, the local government must modify that
130 portion of the proposed plan or plan amendment to include
131 planning strategies or measures to eliminate or mitigate such
132 adverse impacts before adopting the proposed plan or plan
133 amendment or that portion of the proposed plan or plan amendment
134 may not be adopted.

135 (e) State land planning agency review.-

136 1. If the state land planning agency elects to review a
137 plan or plan amendment specified in paragraph (2)(c) or
138 paragraph (2)(d), the agency must ~~shall~~ issue a report giving
139 its objections, recommendations, and comments regarding the
140 proposed plan or plan amendment within 60 days after receipt of
141 the proposed plan or plan amendment. Notwithstanding the
142 limitation on comments in sub-subparagraph (3)(b)4.g., the state
143 land planning agency may make objections, recommendations, and
144 comments in its report regarding whether the plan or plan
145 amendment is in compliance and whether the plan or plan

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146 amendment will adversely impact important state resources and
147 facilities. Any objection regarding an important state resource
148 or facility that will be adversely impacted by the adopted plan
149 or plan amendment must ~~shall~~ also state with specificity how the
150 plan or plan amendment will adversely impact the important state
151 resource or facility and must ~~shall~~ identify measures the local
152 government may take to eliminate, reduce, or mitigate the
153 adverse impacts. When a federal, state, or regional agency has
154 implemented a permitting program, a local government is not
155 required to duplicate or exceed that permitting program in its
156 comprehensive plan or to implement such a permitting program in
157 its land development regulations. This subparagraph does not
158 prohibit the state land planning agency in conducting its review
159 of local plans or plan amendments from making objections,
160 recommendations, and comments regarding densities and
161 intensities consistent with this part. In preparing its
162 comments, the state land planning agency shall only base its
163 considerations on written, and not oral, comments.

164 2. The state land planning agency review shall identify all
165 written communications with the agency regarding the proposed
166 plan amendment. The written identification must include a list
167 of all documents received or generated by the agency, which list
168 must be of sufficient specificity to enable the documents to be
169 identified and copies requested, if desired, and the name of the
170 person to be contacted to request copies of any identified
171 document.

172 (f) ~~(e)~~ *Local government review of comments; adoption of*
173 *plan or amendments and transmittal.*—

174 1. The local government shall review the report submitted

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175 to it by the state land planning agency, if any, and written
176 comments submitted to it by any other person, agency, or
177 government. The local government, upon receipt of the report
178 from the state land planning agency, shall hold a ~~its~~ second
179 public hearing, ~~which shall be a hearing~~ to determine whether to
180 adopt the comprehensive plan or one or more comprehensive plan
181 amendments pursuant to subsection (11). If the local government
182 fails to hold the second hearing within 180 days after receipt
183 of the state land planning agency's report, the amendments are
184 ~~shall be~~ deemed withdrawn unless extended by agreement with
185 notice to the state land planning agency and any affected person
186 who ~~that~~ provided comments on the amendment. The 180-day
187 limitation does not apply to amendments processed pursuant to s.
188 380.06.

189 2. All comprehensive plan amendments adopted by the
190 governing body, along with the supporting data and analysis,
191 must ~~shall~~ be transmitted within 10 working days after the
192 second public hearing to the state land planning agency and any
193 other agency or local government that provided timely comments
194 under paragraph (c). Comprehensive plan amendments that apply to
195 any land within, or within 2 miles of, the Everglades Protection
196 Area as defined in s. 373.4592(2) must be additionally
197 transmitted within 10 working days after the second public
198 hearing to the Department of Environmental Protection.

199 3. The state land planning agency shall notify the local
200 government of any deficiencies within 5 working days after
201 receipt of a plan or plan amendment package. For purposes of
202 completeness, a plan or plan amendment is ~~shall be~~ deemed
203 complete if it contains a full, executed copy of the adoption

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204 ordinance or ordinances; in the case of a text amendment, a full
205 copy of the amended language in legislative format with new
206 words inserted in the text underlined, and words deleted
207 stricken with hyphens; in the case of a future land use map
208 amendment, a copy of the future land use map clearly depicting
209 the parcel, its existing future land use designation, and its
210 adopted designation; and a copy of any data and analyses the
211 local government deems appropriate.

212 4. After the state land planning agency makes a
213 determination of completeness regarding the adopted plan or plan
214 amendment, the state land planning agency shall have 45 days to
215 determine if the plan or plan amendment is in compliance with
216 this act. Unless the plan or plan amendment is substantially
217 changed from the one commented on, the state land planning
218 agency's compliance determination is ~~shall be~~ limited to
219 objections raised in the objections, recommendations, and
220 comments report and the review of planning strategies or
221 measures adopted pursuant to paragraph (d). During the period
222 provided for in this subparagraph, the state land planning
223 agency shall issue, through a senior administrator or the
224 secretary, a notice of intent to find that the plan or plan
225 amendment is in compliance or not in compliance. The state land
226 planning agency shall post a copy of the notice of intent on the
227 agency's ~~Internet~~ website. Publication by the state land
228 planning agency of the notice of intent on the state land
229 planning agency's website is ~~Internet site shall be~~ prima facie
230 evidence of compliance with the publication requirements of this
231 subparagraph.

232 5. A plan or plan amendment adopted under the state

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233 coordinated review process must ~~shall~~ go into effect pursuant to
234 the state land planning agency's notice of intent. If timely
235 challenged, an amendment does not become effective until the
236 state land planning agency or the Administration Commission
237 enters a final order determining the adopted amendment to be in
238 compliance.

239 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
240 AMENDMENTS.—

241 (b) The state land planning agency may file a petition with
242 the Division of Administrative Hearings pursuant to ss. 120.569
243 and 120.57, with a copy served on the affected local government,
244 to request a formal hearing to challenge whether the plan or
245 plan amendment is in compliance as defined in paragraph (1)(b).
246 The state land planning agency's petition must clearly state the
247 reasons for the challenge. Under the expedited state review
248 process, this petition must be filed with the division within 30
249 days after the state land planning agency notifies the local
250 government that the plan amendment package is complete according
251 to subparagraph (3)(c)3. Under the state coordinated review
252 process, this petition must be filed with the division within 45
253 days after the state land planning agency notifies the local
254 government that the plan amendment package is complete according
255 to subparagraph (4)(f)3 ~~(4)(e)3~~.

256 1. The state land planning agency's challenge to plan
257 amendments adopted under the expedited state review process is
258 ~~shall be~~ limited to the comments provided by the reviewing
259 agencies pursuant to subparagraphs (3)(b)2.-4., upon a
260 determination by the state land planning agency that an
261 important state resource or facility will be adversely impacted

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262 by the adopted plan amendment. The state land planning agency's
263 petition must ~~shall~~ state with specificity how the plan
264 amendment will adversely impact the important state resource or
265 facility. The state land planning agency may challenge a plan
266 amendment that has substantially changed from the version on
267 which the agencies provided comments but only upon a
268 determination by the state land planning agency that an
269 important state resource or facility will be adversely impacted.

270 2. If the state land planning agency issues a notice of
271 intent to find the comprehensive plan or plan amendment not in
272 compliance with this act, the notice of intent must ~~shall~~ be
273 forwarded to the Division of Administrative Hearings of the
274 Department of Management Services, which shall conduct a
275 proceeding under ss. 120.569 and 120.57 in the county of and
276 convenient to the affected local jurisdiction. The parties to
277 the proceeding must ~~shall~~ be the state land planning agency, the
278 affected local government, and any affected person who
279 intervenes. A ~~No~~ new issue may not be alleged as a reason to
280 find a plan or plan amendment not in compliance in an
281 administrative pleading filed more than 21 days after
282 publication of notice unless the party seeking that issue
283 establishes good cause for not alleging the issue within that
284 time period. Good cause does not include excusable neglect.

285 (11) PUBLIC HEARINGS.—

286 (a) The procedure for transmittal of a complete proposed
287 comprehensive plan or plan amendment pursuant to subparagraph
288 (3) (b)1. and paragraph (4) (b) and for adoption of a
289 comprehensive plan or plan amendment pursuant to subparagraphs
290 (3) (c)1. and (4) (f)1. ~~is (4) (e)1. shall be~~ by affirmative vote

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291 of not less than a majority of the members of the governing body
292 present at the hearing. The adoption of a comprehensive plan or
293 plan amendment is ~~shall be~~ by ordinance. For the purposes of
294 transmitting or adopting a comprehensive plan or plan amendment,
295 the notice requirements in chapters 125 and 166 are superseded
296 by this subsection, except as provided in this part.

297 Section 2. Subsections (1) and (2) of section 163.3187,
298 Florida Statutes, are amended to read:

299 163.3187 Process for adoption of small-scale ~~small-scale~~
300 comprehensive plan amendment.—

301 (1) A small-scale ~~small-scale~~ development amendment may be
302 adopted if all of ~~under~~ the following conditions are met:

303 (a) The proposed amendment involves a use of 50 acres or
304 fewer. ~~and:~~

305 (b) The proposed amendment does not involve a text change
306 to the goals, policies, and objectives of the local government's
307 comprehensive plan, but only proposes a land use change to the
308 future land use map for a site-specific small-scale ~~small-scale~~
309 development activity. However, site-specific text changes that
310 relate directly to, and are adopted simultaneously with, the
311 small scale future land use map amendment are ~~shall be~~
312 permissible under this section.

313 (c) The property that is the subject of the proposed
314 amendment is not located within an area of critical state
315 concern, unless the project subject to the proposed amendment
316 involves the construction of affordable housing units meeting
317 the criteria of s. 420.0004(3), and is located within an area of
318 critical state concern designated by s. 380.0552 or by the
319 Administration Commission pursuant to s. 380.05(1).

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320 (d) The property that is the subject of the proposed
321 amendment is not located in whole or in part within, or within 2
322 miles of, the Everglades Protection Area as defined in s.
323 373.4592(2).

324 (2) Small-scale ~~Small-scale~~ development amendments adopted
325 pursuant to this section require only one public hearing before
326 the governing board, which must ~~shall~~ be an adoption hearing as
327 described in s. 163.3184(11). Within 10 days after the adoption
328 of a small-scale development amendment, a county whose
329 boundaries include any portion of the Everglades Protection Area
330 designated under s. 373.4592, and the municipalities within the
331 county, shall transmit a copy of the amendment to the state land
332 planning agency for recordkeeping purposes.

333 Section 3. Subsection (5) of section 420.615, Florida
334 Statutes, is amended to read:

335 420.615 Affordable housing land donation density bonus
336 incentives.-

337 (5) The local government, as part of the approval process,
338 shall adopt a comprehensive plan amendment, pursuant to part II
339 of chapter 163, for the receiving land that incorporates the
340 density bonus. Such amendment must ~~shall~~ be adopted in the
341 manner as required for small-scale amendments pursuant to s.
342 163.3187 and is not subject to the requirements of s.
343 163.3184(4) (b), (c), or (e) ~~s. 163.3184(4) (b) (d)~~.

344 Section 4. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

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

3/7/23

Meeting Date

SB 192

Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Anna Lupton

Phone 850-228-6360

Address 960 Live Oak Plantation Rd.
Street

Email anna@evergladctrust.org

Tallahassee FL 32312
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 192

3/7/2023

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
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Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth D'Silva Alvi

Phone (850) 591-9784

Address 308 N Monroe St
Street

Email beth.alvi@audubon.org

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Audubon 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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/7/23

Meeting Date

JB 192

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jare West

Phone 904-671-4008

Address 308 N. Monroe St

Email jwest@1000fof.org

Street

Tallahassee FL

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

1000 Friends 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3-7

The Florida Senate APPEARANCE RECORD

192

Meeting Date

Bill Number or Topic

County Affairs

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

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 N.W. 1st Street Suite 2800 Email jmm2@miamidade.gov

Street

Miami

FL

33128

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:

Miami-Dade County

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

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

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S-001 (08/10/2021)

3-7-23
~~3-7-23~~

The Florida Senate APPEARANCE RECORD

192

Meeting Date

Bill Number or Topic

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

~~SECA~~
CA

Committee

Amendment Barcode (if applicable)

Name DAVID COLLIER

Phone 941-323-2404

Address 2838 LITTLE DEER RD
Street

Email collierdave@gmail.com

WCH
City

FL
State

32308
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SIERRA CLUB FL

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 216

INTRODUCER: Senator Burgess

SUBJECT: Public Records/Current and Former County and City Attorneys

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hunter | Ryon | CA | Favorable |
| 2. | | | GO | |
| 3. | | | RC | |

I. Summary:

SB 216 creates a public records exemption for specified personal information of current and former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys. Personal information relating to their spouses and children is likewise exempt. The specific personal information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, and dates of birth;
- Names, home addresses, telephone numbers, places of employment, and dates of birth of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption, however, does not apply to a current or former county attorney, deputy county attorney, assistant county attorney, city attorney, deputy city attorney, or assistant city attorney who qualifies as a candidate for election to public office. A statement of public necessity is included in the bill as required by the State Constitution.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, consistent with the other agency personnel exemptions in s. 119.071(4)(d), F.S., unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

The bill is effective July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The state 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 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., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

Section 119.011(12), F.S., defines “public records” to include:

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 connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2020-2022).

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

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 custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *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).

¹¹ *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).

¹² *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).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however; only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

General Public Records Exemptions for State and Local Agency Personnel

There are three general public records exemptions that apply to all state and local agency²⁷ personnel: disclosure of an employee's social security number, medical information, and

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ See *Supra* note 5.

personal identifying information of dependent children who are insured by an agency group insurance plan.²⁸

Social Security Numbers

Social security numbers of all prospective, current, and former agency personnel are confidential and exempt when held by the employing agency.²⁹ An employing agency may only release social security numbers for the following reasons:

- It is required by federal or state law, or court order.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.³⁰

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.³¹ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.³²

Medical Information

A prospective, current, or former agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. Such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission pursuant to a court order.³³

Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the dependent children of current and former employees and is also retroactively applied.³⁴

Public Records Exemptions for Specified Personnel and their Families (s. 119.071(4)(d), F.S.)

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure certain personal identification and location information of specified state and local government agency personnel and their spouses and children. Personnel covered by these exemptions include, in part:

- Active or former sworn or civilian law enforcement personnel employed by a law enforcement agency;³⁵

²⁸ Section 119.071(4)(a) and (b), F.S.

²⁹ Section 119.071(4)(a)1., F.S.

³⁰ Section 119.071(4)(a), F.S.

³¹ Section 119.071(5)(a)5., F.S.

³² Section 119.071(5)(a)6.f. and g., F.S.

³³ Section 119.071(4)(b)1., F.S.

³⁴ Section 119.071(4)(b)2., F.S.

³⁵ Section 119.071(4)(d)2.a., F.S.

- Certain current or former nonsworn investigative personnel of the Department of Financial Services;³⁶
- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation’s Bureau of Financial Investigations;³⁷
- Current or former certified firefighters;³⁸
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;³⁹
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;⁴⁰
- Current or former code enforcement officers;⁴¹
- Current or former guardians ad litem;⁴²
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;⁴³
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;⁴⁴
- County tax collectors;⁴⁵
- Current or former certified emergency medical technicians and paramedics;⁴⁶
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;⁴⁷
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers;⁴⁸ and
- Current or former staff of domestic violence centers, including domestic violence advocates.⁴⁹

The specified exempt information for each profession provided in s. 119.071(4)(d), F.S., varies among the professions, however, generally, the home addresses,⁵⁰ telephone numbers,⁵¹ dates of birth of the specified personnel are exempt, and also identifying information of their spouse and children, including place of employment, school and/or daycare facility. For many of the

³⁶ Section 119.071(4)(d)2.b., F.S.

³⁷ Section 119.071(4)(d)2.c., F.S.

³⁸ Section 119.071(4)(d)2.d., F.S.

³⁹ Section 119.071(4)(d)2.e., F.S.

⁴⁰ Section 119.071(4)(d)2.f., F.S.

⁴¹ Section 119.071(4)(d)2.i., F.S.

⁴² Section 119.071(4)(d)2.j., F.S.

⁴³ Section 119.071(4)(d)2.l., F.S.

⁴⁴ Section 119.071(4)(d)2.m., F.S.

⁴⁵ Section 119.071(4)(d)2.n., F.S.

⁴⁶ Section 119.071(4)(d)2.q., F.S.

⁴⁷ Section 119.071(4)(d)2.s., F.S.

⁴⁸ Section 119.071(4)(d)2.t., F.S.

⁴⁹ Section 119.071(4)(d)2.u., F.S.

⁵⁰ Section 119.071(4)(d)1.a., F.S., defines “home addresses” to mean “the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.”

⁵¹ Section 119.071(4)(d)1.b., F.S., defines “telephone numbers” to include “home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.”

professions photographs of the employee are exempt,⁵² and in some instances, the photographs of the employee's spouse and children are exempt as well.⁵³

The employing agency or the employee must assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's information.⁵⁴ Further, all of these exemptions have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.⁵⁵

The exemptions for specified agency personnel in s. 119.071(4)(d), F.S., are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature.

Position of County Attorney and City Attorney

The term "county attorney" is not defined by statute, but is referenced in eight statutes as a local government employee expected to assist in the enforcement of various laws.⁵⁶ Similarly, the term "city attorney" is not defined by statute, but is referenced in four statutes, again as a local government employee expected to assist in the enforcement of various laws.⁵⁷

The duties of a county attorney or city attorney vary and are set by the governing board of the local government. The duties of an assistant county attorney or assistant city attorney are set by their respective county attorney or city attorney. As an example, one county defines the duties of its county attorney as follows:

- Employing and managing all personnel of the County Attorney's Office, establishing the organizational framework of the office, and supervising the conduct of all employees of the Office of the County Attorney.
- Providing legal advice and counsel to, and legal representation of the board of county commissioners and county departments, agencies, officers and employees on matters pertaining to the business of the county or in connection with the duties of the board, department, agency, officer or employee.
- Representing the county in all litigation, administrative hearings, mediation, appeals and judicial proceedings in which the county, the board, or a county department or agency under the jurisdiction of the board is a party.
- Providing legal advice and counsel to, and legal representation of, constitutional officers of the county and its employees on matters pertaining to the respective business and duties of the constitutional officers and employees at the request of constitutional officers.
- Representing any constitutional officer or employee of the officer in any litigation, administrative hearing, mediation, appeal or judicial proceeding upon request of said constitutional officer.

⁵² See, e.g., s. 119.071(4)(d)2.1, F.S.

⁵³ See, e.g., s. 119.071(4)(d)2.a., F.S.

⁵⁴ Section 119.071(4)(d)3. and 4., F.S.

⁵⁵ Section 119.071(4)(d)6., F.S.

⁵⁶ Sections 60.05, 373.609, 381.0012, 409.2554, 499.002, 499.81, 509.285, and 705.106, F.S.

⁵⁷ Sections 60.05, 409.2554, 705.106, and 849.44, F.S.

- Advising and providing recommendations to the board regarding the need for the selection of any special counsel to be retained by the county to provide legal representation in specified matters.
- Supervising, monitoring and coordinating, as appropriate, the representation, services and work of any special counsel.
- At the request of the board, the county attorney is hereby authorized to represent the board or a board member when the board or a member is acting as a separate agency or board or in an ex-officio capacity or is otherwise officially representing the county at the direction of the Board.
- Providing legal advice and counsel to and representation of any other State or local governmental office, unit, or entity as may be required by law or interlocal agreement entered into by the board.⁵⁸

III. Effect of Proposed Changes:

SB 216 creates a public records exemption from public records disclosure for specified personal information of current and former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys. Personal information relating to their spouses and children is likewise exempt. The specific personal information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, and dates of birth;
- Names, home addresses, telephone numbers, places of employment, and dates of birth of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption does not apply to a current or former county attorney, deputy county attorney, assistant county attorney, city attorney, deputy city attorney, or assistant city attorney who qualifies as a candidate for election to public office.

The bill provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that:

The Legislature finds that it is a public necessity that the home addresses, telephone numbers, dates of birth, of current or former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature further finds that it is a public necessity that the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, and the names and locations of schools and day care facilities attended by the children of such attorneys, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The responsibilities of county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys regularly involve legal enforcement

⁵⁸ Sarasota County ordinance 2-63.

proceedings in areas of neglect and abuse related to violations of codes and ordinances. Legal enforcement proceedings have led to retribution and threats by defendants and other persons on numerous occasions. Such attorneys have received death threats and e-mails from disgruntled persons advocating the murder of other attorneys. Other incidents have included the stalking of such attorneys and their spouses and children. The Legislature finds that the release of such personal identifying and location information could place such persons in danger of being physically or emotionally harmed or stalked by a defendant or another person. The Legislature finds that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information

The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2024, consistent with the other agency personnel exemptions in s. 119.071(4)(d), F.S., unless reviewed and saved from repeal through reenactment by the Legislature

The bill is effective on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for the personal identifying and location information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2. of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The stated purpose of the law is to protect the attorneys and their families from the

danger of becoming a victim of stalking, emotional abuse, and physical violence. This bill exempts only certain personal identifying information from the public records requirements, consistent with 21 similar exemptions. 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 216 may cause cities and counties to incur costs associated with redacting the exempt information prior to releasing a record. However, the costs would likely be absorbed as they are part of the day-to-day responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the first year after enactment instead of the 5th year. It can be reasoned, however, that advancing the scheduled review and repeal by 4 years is not problematic because a previous Legislature cannot bind a future Legislature.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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 Burgess

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; providing an exemption from public
4 records requirements for the personal identifying and
5 location information of current and former county
6 attorneys, deputy county attorneys, assistant county
7 attorneys, city attorneys, deputy city attorneys, and
8 assistant city attorneys, and the names and personal
9 identifying and location information of the spouses
10 and children of such attorneys; providing
11 applicability; providing for retroactive application;
12 providing for future legislative review and repeal;
13 providing a statement of public necessity; providing
14 an effective date.

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

17
18 Section 1. Paragraph (d) of subsection (4) of section
19 119.071, Florida Statutes, is amended to read:

20 119.071 General exemptions from inspection or copying of
21 public records.—

22 (4) AGENCY PERSONNEL INFORMATION.—

23 (d)1. For purposes of this paragraph, the term:

24 a. "Home addresses" means the dwelling location at which an
25 individual resides and includes the physical address, mailing
26 address, street address, parcel identification number, plot
27 identification number, legal property description, neighborhood
28 name and lot number, GPS coordinates, and any other descriptive
29 property information that may reveal the home address.

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30 b. "Telephone numbers" includes home telephone numbers,
31 personal cellular telephone numbers, personal pager telephone
32 numbers, and telephone numbers associated with personal
33 communications devices.

34 2.a. The home addresses, telephone numbers, dates of birth,
35 and photographs of active or former sworn law enforcement
36 personnel or of active or former civilian personnel employed by
37 a law enforcement agency, including correctional and
38 correctional probation officers, personnel of the Department of
39 Children and Families whose duties include the investigation of
40 abuse, neglect, exploitation, fraud, theft, or other criminal
41 activities, personnel of the Department of Health whose duties
42 are to support the investigation of child abuse or neglect, and
43 personnel of the Department of Revenue or local governments
44 whose responsibilities include revenue collection and
45 enforcement or child support enforcement; the names, home
46 addresses, telephone numbers, photographs, dates of birth, and
47 places of employment of the spouses and children of such
48 personnel; and the names and locations of schools and day care
49 facilities attended by the children of such personnel are exempt
50 from s. 119.07(1) and s. 24(a), Art. I of the State
51 Constitution.

52 b. The home addresses, telephone numbers, dates of birth,
53 and photographs of current or former nonsworn investigative
54 personnel of the Department of Financial Services whose duties
55 include the investigation of fraud, theft, workers' compensation
56 coverage requirements and compliance, other related criminal
57 activities, or state regulatory requirement violations; the
58 names, home addresses, telephone numbers, dates of birth, and

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59 places of employment of the spouses and children of such
60 personnel; and the names and locations of schools and day care
61 facilities attended by the children of such personnel are exempt
62 from s. 119.07(1) and s. 24(a), Art. I of the State
63 Constitution.

64 c. The home addresses, telephone numbers, dates of birth,
65 and photographs of current or former nonsworn investigative
66 personnel of the Office of Financial Regulation's Bureau of
67 Financial Investigations whose duties include the investigation
68 of fraud, theft, other related criminal activities, or state
69 regulatory requirement violations; the names, home addresses,
70 telephone numbers, dates of birth, and places of employment of
71 the spouses and children of such personnel; and the names and
72 locations of schools and day care facilities attended by the
73 children of such personnel are exempt from s. 119.07(1) and s.
74 24(a), Art. I of the State Constitution.

75 d. The home addresses, telephone numbers, dates of birth,
76 and photographs of current or former firefighters certified in
77 compliance with s. 633.408; the names, home addresses, telephone
78 numbers, photographs, dates of birth, and places of employment
79 of the spouses and children of such firefighters; and the names
80 and locations of schools and day care facilities attended by the
81 children of such firefighters are exempt from s. 119.07(1) and
82 s. 24(a), Art. I of the State Constitution.

83 e. The home addresses, dates of birth, and telephone
84 numbers of current or former justices of the Supreme Court,
85 district court of appeal judges, circuit court judges, and
86 county court judges; the names, home addresses, telephone
87 numbers, dates of birth, and places of employment of the spouses

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88 and children of current or former justices and judges; and the
89 names and locations of schools and day care facilities attended
90 by the children of current or former justices and judges are
91 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
92 Constitution.

93 f. The home addresses, telephone numbers, dates of birth,
94 and photographs of current or former state attorneys, assistant
95 state attorneys, statewide prosecutors, or assistant statewide
96 prosecutors; the names, home addresses, telephone numbers,
97 photographs, dates of birth, and places of employment of the
98 spouses and children of current or former state attorneys,
99 assistant state attorneys, statewide prosecutors, or assistant
100 statewide prosecutors; and the names and locations of schools
101 and day care facilities attended by the children of current or
102 former state attorneys, assistant state attorneys, statewide
103 prosecutors, or assistant statewide prosecutors are exempt from
104 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

105 g. The home addresses, dates of birth, and telephone
106 numbers of general magistrates, special magistrates, judges of
107 compensation claims, administrative law judges of the Division
108 of Administrative Hearings, and child support enforcement
109 hearing officers; the names, home addresses, telephone numbers,
110 dates of birth, and places of employment of the spouses and
111 children of general magistrates, special magistrates, judges of
112 compensation claims, administrative law judges of the Division
113 of Administrative Hearings, and child support enforcement
114 hearing officers; and the names and locations of schools and day
115 care facilities attended by the children of general magistrates,
116 special magistrates, judges of compensation claims,

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117 administrative law judges of the Division of Administrative
118 Hearings, and child support enforcement hearing officers are
119 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
120 Constitution.

121 h. The home addresses, telephone numbers, dates of birth,
122 and photographs of current or former human resource, labor
123 relations, or employee relations directors, assistant directors,
124 managers, or assistant managers of any local government agency
125 or water management district whose duties include hiring and
126 firing employees, labor contract negotiation, administration, or
127 other personnel-related duties; the names, home addresses,
128 telephone numbers, dates of birth, and places of employment of
129 the spouses and children of such personnel; and the names and
130 locations of schools and day care facilities attended by the
131 children of such personnel are exempt from s. 119.07(1) and s.
132 24(a), Art. I of the State Constitution.

133 i. The home addresses, telephone numbers, dates of birth,
134 and photographs of current or former code enforcement officers;
135 the names, home addresses, telephone numbers, dates of birth,
136 and places of employment of the spouses and children of such
137 personnel; and the names and locations of schools and day care
138 facilities attended by the children of such personnel are exempt
139 from s. 119.07(1) and s. 24(a), Art. I of the State
140 Constitution.

141 j. The home addresses, telephone numbers, places of
142 employment, dates of birth, and photographs of current or former
143 guardians ad litem, as defined in s. 39.820; the names, home
144 addresses, telephone numbers, dates of birth, and places of
145 employment of the spouses and children of such persons; and the

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146 names and locations of schools and day care facilities attended
147 by the children of such persons are exempt from s. 119.07(1) and
148 s. 24(a), Art. I of the State Constitution.

149 k. The home addresses, telephone numbers, dates of birth,
150 and photographs of current or former juvenile probation
151 officers, juvenile probation supervisors, detention
152 superintendents, assistant detention superintendents, juvenile
153 justice detention officers I and II, juvenile justice detention
154 officer supervisors, juvenile justice residential officers,
155 juvenile justice residential officer supervisors I and II,
156 juvenile justice counselors, juvenile justice counselor
157 supervisors, human services counselor administrators, senior
158 human services counselor administrators, rehabilitation
159 therapists, and social services counselors of the Department of
160 Juvenile Justice; the names, home addresses, telephone numbers,
161 dates of birth, and places of employment of spouses and children
162 of such personnel; and the names and locations of schools and
163 day care facilities attended by the children of such personnel
164 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
165 Constitution.

166 l. The home addresses, telephone numbers, dates of birth,
167 and photographs of current or former public defenders, assistant
168 public defenders, criminal conflict and civil regional counsel,
169 and assistant criminal conflict and civil regional counsel; the
170 names, home addresses, telephone numbers, dates of birth, and
171 places of employment of the spouses and children of current or
172 former public defenders, assistant public defenders, criminal
173 conflict and civil regional counsel, and assistant criminal
174 conflict and civil regional counsel; and the names and locations

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175 of schools and day care facilities attended by the children of
176 current or former public defenders, assistant public defenders,
177 criminal conflict and civil regional counsel, and assistant
178 criminal conflict and civil regional counsel are exempt from s.
179 119.07(1) and s. 24(a), Art. I of the State Constitution.

180 m. The home addresses, telephone numbers, dates of birth,
181 and photographs of current or former investigators or inspectors
182 of the Department of Business and Professional Regulation; the
183 names, home addresses, telephone numbers, dates of birth, and
184 places of employment of the spouses and children of such current
185 or former investigators and inspectors; and the names and
186 locations of schools and day care facilities attended by the
187 children of such current or former investigators and inspectors
188 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
189 Constitution.

190 n. The home addresses, telephone numbers, and dates of
191 birth of county tax collectors; the names, home addresses,
192 telephone numbers, dates of birth, and places of employment of
193 the spouses and children of such tax collectors; and the names
194 and locations of schools and day care facilities attended by the
195 children of such tax collectors are exempt from s. 119.07(1) and
196 s. 24(a), Art. I of the State Constitution.

197 o. The home addresses, telephone numbers, dates of birth,
198 and photographs of current or former personnel of the Department
199 of Health whose duties include, or result in, the determination
200 or adjudication of eligibility for social security disability
201 benefits, the investigation or prosecution of complaints filed
202 against health care practitioners, or the inspection of health
203 care practitioners or health care facilities licensed by the

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204 Department of Health; the names, home addresses, telephone
205 numbers, dates of birth, and places of employment of the spouses
206 and children of such personnel; and the names and locations of
207 schools and day care facilities attended by the children of such
208 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
209 the State Constitution.

210 p. The home addresses, telephone numbers, dates of birth,
211 and photographs of current or former impaired practitioner
212 consultants who are retained by an agency or current or former
213 employees of an impaired practitioner consultant whose duties
214 result in a determination of a person's skill and safety to
215 practice a licensed profession; the names, home addresses,
216 telephone numbers, dates of birth, and places of employment of
217 the spouses and children of such consultants or their employees;
218 and the names and locations of schools and day care facilities
219 attended by the children of such consultants or employees are
220 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
221 Constitution.

222 q. The home addresses, telephone numbers, dates of birth,
223 and photographs of current or former emergency medical
224 technicians or paramedics certified under chapter 401; the
225 names, home addresses, telephone numbers, dates of birth, and
226 places of employment of the spouses and children of such
227 emergency medical technicians or paramedics; and the names and
228 locations of schools and day care facilities attended by the
229 children of such emergency medical technicians or paramedics are
230 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
231 Constitution.

232 r. The home addresses, telephone numbers, dates of birth,

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233 and photographs of current or former personnel employed in an
234 agency's office of inspector general or internal audit
235 department whose duties include auditing or investigating waste,
236 fraud, abuse, theft, exploitation, or other activities that
237 could lead to criminal prosecution or administrative discipline;
238 the names, home addresses, telephone numbers, dates of birth,
239 and places of employment of spouses and children of such
240 personnel; and the names and locations of schools and day care
241 facilities attended by the children of such personnel are exempt
242 from s. 119.07(1) and s. 24(a), Art. I of the State
243 Constitution.

244 s. The home addresses, telephone numbers, dates of birth,
245 and photographs of current or former directors, managers,
246 supervisors, nurses, and clinical employees of an addiction
247 treatment facility; the home addresses, telephone numbers,
248 photographs, dates of birth, and places of employment of the
249 spouses and children of such personnel; and the names and
250 locations of schools and day care facilities attended by the
251 children of such personnel are exempt from s. 119.07(1) and s.
252 24(a), Art. I of the State Constitution. For purposes of this
253 sub-subparagraph, the term "addiction treatment facility" means
254 a county government, or agency thereof, that is licensed
255 pursuant to s. 397.401 and provides substance abuse prevention,
256 intervention, or clinical treatment, including any licensed
257 service component described in s. 397.311(26).

258 t. The home addresses, telephone numbers, dates of birth,
259 and photographs of current or former directors, managers,
260 supervisors, and clinical employees of a child advocacy center
261 that meets the standards of s. 39.3035(2) and fulfills the

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262 screening requirement of s. 39.3035(3), and the members of a
263 Child Protection Team as described in s. 39.303 whose duties
264 include supporting the investigation of child abuse or sexual
265 abuse, child abandonment, child neglect, and child exploitation
266 or to provide services as part of a multidisciplinary case
267 review team; the names, home addresses, telephone numbers,
268 photographs, dates of birth, and places of employment of the
269 spouses and children of such personnel and members; and the
270 names and locations of schools and day care facilities attended
271 by the children of such personnel and members are exempt from s.
272 119.07(1) and s. 24(a), Art. I of the State Constitution.

273 u. The home addresses, telephone numbers, places of
274 employment, dates of birth, and photographs of current or former
275 staff and domestic violence advocates, as defined in s.
276 90.5036(1)(b), of domestic violence centers certified by the
277 Department of Children and Families under chapter 39; the names,
278 home addresses, telephone numbers, places of employment, dates
279 of birth, and photographs of the spouses and children of such
280 personnel; and the names and locations of schools and day care
281 facilities attended by the children of such personnel are exempt
282 from s. 119.07(1) and s. 24(a), Art. I of the State
283 Constitution.

284 v. The home addresses, telephone numbers, and dates of
285 birth of current or former county attorneys, deputy county
286 attorneys, assistant county attorneys, city attorneys, deputy
287 city attorneys, and assistant city attorneys; the names, home
288 addresses, telephone numbers, dates of birth, and places of
289 employment of the spouses and children of current or former
290 county attorneys, deputy county attorneys, assistant county

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291 attorneys, city attorneys, deputy city attorneys, and assistant
292 city attorneys; and the names and locations of schools and day
293 care facilities attended by the children of current or former
294 county attorneys, deputy county attorneys, assistant county
295 attorneys, city attorneys, deputy city attorneys, and assistant
296 city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I
297 of the State Constitution. This exemption does not apply to a
298 current or former county attorney, deputy county attorney,
299 assistant county attorney, city attorney, deputy city attorney,
300 or assistant city attorney who qualifies as a candidate for
301 election to public office.

302 3. An agency that is the custodian of the information
303 specified in subparagraph 2. and that is not the employer of the
304 officer, employee, justice, judge, or other person specified in
305 subparagraph 2. must maintain the exempt status of that
306 information only if the officer, employee, justice, judge, other
307 person, or employing agency of the designated employee submits a
308 written and notarized request for maintenance of the exemption
309 to the custodial agency. The request must state under oath the
310 statutory basis for the individual's exemption request and
311 confirm the individual's status as a party eligible for exempt
312 status.

313 4.a. A county property appraiser, as defined in s.
314 192.001(3), or a county tax collector, as defined in s.
315 192.001(4), who receives a written and notarized request for
316 maintenance of the exemption pursuant to subparagraph 3. must
317 comply by removing the name of the individual with exempt status
318 and the instrument number or Official Records book and page
319 number identifying the property with the exempt status from all

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320 publicly available records maintained by the property appraiser
321 or tax collector. For written requests received on or before
322 July 1, 2021, a county property appraiser or county tax
323 collector must comply with this sub-subparagraph by October 1,
324 2021. A county property appraiser or county tax collector may
325 not remove the street address, legal description, or other
326 information identifying real property within the agency's
327 records so long as a name or personal information otherwise
328 exempt from inspection and copying pursuant to this section are
329 not associated with the property or otherwise displayed in the
330 public records of the agency.

331 b. Any information restricted from public display,
332 inspection, or copying under sub-subparagraph a. must be
333 provided to the individual whose information was removed.

334 5. An officer, an employee, a justice, a judge, or other
335 person specified in subparagraph 2. may submit a written request
336 for the release of his or her exempt information to the
337 custodial agency. The written request must be notarized and must
338 specify the information to be released and the party authorized
339 to receive the information. Upon receipt of the written request,
340 the custodial agency must release the specified information to
341 the party authorized to receive such information.

342 6. The exemptions in this paragraph apply to information
343 held by an agency before, on, or after the effective date of the
344 exemption.

345 7. Information made exempt under this paragraph may be
346 disclosed pursuant to s. 28.2221 to a title insurer authorized
347 pursuant to s. 624.401 and its affiliates as defined in s.
348 624.10; a title insurance agent or title insurance agency as

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349 defined in s. 626.841(1) or (2), respectively; or an attorney
350 duly admitted to practice law in this state and in good standing
351 with The Florida Bar.

352 8. The exempt status of a home address contained in the
353 Official Records is maintained only during the period when a
354 protected party resides at the dwelling location. Upon
355 conveyance of real property after October 1, 2021, and when such
356 real property no longer constitutes a protected party's home
357 address as defined in sub-subparagraph 1.a., the protected party
358 must submit a written request to release the removed information
359 to the county recorder. The written request to release the
360 removed information must be notarized, must confirm that a
361 protected party's request for release is pursuant to a
362 conveyance of his or her dwelling location, and must specify the
363 Official Records book and page, instrument number, or clerk's
364 file number for each document containing the information to be
365 released.

366 9. Upon the death of a protected party as verified by a
367 certified copy of a death certificate or court order, any party
368 can request the county recorder to release a protected
369 decedent's removed information unless there is a related request
370 on file with the county recorder for continued removal of the
371 decedent's information or unless such removal is otherwise
372 prohibited by statute or by court order. The written request to
373 release the removed information upon the death of a protected
374 party must attach the certified copy of a death certificate or
375 court order and must be notarized, must confirm the request for
376 release is due to the death of a protected party, and must
377 specify the Official Records book and page number, instrument

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378 number, or clerk's file number for each document containing the
379 information to be released. A fee may not be charged for the
380 release of any document pursuant to such request.

381 10. This paragraph is subject to the Open Government Sunset
382 Review Act in accordance with s. 119.15 and shall stand repealed
383 on October 2, 2024, unless reviewed and saved from repeal
384 through reenactment by the Legislature.

385 Section 2. The Legislature finds that it is a public
386 necessity that the home addresses, telephone numbers, and dates
387 of birth of current or former county attorneys, deputy county
388 attorneys, assistant county attorneys, city attorneys, deputy
389 city attorneys, and assistant city attorneys be made exempt from
390 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
391 State Constitution. The Legislature further finds that it is a
392 public necessity that the names, home addresses, telephone
393 numbers, dates of birth, and places of employment of the spouses
394 and children of current or former county attorneys, deputy
395 county attorneys, assistant county attorneys, city attorneys,
396 deputy city attorneys, and assistant city attorneys, and the
397 names and locations of schools and day care facilities attended
398 by the children of such attorneys, be made exempt from s.
399 119.07(1), Florida Statutes, and s. 24(a), Article I of the
400 State Constitution. The responsibilities of county attorneys,
401 deputy county attorneys, assistant county attorneys, city
402 attorneys, deputy city attorneys, and assistant city attorneys
403 regularly involve legal enforcement proceedings in areas of
404 neglect and abuse related to violations of codes and ordinances.
405 Legal enforcement proceedings have led to retribution and
406 threats by defendants and other persons on numerous occasions.

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407 Such attorneys have received death threats and e-mails from
408 disgruntled persons advocating the murder of other attorneys.
409 Other incidents have included the stalking of such attorneys and
410 their spouses and children. The Legislature finds that the
411 release of such personal identifying and location information
412 could place such persons in danger of being physically or
413 emotionally harmed or stalked by a defendant or another person.
414 The Legislature finds that the harm that may result from the
415 release of such personal identifying and location information
416 outweighs any public benefit that may be derived from the
417 disclosure of the information.

418 Section 3. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

SB 216

Bill Number or Topic

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

3/7/2023

Meeting Date

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Bob McKee

Phone (850) 922-4300

Address 100 S Monroe

Email b.mckee@fl-counties.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Association of Counties

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)

APPEARANCE RECORD

SB 216

3/7/23

Meeting Date

Bill Number or Topic

Community Affairs

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

Committee

Amendment Barcode (if applicable)

Name **Martha Edenfield**

Phone **850-999-4100**

Address **106 E. College Ave Suite 1200**
Street

Email **medenfield@deanmead.com**

Tallahassee
City

FL
State

32301
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Charlotte County

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 \(flsenate.gov\)](#)

March 7, 2023

The Florida Senate

APPEARANCE RECORD

SB 216

Meeting Date
Community Affairs

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

Bill Number or Topic

Committee

Anita Berry

Amendment Barcode (if applicable)

Name

Phone

(301) 524-0172

Address

101 East College Ave, Suite 502

Email

anita@johnstonstewart.com

Street

Tallahassee

FL

33549

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:

Palm Beach County

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.

3-7-23

Meeting Date

The Florida Senate APPEARANCE RECORD

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

SB 216

Bill Number or Topic

Community Affairs
Committee

Name Tara Taggart

Amendment Barcode (if applicable)

Phone 850-701-3603

Address 301 S. Bronaugh St. #300

Email ttaggart@flcities.com

Tallahassee
City

FL
State

32302
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

I am appearing without compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

I am a registered lobbyist, representing:

Florida League of Cities

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 358

INTRODUCER: Senators Burgess and Calatayud

SUBJECT: Residential Graywater System Tax Credits

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hackett | Ryon | CA | Favorable |
| 2. | _____ | _____ | FT | _____ |
| 3. | _____ | _____ | AP | _____ |

I. Summary:

SB 358 creates a corporate income tax credit for the purchase of residential graywater systems equal to 50 percent of the cost of each system, up to \$4,200 per system, for taxable years beginning on or after January 1, 2024. The bill specifies eligibility conditions for the credit, authorizes the carryforward of unused credits, and authorizes the Department of Revenue (DOR) to adopt rules.

The Revenue Estimating Conference determined the bill will reduce General Revenue Fund receipts by at least \$100,000 beginning in Fiscal Year 2024-25. The conference ultimately adopted an indeterminate impact.

The bill takes effect on July 1, 2023.

II. Present Situation:

Graywater, Residential Systems, and Development Incentives

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink waste.¹ Graywater installations occur in both residential and non-residential installations and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed

¹ Section 381.0065(2)(f), F.S.

to the sewer.² Reusing graywater also reduces the use of potable water for non-potable needs and conserves fresh water.³

The Florida Building Code specifies that graywater may only be used for flushing of toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.⁴ Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, and dyed; and storage reservoirs must have drains and overflow pipes which must be indirectly connected to the sanitary drainage system.⁵

To encourage adoption of residential graywater reuse in the state, counties, municipalities, and special districts are required to implement incentives for the use of graywater technologies.⁶ To do this, they must authorize the use of residential graywater technologies in their respective jurisdictions and provide specific density or intensity bonuses to developers or homebuilders if a certain percentage of a proposed or existing development will have a graywater system installed.⁷

Water Reuse Systems Certification

Various certifications are used to establish standards for reused water. Recycled graywater is tested for attributes such as biochemical oxygen demand, suspended solids, and bacteria presence. The National Science Foundation, a federal agency, and the American National Standards Institute, a nonprofit organization, have produced standards for on-site residential and commercial water reuse treatment systems, the most rigorous of which is referred to as “NSF/ANSI 350.” Products are tested for at least 26 weeks for performance, and other evaluations are completed, before a product is granted certification.⁸ There are several products that have achieved this certification, with costs ranging from \$1,000 to \$10,000.⁹

² Alliance for Water Efficiency, *Graywater Systems*, available at:

<https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems> (last visited Mar. 1, 2023).

³ Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension,

<https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system> (last visited Mar. 1, 2023).

⁴ 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), available at:

<https://codes.iccsafe.org/content/FLPC2020P1> (last visited Mar. 3, 2023).

⁵ *Id.*

⁶ Section 403.892(2), F.S.

⁷ *Id.*

⁸ National Science Foundation, *NSF/ANSI Standard 350 for Water Reuse Treatment Systems*, available at:

https://d2evkimvhatqav.cloudfront.net/documents/ww_nsf_ansi350_ga_insert.pdf (last visited Mar. 1, 2023).

⁹ *Id.* See also Todd Woody, *Install a Greywater System to Lower Utility Bills and Save Water*, BLOOMBERG NEWS, Mar. 17, 2022, available at: <https://www.bloomberg.com/news/articles/2022-03-17/why-you-should-install-a-home-greewater-system?leadSource=verify%20wall> (last visited Mar. 2, 2023).

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.¹⁰ Corporate income tax¹¹ is remitted to the DOR and distributed to the General Revenue Fund. Florida utilizes the taxable income (for each corporation's taxable year) determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹² The first \$50,000 of net income is exempt.¹³

Statutes authorize various incentives and credits which offset corporate income tax liability.¹⁴ Credits against corporate income tax are applied in an order established by law.¹⁵ There is presently no credit available against corporate income tax for the purchase of residential greywater systems.

III. Effect of Proposed Changes:

The bill creates s. 220.199, F.S., which provides a tax credit against corporate income tax for developers and homebuilders that purchase a qualifying residential graywater system. The credit may be applied to taxable years beginning on or after January 1, 2024, and is equal to 50 percent of the cost of each system purchased during the taxable year, not to exceed \$4,200 per system purchased.

Eligible systems must be NSF/ANSI 350 Class R certified noncommercial, residential graywater systems. Before applying for credit, an applicant must submit to the Department of Environmental Protection (DEP) reasonable assurances that the system meets these requirements as well as a manufacturer's warranty assuring functionality. DEP will determine the applicant eligible and issue a certification to that effect, which the applicant must include in applying for the tax credit to DOR.

The bill provides that unused tax credits under this section may be carried forward for up to two taxable years, and that DOR may adopt rules to administer this section.

The bill amends s. 220.02(8), F.S., to include the new tax credit at the end of the Legislature's intended order of tax credit application,¹⁶ and amends s. 220.13, F.S., to provide that a taxpayer may not apply the same credit to both federal income and Florida corporate income taxes.¹⁷

The bill takes effect July 1, 2023.

¹⁰ Sections 220.11(2) and 220.63(2), F.S.

¹¹ Referred to officially as the Florida Corporate Income/Franchise Tax.

¹² Section 220.12, F.S.

¹³ Section 220.14, F.S.

¹⁴ Florida Department of Revenue, *Corporate Income Tax Incentives*, available at: https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx (last visited Mar. 1, 2023).

¹⁵ Section 220.02(8), F.S.

¹⁶ Section 2.

¹⁷ Section 3.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of s. 18, Art. VII of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference determined the bill will reduce General Revenue Fund receipts by at least \$100,000 beginning in Fiscal Year 2024-25. The conference ultimately adopted an indeterminate impact.

B. Private Sector Impact:

Qualified businesses that purchase residential greywater systems and meet the requirements may decrease corporate income tax liability by up to \$4,200 per unit purchased.

C. Government Sector Impact:

DOR estimates it will incur administrative costs of \$39,728 in Fiscal Year 2024-2025 as a result of the bill.¹⁸

¹⁸ Florida Dep't of Revenue, *Senate Bill 358 Bill Analysis* (Feb. 17, 2023) (on file with the Senate Committee on Community Affairs).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR has identified that, due to confidentiality regulations, an exception may be necessary to allow the DOR to communicate with DEP in administering the bill.¹⁹

VIII. Statutes Affected:

This bill substantially amends sections 220.02 and 220.13 of the Florida Statutes.
This bill creates section 220.199 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.

¹⁹ *Id.*

By Senator Burgess

23-00310A-23

2023358__

1 A bill to be entitled
2 An act relating to residential graywater system tax
3 credits; creating s. 220.199, F.S.; defining terms;
4 providing a tax credit to developers and homebuilders
5 for certain graywater systems purchased during the
6 taxable year; providing a cap on the amount of the tax
7 credit per system; specifying information the
8 developer or homebuilder must provide to the
9 Department of Revenue; authorizing tax credits to be
10 carried forward for up to a specified number of years;
11 authorizing the department to adopt rules; amending s.
12 220.02, F.S.; revising the order in which credits may
13 be taken to include credits created by the act;
14 amending s. 220.13, F.S.; revising the definition of
15 the term "adjusted federal income" to include credits
16 created by the act; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 220.199, Florida Statutes, is created to
21 read:

22 220.199 Residential graywater system tax credit.-

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

24 (a) "Department" means the Department of Revenue.

25 (b) "Developer" has the same meaning as in s. 380.031(2).

26 (c) "Graywater" has the same meaning as in s.

27 381.0065(2)(f).

28 (2) For taxable years beginning on or after January 1,
29 2024, a developer or homebuilder is eligible to receive a credit

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30 against the tax imposed by this chapter in an amount up to 50
31 percent of the cost of each NSF/ANSI 350 Class R certified
32 noncommercial, residential graywater system purchased during the
33 taxable year. The tax credit may not exceed \$4,200 for each
34 system purchased.

35 (3) A developer or homebuilder that wishes to claim a tax
36 credit under this section must submit an application to the
37 department which includes a written verification by the
38 Department of Environmental Protection that the developer or
39 homebuilder has submitted reasonable assurances that the system
40 meets the requirements of subsection (2) and the functionality
41 assurances provided in s. 403.892(3)(c). The Department of
42 Environmental Protection shall make a determination on the
43 eligibility of the applicant for the credit sought and certify
44 the determination to the applicant and the department. The
45 taxpayer must attach the certification to the tax return on
46 which the credit is claimed.

47 (4) Any unused tax credit authorized under this section may
48 be carried forward and claimed by the taxpayer for up to 2
49 taxable years.

50 (5) The department may adopt rules to administer this
51 section, including, but not limited to, rules prescribing forms,
52 application procedures and dates, and guidelines for making an
53 affirmative showing of qualification for a credit and any
54 evidence needed to substantiate a claim for a credit under this
55 section.

56 Section 2. Subsection (8) of section 220.02, Florida
57 Statutes, is amended to read:

58 220.02 Legislative intent.—

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59 (8) It is the intent of the Legislature that credits
60 against either the corporate income tax or the franchise tax be
61 applied in the following order: those enumerated in s. 631.828,
62 those enumerated in s. 220.191, those enumerated in s. 220.181,
63 those enumerated in s. 220.183, those enumerated in s. 220.182,
64 those enumerated in s. 220.1895, those enumerated in s. 220.195,
65 those enumerated in s. 220.184, those enumerated in s. 220.186,
66 those enumerated in s. 220.1845, those enumerated in s. 220.19,
67 those enumerated in s. 220.185, those enumerated in s. 220.1875,
68 those enumerated in s. 220.1876, those enumerated in s.
69 220.1877, those enumerated in s. 220.193, those enumerated in s.
70 288.9916, those enumerated in s. 220.1899, those enumerated in
71 s. 220.194, those enumerated in s. 220.196, those enumerated in
72 s. 220.198, ~~and~~ those enumerated in s. 220.1915, and those
73 enumerated in s. 220.199.

74 Section 3. Paragraph (a) of subsection (1) of section
75 220.13, Florida Statutes, is amended to read:

76 220.13 "Adjusted federal income" defined.—

77 (1) The term "adjusted federal income" means an amount
78 equal to the taxpayer's taxable income as defined in subsection
79 (2), or such taxable income of more than one taxpayer as
80 provided in s. 220.131, for the taxable year, adjusted as
81 follows:

82 (a) *Additions.*—There shall be added to such taxable income:

83 1.a. The amount of any tax upon or measured by income,
84 excluding taxes based on gross receipts or revenues, paid or
85 accrued as a liability to the District of Columbia or any state
86 of the United States which is deductible from gross income in
87 the computation of taxable income for the taxable year.

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88 b. Notwithstanding sub-subparagraph a., if a credit taken
89 under s. 220.1875, s. 220.1876, or s. 220.1877 is added to
90 taxable income in a previous taxable year under subparagraph 11.
91 and is taken as a deduction for federal tax purposes in the
92 current taxable year, the amount of the deduction allowed shall
93 not be added to taxable income in the current year. The
94 exception in this sub-subparagraph is intended to ensure that
95 the credit under s. 220.1875, s. 220.1876, or s. 220.1877 is
96 added in the applicable taxable year and does not result in a
97 duplicate addition in a subsequent year.

98 2. The amount of interest which is excluded from taxable
99 income under s. 103(a) of the Internal Revenue Code or any other
100 federal law, less the associated expenses disallowed in the
101 computation of taxable income under s. 265 of the Internal
102 Revenue Code or any other law, excluding 60 percent of any
103 amounts included in alternative minimum taxable income, as
104 defined in s. 55(b)(2) of the Internal Revenue Code, if the
105 taxpayer pays tax under s. 220.11(3).

106 3. In the case of a regulated investment company or real
107 estate investment trust, an amount equal to the excess of the
108 net long-term capital gain for the taxable year over the amount
109 of the capital gain dividends attributable to the taxable year.

110 4. That portion of the wages or salaries paid or incurred
111 for the taxable year which is equal to the amount of the credit
112 allowable for the taxable year under s. 220.181. This
113 subparagraph shall expire on the date specified in s. 290.016
114 for the expiration of the Florida Enterprise Zone Act.

115 5. That portion of the ad valorem school taxes paid or
116 incurred for the taxable year which is equal to the amount of

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117 the credit allowable for the taxable year under s. 220.182. This
118 subparagraph shall expire on the date specified in s. 290.016
119 for the expiration of the Florida Enterprise Zone Act.

120 6. The amount taken as a credit under s. 220.195 which is
121 deductible from gross income in the computation of taxable
122 income for the taxable year.

123 7. That portion of assessments to fund a guaranty
124 association incurred for the taxable year which is equal to the
125 amount of the credit allowable for the taxable year.

126 8. In the case of a nonprofit corporation which holds a
127 pari-mutuel permit and which is exempt from federal income tax
128 as a farmers' cooperative, an amount equal to the excess of the
129 gross income attributable to the pari-mutuel operations over the
130 attributable expenses for the taxable year.

131 9. The amount taken as a credit for the taxable year under
132 s. 220.1895.

133 10. Up to nine percent of the eligible basis of any
134 designated project which is equal to the credit allowable for
135 the taxable year under s. 220.185.

136 11. Any amount taken as a credit for the taxable year under
137 s. 220.1875, s. 220.1876, or s. 220.1877. The addition in this
138 subparagraph is intended to ensure that the same amount is not
139 allowed for the tax purposes of this state as both a deduction
140 from income and a credit against the tax. This addition is not
141 intended to result in adding the same expense back to income
142 more than once.

143 12. The amount taken as a credit for the taxable year under
144 s. 220.193.

145 13. Any portion of a qualified investment, as defined in s.

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146 288.9913, which is claimed as a deduction by the taxpayer and
147 taken as a credit against income tax pursuant to s. 288.9916.

148 14. The costs to acquire a tax credit pursuant to s.
149 288.1254(5) that are deducted from or otherwise reduce federal
150 taxable income for the taxable year.

151 15. The amount taken as a credit for the taxable year
152 pursuant to s. 220.194.

153 16. The amount taken as a credit for the taxable year under
154 s. 220.196. The addition in this subparagraph is intended to
155 ensure that the same amount is not allowed for the tax purposes
156 of this state as both a deduction from income and a credit
157 against the tax. The addition is not intended to result in
158 adding the same expense back to income more than once.

159 17. The amount taken as a credit for the taxable year
160 pursuant to s. 220.198.

161 18. The amount taken as a credit for the taxable year
162 pursuant to s. 220.1915.

163 19. The amount taken as a credit for the taxable year
164 pursuant to s. 220.199.

165 Section 4. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

DEPARTMENT OF REVENUE

BILL INFORMATION

| | |
|------------------------|--|
| BILL NUMBER: | SB 358 |
| BILL TITLE: | Residential Graywater System Tax Credits |
| BILL SPONSOR: | Senator Burgess |
| EFFECTIVE DATE: | 07/01/2023 |

COMMITTEES OF REFERENCE

| |
|----------------------|
| 1) Community Affairs |
| 2) Finance and Tax |
| 3) Appropriations |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|-------------------|
| Community Affairs |
|-------------------|

SIMILAR BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

IDENTICAL BILLS

| | |
|---------------------|-------------------------|
| BILL NUMBER: | HB 475 |
| SPONSOR: | Representative Buchanan |

PREVIOUS LEGISLATION

| |
|--|
| YEAR/BILL NUMBER/SPONSOR/LAST ACTION: |
|--|

BILL ANALYSIS INFORMATION

| | |
|--------------------------|----------------------------|
| DATE OF ANALYSIS: | 02/17/2023 |
| AGENCY CONTACT: | Alec Yarger (850) 717-6153 |

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Residential graywater system tax credit. (pp. 1-2):

PRESENT SITUATION

There does not currently exist a credit against corporate income tax for a taxpayer that has purchased a graywater system.

EFFECT OF THE BILL

For taxable years beginning on or after January 1, 2024, the bill creates s. 220.199, F.S., which provides a tax credit against corporate income/franchise tax imposed by Chapter 220, F.S., for developers and homeowners that purchase a qualifying residential graywater system.

The proposed credit is equal to 50 percent of the cost of each qualifying residential graywater system purchased during the taxable year but may not exceed \$4,200 for each system purchased.

The bill provides that a taxpayer must apply to the Department of Revenue ("Department") for a tax credit. Prior to applying for the credit, the taxpayer must submit the following to the Department of Environmental Protection ("DEP"):

- reasonable assurances that the system is an NSF/ANSI 350 Class R certified noncommercial, residential graywater system purchased during the taxable year;
- a manufacturer's warranty or data from a building code official, governmental entity, or research institute that has monitored or measured the residential graywater system that is proposed to be installed to verify the system will function as designed, as provided in s. 403.892(3)(c), F.S.; and,
- an estimate of anticipated potable water savings for each system.

DEP shall make a determination on the eligibility of the applicant for the credit sought and certify the determination to the applicant and the Department. The taxpayer must attach the certification to the tax return on which the credit is claimed.

A taxpayer may carry forward any unused portion of the tax credit up to 2 taxable years.

The Department may adopt rules to administer s. 220.199, F.S.

Section 2. Legislative intent. (pp. 2-3): Amends s. 220.02(8), F.S., to specify the order in which this credit may be taken relative to other credits that may be claimed against corporate income/franchise tax.

Section 3. "Adjusted federal income" defined. (pp. 3-6): Amends s. 220.13, F.S., to include an addback to prevent a taxpayer from taking an item/expense as a deduction from federal income and Florida income and then also taking the same item/expense as a credit against Florida corporate income/franchise tax.

Section 4. (p. 6): Provides an effective date of July 1, 2023.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

| | |
|--|--|
| If yes, explain: | The Department is permitted to adopt rules to administer the provisions of the bill, including prescribing forms, application procedures and dates, and guidelines for making an affirmative showing of qualification for a credit and any evidence needed to substantiate a claim for a credit. |
| Rule(s) impacted (provide references to F.A.C., etc.): | New Rule in 12C-1 |

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

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

| | |
|---|--|
| Revenues: | The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government. |
| Expenditures: <i>(Department of Revenue expenditures and operational impacts)</i> | <input type="checkbox"/> NO IMPACT <input type="checkbox"/> LESS THAN \$25,000 <input checked="" type="checkbox"/> MORE THAN \$25,000 <input type="checkbox"/> UNABLE TO DETERMINE <input type="checkbox"/> OPERATIONAL IMPACT ONLY |
| Does the legislation contain an appropriation to the Department? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

- 8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?** The Department of Revenue does not conduct this analysis.
- 9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES?** The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

- 10. STATUTE(S) AFFECTED:** Sections 220.02, 220.13, 220.199, F.S.
- 11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION?** YES NO
If no, go to #12. If yes:
- A. Identify bill number or source.**
- B. Were issues/problems identified?** YES NO
- a. If yes, have they been resolved?** YES NO If no, briefly explain.
- C. Are new issues/problems created?** YES NO If yes, briefly identify.
- 12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT?** YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

- It is unclear if the developer must apply with the Department for a tax credit before the developer files its corporate income/franchise tax return.
- In subsection 220.199(3), F.S., the bill refers to “written verification,” “certify the determination,” and “certification.” It is unclear if these terms are referring to the same tax credit certificate or to another document.
- It is unclear if the residential graywater system must be purchased for use in Florida. Is a developer eligible for the credit under s. 220.199, F.S., if the system is intended for use in another state?
- Because the credit does not have a monetary cap that would necessitate Department monitoring, the sponsor may wish to consider a more streamlined tax credit process:
 - Before the developer’s corporate income/franchise tax return is due, the developer applies for a credit directly to DEP, who will issue a tax credit certificate to a successful applicant.
 - DEP will provide the Department on a regular basis with a list of tax credit certificates issued.
 - The developer will attach the tax credit certificate to its corporate income/franchise tax return.

13. RECOMMENDED CORRECTIONS:

- To enable the Department to be able to communicate with DEP with respect to certain applicants, the sponsor may wish to consider amending s. 213.053(8)(o), F.S., to include s. 220.199, F.S.:

(o) Information relative to ss. 220.1845, 220.199, and 376.30781 to the Department of Environmental Protection in the conduct of its official business.

14. OTHER:

2023
DEPARTMENT OF REVENUE
FISCAL (OPERATIONAL) IMPACT ANALYSIS

Bill number SB 358
Short title Residential Graywater System Tax Credits
Bill sponsor Senator Burgess

Date of Analysis: February 8, 2023
Agency Contact: Alec Yarger

Telephone: (850) 717-6153

Estimate amounts required to administer the bill's provisions by appropriation categories (Salaries & Benefits, OPS, Expenses, Operating Capital Outlay, etc.)

| I. FISCAL IMPACT ON STATE AGENCY: | (FY 22-23) \$ / FTE | (FY 23-24) \$ / FTE | (FY 24-25) \$ / FTE | (FY 25-26) \$ / FTE |
|--|------------------------|------------------------|------------------------|------------------------|
| A. REVENUES: All revenue estimates will be provided by the Revenue Estimating Conference. | | | | |
| B. EXPENDITURES: | | | | |
| 1. Recurring | | | | |
| FTE | | | | |
| Salaries | | | | |
| OPS | | | | |
| Expense | | | | |
| HR Contract | | | | |
| Contracted Services | | | | |
| 2. Non-Recurring | | | \$39,728 | |
| OPS | | | | |
| Expense | | | | |
| OCO | | | | |
| Contracted Services | | | \$39,728 | |
| C. TOTAL: | | | \$39,728 | |
| GR | | | | |
| TF | | | | |

II. EXPLANATION OF COST ANALYSIS (Include methodology and assumptions):

The proposed bill creates section 220.199, F.S., providing a corporate income tax credit to an eligible developer or homebuilder of an amount up to 50 percent of the cost of each NSF/ANSI 350 Class R certified noncommercial, residential graywater system purchased during the taxable year. The tax credit is for taxable years beginning on or after January 1, 2024. The tax credit may not exceed \$4,200 for each system purchased.

A developer or homebuilder claiming a tax credit must submit an application to the Department which includes a written verification by the Department of Environmental Protection that the developer or homebuilder has submitted reasonable assurances that the system meets the system requirements and the functionality assurances provided in section 403.892(3)(c), F.S. The Department of Environmental Protection shall determine the eligibility of the applicant for the credit sought and certify the determination to the applicant and the department. The taxpayer must attach the certification to the tax return on which the credit is claimed.

Any unused tax credit may be carried forward for a period of 2 taxable years.

Provides for an effective date of July 1, 2023.

Business Technology Office- System for Unified Tax (SUNTAX): FY 24/25 \$39,728 (Non-Recurring)

The proposed bill will require approximately 382 contractor hours (at \$104 per hour) and 981 in-house hours to provide the necessary modifications to Revenue's System for Unified Tax (SUNTAX). These hours will be utilized as follows:

382 Contract Hours (Non-Recurring)

- **Information Services .NET Development team (30 hours)** - Gather requirements and design; perform technical testing
 - Perform coding for Mef Admin and submission details in the application
 - Perform modifications to the MEF104 batch job
- **Information Services SAP Development team (352 hours)** - Gather requirements and design; update technical specifications; perform technical testing
 - Perform coding updates to modify sales order logic to include new credit calculation
 - Perform coding updates ZBDPI transactions to include new credit
 - Perform coding updates to data providers for CIT reports

981 In-House Hours (Non-Recurring)

- **Account Management Team (8 hours)** - Perform Functional Testing
 - F-1120 - Adding new line to Schedule V
- **Payment and Fund Distribution Team (46 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Create a new tax credit for Residential Graywater
 - Update credit tracking table for new credit
- **Receivables Management/Return Reconciliation Team (92 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Update sales order logic to include new credit calculation for Residential Graywater System Tax Credit
 - Configuration – Add new credit to F-1120/F-1120X form patterns
 - Update ZBDPI transactions calculations to include new credit
- **Data Support Services Team (32 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Update reports showing CIT data in BI and ECC due to new line item in tax return
 - Update BW extractor of CIT data
- **Electronic Data Interchange (EDI)/Extensible Markup Language (XML) Team (168 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Update CIT MeF Xpath: Add new line on Schedule I and Schedule V of the F-1120
 - Update CIT MeF Schema: Add new line on Schedule I and Schedule V of the F-1120
 - Update CIT MeF Specifications (Internal): Add new line on Schedule I and Schedule V of the F-1120
 - Update CIT MeF SWD Test Case PDFs
 - Update XML comparison files for SWD testing
 - Testing CIT MeF Changes
 - Update E-Viewer PDF, E-Viewer (MeF) Specifications, and Testing
 - Update scannable alternative F-1120 example
- **Compliance and Refund Management Team (80 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Create case management system to track applications and approval of credits in AMS

- **Revenue and Return Processing (360 hours)** - Gather requirements and design; update functional specifications; perform functional testing
 - Configuration changes in FairFax Imaging System to add new version of F-1120 with new barcode and updated Schedule V to include new credit line
- **Information Services .NET Development team (15 hours)** - Gather requirements and design; perform technical testing
 - Perform coding updates to Mef e-viewer
- **Information Services SAP Development team (180 hours)** - Gather requirements and design; update technical specifications; perform technical testing
 - Perform coding updates to taxpayer letters
 - Perform coding updates AMS screens

Tax Information Publication (TIP) and Forms

A Tax Information Publication (TIP) would be posted to the Department's Tax Information Publication website. Additional webpages would be identified and updated. This can be accomplished with existing resources.

Corporate Income Tax (CIT) Forms F-1120 and F-1120N to be revised.

Revenue Accounting

Credit tracking must be updated to accommodate the applications received. The credit tracking tables must be updated to allow for the credit to be used incrementally for up to 2 years. The proposed bill does not specifically require reports. However, this information will need to be provided to the Executive Office, the GTA Program Office, Office of Economic and Demographic Research, and legislative staff. This may be added to an existing report, but it will need to be identified by the credit type, amounts allocated, amounts taken.

Return and Revenue Processing

Return and Revenue Processing (RRP) will experience minimal operational impact. User Acceptance Testing (UAT) will be needed but this temporary increase in workload can be absorbed with current staff. The systems and templates used by staff that capture sales order information and/or presents it for potential manipulation of the CIT form to allow for the changes to the F-1120 schedule I and schedule V may be needed. Form testing/verification may be required because of the modifications to the impacted tax returns and SAP applications may require modification/coding to capture and calculate the changes to the F-1120 schedules I and V.

Taxpayer Services

The proposed bill will result in a one-time impact through aiding taxpayers with questions about eligibility requirements, the application process, claiming credits, and filing and paying. Taxpayer Services will handle inquiries using existing resources.

GTA Communications

The GTA Communications team will accomplish necessary actions associated with this proposed legislation through normal operational activities. Internally, this may include alerts, job aids, updates to training manuals, or intranet updates for Department staff. Externally, this may include drafting, editing, and/or contributing to taxpayer educational materials, such as tutorials, brochures, webinars, information publications, and webpage updates.

III. Is an appropriation for the Department of Revenue provided in the bill? YES NO
If yes, provide amount(s) and fiscal year(s) for the appropriation.

IV. COMMENTS:

The Florida Senate

APPEARANCE RECORD

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March 7, 2023

Meeting Date

Community Affairs

Committee

SB 358

Bill Number or Topic

Amendment Barcode (if applicable)

Name Andrew Ketchel

Phone 850-222-9075

Address 1990 Bannerman Rd.

Email Andrew@cccfla.com

Street

Tallahassee

City

FL

State

32312

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:

Greyter Water Systems

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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03/07/23

Meeting Date

SB 358

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlink

Phone 772-532-1371

Address 10800 Biscayne Blvd.

Email jackson@floridaforall.vote

Street

Miami

City

FL

State

33161

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/7/23

Meeting Date

358

Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Lance Pierce

Phone (850) 228-4088

Address 310 W College Ave
Street

Email lance@afcd.com

Tallahassee FL
City State

32302
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Association of Florida
Community Developers

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)

3-7-23

The Florida Senate
APPEARANCE RECORD

2B 358

Meeting Date

Community Affairs

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

KARIE HERBRANK

Phone

850-566-7824

Address

215 S. Monroe St.

Email

Kherbrank@carltonfields.com

Street

TALLAHASSEE FL 32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FLORIDA HOME BUILDERS ASSOC.

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 408

INTRODUCER: Senator Perry

SUBJECT: Fire Sprinkler System Project Permitting

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hunter | Ryon | CA | Favorable |
| 2. | | | RI | |
| 3. | | | RC | |

I. Summary:

SB 408 creates a simplified permitting process for certain “fire sprinkler system projects,” as defined in the bill, similar to the current process for fire alarm system projects. Specifically, the bill allows a local enforcement agency to require a fire protection system contractor to submit a permit application and pay a permit fee for a fire sprinkler system project, but may not require the contractor to submit plans or specifications as a condition of obtaining such permit. Such fire sprinkler system project must have at least one inspection to ensure compliance with applicable codes and standards, and a contractor must keep a copy of plans available at inspection. The local enforcement agency must issue a permit for a fire sprinkler system project in person or electronically.

The bill defines a "fire sprinkler system project" to mean a fire protection system alteration of a total of 20 or fewer fire sprinklers, or the installation or replacement of a of an equal or equivalent sprinkler system component in an existing commercial, residential, apartment, cooperative, or condominium building.

The bill takes effect on July 1, 2023.

II. Present Situation:

State Fire Marshal and Florida Fire Prevention Code

Florida’s fire prevention and control law, ch. 633, F.S., designates the state’s Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal (Division) located within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety. DFS has the responsibility to minimize the loss of life and property in this state due to fire. Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and

fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Prevention Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code. Each county, municipality, and special district with fire safety enforcement responsibilities must employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.

Fire Protection Systems

A “fire protection system” is a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire. A fire protection system includes, but is not limited to:¹

- Water sprinkler systems;
- Water spray systems;
- Foam-water sprinkler systems;
- Foam-water spray systems;
- Carbon dioxide systems;
- Foam extinguishing systems;
- Dry chemical systems; and
- Halon and other chemical systems used for fire protection use.

Fire protection systems also include any tanks and pumps connected to fire sprinkler systems, overhead and underground fire mains, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, and thermal systems used in connection with fire sprinkler systems.²

Fire protection systems must be installed in accordance with the Fire Code and the Florida Building Code. Current law requires local governments to enforce the Fire Code and the Florida Building Code including the permitting, inspecting, and approving the installation of a fire protection system.³ Owners of fire protection systems are responsible for the maintenance of their fire protection systems, and must contract with a certified fire protection system contractor to regularly inspect such systems.⁴

¹ Section 633.102(11), F.S.

² *Id.*

³ *See generally* chs. 553 and 633, F.S.; ss. 10.1.2 and 10.1.3 of the 7th edition of the Florida Fire Prevention Code (NFPA Standard 1).

⁴ Section 633.312, F.S.; S. 10.2.7 of the 7th edition of the Florida Fire Prevention Code (NFPA Standard 1).

Fire Protection System Contractors

In order to engage in the business of laying out, fabricating, installing, inspecting, altering, repairing, or servicing a fire protection system in Florida, other than a pre-engineered system, a person must be certified as a fire protection system contractor.⁵

Fire protection system contractors are regulated by ch. 633, F.S., which outlines the law pertaining to fire protection system contractors in the state. The State Fire Marshal is responsible for licensing and regulating fire system protection contractors in the state.⁶

There are five levels of certification for fire protection system contractors. A contractor's ability to practice is limited to the category or categories for which the contractor has obtained certification.⁷

- Contractor I - means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service *all types of fire protection systems*, excluding pre-engineered systems.
- Contractor II - means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding pre-engineered systems.
- Contractor III - means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.
- Contractor IV - means a person who can lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one- and two- family dwellings and mobile homes.
- Contractor V - means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service and ending no more than 1 foot above the finished floor. A Contractor V may inspect underground piping for a water-based fire protection system under the direction of a Contractor I or Contractor II.⁸

A fire protection system contractor must have insurance providing coverage for comprehensive general liability for bodily injury and property damages, products liability, completed operations, and contractual liability. A Contractor I, Contractor II, Contractor III, or Contractor V must have

⁵ Section 633.336(1), F.S.

⁶ Sections 633.318 and 633.338, F.S.

⁷ Section 633.102(3), F.S.

⁸ *Id.*

insurance of not less than \$500,000, and a Contractor IV must have insurance of not less than \$250,000.⁹

In order to obtain certification as a fire protection system contractor, a person must submit a written application to the Division, pay a fee of \$300, be at least 18 years of age, be of good moral character, provide proof of insurance, and pass a written exam administered by the Division.¹⁰

In order to sit for an exam for certification as a contractor, a person must provide evidence of the experience and/or education depending on the certification sought by the person.¹¹

Fire Alarm System Projects

In 2022, the Legislature enacted s. 553.7932, F.S., to create a simplified permitting process for certain fire alarm system projects.¹² The process removes the time required to review plans prior to starting work. The law prohibits a local enforcement agency from requiring an electrical or alarm system contractor to submit plans or specifications in order to obtain a permit for certain fire alarm system projects, but preserves their authority to require a permit application and permit fee.¹³

A “fire alarm system project” is defined as a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices, or the installation or replacement of a fire communicator¹⁴ connected to an existing fire alarm control panel¹⁵ in an existing commercial, residential, apartment, cooperative, or condominium building.¹⁶

A local enforcement agency must:

- Issue a permit for a fire alarm system project in person or electronically.¹⁷
- Require at least one inspection of a fire alarm system project to ensure the work complies with the applicable codes and standards. If a fire alarm system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.¹⁸

⁹ Section 633.318(4), and (7), F.S.

¹⁰ The Division has an exam for each type of fire protection system certification. *See* ss. 633.318(1), (2), and (4), and 633.132(1)(a), F.S.

¹¹ Section 633.318(3), F.S.

¹² Ch. 2022-124, Laws of Fla.

¹³ Section 553.7932(2), F.S.

¹⁴ A “fire alarm communicator” is a device that automatically contacts first responders, if a fire is detected. Norris Inc., available at <https://norrisinc.com/2016/08/12/alarm-system-communicators/> (last visited March 2, 2023).

¹⁵ A “fire alarm control unit” serves as the brain of the fire alarm system. It is a component of a fire alarm system that receives signals from initiating devices or other fire alarm control units, and processes these signals to determine part or all of the required fire alarm system output. National Fire Protection Association, *A Guide to Fire Alarm Basics*, available at <https://www.nfpa.org/News-and-Research/Publications-and-media/Blogs-Landing-Page/NFPA-Today/Blog-Posts/2021/03/03/A-Guide-to-Fire-Alarm-Basics> (last visited March 2, 2023).

¹⁶ Section 553.7932(1)(b), F.S.

¹⁷ Section 553.7932(3), F.S.

¹⁸ Section 553.7932(4), F.S.

The contractor must keep a copy of the plans and specifications at the worksite, and make them available to the inspector at each inspection.¹⁹

III. Effect of Proposed Changes:

The bill creates s. 553.7953, F.S., to establish a simplified permitting process for certain “fire sprinkler system projects.” A “fire sprinkler system project” is a fire protection system alteration of a total of 20 or fewer fire sprinklers, or the installation or replacement of an equal or equivalent sprinkler system component in an existing commercial, residential, apartment, cooperative, or condominium building.

A contractor replacing a fire sprinkler system component must use a component with the same or better characteristics as the component being replaced, including electrical, hydraulic, pressure losses, required listings, and spacings.

The bill prohibits local enforcement agencies from requiring a fire protection system contractor to submit plans or specifications as a condition of obtaining a permit for a fire sprinkler system project. However, a local enforcement agency may require a contractor, as a condition of obtaining a permit for a fire sprinkler system project, to submit a completed application and make a payment.

A fire sprinkler system project is required to have at least one inspection to ensure compliance with applicable codes and standards. The contractor must keep a copy of the plans or manufacturer’s installation instruction and make such plans available at each inspection.

The bill provides for an effective date of July 1, 2023.

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.

¹⁹ Section 553.7932(5), F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Fire system contractors may see increased efficiency that is realized by the simplified permitting process.

C. Government Sector Impact:

Local governments may see a reduction in workload due to the removal of a plans review phase prior to permitting fire sprinkler system projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 553.7953 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Perry

9-00412-23

2023408__

1 A bill to be entitled
 2 An act relating to fire sprinkler system project
 3 permitting; creating s. 553.7953, F.S.; defining
 4 terms; requiring replacement fire sprinkler system
 5 components to meet certain criteria; authorizing local
 6 enforcement agencies to require contractors to submit
 7 certain documentation and payment for obtaining a
 8 permit for a fire sprinkler system project;
 9 prohibiting local enforcement agencies from requiring
 10 contractors to submit certain documentation and
 11 payment for obtaining a permit for a fire sprinkler
 12 system project; requiring local enforcement agencies
 13 to issue certain permits in person or electronically;
 14 requiring local enforcement agencies to perform at
 15 least one inspection for a fire sprinkler system
 16 project; requiring contractors to keep certain
 17 documentation available at a worksite for a fire
 18 sprinkler system project and make such documentation
 19 available for inspection; requiring contractors to
 20 retain instructions for components; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 553.7953, Florida Statutes, is created
 26 to read:

27 553.7953 Simplified permitting process for fire sprinkler
 28 system projects.-

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

9-00412-23

2023408__

30 (a) "Component" means valves, backflow preventers,
31 switches, fire sprinklers, escutcheons, hangers, pumps, pump
32 motors and engines, compressors, hydrants, or any other item
33 deemed acceptable by the local enforcement agency.

34 (b) "Contractor" means a person qualified to engage in the
35 business of fire sprinkler systems contracting pursuant to a
36 certificate or registration issued by the department under s.
37 633.318.

38 (c) "Fire sprinkler system project" means a fire protection
39 system alteration of a total of 20 or fewer fire sprinklers, or
40 the installation or replacement of an equal or equivalent fire
41 sprinkler system component, in an existing commercial,
42 residential, apartment, cooperative, or condominium building.

43 (2) A contractor replacing a fire sprinkler system
44 component must use a component with the same or better
45 characteristics as the component being replaced, including
46 electrical, hydraulic, pressure losses, required listings, and
47 spacings.

48 (3) (a) A local enforcement agency may require a contractor,
49 as a condition of obtaining a permit for a fire sprinkler system
50 project, to submit a completed application and make a payment.

51 (b) A local enforcement agency may not require a contractor
52 to submit plans or specifications as a condition of obtaining a
53 permit for a fire sprinkler system project as defined in this
54 section.

55 (4) A local enforcement agency shall issue a permit for a
56 fire sprinkler system project in person or electronically.

57 (5) A local enforcement agency shall require a fire
58 sprinkler system project to have at least one inspection to

9-00412-23

2023408__

59 ensure compliance with applicable codes and standards. If a fire
60 sprinkler system project fails an inspection, the contractor
61 must take corrective action as necessary to pass inspection.

62 (6) If the fire sprinkler system project is to alter a fire
63 sprinkler system, the contractor must keep a copy of the plans
64 or as-built plans at the fire sprinkler system project worksite
65 and make such plans available to the inspector at each
66 inspection.

67 (7) If the project is to replace a component of the fire
68 system, the contractor must keep a copy of the manufacturer's
69 installation instructions and any related testing instructions
70 needed to certify or accept the component at a fire sprinkler
71 system project and must make such documents available to the
72 inspector at each inspection.

73 Section 2. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

408

3/7/2023

Meeting Date

Bill Number or Topic

Community Affairs

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

Committee

Amendment Barcode (if applicable)

Name

Tim Meenan

Phone

850.425.4000

Address

300 S. Duval Street, Ste. 410

Email

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Fire Sprinkler Association

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

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

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3/7/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

408 FIRE SPARKLER

Bill Number or Topic

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

Community AFFAIRS

Committee

Amendment Barcode (if applicable)

Name BOBBY SUAREZ

Phone 305 984 3299

Address 444 SW 2 ave

Email RSUAREZ@miami.gov.com

Street

MIAMI

FL

33131

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:

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 678

INTRODUCER: Senator Powell

SUBJECT: Disposal of Property

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Hackett</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 2. | _____ | _____ | <u>TR</u> | _____ |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 678 provides that the Florida Department of Transportation may convey property to a governmental entity without consideration if the property is to be used for affordable housing.

The bill takes effect July 1, 2023.

II. Present Situation:

Disposal of Real Property Acquired for Transportation Purposes

The Florida Department of Transportation (FDOT) acquires land throughout the state to utilize for transportation facilities¹ and securing rights-of-way through purchase, exchange, and donation.² FDOT is authorized to convey acquired property it determines not to be needed for the construction, operation, and maintenance of a transportation facility.³

Generally, FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest.⁴ A sale of unneeded property may not occur at a price less than FDOT's current estimate of value except that:

- If donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose

¹ "Transportation facility" means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place. *See* s. 334.03(30), F.S.

² Section 337.25(1), F.S.

³ Section 337.25(4), F.S.

⁴ *Id.*

jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.⁵

- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.⁶
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, FDOT may negotiate for the sale of such property as replacement housing.⁷
- If FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes FDOT to significant liability risks, FDOT may use the projected maintenance costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.⁸

The provision allowing conveyance free of consideration to a governmental entity to be used for a public purpose does not define "public purpose."⁹

Right of First Refusal

In general,¹⁰ FDOT is required to first offer the property (a "right of first refusal") to the property owner from whom FDOT originally acquired the property for FDOT's current estimate of value of the property.¹¹ The right of first refusal must:

- Be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt;
- Provide the previous owner with a minimum of 30 days to exercise the right in writing; and
- Be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch.

If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. A right of first refusal may not be required for disposal of property acquired more than 10 years before the date of disposition by FDOT.¹²

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. In general, housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income on either rent or mortgage payments is considered "cost burdened," while those paying more than 50 percent are

⁵ Section 337.25(4)(a), F.S.

⁶ Section 337.25(4)(b), F.S.

⁷ Section 337.25(4)(c), F.S.

⁸ Section 337.25(4)(d), F.S.

⁹ *Supra*, note 6. "Public purpose" is defined by *Black's Law Dictionary* as "an action by or at the direction of a government for the benefit of the community as a whole."

¹⁰ This is the case in all conveyances other than returning property to the original donor, the sale of property to produce replacement housing for persons displaced by transportation projects, and the disposal of property acquired more than 10 years before the date of disposition by the department. *Supra* note 3.

¹¹ *Supra* note 3.

¹² *Id.*

considered “extremely cost burdened.” Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida’s state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.

Housing costs reflect what people are willing to pay to live in an area, which may make it difficult for the workforce, elders, and people with disabilities to find affordable homes and apartments. The government helps make housing affordable through programs which decrease monthly rent or mortgage payments so that income eligible families are able to pay less for housing than it would otherwise cost at “market rate.” Lower monthly payments result from government investment in multifamily rental or single family homes in exchange for price limits.

Disposition of Local Government-owned Property for Affordable Housing

Since 2006, counties and cities have been required to prepare an inventory of publically owned real property that would be appropriate for use as affordable housing, and update the inventory every three years.¹³ The list must include the address and legal description of each such real property, specifying whether it is vacant or improved.

Properties so identified as appropriate for use as affordable housing may be disposed in the following ways:

- Sold and the proceeds used to purchase land for the development of affordable housing;
- Sold with a restriction that requires the development of permanent affordable housing on the land;
- Donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- Made otherwise available for the use for the production and preservation of permanent affordable housing.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 337.25(4)(b), F.S., to provide that the FDOT may convey land not needed for transportation facilities to other governmental entities without consideration for affordable housing purposes.

While current law provides the FDOT may convey such land without consideration “to be used for a public purpose,” the bill expressly provides that such public purposes include local governmental disposition of the property for affordable housing as provided in ss. 125.379 and 166.0451, F.S.

The bill takes effect July 1, 2023.

¹³ Sections 125.379 and 166.0451, F.S.

¹⁴ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None identified.

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:

To the extent the provision is utilized, local governments may benefit from consideration-free receipt of land for affordable housing from the Department of Transportation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 337.25 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 Powell

24-00624-23

2023678__

1 A bill to be entitled
2 An act relating to disposal of property; amending s.
3 337.25, F.S.; providing that the use of property as
4 affordable housing qualifies as use for a public
5 purpose in the context of the authorization of the
6 Department of Transportation to convey property
7 without consideration to a governmental entity;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (b) of subsection (4) of section
13 337.25, Florida Statutes, is amended to read:

14 337.25 Acquisition, lease, and disposal of real and
15 personal property.—

16 (4) The department may convey, in the name of the state,
17 any land, building, or other property, real or personal, which
18 was acquired under subsection (1) and which the department has
19 determined is not needed for the construction, operation, and
20 maintenance of a transportation facility. When such a
21 determination has been made, property may be disposed of through
22 negotiations, sealed competitive bids, auctions, or any other
23 means the department deems to be in its best interest, with due
24 advertisement for property valued by the department at greater
25 than \$10,000. A sale may not occur at a price less than the
26 department's current estimate of value, except as provided in
27 paragraphs (a)-(d). The department may afford a right of first
28 refusal to the local government or other political subdivision
29 in the jurisdiction in which the parcel is situated, except in a

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30 conveyance transacted under paragraph (a), paragraph (c), or
31 paragraph (e). Notwithstanding any provision of this section to
32 the contrary, before any conveyance under this subsection may be
33 made, except a conveyance under paragraph (a) or paragraph (c),
34 the department shall first afford a right of first refusal to
35 the previous property owner for the department's current
36 estimate of value of the property. The right of first refusal
37 must be made in writing and sent to the previous owner via
38 certified mail or hand delivery, effective upon receipt. The
39 right of first refusal must provide the previous owner with a
40 minimum of 30 days to exercise the right in writing and must be
41 sent to the originator of the offer by certified mail or hand
42 delivery, effective upon dispatch. If the previous owner
43 exercises his or her right of first refusal, the previous owner
44 has a minimum of 90 days to close on the property. The right of
45 first refusal set forth in this subsection may not be required
46 for the disposal of property acquired more than 10 years before
47 the date of disposition by the department.

48 (b) If the property is to be used for a public purpose,
49 including, but not limited to, affordable housing as provided in
50 ss. 125.379 and 166.0451, the property may be conveyed without
51 consideration to a governmental entity.

52 Section 2. This act shall take effect July 1, 2023.

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 Community Affairs

BILL: SB 942

INTRODUCER: Senator Calatayud

SUBJECT: Authorization of Restrictions Concerning Dogs

DATE: March 6, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hunter | Ryon | CA | Favorable |
| 2. | _____ | _____ | AG | _____ |
| 3. | _____ | _____ | RC | _____ |

I. Summary:

SB 942 makes changes to Florida’s “Dangerous Dogs” law. Currently a county or municipality may address safety and welfare concerns caused by attacks on persons or domestic animals by dogs by ordinance as long as such ordinance is not breed specific. The bill adds weight and size as prohibited ordinance topics in addition to breed.

The bill also incorporates “public housing authorities” into the statute, authorizing a public housing authority to enact policies pertaining to dangerous dogs, but such policy may not be specific to breed, size, or weight. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds and sizes of dogs on housing authority property.

Finally, the bill removes the grandfather provision in statute which allows local governments to enforce dog breed-specific regulations if the ordinance enacting such regulations was adopted before October 1, 1990. This change effectively nullifies Miami-Dade County’s and the City of Sunrise’s existing regulations and restrictions on owners of “pit bull dogs.”

The bill takes effect October 1, 2023.

II. Present Situation:

Dangerous Dogs

Part II of ch. 767, F.S., outlines the state’s “Dangerous Dogs” provisions, originally enacted in 1990.¹ The Legislature found that “dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which

¹ Ch. 90-180, Laws of Fla.

cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of the owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs.”²

A “dangerous dog” is defined as a dog that:

- Has aggressively bitten, attacked, endangered or inflicted severe injury on a person on public or private property;
- Has more than one time severely injured or killed a domestic animal while the dog is off the owner’s property; or
- Has, when unprovoked, chased or approached a person in public in a menacing fashion, or with an attitude of attack.³

Process for Classification of Dogs as Dangerous

An animal control officer⁴ is typically the person who would investigate an incident involving a dog. In areas unserved by an animal control authority,⁵ the sheriff assumes the duties required of an animal control officer.⁶

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.⁷ An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.⁸ A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.⁹

The animal control authority may not declare a dog as dangerous if:

- The injured person was unlawfully on the property, or if lawfully on the property was tormenting, abusing, or assaulting the dog or its owner or a family member; or

² Section 767.10, F.S.

³ Section 767.11(1), F.S., requires an appropriate authority to document a dog as a dangerous dog. Section 767.11(2), F.S., further defines what is meant by “unprovoked” as that the victim whom while acting peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog. A severe injury is any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery, pursuant to s. 767.11(3), F.S.

⁴ “Animal control officer” means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve seizure and impoundment of any animal. See s. 767.11(6), F.S.

⁵ “Animal control authority” means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control law of the city, county, or state. See s. 767.11(5), F.S.

⁶ Section 767.11(5) and (6), F.S.

⁷ Section 767.12(1), F.S.

⁸ Section 767.12(1)(a), F.S.

⁹ Section 767.12(1)(b), F.S.

- The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.¹⁰

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous and if sufficient cause is found, provide the owner an opportunity for a hearing before making a final determination regarding the classification or penalty.¹¹ The animal control authority must provide written notice of sufficient cause and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has seven calendar days from receiving the notice to file a written request for a hearing. The hearing officer must hold the hearing as soon as possible, no more than 21 calendar days, and no sooner than five days after receiving the request for hearing.¹² If a hearing is not timely requested the authority's determination becomes final.

Within 14 days after the classification as a dangerous dog by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually. Vaccination, enclosure, warning sign, and identification requirements must then be followed. The owner must immediately notify the animal control authority if the dog is loose, bites or attacks a person or another animal, or if there is any other change in status. A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash. Any violation of these requirements is a noncriminal infraction punishable by a fine, not to exceed \$500.¹³

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

- 1st degree misdemeanor if the dog has previously been declared "dangerous" and it attacks or bites a person or domestic animal without provocation.¹⁴
- 2nd degree misdemeanor if the dog has not previously been declared "dangerous" but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog's dangerous propensities.¹⁵
- 3rd degree felony if the dog has previously been declared "dangerous" and it attacks and causes severe injury to or death of any human.¹⁶

Local Government Regulation of Dangerous Dogs

Current law authorizes local governments to address safety and welfare concerns caused by attacks on persons or domestic animals, place further restrictions and additional requirements on owners of dogs that have bitten or attacked persons or domestic animals, and to develop procedures and criteria to implement the "dangerous dogs" provisions in ch. 767, F.S.¹⁷

¹⁰ Section 767.12(2)(a-b), F.S.

¹¹ Section 767.12(3), F.S.

¹² Section 767.12(3), F.S.

¹³ Section 767.12 (7), F.S.

¹⁴ Section 676.13(1), F.S.

¹⁵ Section 767.136(1), F.S.

¹⁶ Section 767.13(2), F.S.

¹⁷ Section 767.14, F.S.

However, no local regulation may be breed-specific, or lessen the provisions of ch. 767, F.S., unless the regulation was adopted prior to October 1, 1990.¹⁸ Breed-specific regulation is a term used for laws and ordinances that seek to reduce dog attacks on humans and other animals by regulating or banning a specific breed of dog.¹⁹ Florida is one of twenty-one states that prohibit local governments from enacting breed specific ordinances.²⁰

Because of the 1990 grandfather provision, Miami-Dade County²¹ and the City of Sunrise²² are known to be the only two local governments in Florida with breed specific ordinances currently in effect. Miami-Dade's ordinance provides that pit bull dogs are banned from purchase, from being brought into Miami-Dade County, or otherwise acquired and regulated due to unique history, nature and characteristics which require special regulation. The county defines "pit bull dog" with reference to the descriptions given by the American Kennel Club and the United Kennel Club. In 2012, Miami-Dade County held a referendum to gauge public opinion on keeping the ordinance in place. Over 63 percent of voters chose to keep the county's regulation of pit bull dogs in place.²³

Public Housing Authorities

The federal government has created programs to provide housing assistance to lower-income households since the 1930s. Public housing developments which provide low-rent opportunities are generally owned and operated by the local public housing authorities (PHAs) in each state and subsidized and regulated by the federal government. Families are eligible to live in public housing if they are low-income²⁴ but 40 percent of public housing units that become available in a year must be given to families that are extremely low-income.²⁵ Families living in public housing typically are required to pay 30 percent of their adjusted income toward rent.

PHAs receive several streams of funding from United States Department of Housing and Urban Development (HUD) to help make up the difference between what tenants pay in rent and what it costs to maintain public housing.²⁶ PHAs receive operating funds and capital funds through a formula allocation process; operating funds are used for management, administration and day-to-day costs of running a housing development, and capital funds are used for modernization needs (i.e., replacing a roof or heating and cooling system).²⁷ Most PHAs own and manage the public housing developments themselves, but some contract with private management companies or

¹⁸ Section 767.14, F.S.

¹⁹ ASPCA, *What Is Breed-Specific Legislation?* Available at: <https://www.asPCA.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited March 1, 2023).

²⁰ *Id.*

²¹ Ord. No. 89-22, § 2, 4-4-89

²² Ord. No. 251-A, § 2(4-17), 5-2-89. The ordinance is "designed to regulate pit bull dogs and to ensure responsible handling by their owners through registration and confinement."

²³ Miami-Dade County Supervisor of Elections, *2012 Primary Election Results* (see Repeal of County's Pit Bull Dog Ban results), available at <https://enr.electionsfl.org/DAD/3042/Summary/> (last visited March 1, 2023).

²⁴ Congressional Research Service, *Overview of Federal Housing Assistance Programs and Policy*, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited March 1, 2023). Low-income is defined as earning at or below 80 percent of area median income for these purposes.

²⁵ *Id.* Extremely low-income is defined as earning at or below the greater of 30 percent of area median income or the federal poverty guidelines.

²⁶ *Id.*

²⁷ *Id.*

transfer ownership to a private subsidiary or another entity that operates the development under public housing rules.²⁸

There are 99 active HUD-registered PHAs in Florida,²⁹ of which 91 are special districts.³⁰ PHAs are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. The powers of each authority are vested in housing authority commissioners and action may be taken upon a majority vote of the commissioners.³¹ Housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.³²

Pet Regulation in Public Housing Authorities

HUD regulations permit public housing tenants to own common household pets.³³ However, HUD allows local PHAs to enforce reasonable restrictions on the types of common household pets allowed in their rules and policies.³⁴ A tenant in public housing must maintain each pet responsibly, in accordance with relevant state and local public health, animal control and anti-cruelty laws, and in accordance with the policies established in the PHA's Annual Plan.³⁵

A PHA's reasonable requirements for pet policies in general occupancy developments may include but are not limited to tenant and pet density; size, weight, and type of pets; pet fees and deposits; pet care and handling; and pet registration. PHAs have discretion to consider additional factors if reasonable and consistent with state or local law.³⁶

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, size, weight, behavior, or training of the pet.³⁷ However, some regulations based on breed do not

²⁸ Center on Budget and Policy Priorities, *Policy Basics: Public Housing*, available at: <https://www.cbpp.org/research/public-housing> (last visited March 1, 2023).

²⁹ HUD, *Public Housing Authority Contact Information*, available at: https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_FL.pdf (last visited March 1, 2023).

³⁰ Florida Department of Economic Opportunity, *Official List of Special Districts*, available at: <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited March 1, 2023). To generate the special district list, select "Housing Authority" from the "Option 7: Select Special Purposes" field.

³¹ Section 421.05(2), F.S.

³² Section 421.08, F.S.

³³ See HUD's *Public Housing Occupancy Guidebook: Pet Ownership in Public Housing*, (Dec. 2020), available at: <https://www.hud.gov/sites/dfiles/PIH/documents/PHOGPetOwnership.pdf> (last visited March 1, 2023).

³⁴ 24 CFR § 5.318(a); § 960.707(b)

³⁵ 24 CFR § 960.707(a)

³⁶ 24 CFR § 960.707

³⁷ See e.g., Tampa Housing Authority, <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (last visited March 3, 2023) (forbidding certain breeds and regulating weight of dog); St. Petersburg Housing Authority, https://www.stpeteha.org/plugins/show_image.php?id=1912 (last visited March 1, 2023) (certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]); Key West Housing Authority, https://www.kwha.org/egov/documents/1614973714_73249.pdf (last visited March 1, 2023) (prohibiting certain breeds of dog and regulating weight).

depend on a finding that the pet is vicious or dangerous. Additionally, the definition of “dangerous dog” under Florida law is not uniformly applied in all PHA policies.³⁸

III. Effect of Proposed Changes:

The bill amends s. 767.14, F.S., to add size and weight to the prohibited topics which a local government may not use to regulate dogs in their jurisdiction. Currently only breed-specific ordinances are not allowable.

The bill also authorizes PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs, as long as such requirements are not specific to breed, weight, or size. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds or sizes of dogs for housing authority tenants.

The bill also removes a provision that exempts local ordinances adopted before October 1, 1990, from the prohibition on enacting ordinances that are specific to certain breeds of dogs. This change nullifies any breed-specific local ordinances currently in place.

The bill takes effect on October 1, 2023.

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.

³⁸ See s. 767.11(1), F.S.

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 767.14 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Calatayud

38-01050B-23

2023942__

1 A bill to be entitled

2 An act relating to the authorization of restrictions
3 concerning dogs; amending s. 767.14, F.S.; authorizing
4 public housing authorities to adopt certain policies
5 relating to dogs; restricting the types of ordinances
6 and policies that may be adopted; removing an
7 exemption for local breed-specific ordinances adopted
8 before a specified date; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 767.14, Florida Statutes, is amended to
13 read:

14 767.14 Additional local restrictions authorized.—This act
15 does not limit any local government or public housing authority
16 from adopting an ordinance or a policy, respectively, to address
17 the safety and welfare concerns caused by attacks on persons or
18 domestic animals, placing further restrictions or additional
19 requirements on owners of dogs that have bitten or attacked
20 persons or domestic animals, or developing procedures and
21 criteria for the implementation of this act, provided that no
22 such regulation is specific to breed, weight, or size and that
23 the provisions of this act are not lessened by such additional
24 regulations or requirements. ~~This section does not apply to any~~
25 ~~local ordinance adopted prior to October 1, 1990.~~

26 Section 2. This act shall take effect October 1, 2023.

The Florida Senate

APPEARANCE RECORD

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

3/7/23

Meeting Date

942

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

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33731

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:

Animal Legal Defense Fund

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

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

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

S-001 (08/10/2021)

APPEARANCE RECORD

942

Bill Number or Topic

3/7/23
Meeting Date
Community Affairs
Committee

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

Amendment Barcode (if applicable)

Name Kelsey Gilmore-Futeral Phone 843 323 7000

Address 839 LAW Ln Email kfuteral@bestfriends.org
Mt Pleasant SC 29264
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:

Best Friends Animal Society

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

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

3/7/23

Meeting Date

942

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Kate Macfall

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Tallahassee

City

Fl.

State

32312

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:

Humane Society of the United States

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

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 401
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 3/7/2023 4:01:53 PM
Ends: 3/7/2023 4:56:13 PM **Length:** 00:54:21

4:01:55 PM Chair Calatayud calls meeting to order
4:02:04 PM Quorum is present
4:02:37 PM Take up Tab 6 SB 408 Fire Sprinkler System Project Permitting
4:02:49 PM Chair Calatayud recognizes Senator Perry to explain bill
4:03:04 PM Public Information by Bobby Suarez
4:03:50 PM Comment by Senator Pizzo
4:06:01 PM Chair Calatayud recognizes Senator Perry to close
4:06:21 PM Roll Call SB 408
4:07:20 PM Vote Recorded
4:07:26 PM Take up Tab 2 SB 114 Tax Exemption for Diapers and Incontinence Products
4:07:48 PM Chair Calatayud recognizes Senator Book to explain bill
4:08:38 PM Public Appearances
4:09:31 PM Public Testimony by Veronica Hernandez
4:09:53 PM Public Testimony by Sara Clark
4:11:05 PM Public Appearance by Eileen Segal
4:11:14 PM Public Appearance by Barbara Devane of FL Now
4:11:24 PM Public Appearance by Minerva Glidden
4:11:30 PM Public Appearance by Deborah Deland
4:11:36 PM Public Appearance by Amy Greenman
4:11:43 PM Public Appearance by Ivonne Fernandez of AARP
4:11:49 PM Public Appearance by Jackson Oberlink of Florida Rising
4:11:59 PM Public Appearance by Caitlyn Clibbon of Disability Rights Florida
4:12:06 PM Public Appearance by Jonathan Webber of SPLC Action Fund
4:12:16 PM Public Appearance by Brian Jogerst of Florida Association of Healthy Start Coalitions
4:12:47 PM Public Appearance by Chris Hansen of CHPA
4:13:05 PM Comment by Senator Berman
4:13:15 PM Comment by Senator Baxley
4:13:55 PM Comment by Senator Calatayud
4:14:26 PM Roll Call SB 114
4:14:28 PM Vote Recorded
4:15:02 PM Take up Tab 4 216 Public Records/Current and Former County and City Attorneys
4:15:17 PM Chair recognizes Senator Burgess to explain bill
4:16:08 PM Question by Senator Pizzo
4:16:47 PM Answer by Senator Burgess
4:18:13 PM Public Appearance by Tara Taggart of Florida League of Cities
4:18:26 PM Public Appearance by Anita Berry of Palm Beach County
4:18:31 PM Public Appearance by Martha Edenfield of Charlotte County
4:18:38 PM Public appearance by Bob McKee of Florida Association of Counties
4:18:50 PM Comment by Senator Pizzo
4:20:01 PM Chair Calatayud recognizes Senator Burgess to close
4:20:37 PM Roll Call SB 216
4:20:43 PM Vote recorded
4:21:12 PM Take up Tab 3 SB 192 Everglades Protection Area
4:21:25 PM Chair Calatayud recognizes Senator Avila to explain bill
4:22:55 PM Take up amendment 440662
4:23:55 PM Chair recognizes Senator Avila to explain amendment
4:24:14 PM Question by Senator Berman
4:24:23 PM Answer by Senator Avila
4:24:32 PM Question by Senator Berman
4:25:09 PM Answer by Senator Avila
4:25:22 PM Question by Senator Pizzo
4:26:16 PM Answer by Senator Avila

4:28:20 PM Chair recognizes Senator Avila to close on Amendment
4:28:24 PM Action on amendment recorded, back on bill
4:28:38 PM Public Testimony by Anna Upton
4:30:22 PM Question by Senator Pizzo
4:30:26 PM Answer by Anna Upton
4:31:16 PM Question by Senator Pizzo
4:31:31 PM Answer by Anna Upton
4:33:20 PM Public Appearance by Elizabeth D'Silva Alvi of Audubon Florida
4:33:27 PM Public Appearance by Jane West of 1000 Friends of Florida
4:33:36 PM Public Appearance by Jess McCarty of Miami- Dade County
4:33:44 PM Public Appearance by David Cullen of Sierra Club FL
4:33:56 PM Comment by Senator Pizzo
4:34:41 PM Chair Calatayud recognizes Senator Avila to close
4:36:12 PM Roll Call SB 192
4:37:26 PM Take up Tab 5 SB 358 Residential Graywater System Tax Credits
4:38:19 PM Chair Calatayud recognizes Senator Burgess to explain bill
4:38:51 PM Question by Senator Osgood
4:39:16 PM Answer by Burgess
4:39:26 PM Question by Senator Berman
4:40:21 PM Answer by Senator Berman
4:40:28 PM Question by Senator Berman
4:40:49 PM Answer by Senator Burgess
4:40:59 PM Question by Senator Berman
4:41:21 PM Answer by Senator Burgess
4:41:26 PM Public Appearance by Andrew Ketchel of Greyter Water System
4:41:52 PM Public Appearance by Jackson Oberlink of Florida Rising
4:41:59 PM Public appearance by Lance Pierce of Association of Florida Community Developments
4:42:12 PM Public Appearance by Kari Hebrank of Florida Home Builders Association
4:42:25 PM Comment by Senator Baxley
4:44:10 PM Comment by Senator Berman
4:44:35 PM Chair recognizes Senator Burgess to close
4:44:55 PM Roll Call SB 358
4:45:23 PM Vote recorded
4:45:28 PM Take up Tab 7 SB 678 Disposal of Property
4:45:30 PM Chair recognizes Senator Powell to explain bill
4:45:50 PM Chair recognizes Senator Powell to close
4:46:51 PM Roll Call SB 678
4:46:59 PM Vote recorded
4:47:18 PM Chair Calatayud passes gavel to Vice Chair Osgood
4:47:41 PM Take up tab 1 SB 108 Trees and Vegetation within the Rights-of-way of Certain Roads and Rail Corridors
4:47:50 PM Chair Osgood recognizes Senator Calatayud to explain bill
4:48:49 PM Chair Osgood recognizes Senator Calatayud to close on bill
4:48:56 PM Roll Call SB 108
4:49:20 PM Vote recorded
4:49:28 PM Take up Tab 8 SB 942 Authorization of Restrictions Concerning Dogs
4:49:41 PM Chair Osgood recognizes Senator Calatayud to explain bill
4:52:10 PM Public Appearance by Kate Macfall of Humane Society of the United States
4:52:15 PM Public Appearance by Kelsey Gilmon Futeral of Best Friends Animal Society
4:52:34 PM Public Appearance by Travis Moore of Animal Legal Defense Fund
4:52:45 PM Comment by Senator Pizzo
4:52:52 PM Chair Osgood recognizes Senator Calatayud to close
4:53:54 PM Roll Call SB 942
4:54:00 PM Vote Recorded
4:54:25 PM Chair Osgood passes gavel to Chair Calatayud
4:55:00 PM Senator Martin moves
4:55:53 PM Meeting Adjourned