

Tab 1	SB 10 by Gruters ; (Identical to H 06019) Relief of Kristin A. Stewart by Sarasota County					
Tab 2	SB 518 by DiCeglie ; (Similar to H 00157) Public Records/Animals from an Animal Shelter					
Tab 3	SB 556 by Hooper ; (Similar to H 00395) Hurricane Protection for Condominium Associations					
Tab 4	SB 566 by Wright ; (Similar to CS/H 00127) Ad Valorem Tax Exemption for Nonprofit Homes for the Aged					
336346	A	S	RCS	CA, Wright	Delete L.18:	03/31 08:59 AM
Tab 5	SB 594 by Martin ; (Compare to CS/CS/H 00799) Residential Property Insurance Rates					
252724	A	S	RCS	CA, Martin	Delete L.37:	03/31 09:00 AM
Tab 6	SB 698 by Ingoglia ; (Similar to CS/H 00731) Local Tax Referenda Requirements					
619286	D	S	RCS	CA, Ingoglia	Delete everything after	03/31 09:01 AM
Tab 7	SB 856 by Rodriguez ; (Similar to CS/CS/H 00041) Amendments to Land Development Regulations					
640988	D	S	TP	CA, Rodriguez	Delete everything after	03/29 06:03 PM
Tab 8	SB 978 by Bradley ; (Identical to H 00901) Secured Transactions					
844828	A	S	RCS	CA, Bradley	Delete L.24 - 25.	03/31 09:01 AM
Tab 9	CS/SB 980 by RI, Brodeur (CO-INTRODUCERS) Stewart ; (Identical to CS/H 00341) 911 Public Safety Telecommunicator Certifications					
194472	A	S	WD	CA, Brodeur	btw L.68 - 69:	03/29 06:26 PM
Tab 10	CS/SB 1034 by GO, Rodriguez ; (Similar to H 00613) State-administered Retirement Systems					
Tab 11	SB 1052 by Berman ; (Similar to CS/H 01001) Exemptions for Totally and Permanently Disabled Veterans					
Tab 12	SB 1082 by DiCeglie ; (Identical to CS/H 00847) Floating Vessel Platforms					
Tab 13	CS/SB 1162 by RI, DiCeglie ; (Similar to CS/H 00821) Renewable Energy Cost Recovery					
156380	A	S	RCS	CA, DiCeglie	Delete L.62 - 74:	03/31 09:02 AM
Tab 14	SB 1268 by Rouson ; (Identical to H 01195) Urban Agriculture Pilot Projects					
Tab 15	SB 1310 by DiCeglie (CO-INTRODUCERS) Hooper ; (Similar to CS/H 01109) Expanding Public Sector Career Opportunities					
271196	D	S	RCS	CA, DiCeglie	Delete everything after	03/31 09:03 AM
Tab 16	SB 1368 by Wright ; (Similar to CS/CS/H 01367) Unlawful Dumping					
833130	A	S	RCS	CA, Wright	Delete L.45:	03/31 09:03 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Calatayud, Chair
Senator Osgood, Vice Chair

MEETING DATE: Wednesday, March 29, 2023
TIME: 8:30—10:30 a.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	SB 10 Gruters (Identical H 6019)	Relief of Kristin A. Stewart by Sarasota County; Providing for the relief of Kristin A. Stewart by Sarasota County; providing an appropriation to compensate her for injuries sustained as a result of the negligence of an employee of Sarasota County; providing limitations on compensation and the payment of attorney fees, lobbying fees, and costs or other similar expenses, etc. SM JU 03/21/2023 Favorable CA 03/29/2023 Favorable RC	Favorable Yeas 8 Nays 0
2	SB 518 DiCeglie (Similar H 157)	Public Records/Animals from an Animal Shelter; Providing an exemption from public records requirements for records containing certain information pertaining to persons with legal custody of an animal from an animal shelter or animal control agency operated by a local government; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 03/06/2023 Favorable CA 03/29/2023 Favorable RC	Favorable Yeas 8 Nays 0
3	SB 556 Hooper (Similar H 395)	Hurricane Protection for Condominium Associations; Defining the term "hurricane protection"; requiring declarations to specify the entity responsible for the installation, maintenance, repair, or replacement of hurricane protection; authorizing, rather than requiring, certain hurricane protection specifications; authorizing the boards of residential and mixed-use condominiums to install or require the unit owners to install hurricane protection; prohibiting the boards of residential and mixed-use condominiums from refusing to approve certain hurricane protections; specifying when the cost of installation of hurricane protection is not a common expense, etc. RI 03/14/2023 Favorable CA 03/29/2023 Favorable RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 29, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 566 Wright (Similar CS/H 127)	Ad Valorem Tax Exemption for Nonprofit Homes for the Aged; Revising an eligibility requirement for Florida limited partnerships applying for the exemption, etc. CA 03/29/2023 Fav/CS FT AP	Fav/CS Yeas 8 Nays 0
5	SB 594 Martin (Compare CS/H 799)	Residential Property Insurance Rates; Adding wind uplift prevention to a list of fixtures or construction techniques for which a residential property insurance rate filing must include actuarially reasonable rate differentials or appropriate deductible reductions, etc. BI 03/15/2023 Favorable CA 03/29/2023 Fav/CS FP	Fav/CS Yeas 8 Nays 0
6	SB 698 Ingoglia (Similar CS/H 731)	Local Tax Referenda Requirements; Requiring a referendum to reenact an expiring tourist development tax or tourist impact tax, respectively, to be held at the general election immediately preceding the expiration date of the tax; requiring a referendum to approve a millage rate increase for a children's services independent special district property tax to be held at the general election immediately preceding the effective date of the increase; requiring a referendum to reenact an expiring local government discretionary sales surtax to be held at the general election immediately preceding the expiration date of the surtax; deleting provisions that authorize school district millage elections to be held at any time and specify a limit on such elections, etc. CA 03/29/2023 Fav/CS FT FP	Fav/CS Yeas 5 Nays 3
7	SB 856 Rodriguez (Similar CS/CS/H 41)	Amendments to Land Development Regulations; Prohibiting an initiative or referendum process on land development regulation amendments, etc. CA 03/29/2023 Temporarily Postponed JU RC	Temporarily Postponed
8	SB 978 Bradley (Identical H 901)	Secured Transactions; Providing that a description of certain accounts and entitlements by a certain type of collateral is insufficient for the purpose of security agreements; providing legislative intent, etc. CM 03/20/2023 Favorable CA 03/29/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 29, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 980 Regulated Industries / Brodeur (Identical CS/H 341)	911 Public Safety Telecommunicator Certifications; Increasing the timeframe within which an inactive 911 public safety telecommunicator certificate may be reactivated before it permanently expires; deleting a process by which a certificateholder may voluntarily place his or her certificate in inactive status; prohibiting the Department of Health from requiring certificateholders to pay a fee or to make an election to place their certificates in inactive status, beginning on a specified date, etc. RI 03/14/2023 Fav/CS CA 03/29/2023 Favorable RC	Favorable Yeas 7 Nays 0
10	CS/SB 1034 Governmental Oversight and Accountability / Rodriguez (Similar H 613)	State-administered Retirement Systems; Authorizing specified correctional officers to elect to participate in the Deferred Retirement Option Program for an additional 36 months; providing a directive to the Division of Law Revision, etc. GO 03/15/2023 Fav/CS CA 03/29/2023 Favorable AP	Favorable Yeas 7 Nays 0
11	SB 1052 Berman (Similar CS/H 1001)	Exemptions for Totally and Permanently Disabled Veterans; Deleting a condition that a veteran or his or her surviving spouse have received a specified homestead tax exemption to qualify for a prorated refund of ad valorem taxes paid on homestead property acquired during a specified timeframe; specifying a requirement for qualifying for the prorated refund, etc. CA 03/29/2023 Favorable FT AP	Favorable Yeas 8 Nays 0
12	SB 1082 DiCeglie (Identical CS/H 847)	Floating Vessel Platforms; Removing a provision authorizing local governments to require permitting for certain floating vessel platforms; revising conditions under which local governments may require one-time registrations of floating vessel platforms, etc. EN 03/20/2023 Favorable CA 03/29/2023 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 29, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SB 1162 Regulated Industries / DiCeglie (Similar CS/H 821)	Renewable Energy Cost Recovery; Revising the types of contracts which are eligible for cost recovery by a public utility under certain circumstances; authorizing a public utility to recover prudently incurred renewable natural gas or hydrogen-based fuel infrastructure project costs through an appropriate Florida Public Service Commission cost-recovery mechanism; providing that such costs are not subject to further actions except under certain circumstances, etc. RI 03/21/2023 Fav/CS CA 03/29/2023 Fav/CS RC	Fav/CS Yeas 7 Nays 0
14	SB 1268 Rouson (Identical H 1195)	Urban Agriculture Pilot Projects; Redefining the term "urban agriculture" to include new commercial agricultural uses, etc. AG 03/13/2023 Favorable CA 03/29/2023 Favorable RC	Favorable Yeas 8 Nays 0
15	SB 1310 DiCeglie (Similar CS/H 1109)	Expanding Public Sector Career Opportunities; Citing this act as the "Expanding Public Sector Career Opportunities Act"; providing requirements for hiring considerations by public employers; providing that a postsecondary degree may be a baseline requirement under a certain circumstance; authorizing an applicant to appeal a hiring consideration to the Department of Management Services; authorizing the head of an employing agency to elect to substitute certain work experience for postsecondary educational requirements for a person seeking to enter into a contract with the employing agency under certain circumstances, etc. GO 03/22/2023 Favorable CA 03/29/2023 Fav/CS RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 29, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	SB 1368 Wright (Similar CS/H 1367)	Unlawful Dumping; Specifying that it is unlawful to dump litter in or on any water control district property or canal right-of-way without specified consent; providing that when litter is thrown or discarded from a boat, the operator or owner, or both, are in violation of certain provisions; requiring a water control district board of directors member or district manager to report an unlawful dumping to the appropriate law enforcement agencies; revising the definition of the term "posted land" to include land owned by a water control district which has no trespassing signs placed at specified points, etc.	Fav/CS Yeas 8 Nays 0
		EN 03/20/2023 Favorable CA 03/29/2023 Fav/CS RC	

Other Related Meeting Documents



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
3/16/23	SM	Favorable
3/20/23	JU	Favorable
3/27/23	CA	Favorable

March 16, 2023

The Honorable Kathleen Passidomo
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 10** – Senator Gruters
HB 6019 – Representative Buchanan
Relief of Kristen A. Stewart by Sarasota County

SPECIAL MASTER’S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$5,750,000, SUPPORTED BY SARASOTA COUNTY. KRISTEN A. STEWART SEEKS DAMAGES FROM SARASOTA COUNTY FOR PERSONAL INJURIES AND DAMAGES SUSTAINED IN A MOTOR VEHICLE ACCIDENT RESULTING FROM THE NEGLIGENT OPERATION OF A SARASOTA COUNTY VEHICLE.

FINDINGS OF FACT:

The Accident

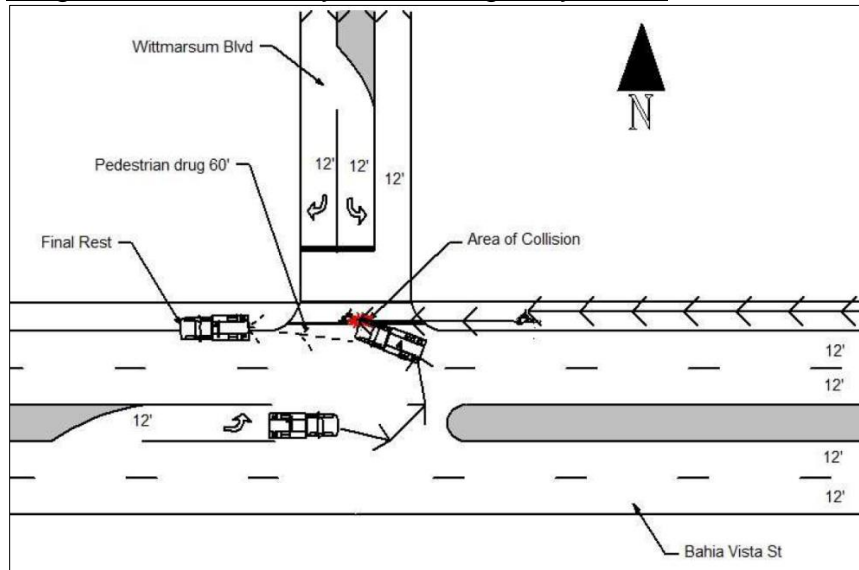
On May 13, 2020, at around 1:30 p.m., Claimant, Ms. Kristin A. Stewart was on her regular daily run traveling westbound on the sidewalk adjacent to Bahia Vista Drive in Sarasota County.¹ A Sarasota County utility vehicle operated by a county employee of 33 years,² Mr. Tsuguo Kanayama, struck her from behind, ran her over, and dragged her beneath the vehicle for a distance of approximately 60 to 65

¹ The Claimant was a second grade teacher at Southside Elementary School in Sarasota, Florida. During the time of accident, because of the Covid-19 pandemic, in-person classes were suspended and the claimant was teaching via remote technology. She had a mid-day break from teaching during this time and would run eight to ten miles, shower, and then resume teaching.

² Kanayama Deposition, Phipps Reporting, May 25, 2021, 18:8-13.

feet.³ The vehicle came to rest with the right front tire atop Ms. Stewart, who was awake and conscious throughout the incident. Ms. Stewart requested Mr. Kanayama back the utility vehicle off her body. Mr. Kanayama backed off of Ms. Stewart and then dialed 911.

Diagram of Accident by Florida Highway Patrol



Injuries⁴

Ms. Stewart sustained many internal and external injuries. She was transported from the scene to the emergency department as a level 1 trauma patient and initially presented with:

- Hypotension;
- Multiple large soft tissue defects to her abdomen and bilateral hips;
- Puncture wound to her left elbow; and
- Multiple areas of road rash.

After examination it was determined that in addition to the severe external injuries, Ms. Stewart had sustained multiple life-threatening internal injuries, to include:

- Multiple pelvic fractures;
- Multiple rib fractures;
- Thoracic and lumbar transverse process fractures;
- Liver laceration; and

³ Florida Traffic Crash Report #88323999-03, May 13, 2020, 2. (Claimant's Exhibit #4).

⁴ Sarasota Memorial Hospital, Trauma Discharge Summary, May 13, 2020, 1-2.

- Kidney bruising.

The injuries were further detailed in the Settlement Agreement between Ms. Stewart and Sarasota County as “tearing the skin off her torso, both hips, both arms, and tearing the hair out of the top of her scalp. The weight of the Sarasota County truck crushed her pelvis with a grade 3 open book pelvis fracture, lacerated her liver nearly in half with a grade 4 laceration, injured her lungs, kidneys, and colon, in addition to breaking five of [her] ribs and her vertebral body transverse processes . . . [she] did not lose consciousness at any time before, during or after being run over and dragged . . . and was awake, aware and conscious of the injuries inflicted on her.”⁵

Ms. Stewart had a 15-day hospital admission followed by months of home health care, wound care, physical therapy, occupational therapy, surgical debridements, surgical removal of skin grafts, surgical harvesting of skin for grafting onto her injuries, wound revision surgery, and psychological treatment for post-traumatic stress disorder and anxiety.⁶

Settlement

Ms. Stewart and Sarasota County have entered into a settlement agreement for a total of \$5,950,000. Claimant has received \$200,000 from Sarasota County and seeks the remaining \$5,750,000.

Sarasota County supports the claim bill and reports that \$1,000,000 of the funds will be paid through a general liability insurance policy and the remaining \$4,750,00 from their self-funded risk pool, and that the relief will not affect the operations of the County.

CLAIM BILL HEARING:

On January 20, 2023, the House and Senate special masters held a half-day hearing in the matter of SB 10 (2023), Relief of Kristen A. Stewart by Sarasota County.

Both parties stipulated to all exhibits submitted into evidence by the Claimant. Respondent’s attorney made it clear that Sarasota was in full support of the claim bill and would not be presenting any evidence counter to the Claimant or settlement

⁵ Settlement Agreement, pg. 1 paragraph A.

⁶ Settlement Agreement, pg. 1 paragraph B.

agreement. Both parties cooperated fully with the House and Senate and responded to all requests for information.

Claimant's Case-in-Chief

Claimant's attorney presented a narrative recitation of the facts as stipulated by the parties detailing Ms. Stewart's life before the accident, the accident, the details of Ms. Stewart's life after the accident, injuries, recovery, and the related elements of a negligence claim

The Claimant, Ms. Stewart, testified as to the day of the accident, her quality of life before and after the accident, her injuries and ongoing recovery.

Respondent's Case-in-Chief

Sarasota County had previously admitted liability in a settlement agreement,⁷ waived its right to present a case-in-chief during the claim bill hearing, and reiterated its full support of the claim bill. The Respondent did not present or contest any evidence, theories, or arguments

CONCLUSIONS OF LAW:

Under the legal doctrine of *respondeat superior*, Sarasota County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment.⁸ Because Mr. Kanayama was operating a county-owned vehicle in the course and scope of his employment at the time of the accident, the County is responsible for any wrongful acts, including negligence, committed by Mr. Kanayama.

Elements of Negligence

When a plaintiff seeks to recover financial damages in a negligence action, she must prove that the injury was caused by the defendant's negligence. Negligence is defined as the failure to use reasonable care. It is the care that a reasonably careful person would use under like circumstances.⁹

⁷ Settlement Agreement between Kristen A. Stewart and Sarasota County, signed July 20, 2022, pg. 2 para. G.

⁸ *Cintron v. St. Joseph's Hospital, Inc.*, 112 So. 3d 685, 686 (Fla. 2d DCA 2013) (employers are "liable for the negligence of their employees for wrongful acts committed within the course and scope of their employment.").

⁹ Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant's action was a breach of the duty that the defendant owed to the plaintiff. The "greater weight of the evidence" burden of proof means the more persuasive and convincing force and effect of the entire evidence in the case.¹⁰ Some explain the "greater weight of the evidence" concept to mean that, if each party's evidence is placed on a balance scale, the side that dips down, even by the smallest amount, has met the burden of proof by the greater weight of the evidence.

To establish liability, a Claimant must prove these elements, by the greater weight of the evidence:

- (1) Duty: The County owed a duty, or obligation, of care to Claimant;
- (2) Breach: The County breached that duty by not conforming to the standard required;
- (3) Causation: The breach of the duty was the legal cause of Claimant's injury; and
- (4) Damages: The Claimant suffered actual harm or loss.

In this case, the County's liability depends on whether the County breached its duty of care to Claimant and whether that breach caused her damages. Or, the issue is whether the County employee negligently operated the utility vehicle and whether that negligent operation caused Claimant's resulting physical injuries.

Duty

Mr. Kanayama, operating a county-owned vehicle in the course and scope of his employment with Sarasota County, was responsible for exercising a duty of reasonable care to all others while driving.

Florida law requires that a driver operate a vehicle in a careful and prudent manner, having regard for traffic and all other attendant circumstances, so as to not endanger the life, limb, or property of any person.¹¹

¹⁰ Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

¹¹ Section 316.1925, F.S.; *Gowdy v. Bell*, 993 So. 2d 585, 586 (Fla. 1st DCA 2008).

Florida law also requires that a driver shall not turn a vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic.¹²

Furthermore, Florida law defines “traffic” as “[p]edestrians . . . and vehicles . . . while using any street or highway for purposes of travel.”¹³

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Breach

Based on the stipulated facts and exhibits presented by the Claimant, it is evident that Mr. Kanayama violated ss. 316.1515 and 316.1925, F.S., as well as the required standard of reasonable care owed Ms. Stewart and all others when, during his operation of a county-owned utility vehicle, he struck, ran over, and dragged Ms. Stewart.

Mr. Kanayama's Breach

- 1) *Attempting a U-turn with insufficient space and time and driving into the marked pedestrian crosswalk.*

Mr. Kanayama attempted to execute a U-turn on Bahia Vista Street in an area that was too small to accommodate the large turning radius of the county utility vehicle he was operating and attempted that U-turn quicker than was reasonable. Mr. Kanayama was cited for careless driving at the scene¹⁴ and pled “admit/guilty” to the careless driving with serious bodily injury, adjudication withheld, resulting in the suspension of his driver’s license for three months and various fines.¹⁵

Mr. Kanayama admits to knowing what a turning radius is and that he knew before executing the U-turn that the utility vehicle’s turning radius was too large to make the U-turn without driving into the pedestrian walkway.¹⁶

¹² Section 316.1515, F.S.

¹³ Section 316.003(97), F.S.

¹⁴ See *supra* note 3, 2; Florida Uniform Traffic Citation, #ABSW11E.

¹⁵ Civil Hearing Court Appearance Record, County Court in and for Sarasota County, Florida, Case 2020-TR-014331-NC, August 6, 2020.

¹⁶ Kanayama Depo., 30:16-25 and 31:1-13.

Florida Highway Patrol Trooper Cantwell notes that Mr. Kanayama stated “he **observed eastbound traffic approaching** and made the U-turn in a **fast manner.**”¹⁷

Given the facts in record, it is easy to imagine how Mr. Kanayama determined that he needed to perform a U-turn and would need to cross into the marked crosswalk due to the turning radius of the utility vehicle. Then, noting the speed and distance of oncoming traffic, to quickly attempt to execute a U-turn knowingly entering the marked crosswalk before oncoming traffic was upon him. He breached his duty of care when he attempted to execute this U-turn with insufficient space and time and failed to yield to Ms. Stewart crossing in the marked crosswalk.

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

2) *Failing to see Ms. Stewart and striking her within a pedestrian zone.*

The conditions at the time of the accident are recorded as daylight, clear, and dry.¹⁸

The utility vehicle was a truck Mr. Kanayama drove every day, it was in good working order, and nothing was noted as wrong or out of the ordinary with the vehicle.¹⁹

Mr. Kanayama stated that he was not distracted and his vision was not obstructed.²⁰ Furthermore, Mr. Kanayama admitted that he did not see Ms. Stewart in the marked crosswalk.²¹

During the U-turn, he reports that he felt a shock and thought it was the vehicle going over the concrete gutter and continued to execute the U-turn to get the rear part of the vehicle out of oncoming traffic approaching on

¹⁷ See *supra* note 3.

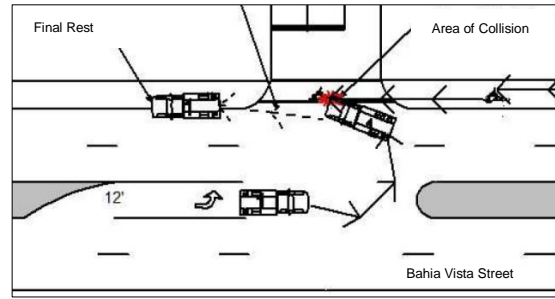
¹⁸ See *supra* note 3, 1.

¹⁹ Kanayama Depo., 26:8-15

²⁰ *Id.*

²¹ Kanayama Depo., 33:6-18.

Bahia Vista St.²² Mr. Kanayama only realized he had struck, run over, and dragged Ms. Stewart after he heard a sound, stopped the truck to investigate, and saw Ms. Stewart under the front of the utility vehicle.²³



Mr. Kanayama admitted in his deposition that he simply did not see Ms. Stewart in the marked crosswalk before, during, or immediately after his collision with her. He breached his duty of reasonable care when he attempted a U-turn that he knew would enter a marked pedestrian crosswalk and failed to sufficiently scan the area he was entering to see if anyone was in the crosswalk before driving his vehicle through.

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Causation

Negligence is “a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred.”²⁴

Comparative Negligence

Comparative negligence is the legal theory that a defendant may diminish his or her responsibility to an injured plaintiff by demonstrating that another person, sometimes the plaintiff and sometimes another defendant or even an unnamed party, was also negligent and that negligence contributed to the plaintiff’s injuries. The goal

²² Kanayama Depo., 35: 5-11

²³ Kanayama Depo., 35:12-23.

²⁴ Florida Civil Jury Instructions, 401.12(a) - Legal Cause, Generally.

of proving a successful comparative negligence defense is to hold other people responsible for the injuries they cause to a plaintiff. By apportioning damages among all who are at fault, it will ultimately reduce the amount of damages owed by a defendant.

While Sarasota County did raise comparative negligence as an affirmative defense in the initial answer to Ms. Stewart's complaint,²⁵ there has been no evidence presented that would attribute any negligence to Ms. Stewart or any other unnamed third party prior to the eventual settlement.

Based on the filings of the parties, the testimony at the claim hearing, and a thorough review of all relevant materials, I find that the greater weight of evidence demonstrates that Mr. Kanayama, as an agent of the County, had a duty of reasonable care to the public, failed to exercise that reasonable care, and that breach was the legal or proximate cause of the accident and responsible for the injuries that Ms. Stewart sustained. I also find that there is no comparative negligence by Ms. Stewart or any other unnamed third party.

Damages

As a result of the accident, doctors have indicated both physical and mental injuries that will require lifelong care and treatment. A plaintiff's damages are computed by adding economic and non-economic damages together.

Economic Damages

The claimant's attorney presented voluminous medical bills, statements, financial data, and economic reports that project Ms. Stewart's total damages to be \$5,950,000.

The Economic Loss Analysis presented by Ms. Stewart states that she has a remaining life expectancy of 44.81 years with work-life expectancy of 29.41 years.²⁶ The analysis calculates her pre-incident earning capacity as \$61,274.54 per year and her post-incident earning capacity as \$0. This post-incident earning capacity is based on the reports of Dr. Craig H. Lichtblau, that in his "medical opinion as a Board Certified

²⁵ Sarasota County's Answer, filed in the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida on January 12, 2021, Second Affirmative Defense, 3.

²⁶ Economic Loss Analysis in the Matter of Stewart, Kristin A. vs. Sarasota County, Raffa Consulting Economists, Inc., May 6, 2022, 2nd Revised Report, 2.

Physiatrist that this patient would not be able to maintain gainful employment in the competitive open labor market or in a sheltered environment with a benevolent employer secondary to acute, intermittent, exacerbations of chronic pain.”²⁷

Economic Damages	
Past Medical Care	\$917,251.49 ²⁸
Future Care Needs	\$388,538.00 ²⁹
Past Lost Earnings and Future Earning Capacity	\$1,927,498.00 ³⁰
Cost of future health/dental/vision insurance	\$156,568.00 ³¹
Total	\$3,389,855.49

Non-Economic Damages

At the special master hearing, the Claimant’s attorney did not provide evidence of a specific dollar amount for this category. However, it should be noted that the Florida Standard Jury Instructions state that there is no exact standard for measuring these damages. The jury instructions state that the amount should be a “fair and just” amount in light of the evidence presented to the jury.³² Based on the settlement agreement and the total of economic damages, the remaining difference of the settled amount is \$2,560,144.51

Conclusion

Economic Damages: \$3,389,855.49

Non-Economic Damages: \$2,560,144.51

The settled claim amount of \$5,950,00, to be paid by the County, seems reasonable based on the evidence presented.

There was no economic evidence presented by the Respondent to challenge or counter the reports and evidence submitted by the Claimant.

ATTORNEY FEES:

Section 768.28, Florida Statutes, limits the claimant’s attorney fees to 25 percent of the claimant’s total recovery reached by any judgment or settlement in a sovereign immunity claim. The Claimant’s attorney has acknowledged this limitation and

²⁷ Craig H. Lichtblau, M.D., P.A., Updated Summary Report for Kristen A. Stewart, February 15, 2022, 9.

²⁸ Settlement Agreement, 1 para. B.

²⁹ Economic Loss Analysis, Table 3, Option I – Most Probable Case Scenario, Present Value, 10.

³⁰ Economic Loss Analysis, Table 1, Present Value Analysis of the Loss of Earning Capacity, 7.

³¹ Economic Loss Analysis, Table 2, Present Value Analysis of Cost to Maintain Insurance, 8.

³² 501.2a, Personal Injury and Property Damages: Elements.

verified in writing that nothing in excess of 25 percent of the gross recovery will be withheld or paid as attorney and lobbyist fees.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that SB 10 be reported FAVORABLY.

Respectfully submitted,

Tyler C. Tuszynski
Senate Special Master

cc: Secretary of the Senate

By Senator Gruters

22-00070-23

202310__

1 A bill to be entitled
2 An act for the relief of Kristin A. Stewart by
3 Sarasota County; providing an appropriation to
4 compensate her for injuries sustained as a result of
5 the negligence of an employee of Sarasota County;
6 providing legislative intent regarding the waiver of
7 certain liens; providing limitations on compensation
8 and the payment of attorney fees, lobbying fees, and
9 costs or other similar expenses; providing an
10 effective date.

11
12 WHEREAS, on May 13, 2020, Kristin A. Stewart, then 35 years
13 of age, was jogging westbound on a pedestrian crosswalk next to
14 Bahia Vista Street at the intersection with Witmarsum Boulevard,
15 and

16 WHEREAS, at the same time, a Sarasota County Ford F-550
17 utility truck driven by an employee of Sarasota County traveling
18 eastbound on Bahia Vista Street performed a legal U-turn
19 maneuver at the intersection with Witmarsum Boulevard in order
20 to travel westbound, and

21 WHEREAS, the Sarasota County employee drove the utility
22 truck into the pedestrian crosswalk and failed to come to a stop
23 or otherwise yield to Ms. Stewart, who was jogging westbound in
24 the pedestrian crosswalk, and the truck struck Ms. Stewart from
25 behind, and

26 WHEREAS, after running Ms. Stewart over from behind, the
27 Sarasota County utility truck continued to drive, dragging Ms.
28 Stewart on the concrete sidewalk for 65 feet and tearing the
29 skin off her torso, both of her hips, and both of her arms;

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30 tearing the hair out of the top of her scalp; crushing her
31 pelvis with a grade 3 open book pelvic fracture; tearing her
32 liver nearly in half with a grade 4 liver laceration; injuring
33 her lungs, kidneys, and colon; and breaking five of Ms.
34 Stewart's ribs and her vertebral body transverse processes at
35 T11, T12, L1, L2, L3, L4, and L5, and

36 WHEREAS, Ms. Stewart did not lose consciousness at any time
37 during or after being run over and dragged by the utility truck
38 and was awake, aware, and conscious of the injuries inflicted on
39 her, and

40 WHEREAS, Ms. Stewart was designated as a trauma 1 patient
41 and transported emergently to Sarasota Memorial Hospital, where
42 she underwent surgical debridement of the degloving injuries to
43 her skin; surgery to graft cadaver skin onto her degloving
44 injuries; surgery to repair her lacerated liver; orthopedic
45 surgery to insert two large screws to reduce the injuries to her
46 pelvis; and intubation and mechanical ventilation due to a
47 collapsed lung and respiratory insufficiency, and

48 WHEREAS, Ms. Stewart's 15-day hospitalization was followed
49 by months of home health care; wound care; ongoing and
50 continuous physical therapy; occupational therapy; further
51 surgical debridements; surgical removal of allografts; surgical
52 harvesting of skin from her right thigh for grafting to the
53 degloving injuries on her torso, her hips, and her arms; wound
54 revision surgery; and medical and psychological treatment for
55 posttraumatic stress disorder (PTSD) and anxiety, and

56 WHEREAS, Ms. Stewart, through no fault of her own, suffered
57 and was treated for multiple traumatic injuries and has
58 suffered, and will continue to suffer, mental pain and anguish

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59 and the loss of enjoyment of life, and

60 WHEREAS, Ms. Stewart incurred medical care and treatment
61 costs related to her injuries which, as of May 24, 2022, total
62 \$917,251.49, and

63 WHEREAS, since the crash, Ms. Stewart has required costly
64 and continuous care and treatment, and she will require such
65 care and treatment for the remainder of her life, and

66 WHEREAS, as a result of her injuries, Ms. Stewart is
67 medically unable to return to her career as an elementary school
68 teacher due to her continued pain, physical limitations, and
69 PTSD and anxiety, which make her medically unemployable, and

70 WHEREAS, with a work-life expectancy of another 29 years,
71 the amount of Ms. Stewart's past lost earnings and future
72 earning capacity after reduction to present value is \$1,927,498,
73 and

74 WHEREAS, as a result of losing her career, Ms. Stewart will
75 lose the health insurance she had as a teacher and will have to
76 pay over her lifetime to replace that health insurance coverage,
77 which, after reduction to present value, totals \$156,568, and

78 WHEREAS, Ms. Stewart suffered severe and permanent bodily
79 injury, severe and permanent scarring and disfigurement over
80 large parts of her body, mental pain and anguish, disability,
81 pain and suffering, and the loss of ability to enjoy life from
82 the time of the accident going forward into the future, and

83 WHEREAS, Sarasota County admits that its employee was
84 solely at fault for running Ms. Stewart over from behind; that
85 its employee was acting within the course and scope of his
86 employment and driving Sarasota County's F-550 utility truck
87 when he ran Ms. Stewart over from behind; that Ms. Stewart did

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88 nothing wrong to cause or contribute to causing the incident
89 that permanently injured, disfigured, and disabled her; and that
90 the negligence of Sarasota County through the acts of its
91 employee was the sole cause of Ms. Stewart's injuries and
92 damages, and

93 WHEREAS, Ms. Stewart will require costly continuous care
94 and treatment for the remainder of her life, which treatment
95 will cost \$388,538 after reduction to present value, and

96 WHEREAS, in resolving the civil action brought in the
97 Circuit Court for the Twelfth Judicial Circuit, in and for
98 Sarasota County, Kristin A. Stewart vs. Sarasota County, Case
99 No. 2020 CA 005362 NC, a final judgment was entered in favor of
100 Kristin A. Stewart against Sarasota County on June 14, 2022, in
101 the amount of \$5.95 million, and

102 WHEREAS, the parties signed a settlement agreement under
103 the terms of which a total amount of \$5.95 million is to be paid
104 to Ms. Stewart, of which Sarasota County has paid \$200,000
105 pursuant to s. 768.28, Florida Statutes, and

106 WHEREAS, Sarasota County and its insurer, Colony Insurance
107 Company, have agreed to support this claim bill being rendered
108 against Sarasota County in this matter and will support any such
109 bill in the amount agreed upon in the settlement agreement, NOW,
110 THEREFORE,

111

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

113

114 Section 1. The facts stated in the preamble to this act are
115 found and declared to be true.

116 Section 2. In addition to the \$200,000 already paid to

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117 Kristin A. Stewart, Sarasota County is authorized and directed
118 to appropriate from funds not otherwise encumbered and to draw a
119 warrant in the sum of \$5.75 million payable to Kristin A.
120 Stewart as compensation for injuries and damages sustained due
121 to the negligence of an employee of Sarasota County.

122 Section 3. Excluding the federal portions of any liens,
123 Medicaid or otherwise, which the claimant must satisfy pursuant
124 to s. 409.910, Florida Statutes, it is the intent of the
125 Legislature that the lien interests relating to the care and
126 treatment of Kristin A. Stewart are hereby waived and
127 extinguished.

128 Section 4. The amount paid by Sarasota County pursuant to
129 s. 768.28, Florida Statutes, and the amount awarded under this
130 act are intended to provide the sole compensation for all
131 present and future claims arising out of the factual situation
132 described in this act which resulted in injuries and damages to
133 Kristin A. Stewart. The total amount paid for attorney fees
134 relating to this claim may not exceed 25 percent of the first 2
135 million dollars recovered and 20 percent of moneys recovered in
136 excess of 2 million dollars, the total amount paid for lobbying
137 fees may not exceed 5 percent of the amount recovered, and the
138 total amount paid for costs or other similar expenses may not
139 exceed \$88,709.64.

140 Section 5. This act shall take effect upon becoming a law.

March 29, 2023

The Florida Senate
APPEARANCE RECORD

SB 10

Meeting Date
Community Affairs

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

Bill Number or Topic

Committee
Matthew Blair

Amendment Barcode (if applicable)
(813) 527-0172

Name

Phone

Address
112 E Jefferson St.

Email
matt@corcoranpartners.com

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/29/23

Meeting Date

SB10

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Carter Scott

Phone 803-518-4149

Address 517 N Calhoun St

Email CWSC@SearcyLaw.com

Street

Tallahassee

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:

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 \(flsenate.gov\)](#)

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 518

INTRODUCER: Senator DiCeglie

SUBJECT: Public Records/Animals from an Animal Shelter

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Burse</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 518 provides an exemption from public records requirements for personal identifying information of those who adopt or foster from an animal shelter or animal control agency operated by a local government. The bill provides a statement of public necessity.

The public records exemption stands repealed on October 2, 2028, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

The bill takes effect July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

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

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

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

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST. art. I, s. 24(c).

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

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

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of 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

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

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

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

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

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., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

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.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

- 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?

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 sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Public or Private Animal Agencies Public Records

The records of a public animal shelter, humane organization, or animal control agency operated by a humane society must be made available to the public pursuant to provisions in ch. 119, F.S.²⁷ Both public and private animal shelters must maintain the following data for three years and make it available on a monthly basis:

- The total number of dogs and cats taken in by the animal shelter, humane organization, or animal control agency, divided into species, in the following categories:
 - Surrendered by owner;
 - Stray;
 - Impounded;
 - Confiscated;
 - Transferred from within Florida;
 - Transferred into or imported from out of the state; and
 - Born in shelter, and
- The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:
 - Adoption;

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S.

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 823.15(2)(b), F.S.

- Reclamation by owner;
- Death in kennel;
- Euthanasia at the owner's request;
- Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision;
- Euthanasia;
- Released in field/Trapped, Neutered, Released (TNR);
- Lost in care/missing animals or records; and
- Ending inventory/shelter count at end of the last day of the month²⁸.
- A public or private animal shelter, humane organization, or animal control agency operated by a humane society, or by a county, municipality, or other incorporated political subdivision which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.²⁹

Additionally, as a public entity, an animal shelter or animal control agency operated by a governmental entity is subject to public records requests. These records may include additional information, such as the identifying information of a person who adopts or fosters pets from the facility.

III. Effect of Proposed Changes:

Section 1 amends s. 823.15, F.S., to revise language related to the adoption of animals and public records. The bill creates a public record exemption for the name, address, telephone number, and e-mail address of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other political subdivision. The public records exemption stands repealed on October 2, 2028, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

Section 2 provides a statement of public necessity which is to shield those seeking to adopt and foster animals from the potential stalking, harassment, and intimidation from the animals' previous owners. The bill also provides that the need to protect the personal information of those seeking to adopt and foster animals overrides the state's public policy of open government.

Section 3 provides that this act shall take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁸ Section 823.15(2)(a)2., F.S.

²⁹ Section 823.15(2)(a)3., F.S.

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 creates an exemption, 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. This bill includes an adequate public necessity statement.

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 exemption in the bill 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 823.15 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 DiCeglie

18-00607-23

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1 A bill to be entitled
2 An act relating to public records; amending s. 823.15,
3 F.S.; providing an exemption from public records
4 requirements for records containing certain
5 information pertaining to persons with legal custody
6 of an animal from an animal shelter or animal control
7 agency operated by a local government; providing for
8 future legislative review and repeal of the exemption;
9 providing a statement of public necessity; providing
10 an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 823.15, Florida Statutes, is amended to
15 read:

16 823.15 Public or private animal agencies; sterilization
17 required for dogs and cats released; recordkeeping requirements;
18 microchipping; public records exemption.—

19 (1) The Legislature has determined that the importation of
20 dogs and cats into, and the uncontrolled breeding of dogs and
21 cats in, this state pose risks to the well-being of dogs and
22 cats, the health of humans and animals, and the agricultural
23 interests in this state. Importation of dogs and cats from
24 outside the United States could result in the transmission of
25 diseases that have been eradicated in the United States to dogs
26 and cats, other animals, and humans living in this state.
27 Uncontrolled breeding results in the birth of many more puppies
28 and kittens than are needed to provide pet animals to new owners
29 or to replace pet animals that have died or become lost. This

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30 leads to many dogs, cats, puppies, and kittens being unwanted,
31 becoming strays and suffering privation and death, being
32 impounded and destroyed at great expense to the community, and
33 constituting a public nuisance and public health hazard. It is
34 therefore declared to be the public policy of the state that
35 every feasible means be used to reduce the incidence of birth of
36 unneeded and unwanted puppies and kittens. Determining which
37 programs result in improved adoption rates and in reduced
38 euthanasia rates for animals in shelters and animal control
39 agencies is crucial to this effort.

40 (2) (a) Each public or private animal shelter, humane
41 organization, or animal control agency operated by a humane
42 organization or by a county, municipality, or other incorporated
43 political subdivision, shall prepare and maintain the following
44 records and make them available for public inspection and
45 dissemination for the 3 preceding years. The following data must
46 ~~will~~ be available on a monthly basis, commencing July 31, 2013:

47 1. The total number of dogs and cats taken in by the animal
48 shelter, humane organization, or animal control agency, divided
49 into species, in the following categories:

- 50 a. Surrendered by owner;
- 51 b. Stray;
- 52 c. Impounded;
- 53 d. Confiscated;
- 54 e. Transferred from within Florida;
- 55 f. Transferred into or imported from out of the state; and
- 56 g. Born in shelter.

57
58 Species other than domestic cats and domestic dogs should be

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59 recorded as "other."

60 2. The disposition of all animals taken in by a public or
61 private animal shelter, humane organization, or animal control
62 agency operated by a humane society or by a county,
63 municipality, or other incorporated political subdivision,
64 divided into species. These data must include dispositions by:

65 a. Adoption;

66 b. Reclamation by owner;

67 c. Death in kennel;

68 d. Euthanasia at the owner's request;

69 e. Transfer to another public or private animal shelter,
70 humane organization, or animal control agency operated by a
71 humane society or by a county, municipality, or other
72 incorporated political subdivision;

73 f. Euthanasia;

74 g. Released in field/Trapped, Neutered, Released (TNR);

75 h. Lost in care/missing animals or records; and

76 i. Ending inventory/shelter count at end of the last day of
77 the month.

78 3. A public or private animal shelter, humane organization,
79 or animal control agency operated by a humane society, or by a
80 county, municipality, or other incorporated political
81 subdivision which routinely euthanizes dogs based on size or
82 breed alone must provide a written statement of such policy.
83 Dogs euthanized due to breed, temperament, or size must be
84 recorded and included in the calculation of the total euthanasia
85 percentage.

86 (b) Records of a public animal shelter, humane
87 organization, or animal control agency operated by a humane

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88 society must be made available to the public pursuant to
89 provisions in chapter 119.

90 (3) In furtherance of this policy, provision must ~~shall~~ be
91 made for the sterilization of all dogs and cats sold or released
92 for adoption from any public or private animal shelter or animal
93 control agency operated by a humane society or by a county,
94 city, or other incorporated political subdivision, by either:

95 (a) Providing sterilization by a licensed veterinarian
96 before relinquishing custody of the animal; or

97 (b) Entering into a written agreement with the adopter or
98 purchaser guaranteeing that sterilization will be performed
99 within 30 days or prior to sexual maturity. The shelter or
100 animal control agency shall require a sufficient deposit from
101 the adopter or purchaser, which deposit must ~~shall~~ be refundable
102 upon presentation to the shelter or animal control agency of
103 written evidence by the veterinarian performing the
104 sterilization that the animal has been sterilized. The deposit
105 or donation may be based upon recommended guidelines established
106 by the Florida Federation of Humane Societies. Failure by either
107 party to comply with the provisions of this paragraph is ~~shall~~
108 ~~be~~ a noncriminal violation as defined in s. 775.08(3),
109 punishable by a fine, forfeiture, or other civil penalty, and,
110 in addition thereto, the deposit or donation shall be forfeited
111 to the shelter or animal control agency. Any legal fees or court
112 costs used for the enforcement of this paragraph are the
113 responsibility of the adopter. Upon the request of a licensed
114 veterinarian, and for a valid reason, the shelter or animal
115 control agency must ~~shall~~ extend the time limit within which the
116 animal must be sterilized.

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117 (4) All costs of sterilization pursuant to this section
118 must ~~shall~~ be paid by the prospective adopter unless otherwise
119 provided for by ordinance of the local governing body, with
120 respect to animal control agencies or shelters operated or
121 subsidized by a unit of local government, or provided for by the
122 humane society governing body, with respect to an animal control
123 agency or shelter operated solely by the humane society and not
124 subsidized by public funds.

125 (5) Employees, agents, or contractors of a public or
126 private animal shelter, a humane organization, or an animal
127 control agency operated by a humane organization or by a county,
128 municipality, or other incorporated political subdivision may
129 implant dogs and cats with radio frequency identification
130 microchips as part of their work with such public or private
131 animal shelter, humane organization, or animal control agency.

132 (6) Notwithstanding s. 474.2165, employees, agents, or
133 contractors of a public or private animal shelter, a humane
134 organization, or an animal control agency operated by a humane
135 organization or by a county, municipality, or other incorporated
136 political subdivision may contact the owner of record listed on
137 a radio frequency identification microchip to verify pet
138 ownership.

139 (7) The names and e-mail addresses, as well as the home
140 addresses and telephone numbers as those terms are defined in s.
141 119.071(4)(d), of persons who foster, adopt, or otherwise
142 receive legal custody of an animal from an animal shelter or
143 animal control agency operated by a county, municipality, or
144 other incorporated political subdivision in any record relating
145 to such animal and held by the shelter or agency are exempt from

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146 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
147 This subsection is subject to the Open Government Sunset Review
148 Act in accordance with s. 119.15 and shall stand repealed on
149 October 2, 2028, unless reviewed and saved from repeal through
150 reenactment by the Legislature.

151 Section 2. The Legislature finds that, as reflected in s.
152 823.15(1), Florida Statutes, it is an important public policy of
153 the state to encourage the fostering, adoption, and transfer of
154 animals and to reduce euthanasia rates for animals in animal
155 shelters and animal control agencies. Although such shelters and
156 agencies are motivated to find new homes or placements for
157 animals in their custody, potential fosterers, adopters, and
158 other persons considering receiving legal custody of animals may
159 become discouraged from fostering, adopting, or receiving legal
160 custody of the animals if the prior owners who lost or
161 surrendered legal custody of the animals, or who did not reclaim
162 the animals within the applicable time periods, can obtain the
163 personal identifying information of fosterers, adopters, and
164 other persons receiving legal custody of animals and attempt to
165 regain legal custody of the animals from such persons. The
166 Legislature finds that the stalking, harassment, and
167 intimidation of animal fosterers, adopters, and other persons
168 receiving legal custody of animals by prior animal owners, as
169 well as prior animal owners' theft of animals from such persons,
170 are threats to public safety and welfare and to the sanctity of
171 private property, the family, and the home. The Legislature
172 therefore finds that it is a public necessity that the names,
173 home addresses, e-mail addresses, and telephone numbers of
174 persons who foster, adopt, or otherwise receive legal custody of

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175 an animal from an animal shelter or animal control agency
176 operated by a county, municipality, or other incorporated
177 political subdivision in any record relating to such animal and
178 held by such shelter or agency be made exempt from s. 119.07(1),
179 Florida Statutes, and s. 24(a), Article I of the State
180 Constitution. The Legislature further finds that the need to
181 protect the names, home addresses, e-mail addresses, and
182 telephone numbers of animal fosterers, adopters, and other
183 persons receiving legal custody of animals is sufficiently
184 compelling to override the state's public policy of open
185 government and that the protection of such information cannot be
186 accomplished without this exemption.

187 Section 3. 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

3/29/23

Meeting Date

518

Bill Number or Topic

Community Affairs
Committed

Amendment Barcode (if applicable)

Name Diana Ferguson

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City

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State

32309

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Animal Control 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 \(flsenate.gov\)](#)

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 556

INTRODUCER: Senator Hooper

SUBJECT: Hurricane Protection for Condominium Associations

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 556 revises the requirements governing the installation and maintenance of hurricane protection in condominium associations. Under the bill, the term “hurricane protection” means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

The bill requires declarations for residential condominiums and mixed-use condominiums, which contain residential and commercial units, to specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection. Under the bill, residential and mixed-use condominiums created after July 1, 2023, must contain hurricane protection procedures for the condominium in the declaration of condominium documents creating the community. The bill applies to all residential and mixed-use condominiums in Florida, regardless of when the condominium was created. The bill provides that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a substantial addition to the common elements or association property.

Under the bill, a certificate attesting to a vote of the unit owners approving the installation of hurricane protection must be filed in the public records of the county where the condominium is located. The validity or enforceability of the vote of the unit owners is not affected by a failure to record the certificate or to send a copy of the recorded certificate to the unit owners.

The bill authorizes a board of administration for a condominium to require unit owners to adhere to an existing unified building scheme regarding the external appearance of the condominium. Under the bill, unit owners may be responsible for the costs of removal and reinstallation of any hurricane protection if the association is required to remove the hurricane protection for maintenance, repair or replacement of condominium property the association is obligated to maintain. The board must determine whether the removal or reinstallation is to be performed by

the association or unit owner. If the removal or reinstallation of hurricane protection is completed by the associations, the removal and reinstallation of hurricane protection is chargeable to the owner and may be enforced as an assessment. If the cost of installation of hurricane protection is the responsibility of unit owners pursuant to the declaration or a vote of the owners, the cost of installation by the association is not a common expense and may be charged to the unit owners based on the cost of installation.

The bill also provides that, if an owner has already installed code-compliant hurricane protection, the owner may be excused from the assessment levied by the association to fund the installation of hurricane protection or may receive credit equal to the amount the owner would have been charged for the installation. The credit only applies if the installation is for all other units lacking code-compliant hurricane protection and the expense of the installation is funded by the budget, including reserve funds. However, under current law and the bill, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such.

Under the bill, expenses for the installation, replacement, operation, and repair, or maintenance of hurricane protection on common elements and association property are common expenses enforceable against the unit owner as an assessment.

The bill takes effect July 1, 2023.

II. Present Situation:

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.¹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.² After control of the condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and maintenance of and unit owner access to association records.³ For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.⁴

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.⁵

¹ Sections 718.501(1) and 719.501(1), F.S.

² *Id.*

³ Section 718.501(1), F.S.

⁴ Section 719.501(1), F.S.

⁵ Sections 718.501(1) and 719.501(1), F.S.

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.⁶ Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.⁷

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S.,"⁸ the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.⁹ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.¹⁰

The "declaration" or "declaration of condominium" is the legal instrument by which a condominium is created. The declaration may be amended.¹¹

A condominium association is administered by a board of directors referred to as a "board of administration."¹² The board of administration (board) is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.¹³

Material Alterations

The common elements¹⁴ and the real property of a condominium association may not be materially altered or substantial additions may not be made to the property, except in the manner authorized in the declaration of condominium. If the declaration does not specify a procedure for making material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions before the material alterations or substantial

⁶ *Id.*

⁷ See ss. 720.303(10)(d) and 720.306(9)(c), F.S.

⁸ Section 718.103(11), F.S.

⁹ See s. 718.103, F.S., for the terms used in the Condominium Act.

¹⁰ *Id.*

¹¹ See s. 718.13(15), F.S., defining the terms "declaration" or "declaration of condominium;" and s. 718.104, F.S., relating to the creation of condominiums.

¹² Section 718.103(4), F.S.

¹³ Section 718.103(2), F.S.

¹⁴ Section 718.103(8), F.S., defines the term "common elements" to mean "the portions of the condominium property not included in the units."

additions may commence.¹⁵ A comparable requirement also applies to material alterations and substantial additions to the property of a multicondominium.¹⁶

Hurricane Protection

The board of administration of a residential condominium is required to adopt hurricane shutter specifications for each building within each condominium. The specifications must include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code.¹⁷

A contract to install hurricane protection, subject to the contract and written bids requirements in s. 718.3026, F.S., must be approved by a majority of voting interests of a residential condominium. A vote of the owners is not required if the maintenance, repair, and replacement of hurricane protection is the responsibility of the association pursuant to the declaration of condominium. If hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection that complies with or exceeds the current applicable building code has been previously installed, the board may not install hurricane protection without the approval of a majority vote of the voting interests.

The association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection (hurricane protection or hurricane protection products) if the association is responsible for hurricane protection under its declaration. If the hurricane protection products are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.¹⁸

The board may operate hurricane protection installed without permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or association property. The installation, replacement, operation, repair, and maintenance of hurricane protection is not a material alteration to the common elements or association property,¹⁹ if done in accordance with the procedures in s. 718.113(5), F.S.²⁰ Current law is silent regarding whether the installation, replacement, operation, repair, and maintenance of hurricane protection is considered a substantial addition to the common elements or association property.

Notwithstanding any other provision in the residential condominium documents, even if the board's approval is required, a board may not refuse to approve the installation or replacement of hurricane protection by a unit owner conforming to the specifications adopted by the board.²¹

¹⁵ Section 718.113(2)(a), F.S.

¹⁶ See ss. 718.113(2)(b) and (c), F.S. "Multicondominium" means real property containing two or more condominiums, all of which are operated by the same association. See s. 718.103(20), F.S.

¹⁷ Section 718.113(5), F.S.

¹⁸ Section 718.113(5)(b), F.S.

¹⁹ See s. 718.113(2), F.S., relating to material alterations and substantial additions to condominium property.

²⁰ Section 718.113(5)(c), F.S.

²¹ Section 718.113(5)(d), F.S.

The expense of installation, replacement, operation, repair, and maintenance of hurricane protection by a board is a common expense²² and must be collected by the association if it is responsible for the maintenance, repair, and replacement of hurricane protection pursuant to the declaration of condominium. If the maintenance, repair, and replacement of the hurricane protection is the responsibility of the unit owners pursuant to the declaration of condominium, the cost of the installation of hurricane protection is not a common expense and must be charged individually to the unit owners.²³

If a unit owner has previously installed building code-compliant hurricane shutters, the unit owner must receive a credit from the association when the shutters are installed by the association. If a unit owner has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code, the unit owner must receive a credit when the impact glass or code-compliant windows or doors are installed. Additionally, if a unit owner has installed other types of code-compliant hurricane protection that comply with the current applicable building code, the unit owner must receive a credit when the same type of other code-compliant hurricane protection is installed. The credit must be equal to the pro rata portion of the assessed installation cost assigned to each unit.²⁴

However, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board. A unit owner is also responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of hurricane protection.²⁵

III. Effect of Proposed Changes:

Definition

The bill creates s. 718.103(18), F.S., to define the term “hurricane protection” to mean hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Declaration of Condominium

The bill amends s. 718.104(4), F.S., to require declarations for residential condominiums and mixed-use condominiums²⁶ to specify whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property. Under the

²² Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the common elements and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in the foregoing, designated as common expense by ch. 718, F.S., the declaration, the documents creating the association, or the bylaws. *See* s. 718.115(1)(a), F.S.

²³ Section 718.115(1)(e), F.S.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 718.103(23), F.S., provides that a condominium which contains both commercial and residential units is a mixed-use condominium. *See also*, s. 718.404, F.S., relating to mixed-use condominiums.

bill, condominiums created after July 1, 2023, must contain hurricane protection procedures for the condominium in the declaration of condominium creating the community.

Application to Residential and Mixed-Use Condominiums

Section 718.113(5), F.S., is amended by the bill to apply the installation of hurricane protection requirements to all residential and mixed-use condominiums in Florida, regardless of when the condominium is created pursuant to the declaration of condominium.

Material Alterations and Substantial Additions to Condominium Property

The bill also amends s. 718.113(5), F.S., to provide that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a substantial addition to the common elements or association property. It maintains the provision in current law that the installation, replacement, operation, repair, and maintenance of hurricane protection is not a material alteration to the common elements or association property.

Approval Process

The bill amends s. 718.113(5)(a), F.S., to provide that a vote of the unit owners to approve the installation of hurricane protection must be set forth in a certificate attesting to the vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county where the condominium is located. The certificate must include the recording data identifying the declaration of the condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at the owners' address as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The validity or enforceability of the vote of the unit owners is not affected by a failure to record the certificate or to send a copy of the recorded certificate to the unit owners.

Section 718.113(5)(a), F.S., is also amended by the bill to provide that an association's process for installing, maintaining, repairing, and replacing hurricane protection, or windows and doors protected by the hurricane protection, may be established in the originally recorded declaration or an amended declaration. Current law only references the declaration, not the original recorded declaration and an amended declaration.

Section 718.113(5)(c), F.S., as amended by the bill, authorizes boards to require unit owners to adhere to an existing unified building scheme regarding the external appearance of the condominium.

Assigning Costs

The bill amends s. 718.113(5)(d), F.S., to provide that unit owners may be responsible for the costs of removal and reinstallation of any hurricane protection if the association is required to remove the hurricane protection for maintenance, repair or replacement of condominium

property for which the association is obligated to maintain. The board must determine whether the removal or reinstallation is to be performed by the association or unit owner. If the removal or reinstallation of hurricane protection is completed by the associations, the removal and reinstallation of hurricane protection is chargeable to the owner and may be enforced as an assessment.

Section 718.115(1)(e), F.S., is amended by the bill to provide that, if the cost of installation of hurricane protection is the responsibility of unit owners pursuant to the declaration or a vote of the owners, the cost of installation by the association is not a common expense and may be charged to the unit owners based on the cost of installation. The cost of installation is enforceable against the unit owner as an assessment.

The bill amends s. 718.115(1)(e), F.S., to provide that, if an owner has already installed code-compliant hurricane protection, the owner may be excused from the assessment levied by the association to fund the installation of hurricane protection or may receive a credit equal to the amount the owner would have been charged for the installation. The credit only applies if the hurricane protection installed by the unit owner complies with the current building code and is the same type installed by the association. Additionally, the credit applies only if the installation is for all other units lacking code-compliant hurricane protection and the expense of the installation is funded by the budget, including reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. However, under current law and the bill, a unit owner remains responsible for the pro rata share of expenses for hurricane protection installed on common elements and association property by the board and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such.

The bill also provides that expenses for the installation, replacement, operation, and repair, or maintenance of hurricane protection on common elements and association property are common expenses. Current law provides that these expenses are common expenses if the association is responsible for these hurricane protection expenses under the declaration.

Effective Date

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.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

A declaration of condominium is a contract. To the extent this bill affects previously recorded declarations, the bill may unconstitutionally impair contract, under s. 10, Art. I, Fla. Const., which provides in relevant part, “No... law impairing the obligation of contracts shall be passed.” This provision empowers the courts to strike laws that retroactively burden or alter contractual relations. Article I, s. 10 of the United States Constitution provides in relevant part that “No state shall . . . pass any . . . law impairing the obligation of contracts.”

In *Pomponio v. Claridge of Pompano Condominium, Inc.*,²⁷ the Florida Supreme Court stated that some degree of flexibility has developed over the last century in interpreting the contract clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The court set forth several factors in balancing whether a state law operates as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear. The court stated that if there is minimal alteration of contractual obligations the inquiry can end at its first stage. Severe impairment can push the inquiry to a careful examination of the nature and purpose of the state legislation. The factors to be considered are:

- Was the law enacted to deal with a broad, generalized economic or social problem;
- Does the law operate in an area that was already subject to state regulation at the time the contract was entered into; and
- Is the law’s effect on the contractual relationships temporary or whether is it severe, permanent, immediate, and retroactive.²⁸

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

None.

²⁷ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

²⁸ *Id.* at 779.

B. Private Sector Impact:

The installation and maintenance of hurricane protection may reduce the costs of property, casualty, and windstorm insurance for condominium associations and unit owners.

Installation of hurricane protection may increase costs to condominium unit owners and associations.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.103, 718.104, 718.113, 718.115

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 Hooper

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1 A bill to be entitled
2 An act relating to hurricane protection for
3 condominium associations; amending s. 718.103, F.S.;
4 defining the term "hurricane protection"; amending s.
5 718.104, F.S.; requiring declarations to specify the
6 entity responsible for the installation, maintenance,
7 repair, or replacement of hurricane protection;
8 amending s. 718.113, F.S.; providing applicability;
9 authorizing, rather than requiring, certain hurricane
10 protection specifications; specifying that certain
11 actions are not material alterations or substantial
12 additions; authorizing the boards of residential and
13 mixed-use condominiums to install or require the unit
14 owners to install hurricane protection; requiring a
15 vote of the unit owners for the installation of
16 hurricane protection; requiring that such vote be
17 attested to in a certificate and recorded in certain
18 public records; providing requirements for such
19 certificate; providing that the validity or
20 enforceability of a vote of the unit owners is not
21 affected if the board fails to record a certificate or
22 send a copy of the recorded certificate to the unit
23 owners; providing that a vote of the unit owners is
24 not required under certain circumstances; prohibiting
25 installation of the same type of hurricane protection
26 previously installed; providing exceptions;
27 prohibiting the boards of residential and mixed-use
28 condominiums from refusing to approve certain
29 hurricane protections; authorizing the board to

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30 require owners to adhere to certain guidelines
31 regarding the external appearance of a condominium;
32 revising responsibility for the removal or
33 reinstallation of hurricane protection; authorizing
34 the association to charge certain expenses to unit
35 owners; specifying that such charges are enforceable
36 as assessments under certain circumstances; amending
37 s. 718.115, F.S.; specifying when the cost of
38 installation of hurricane protection is not a common
39 expense; authorizing certain expenses to be
40 enforceable as assessments; requiring certain unit
41 owners to be excused from certain assessments or to
42 receive a credit for hurricane protection that has
43 been installed; providing credit applicability under
44 certain circumstances; providing for the amount of
45 credit that a unit owner must receive; specifying that
46 certain expenses are common expenses; providing an
47 effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Present subsections (18) through (31) of section
52 718.103, Florida Statutes, are redesignated as subsections (19)
53 through (32), respectively, and a new subsection (18) is added
54 to that section, to read:

55 718.103 Definitions.—As used in this chapter, the term:
56 (18) "Hurricane protection" means hurricane shutters,
57 impact glass, code-compliant windows or doors, and other code-
58 compliant hurricane protection products used to preserve and

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59 protect the condominium property or association property.

60 Section 2. Paragraph (p) is added to subsection (4) of
61 section 718.104, Florida Statutes, to read:

62 718.104 Creation of condominiums; contents of declaration.-
63 Every condominium created in this state shall be created
64 pursuant to this chapter.

65 (4) The declaration must contain or provide for the
66 following matters:

67 (p) For both residential condominiums and mixed-use
68 condominiums, specify whether the unit owner or the association
69 is responsible for the installation, maintenance, repair, or
70 replacement of hurricane protection that is for the preservation
71 and protection of the condominium property and association
72 property.

73 Section 3. Subsection (5) of section 718.113, Florida
74 Statutes, is amended to read:

75 718.113 Maintenance; limitation upon improvement; display
76 of flag; hurricane ~~shutters and~~ protection; display of religious
77 decorations.-

78 (5) To protect the health, safety, and welfare of the
79 people of this state and to ensure uniformity and consistency in
80 the hurricane protections installed by condominium associations
81 and unit owners, this subsection applies to all residential and
82 mixed-use condominiums in this state, regardless of when the
83 condominium is created pursuant to the declaration of
84 condominium. Each board of administration of a residential
85 condominium or mixed-use condominium must ~~shall~~ adopt hurricane
86 protection shutter specifications for each building within each
87 condominium operated by the association which may ~~shall~~ include

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88 color, style, and other factors deemed relevant by the board.
89 All specifications adopted by the board must comply with the
90 applicable building code. The installation, maintenance, repair,
91 replacement, and operation of hurricane protection in accordance
92 with this subsection is not considered a material alteration or
93 substantial addition to the common elements or association
94 property within the meaning of this section.

95 (a) The board may, subject to s. 718.3026 and the approval
96 of a majority of voting interests of the residential condominium
97 or mixed-use condominium, install or require that unit owners
98 install hurricane shutters, impact glass, code-compliant windows
99 or doors, or other types of code-compliant hurricane protection
100 that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable
101 building code. A vote of the unit owners to require the
102 installation of hurricane protection must be set forth in a
103 certificate attesting to such vote and include the date that the
104 hurricane protection must be installed. The board must record
105 the certificate in the public records of the county where the
106 condominium is located. The certificate must include the
107 recording data identifying the declaration of the condominium
108 and must be executed in the form required for the execution of a
109 deed. Once the certificate is recorded, the board must mail or
110 hand-deliver a copy of the recorded certificate to the unit
111 owners at the owners' address as reflected in the records of the
112 association. The board may provide a copy of the recorded
113 certificate by electronic transmission to unit owners who
114 previously consented to receive notice by electronic
115 transmission. The failure to record the certificate or send a
116 copy of the recorded certificate to the unit owners does not

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117 affect the validity or enforceability of the vote of the unit
118 owners. ~~However,~~ A vote of the unit owners under this paragraph
119 is not required if the installation, maintenance, repair, and
120 replacement of the hurricane shutters, impact glass, code-
121 compliant windows or doors, or other types of code-compliant
122 hurricane protection, or any exterior windows, doors, or other
123 apertures protected by the hurricane protection, is are the
124 responsibility of the association pursuant to the declaration of
125 condominium as originally recorded or as amended, or if the unit
126 owners are required to install hurricane protection pursuant to
127 the declaration of condominium as originally recorded or as
128 amended. If hurricane protection ~~or laminated glass or window~~
129 ~~film architecturally designed to function as hurricane~~
130 ~~protection~~ that complies with or exceeds the current applicable
131 building code has been previously installed, the board may not
132 install the same type of hurricane shutters, impact glass, code-
133 compliant windows or doors, or other types of code-compliant
134 hurricane protection or require that unit owners install the
135 same type of hurricane protection unless the installed hurricane
136 protection has reached the end of its useful life or is
137 necessary to prevent damage to the common elements or to a unit
138 ~~except upon approval by a majority vote of the voting interests.~~

139 ~~(b) The association is responsible for the maintenance,~~
140 ~~repair, and replacement of the hurricane shutters, impact glass,~~
141 ~~code-compliant windows or doors, or other types of code-~~
142 ~~compliant hurricane protection authorized by this subsection if~~
143 ~~such property is the responsibility of the association pursuant~~
144 ~~to the declaration of condominium. If the hurricane shutters,~~
145 ~~impact glass, code-compliant windows or doors, or other types of~~

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146 ~~code-compliant hurricane protection are the responsibility of~~
147 ~~the unit owners pursuant to the declaration of condominium, the~~
148 ~~maintenance, repair, and replacement of such items are the~~
149 ~~responsibility of the unit owner.~~

150 ~~(b)(e)~~ The board may operate ~~shutters, impact glass, code-~~
151 ~~compliant windows or doors, or other types of code-compliant~~
152 ~~hurricane protection installed pursuant to this subsection~~
153 ~~without permission of the unit owners only if such operation is~~
154 ~~necessary to preserve and protect the condominium property or~~
155 ~~and association property. The installation, replacement,~~
156 ~~operation, repair, and maintenance of such shutters, impact~~
157 ~~glass, code-compliant windows or doors, or other types of code-~~
158 ~~compliant hurricane protection in accordance with the procedures~~
159 ~~set forth in this paragraph are not a material alteration to the~~
160 ~~common elements or association property within the meaning of~~
161 ~~this section.~~

162 ~~(c)(d)~~ Notwithstanding any other provision in the
163 residential condominium or mixed-use condominium documents, if
164 approval is required by the documents, a board may not refuse to
165 approve the installation or replacement of ~~hurricane shutters,~~
166 ~~impact glass, code-compliant windows or doors, or other types of~~
167 ~~code-compliant~~ hurricane protection by a unit owner which
168 conforms ~~conforming~~ to the specifications adopted by the board.
169 However, a board may require the unit owner to adhere to an
170 existing unified building scheme regarding the external
171 appearance of the condominium.

172 (d) A unit owner may be responsible for the cost of any
173 removal or reinstallation of hurricane protection if the unit
174 owner installed the hurricane protection and its removal is

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175 necessary for the maintenance, repair, or replacement of the
 176 condominium property or association property for which the
 177 association is responsible. The board shall determine if the
 178 removal or reinstallation of hurricane protection must be
 179 completed by the unit owner or the association. If such removal
 180 or reinstallation is completed by the association, the costs
 181 incurred by the association may be charged to the unit owner. If
 182 the association charges the unit owner for the removal or
 183 installation of hurricane protection, such charges are
 184 enforceable as an assessment and may be collected in the manner
 185 provided under s. 718.116.

186 Section 4. Paragraph (e) of subsection (1) of section
 187 718.115, Florida Statutes, is amended to read:

188 718.115 Common expenses and common surplus.-

189 (1)

190 (e)1. ~~The expense of installation, replacement, operation,~~
 191 ~~repair, and maintenance of hurricane shutters, impact glass,~~
 192 ~~code-compliant windows or doors, or other types of code-~~
 193 ~~compliant hurricane protection by the board pursuant to s.~~
 194 ~~718.113(5) constitutes a common expense and shall be collected~~
 195 ~~as provided in this section if the association is responsible~~
 196 ~~for the maintenance, repair, and replacement of the hurricane~~
 197 ~~shutters, impact glass, code-compliant windows or doors, or~~
 198 ~~other types of code-compliant hurricane protection pursuant to~~
 199 ~~the declaration of condominium. However, If the installation of~~
 200 ~~maintenance, repair, and replacement of the hurricane shutters,~~
 201 ~~impact glass, code-compliant windows or doors, or other types of~~
 202 ~~code-compliant hurricane protection is are the responsibility of~~
 203 ~~the unit owners pursuant to the declaration of condominium or a~~

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204 vote of the unit owners under s. 718.113(5), the cost of the
205 installation of ~~the hurricane shutters, impact glass, code-~~
206 ~~compliant windows or doors, or other types of code-compliant~~
207 hurricane protection by the association is not a common expense
208 and must ~~shall~~ be charged individually to the unit owners based
209 on the cost of installation of ~~the hurricane shutters, impact~~
210 ~~glass, code-compliant windows or doors, or other types of code-~~
211 ~~compliant~~ hurricane protection appurtenant to the unit. The
212 costs of installation of hurricane protection are enforceable as
213 an assessment and may be collected in the manner provided under
214 s. 718.116.

215 2. Notwithstanding s. 718.116(9), and regardless of whether
216 ~~or not~~ the declaration requires the association or unit owners
217 to install, maintain, repair, or replace ~~hurricane shutters,~~
218 ~~impact glass, code-compliant windows or doors, or other types of~~
219 ~~code-compliant~~ hurricane protection, the a-unit owner of a unit
220 where ~~who~~ has previously installed hurricane shutters in
221 accordance with s. 718.113(5) that comply with the current
222 applicable building code shall receive a credit when the
223 shutters are installed; a unit owner who has previously
224 installed impact glass or code-compliant windows or doors that
225 comply with the current applicable building code shall receive a
226 credit when the impact glass or code-compliant windows or doors
227 are installed; and a unit owner who has installed other types of
228 code-compliant hurricane protection that complies ~~comply~~ with
229 the current applicable building code has been installed is
230 excused from any assessment levied by the association or shall
231 receive a credit if ~~when~~ the same type of ~~other code-compliant~~
232 hurricane protection is installed by the association, ~~and the~~

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233 ~~credit shall be equal to the pro rata portion of the assessed~~
234 ~~installation cost assigned to each unit. A credit is applicable~~
235 ~~if the installation of hurricane protection is for all other~~
236 ~~units that do not have hurricane protection and the cost of such~~
237 ~~installation is funded by the association's budget, including~~
238 ~~the use of reserve funds. The credit must be equal to the amount~~
239 ~~that the unit owner would have been assessed to install the~~
240 ~~hurricane protection.~~ However, such unit owner remains
241 responsible for the pro rata share of expenses for hurricane
242 ~~shutters, impact glass, code-compliant windows or doors, or~~
243 ~~other types of code-compliant~~ hurricane protection installed on
244 common elements and association property by the board pursuant
245 to s. 718.113(5) and remains responsible for a pro rata share of
246 the expense of the replacement, operation, repair, and
247 maintenance of such ~~shutters, impact glass, code-compliant~~
248 ~~windows or doors, or other types of code-compliant~~ hurricane
249 protection. Expenses for the installation, replacement,
250 operation, repair, or maintenance of hurricane protection on
251 common elements and association property are common expenses.

252 Section 5. 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

3/29/23

Meeting Date

Community Affairs

Committee

556

Bill Number or Topic

Amendment Barcode (if applicable)

Name

TRAVIS MOORE

Phone

727.421.6902

Address

P.O. Box 2020

Street

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City

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State

FL

Zip

33731

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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Community Associations Institute

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 566

INTRODUCER: Community Affairs Committee and Senator Wright

SUBJECT: Ad Valorem Tax Exemption for Nonprofit Homes for the Aged

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 566 modifies the ownership structures that will allow a nonprofit home for the aged to qualify for an exemption from ad valorem taxation. Currently, the owner may be a not-for-profit corporation, or a Florida limited partnership, the sole general partner of which is a not-for-profit corporation. The bill allows the exemption for homes owned by a Florida limited partnership whose sole general partner is an entity which is wholly owned by a not-for-profit corporation and not a licensed assisted care community.

The Revenue Estimating Conference has reviewed this bill. See Section V. Fiscal Impact Statement.

The bill takes effect January 1, 2024.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Ad Valorem Tax Exemption for Homes for the Aged

Florida exempts nonprofit homes for the aged from property tax; however, the property must be owned in one of two ways: (1) owned directly by a not-for-profit corporation, or (2) owned by a Florida limited partnership whose sole general partner is a not-for-profit corporation.⁸

A qualified home for the aged is a residence where at least 75 percent of the occupants are over 62 years in age or totally and permanently disabled.⁹ If the home qualifies, the exemption applies to units or apartments reserved for or occupied by a permanent resident of this state who is:

- An individual with a gross income of no more than \$35,988 per year who is at least 62 years of age or is totally and permanently disabled;¹⁰

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ Section 196.1975(1), F.S.

⁹ Section 196.1975(2), F.S.

¹⁰ The original statutory income threshold of \$20,000 is adjusted annually by the percentage change in the average cost-of-living index. See s. 196.1975(4), F.S. See Florida Department of Revenue, *Cost of Living Adjustments*, available at: <https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last visited Feb. 3, 2022).

- A couple with a combined gross income of no more than \$40,403 per year, or the surviving spouse of such a couple, if the surviving spouse lived with the deceased at the time of the deceased's death in a home for the aged, at least one of whom must be at least 62 years of age or is totally and permanently disabled;¹¹ or
- A totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S., regardless of income.

Common areas of the home for the aged are exempt if 25 percent or more of the units or apartments are restricted to or occupied by persons who meet the income requirements.¹²

The facility must annually file an application for exemption with the property appraiser and submit an affidavit from each person residing in a unit or apartment claiming an exemption.¹³ The person signing the affidavit must attest that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 196.1975, F.S., to provide that a nonprofit home for the aged owned by a Florida limited partnership, the sole general partner of which is an entity which is in turn wholly owned by a not-for-profit corporation qualifies for the associated ad valorem property tax exemption. The bill specifically excludes those facilities licensed under ch. 429, F.S., which include assisted living facilities, adult family-care homes, and adult day care centers.

The bill takes effect January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 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 mandate requirement does not apply to laws having an insignificant impact,¹⁵ which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.¹⁶

¹¹ *Id.*

¹² Section 196.1975(8), F.S.

¹³ Section 196.1975(9)(b), F.S.

¹⁴ *Id.*

¹⁵ FLA. CONST. art. VII, s. 18(d).

¹⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 15, 2023).

The Revenue Estimating Conference estimated that the bill provisions will reduce local impact by \$100,000 beginning in Fiscal Year 2024-2025. Therefore, the mandates provision likely does not apply.

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:

The Revenue Estimating Conference reviewed the bill language and estimated that the bill will reduce local government revenue by \$100,000 beginning in Fiscal Year 2024-2025.¹⁷

B. Private Sector Impact:

The bill will enable additional homes for the aged operated by not-for-profit corporations to qualify for the ad valorem tax exemption.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁷ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: Proposed Language*, p. 192-193, March 3, 2023, available at <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2023/pdf/impact0303.pdf> (last visited Mar. 29, 2023).

VIII. Statutes Affected:

This bill substantially amends section 196.1975 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 29, 2023:

The CS provides that a nonprofit home for the aged owned by a Florida limited liability company which is owned by an entity licensed under ch. 429, F.S., would not be eligible for the ad valorem tax exemption.

- B. **Amendments:**

None.



336346

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 18
and insert:
profit under ~~pursuant to~~ chapter 617 or an entity not licensed
under chapter 429 and wholly owned

By Senator Wright

8-00476-23

2023566__

1 A bill to be entitled

2 An act relating to an ad valorem tax exemption for
3 nonprofit homes for the aged; amending s. 196.1975,
4 F.S.; revising an eligibility requirement for Florida
5 limited partnerships applying for the exemption;
6 providing an effective date.
7

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

10 Section 1. Subsection (1) of section 196.1975, Florida
11 Statutes, is amended to read:

12 196.1975 Exemption for property used by nonprofit homes for
13 the aged.—Nonprofit homes for the aged are exempt to the extent
14 that they meet the following criteria:

15 (1) The applicant must be a corporation not for profit
16 under ~~pursuant to~~ chapter 617 or a Florida limited partnership,
17 the sole general partner of which is a corporation not for
18 profit under ~~pursuant to~~ chapter 617 or an entity wholly owned
19 by a corporation not for profit under chapter 617, and the
20 corporation not for profit must have been exempt as of January 1
21 of the year for which exemption from ad valorem property taxes
22 is requested from federal income taxation by having qualified as
23 an exempt charitable organization under ~~the provisions of~~ s.
24 501(c)(3) of the Internal Revenue Code of 1954 or ~~of~~ the
25 corresponding section of a subsequently enacted federal revenue
26 act.

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

The Florida Senate

APPEARANCE RECORD

SB 566

3/29/23

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

330 310

Amendment Barcode (if applicable)

Name

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Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 594

INTRODUCER: Community Affairs Committee and Senator Martin

SUBJECT: Residential Property Insurance Rates

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Favorable
2.	Hackett	Ryon	CA	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 594 adds wind uplift prevention to the list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings. Wind uplift occurs if the air pressure below the roofing system is higher than the air pressure above the roofing system.

The bill also exempts condominium unit owner policies from the flood insurance requirement for Citizens personal lines property coverage, exempts certain policies from rate increase limitations, and revises the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the dwelling replacement cost instead of property value.

Except as otherwise provided, the bill takes effect upon becoming a law.

II. Present Situation:

Regulation of Property Insurance Rates

Part I of ch. 627, F.S., the Rating Law,¹ governs property, casualty, and surety insurance covering the subjects of insurance resident, located, or to be performed in this state.² The rating

¹ Section 627.011, F.S.

² Section 627.021(1), F.S.

law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.³ Though the terms “rate” and “premium” are often used interchangeably, the rating law specifies that “rate” is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.⁴

All insurers or rating organizations must file rates with the Office of Insurance Regulation (OIR) either 90 days before the proposed effective date of a new rate, which is considered a “file and use” rate filing, or 30 days after the effective date of a new rate, which is considered a “use and file” rate filing.⁵

Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The OIR makes that determination in accordance with generally acceptable actuarial techniques and considers the following:

- Past and prospective loss experience;
- Past and prospective expenses;
- The degree of competition among insurers for the risk insured;
- Investment income reasonably expected by the insurer;
- The reasonableness of the judgment reflected in the rate filing;
- Dividends, savings, or unabsorbed premium deposits returned to policyholders;
- The adequacy of loss reserves;
- The cost of reinsurance;
- Trend factors, including trends in actual losses per insured unit for the insurer;
- Conflagration and catastrophe hazards;
- Projected hurricane losses;
- Projected flood losses, if the policy covers the risk of flood;
- The cost of medical services, if applicable;
- A reasonable margin for underwriting profit and contingencies; and
- Other relevant factors that affect the frequency or severity of claims or expenses.⁶

Florida Commission on Hurricane Loss Projection Methodology

Projected hurricane losses in a rate filing must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology (Commission).⁷ The Commission consists of 12 members with expertise in the elements used to develop computer models to estimate hurricane and flood loss. Members of the Commission include State University System faculty experts in insurance finance, statistics, computer system design, meteorology, and structural engineering; three actuaries; the insurance consumer advocate; the Director of the Florida Hurricane Catastrophe Fund; the Executive Director of

³ Section 627.062(1), F.S.

⁴ Section 627.041, F.S.

⁵ Section 627.062, F.S.

⁶ Section 627.062(2)(b), F.S.

⁷ Section 627.062(2)(b)11., F.S.

Citizens Property Insurance Corporation; and the Director of the Division of Emergency Management.⁸

Residential Property Insurance Mitigation Credits, Discounts, or Other Rate Differentials

Residential property insurance rate filings must account for mitigation measures undertaken by policyholders to reduce hurricane losses.⁹ Specifically, the rate filings must include actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties.¹⁰ Upon their filing by an insurer or rating organization, the OIR determines the discounts, credits, other rate differentials and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation,¹¹ which in turn may be used in rate filings under the rating law. Windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength.¹²

Wind Uplift

Wind load is an important consideration when designing a structure. Wind load is the load, in pounds per square foot, placed on the exterior of a structure by wind. This will depend on:

- The angle at which the wind strikes the structure; and
- The shape of the structure (height, width, etc.).¹³

Wind can exert three types of force on a structure—shear load, lateral load, and uplift load. Although all three forces can damage a structure, the uplift load has the greatest effect on the roofing system.¹⁴ Wind uplift occurs if the air pressure below the roofing system¹⁵ is higher than the air pressure above the roofing system. Whenever the wind blows over a roof’s surface, the air pressure directly above the roof decreases, creating “negative” pressure. Wind infiltration below the roof materials through openings creates “positive” pressure. The combination results in a “push-pull” force that can lead to the separation of roofing materials from the roof deck.¹⁶

⁸ Section 627.0628(2)(b), F.S.

⁹ Section 627.062(2)(j), F.S.

¹⁰ Section 627.0629(1), F.S.

¹¹ *Id.*

¹² *Id.*

¹³ *Wind Loads of Structures*, Extension Disaster Education Network, <https://campus.extension.org/mod/book/view.php?id=6418&chapterid=6747> (last accessed on March 24, 2023). *Wind Loads*, Structural Engineering Design, Fall 2003, https://ocw.mit.edu/courses/1-051-structural-engineering-design-fall-2003/294abc6a0aa95fe569eda2a9436c51db_rec1wind_eqloads.pdf (last accessed on March 24, 2023).

¹⁴ *What Is Wind Uplift?*, <https://www.gaf.ca/blog/commercial-roofing/how-roof-uplift-testing-can-help-ensure-system-performance-281474980162938> (last accessed on March 24, 2023).

¹⁵ The term roof system refers to the air barrier or vapor retarder (if present), roof insulation (if present), and the roof membrane, flashing, and accessories. *Roofing Systems*, Tom Smith, May 10, 2016, <https://www.wbdg.org/guides-specifications/building-envelope-design-guide/roofing-systems#:~:text=The%20term%20roof%20system%20refers,membrane%2C%20flashing%2C%20and%20accessories> (last accessed on March 24, 2023).

¹⁶ *Id.*

Wind uplift is affected by:

- Building height: Higher roofs experience stronger wind velocities.
- Geographical location: Wind maps for any region can identify the local basic wind speed gust exposures to determine typical wind conditions for your home.
- Surrounding terrain: Neighboring buildings and other obstructions can break wind flow and reduce the wind effect in suburban and urban locations. Stronger wind resistance is required for roofs near large bodies of water or open terrain.
- Building openings: Openings in the building design can create higher internal pressures in a wind event.¹⁷

During strong wind events such as hurricanes, roofs will be subject to high wind uplift forces, which often leads to severe roofing component damage. The loss of roofing components could lead to rainwater intrusion and further substantial damage to the interior. Reducing wind uplift during such strong wind events by implementing targeted mitigation techniques¹⁸ can significantly reduce wind effects on buildings' roofs.¹⁹ Engineers and builders follow the applicable building code for each jurisdiction to attempt to prevent wind uplift.²⁰ The standards vary based on building location and likelihood of exposure to high winds.²¹

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens or corporation) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.²² Citizens is not a private insurance company.²³ Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).²⁴

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.²⁵ The Governor,

¹⁷ Understanding Wind Uplift Ratings for Roofing, Mark Gallant, May, 31 2021, <https://www.decra.com/blog/understanding-wind-uplift-ratings-for-roofing#:~:text=What%20is%20Wind%20Uplift%3F,them%20to%20the%20roof%20deck> (last accessed on March 24, 2023).

¹⁸ There are multiple products that are promoted as valuable in mitigating wind uplift, for example: pavers, adhesives, fasteners, clamps, underlayments, and spray foam insulation.

¹⁹ *Aerodynamic Mitigation of Wind Uplift on Low-Rise Building Roof Using Large-Scale Testing*, Frontiers in Built Environments, January 15, 2020, <https://www.frontiersin.org/articles/10.3389/fbuil.2019.00149/full> (last accessed on March 24, 2023).

²⁰ *How Wind Uplift can Affect a Commercial Building's Roof*, Certified Commercial Property Inspectors Association, <https://ccpia.org/how-wind-uplift-can-affect-a-commercial-buildings-roof/> (last accessed on March 24, 2023).

²¹ *Id.* Changes to Florida's treatment of wind load were made in the 7th edition of the Florida Building Code in 2020. See Wind Loads- Impacts from ASCE 7-16 (June 2020), <https://www.ecf-fl.org/resources/Documents/ECF%20FBC%20Analysis%20of%20Changes%20-%20Wind%20Load%20-%206%20Pages.pdf> (last accessed on March 24, 2023).

²² The term "admitted market" means insurance companies licensed to transact insurance in Florida.

²³ Section 627.351(6)(a)1., F.S.

²⁴ Section 2, ch. 2002-240, Laws of Fla.

²⁵ Section 627.351(6)(a)2., F.S.

President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.²⁶ Citizens is subject to regulation by the Office of Insurance Regulation.

Citizens offers property insurance through three different accounts: a personal lines account, a commercial lines account, and a coastal account.

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multi-peril coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind damage in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile home owners, dwellings, tenants, and condominium unit owners policies.²⁷

The Commercial Lines Account (CLA) offers commercial lines residential and non-residential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial non-residential policies covering business properties.²⁸

The Coastal Account offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multi-peril policies.²⁹

Flood Insurance

The Flood Disaster Protection Act of 1973 (FDPA)³⁰ prohibits lending institutions from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located in special flood hazard areas and in which flood insurance has been made available under federal law, unless the building or mobile home is covered by flood insurance in an amount equal to the outstanding principal balance of the loan or the maximum limit of coverage available.

Under Florida law, an authorized insurer may issue a policy for flood insurance coverage,³¹ but homeowners' insurance policies typically do not cover flood losses.³² Although private flood insurance may be obtained by endorsement or a separate policy, this requirement is generally satisfied with coverage obtained through the National Flood Insurance Program (NFIP) which is

²⁶ Section 627.351(6)(c)4.a., F.S.

²⁷ See s. 627.351(6)(b)2.a., F.S.; Citizens, *Account History and Characteristics*, <https://www.citizensfla.com/documents/20702/1183352/20160315+05A+Citizens+Account+History.pdf/31f51358-7105-40e9-aa75-597f51a99563> (Mar. 2016) (last visited Feb. 16, 2023).

²⁸ *Id.*

²⁹ *Id.*

³⁰ 42 U.S.C. s. 4012a.(b).

³¹ Section 627.715(1), F.S.

³² Disaster Rally, *National Flood Insurance Program – How to Be Eligible*, [National Flood Insurance Program - How to Be Eligible \(disasterrally.com\)](https://www.disasterrally.com) (last visited Feb. 20, 2023).

managed by Federal Emergency Management Agency (FEMA).³³ The NFIP offers flood insurance coverage for buildings and content which must be purchased separately with separate deductibles. For residential property, the maximum coverage amount is \$250,000 for the building and \$100,000 for the contents and, for commercial property, the maximum coverage for building and building contents is \$500,000 each.³⁴

Flood Zones

The National Flood Insurance Program with the Federal Emergency Management Administration (FEMA) maintains flood maps to show a community's risk of flooding. The map provides flood zones to designate the flooding risks. Flood risk areas that are designated with the letters B, C, and X on the FEMA flood maps are moderate to low-risk flood areas and have a reduced but not completely removed flood risk. One in three insurance claims come from moderate to low-risk flood areas. Flood risk areas that are designated with the letters A or V on the FEMA flood maps have the highest risk of flooding. Owners of properties that are in a high-risk zone and have a federally backed mortgage are required to purchase flood insurance as a condition of the loan.³⁵

Flood Notice

An insurer that issues or renews a homeowner's insurance policy without flood coverage must include the following statement with the policy documents:

“FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT.”

Citizens Flood Insurance Requirement

Section 627.351(6)(aa), F.S., requires Citizens personal lines residential policyholders to secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage. There is a timetable for implementation of the flood insurance coverage requirement for personal lines residential Citizens policyholders. For Citizens personal lines residential policyholders whose property is located within special hazard flood zones defined by the FEMA, flood coverage must be obtained by:

- April 1, 2023 for Citizens' new policies.
- July 1, 2023 for Citizens' renewal policies.

³³ The Office of the Comptroller of the Currency, *Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts*, Jun. 9, 2010, [Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts | OCC \(ots.gov\)](#) (last visited Feb. 16, 2023).

³⁴ The FEMA, National Flood Insurance Program, *Understanding Your Policy Terms*, [Flood Insurance Coverage, Deductibles Explained \(floodsmart.gov\)](#) (last visited Feb. 16, 2023).

³⁵ The FEMA, National Flood Insurance Program, What is a flood map?, [FEMA Flood Maps Explained \(floodsmart.gov\)](#) (last visited Feb. 17, 2023).

For all other risks, the requirement to obtain flood insurance must be implemented for specified Citizens' policyholders as follows:

- March 1, 2024, for policies insuring property to a limit of \$600,000 or more.
- March 1, 2025, for policies insuring property to a limit of at least \$500,000 but less than \$600,000.
- March 1, 2026, for policies insuring property to a limit of at least \$400,000 but less than \$500,000.
- March 1, 2027, for all other policyholders.

III. Effect of Proposed Changes:

Section 1 amends s. 627.0629, F.S., to add wind uplift prevention to list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings.

This section takes effect July 1, 2023.

Section 2 amends s. 627.351, F.S., to:

- Exempt policies covering condominium units from the flood insurance requirement imposed on residential policies issued by the Citizens Property Insurance Corporation.
- Provide that the rate increase limitations on Citizens policies do not apply to policies that do not cover a primary residence or policies where coverage was last provided by an insolvent insurer. However, rate increases on these type policies may not be charged more than 50 percent above, and may not be charged less than, the established rate for the corporation which was in effect 1 year before the date of the application.
- Revise the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the replacement cost of the residential structure, rather than total property value. The applicable dates and values remain the same.

This section takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The addition of wind uplift prevention measures to the list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings may lead to greater use of these measures by property owners. This could lead to less damage from windstorms and lower insurance premiums.

C. Government Sector Impact:

The Florida Office of Insurance Regulation has indicated that in order to update rules and forms related to including wind uplift prevention in insurance premium calculations a new study, and sufficient funding for such a study, would be required.³⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 627.0629 and 627.351 of the Florida Statutes.

³⁶ Office of Insurance Regulation, *SB 594 Agency Bill Analysis Request, February 24, 2023*, on file with Community Affairs Committee.

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 29, 2023:

The CS:

- Exempts policies covering condominium units from the flood insurance requirement imposed on residential policies issued by the Citizens Property Insurance Corporation.
- Provides that the rate increase limitations on Citizens policies do not apply to policies that do not cover a primary residence or policies where coverage was last provided by an insolvent insurer.
- Revises the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the replacement cost of the residential structure, rather than total property value.

- B. **Amendments:**

None.



252724

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Delete line 37

and insert:

Section 2. Paragraphs (n) and (aa) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive



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11 with approved rates charged in the admitted voluntary market so
12 that the corporation functions as a residual market mechanism to
13 provide insurance only when insurance cannot be procured in the
14 voluntary market, except as otherwise provided in this
15 paragraph. The office shall provide the corporation such
16 information as would be necessary to determine whether rates are
17 competitive. The corporation shall file its recommended rates
18 with the office at least annually. The corporation shall provide
19 any additional information regarding the rates which the office
20 requires. The office shall consider the recommendations of the
21 board and issue a final order establishing the rates for the
22 corporation within 45 days after the recommended rates are
23 filed. The corporation may not pursue an administrative
24 challenge or judicial review of the final order of the office.

25 2. In addition to the rates otherwise determined pursuant
26 to this paragraph, the corporation shall impose and collect an
27 amount equal to the premium tax provided in s. 624.509 to
28 augment the financial resources of the corporation.

29 3. After the public hurricane loss-projection model under
30 s. 627.06281 has been found to be accurate and reliable by the
31 Florida Commission on Hurricane Loss Projection Methodology, the
32 model shall be considered when establishing the windstorm
33 portion of the corporation's rates. The corporation may use the
34 public model results in combination with the results of private
35 models to calculate rates for the windstorm portion of the
36 corporation's rates. This subparagraph does not require or allow
37 the corporation to adopt rates lower than the rates otherwise
38 required or allowed by this paragraph.

39 4. The corporation must make a recommended actuarially



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40 sound rate filing for each personal and commercial line of
41 business it writes.

42 5. Notwithstanding the board's recommended rates and the
43 office's final order regarding the corporation's filed rates
44 under subparagraph 1., the corporation shall annually implement
45 a rate increase which, except for sinkhole coverage, does not
46 exceed the following for any single policy issued by the
47 corporation, excluding coverage changes and surcharges:

- 48 a. Twelve percent for 2023.
- 49 b. Thirteen percent for 2024.
- 50 c. Fourteen percent for 2025.
- 51 d. Fifteen percent for 2026 and all subsequent years.

52 6. The corporation may also implement an increase to
53 reflect the effect on the corporation of the cash buildup factor
54 pursuant to s. 215.555(5)(b).

55 7. The corporation's implementation of rates as prescribed
56 in subparagraphs 5. and 8. shall cease for any line of business
57 written by the corporation upon the corporation's implementation
58 of actuarially sound rates. Thereafter, the corporation shall
59 annually make a recommended actuarially sound rate filing that
60 is not competitive with approved rates in the admitted voluntary
61 market for each commercial and personal line of business the
62 corporation writes.

63 8. The following ~~For any~~ new or renewal personal lines
64 policies ~~policy~~ written on or after November 1, 2023, are ~~which~~
65 ~~does not cover a primary residence, the rate to be applied in~~
66 ~~calculating premium is~~ not subject to the rate increase
67 limitations in subparagraph 5., but ~~However, the policyholder~~
68 may not be charged more than 50 percent above, and may not be



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69 charged less than, the established rate for the corporation
70 which was in effect 1 year before the date of the application:
71 a. Policies that do not cover a primary residence; or
72 b. Policies where coverage for the insured risk, prior to
73 the date of application with the corporation, was last provided
74 by an insurer determined by the office to be unsound or an
75 insurer placed in receivership under chapter 631.

76 9. As used in this paragraph, the term "primary residence"
77 means the dwelling that is the policyholder's primary home or is
78 a rental property that is the primary home of the tenant, and
79 which the policyholder or tenant occupies for more than 9 months
80 of each year.

81 (aa) Except as otherwise provided in this paragraph, the
82 corporation shall require the securing and maintaining of flood
83 insurance as a condition of coverage of a personal lines
84 residential risk. The insured or applicant must execute a form
85 approved by the office affirming that flood insurance is not
86 provided by the corporation and that if flood insurance is not
87 secured by the applicant or insured from an insurer other than
88 the corporation and in addition to coverage by the corporation,
89 the risk will not be eligible for coverage by the corporation.
90 The corporation may deny coverage of a personal lines
91 residential risk to an applicant or insured who refuses to
92 secure and maintain flood insurance. The requirement to purchase
93 flood insurance shall be implemented as follows:

94 1. Except as provided in subparagraphs 2. and 3., all
95 personal lines residential policyholders must have flood
96 coverage in place for policies effective on or after:

97 a. January 1, 2024, for a structure that has a dwelling



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98 replacement cost of property valued at \$600,000 or more.

99 b. January 1, 2025, for a structure that has a dwelling
100 replacement cost of property valued at \$500,000 or more.

101 c. January 1, 2026, for a structure that has a dwelling
102 replacement cost of property valued at \$400,000 or more.

103 d. January 1, 2027, for all other personal lines
104 residential property insured by the corporation.

105 2. All personal lines residential policyholders whose
106 property insured by the corporation is located within the
107 special flood hazard area defined by the Federal Emergency
108 Management Agency must have flood coverage in place:

109 a. At the time of initial policy issuance for all new
110 personal lines residential policies issued by the corporation on
111 or after April 1, 2023.

112 b. By the time of the policy renewal for all personal lines
113 residential policies renewing on or after July 1, 2023.

114 3. Policyholders ~~whose policies issued by the corporation~~
115 ~~do not provide coverage for the peril of wind~~ are not required
116 to purchase flood insurance as a condition for maintaining the
117 following their policies issued by ~~with~~ the corporation:

118 a. Policies that do not provide coverage for the peril of
119 wind.

120 b. Policies that provide coverage under a condominium unit
121 owners form.

122

123 The flood insurance required under this paragraph must meet, at
124 a minimum, the coverage available from the National Flood
125 Insurance Program or the requirements of subparagraphs s.
126 627.715(1)(a)1., 2., and 3.



127 Section 3. Except as otherwise expressly provided in this
128 act, this act shall take effect upon becoming a law.

129
130 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

131 And the directory clause is amended as follows:

132 Delete line 12

133 and insert:

134 Section 1. Effective July 1, 2023, subsection (1) of
135 section 627.0629, Florida

136
137 ===== T I T L E A M E N D M E N T =====

138 And the title is amended as follows:

139 Delete lines 2 - 8

140 and insert:

141 An act relating to property insurance; amending s.
142 627.0629, F.S.; adding wind uplift prevention to a
143 list of fixtures or construction techniques for which
144 a residential property insurance rate filing must
145 include actuarially reasonable rate differentials or
146 appropriate deductible reductions; amending s.
147 627.351, F.S.; revising rate change limitations for
148 specified policies written by the Citizens Property
149 Insurance Corporation; revising the applicability of
150 flood coverage requirements for personal lines
151 residential policyholders of the corporation;
152 providing effective dates.

By Senator Martin

33-00961-23

2023594__

1 A bill to be entitled
2 An act relating to residential property insurance
3 rates; amending s. 627.0629, F.S.; adding wind uplift
4 prevention to a list of fixtures or construction
5 techniques for which a residential property insurance
6 rate filing must include actuarially reasonable rate
7 differentials or appropriate deductible reductions;
8 providing an effective date.

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

11
12 Section 1. Subsection (1) of section 627.0629, Florida
13 Statutes, is amended to read:

14 627.0629 Residential property insurance; rate filings.—

15 (1) It is the intent of the Legislature that insurers
16 provide savings to consumers who install or implement windstorm
17 damage mitigation techniques, alterations, or solutions to their
18 properties to prevent windstorm losses. A rate filing for
19 residential property insurance must include actuarially
20 reasonable discounts, credits, or other rate differentials, or
21 appropriate reductions in deductibles, for properties on which
22 fixtures or construction techniques demonstrated to reduce the
23 amount of loss in a windstorm have been installed or
24 implemented. The fixtures or construction techniques must
25 include, but are not limited to, fixtures or construction
26 techniques that enhance wind uplift prevention, roof strength,
27 roof covering performance, roof-to-wall strength, wall-to-floor-
28 to-foundation strength, opening protection, and window, door,
29 and skylight strength. Credits, discounts, or other rate

33-00961-23

2023594__

30 differentials, or appropriate reductions in deductibles, for
31 fixtures and construction techniques that meet the minimum
32 requirements of the Florida Building Code must be included in
33 the rate filing. The office shall determine the discounts,
34 credits, other rate differentials, and appropriate reductions in
35 deductibles that reflect the full actuarial value of such
36 revaluation, which may be used by insurers in rate filings.

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

The Florida Senate

APPEARANCE RECORD

3-29-2023

Meeting Date

Community Affairs

Committee

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

594

Bill Number or Topic

252724

Amendment Barcode (if applicable)

Name Richard Reeves

Phone 850-445-0622

Address 113 E. Colles

Street

Email rr@vtrconsult.com

Tallahassee

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 Insurance Agents

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

3/29/23

Meeting Date

594

Bill Number or Topic

252724

Amendment Barcode (if applicable)

Community Affairs

Committee

Name Christine Ashburn

Phone 850 5133757

Address 2101 Maryland Circle

Email christine.ashburn@citizensprop.com

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:

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

Citizens Property Insurance Corporation

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

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3-29-2023

Meeting Date

594

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Richard Reeves

Phone 850-445-0622

Address 113 E. College

Email rv@rlvconsult.com

Street

Tallahassee

State

32303

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:

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

FI Association of Insurance Agents

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)

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

S-001 (08/10/2021)

3/29/2023

Meeting Date

Community Affairs

Committee

Name Zayne Smith

Address 215 South Monroe Suite 603

Street

Tallahassee

City

Florida

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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

SB 594

Bill Number or Topic

Amendment Barcode (if applicable)

Phone (850) 228-4243

Email zsmith@aarp.org

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 \(flsenate.gov\)](#)

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



2022 LEGISLATIVE SESSION

AGENCY: Office of Insurance Regulation

BILL INFORMATION

BILL NUMBER:	SB 594
BILL TITLE:	Residential Property Insurance Rates
BILL SPONSOR(S):	Sen. Jonathan Martin
EFFECTIVE DATE:	07/01/2023

COMMITTEES OF REFERENCE

#	COMMITTEE
1	Banking and Insurance
2	Community Affairs
3	Fiscal Policy

CURRENT COMMITTEE

PREVIOUS LEGISLATION

BILL NUMBER	BILL NUMBER	SPONSOR	SPONSOR	YEAR	YEAR	LAST ACTION	LAST ACTION
N/A							

SIMILAR BILLS

BILL NUMBER	SPONSOR
N/A	

IDENTICAL BILLS

BILL NUMBER	SPONSOR
N/A	

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	2/24/2023
LEAD AGENCY ANALYST:	Michelle Brewer
ADDITIONAL ANALYSTS:	Peggy Cheng, Bob Lee
LEGAL ANALYST:	Kama Monroe

FISCAL ANALYST:	
------------------------	--

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill adds wind uplift prevention to a list of fixtures or construction techniques for which a residential property insurance rate filing must include actuarially reasonable rate differentials or appropriate deductible reductions. The bill has an effective date of July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Florida Office of Insurance Regulation (OIR) is required pursuant to s. 627.711(1), F.S., to create the "Notice of Premium Discounts for Hurricane Loss Mitigation" form to notify an applicant or policyholder (homeowner) of a personal lines residential property insurance policy (Homeowners, Mobile homeowners, Dwelling Fire) of any premium discounts for which they may be eligible if they mitigate their property against hurricane loss. (See OIR-B1-1655/Rule 69O-170.0155, F.A.C) For example, when a homeowner replaces their roof, they can choose to mitigate hurricane loss by selecting upgraded products such as adding a certain type of secondary water resistance (SWR) that has been tested to meet specific standards above Florida Building Code. The form would give the estimated amount the homeowner's premium could be reduced by, if they chose to add the SWR.

(2)(a) requires OIR to create the "Uniform Mitigation Verification Inspection Form" to be completed by specified types of inspectors and accepted by insurers as proof of the type of construction and/or mitigation features for the purpose of factoring discounts for wind insurance. (See OIR-B1-1802/Rule 69O-170.0155, F.A.C.) Homeowners may be required to provide an updated form if additional features are added to receive credits. Credits, which are based upon the ARA studies completed in 2002 Development of Loss Relativities for Wind Resistive Features of Residential Structures and Development of Loss Relativities for Wind-Resistive Features of Residential Structures of Five or More Units including data being run through a model, are then tied to the selections on this form. (See OIR-B1-1699 "Windstorm Loss Reduction Credit Form - Personal Residential" and OIR-B1-1700 "Windstorm Loss Reduction Credit Form - Commercial Residential"/Rule 69O-170-017, F.A.C) Note that the model used to determine credits is no longer accepted by the Florida Commission on Hurricane Loss Projection Methodology and is not used by companies to set rates. New products not contemplated in the 2002 study are not reflected in the OIR-B1-1802 form and may not receive credit. Additionally, insurers may provide their own credits based upon an independent study. (See Rule 69O-170-017(2), F.A.C) Finally, the OIR-B1-1802 form does not contemplate multi-story condo-type building structures. (See <https://www.flair.com/sections/pandc/productreview/uniformmitigationform.aspx> for links to the studies as well as the current OIR-B1-1802 form. See https://flair.com/Sections/PandC/ProductReview/forms_list.aspx for all four forms mentioned above.)

S. 627.062(2)(j), F.S. requires that a residential property insurance rate filing must account for mitigation measures taken by policyholders to reduce hurricane losses.

Per s. 627.0629(1), F.S. requires that appropriate savings be given to homeowners who mitigate their properties to prevent windstorm losses and specifies the types of fixture or construction techniques for which windstorm loss mitigation credits need to be applied (roof-to-wall strength, roof covering performance, opening protection, etc.).

2. EFFECT OF THE BILL:

This bill amends s. 627.0629(1), F.S. to add "wind uplift prevention" to the list of fixture or construction technique enhancements contemplated when considering credits, discounts, or other rate differentials, or appropriate reductions in deductibles related to preventing windstorm loss. Roof-to-wall connection provides wind uplift resistance. It is not known what other product types would be considered "wind uplift prevention."

If this change requires an update to the Uniform Mitigation Verification Inspection Form, a new study would need to be done, new credits would need to be derived, and updates would need to be made to the Notice of Premium Discounts for Hurricane Loss Mitigation, Windstorm Loss Reduction Credit Form - Personal Residential and Windstorm Loss

Reduction Credit Form - Commercial Residential forms.

These updates would require rulemaking, and Sufficient funding would be needed for the study, etc.

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

If yes, explain:	If this change requires a change to the Uniform Mitigation Verification Inspection Form, a new study would need to be done, new credits would need to be derived, and the Notice of Premium Discounts for Hurricane Loss Mitigation, Windstorm Loss Reduction Credit Form - Personal Residential and Windstorm Loss Reduction Credit Form - Commercial Residential forms would need to be updated including rulemaking.
Is the change consistent with the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 69O-170.017, FAC.

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

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? No

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

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? No

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

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? No

Revenues:	
Expenditures:	

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

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

Revenues:	
Expenditures:	In order to implement the provisions of the bill, a new study may need to be conducted related to wind resistive features (see additional comments).
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? No

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? No

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? No

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

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? No

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

ADDITIONAL COMMENTS

Revising the uniform wind mitigation verification inspection form (OIR-B1-1802) would require a new study to determine the proper actuarial value of wind uplift prevention. In order have a study conducted and an updated rule promulgated, a delayed effective date is needed.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 698

INTRODUCER: Community Affairs Committee and Senator Ingoglia

SUBJECT: Local Tax Referenda Requirements

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.			FT	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 689 requires that a referendum to reenact the following temporary taxes when expiring be held at a general election, and only once during the 48 months preceding expiration:

- Tourist development taxes;
- Tourist impact taxes;
- Local government discretionary sales surtaxes;
- Ninth-cent fuel taxes; and
- Local option fuel taxes.

The bill similarly requires that certain other referendums be held only once during the 48 months preceding the effective date of a millage increase. This includes referendums authorizing:

- An increase in millage levied by a children's services independent special district;
- A county or municipality to temporarily levy millage in excess of statutory limits; and
- A school district to temporarily levy millage.

The bill will take effect July 1, 2023.

II. Present Situation:

Local Option Taxes

Counties and municipalities have authority to levy a variety of optional taxes conditioned upon approval of a majority of electors voting in a referendum. Presently, the referendums approving the local taxes contemplated by the bill are held at any general election, except those approving school district millage, which may be held at any time.¹ Current law is silent on the timing of referendums to reauthorize existing taxes, and permits referendums to occur at *any* general election. The taxes addressed in the bill are described below.

Tourist Development Tax

The Local Option Tourist Development Act² authorizes counties to levy five separate taxes on transient rental³ transactions (“tourist development taxes” or “TDTs”). Depending on a county’s eligibility to levy such taxes, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent:

- The original TDT may be levied at the rate of 1 or 2 percent.^{4,5}
- An additional 1 percent tax may be levied by counties that have previously levied a TDT at the 1 or 2 percent rate for at least three years.⁶
- A high tourism impact tax may be levied at an additional 1 percent.⁷
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁸
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁹

¹ Sections 125.0104(6)(a), 125.0108(5), 125.901(1), 200.091, 200.101, 212.055(10), 336.021(4)(a)2., 336.021(1)(b), and 1011.73, F.S.

² Section 125.0104, F.S.

³ Section 125.0104(3)(a)1., F.S. considers “transient rental” to be the rental or lease of any accommodation for a term of 6 months or less.

⁴ Section 125.0104(3)(c), F.S. Sixty-two counties levy the original tourist development tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Office of Economic & Demographic Research (EDR), *2022 Local Financial Information Handbook* at 247-48, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf> (last visited Mar. 27, 2023).

⁵ During Fiscal Year 2022-23, the 62 counties currently levying this tax will realize an estimated \$612 million in revenue. *Id.* at 251.

⁶ Section 125.0104(3)(d), F.S. Fifty-six of the eligible 59 counties levy this tax, with an estimated 2022-23 state fiscal year collection of \$250 million. *Supra n. 4* at 255.

⁷ Section 125.0104(3)(m), F.S. Nine eligible counties levy this tax, with an estimated 2022-23 state fiscal year collection of \$162 million. *Supra n. 4* at 261.

⁸ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-five of the 67 eligible counties levy this additional tax, with an estimated 2021-22 state fiscal year collection of \$285 million. *Supra n. 4* at 259.

⁹ Section 125.0104(3)(n) F.S. Thirty-one of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2021-22 state fiscal year collection of \$150 million. *Id.* at 269.

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum,¹⁰ and additional TDT levies must be authorized by a vote of the county's governing authority or by voter approval of a countywide referendum.¹¹

Tourist Impact Tax; Areas of Critical State Concern

Counties containing a designated area of critical state concern¹² are authorized to create land authorities by ordinance¹³ to “equitably deal with the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which challenges are often complicated by the environmental sensitivity of such areas.”¹⁴

Any county creating a land authority may levy by ordinance, in the area or areas within said county designated as an area of critical state concern, a tourist impact tax.¹⁵ However, if the area or areas of critical state concern are greater than 50 percent of the land area of the county, the tax may be levied throughout the entire county.¹⁶ The tax is not effective until land development regulations and a local comprehensive plan that meet the requirements of ch. 380, F.S., have become effective and the tax is approved by referendum.¹⁷ The referendum must have approval of a majority vote of qualified electors held by the governing board of the county in conjunction with a general or special election.¹⁸

The county is authorized to levy a 1 percent tax on each dollar on transient rental facilities within the applicable area.¹⁹ The funds are used to buy property in the area of critical state concern and to offset the loss of ad valorem (property) taxes due to those land acquisitions.²⁰ Designated areas of critical state concern include the Big Cypress Area (mainly in Collier County), the Green Swamp Area in Central Florida, the Florida Keys Area in South Florida, and the Apalachicola Bay Area in Franklin County.²¹

Property Tax; Children's Services Independent Special District

In 1986, the Legislature authorized Florida counties to create children's services councils as countywide special districts to fund children's services throughout the county.²² The county governing body must obtain approval, by a majority vote of those electors voting on the

¹⁰ Section 125.0104(6), F.S.

¹¹ Section 125.0104(3)(d), F.S.

¹² The Areas of Critical State Concern Program, which was created by the Florida Environmental Land and Water Management Act of 1972, is intended to “protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.” Florida Department of Economic Opportunity, *Areas of Critical State Concern Program*, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Mar. 27, 2023).

¹³ Section 380.0663(1), F.S.

¹⁴ Section 380.0661(1), F.S.

¹⁵ Section 125.0108(1)(a), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 125.0108(5), F.S.

¹⁹ Section 125.0108(1)(d), F.S.

²⁰ *Supra* n. 4 at 267-68.

²¹ *Id.*

²² Chapter 86-197, Laws of Fla.; s. 125.901(1), F.S.

question, to levy ad valorem taxes to fund children's services. The levy may not exceed .5 mills.²³

Ten counties currently have children's services councils organized as independent special districts.²⁴

Children's services councils may exercise the following powers and functions:

- Provide preventive, developmental, treatment, rehabilitative, and other services for children;
- Provide funds to other agencies that operate for the benefit of children, with the exception of the public school system;
- Collect data and conduct research to determine the needs of the children in the county;
- Coordinate with providers of children's services to prevent duplication of services;
- Lease or buy necessary real estate, equipment, and personal property; and
- Employ and provide benefits for needed personnel.²⁵

County, Municipal, and School District Voted Millage

Local governments, including counties, school districts, and municipalities, have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.²⁶

Governing bodies of counties, municipalities, and other taxing authorities are responsible for determining the millage (tax) rate for the real property for which they are levying the tax.²⁷

The millage rate is the amount of property tax charged per \$1,000 of taxable property value. County and municipal millages are set forth in four categories:

- General county and municipal nonvoted millage set by the respective governing body;
- County and municipal debt service millage;
- County and municipal voted millage set by the respective governing body as authorized by a vote of the electors; and
- County and municipal dependent special district millage.²⁸

County and municipality ad valorem millage is limited to 10 mills, except as approved by voters.²⁹ County and municipal millage may be increased in excess of 10 mills for periods not exceeding 2 years, provided such levy has been approved by majority vote of the qualified electors in the county or municipality voting in a general election called by the governing body for that purpose.³⁰ The referendum to levy voted millage above 10 mills must specify the amount of millage sought to be levied and the purpose for which the proceeds will be expended.³¹

²³ Section 125.901(3)(b), F.S.

²⁴ Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, available at <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts>, Special Purpose Totals and Statutory Authority (PDF) (last visited Mar. 27, 2023).

²⁵ Section 125.901(2), F.S.

²⁶ FLA. CONST. art VII, s. 9.

²⁷ Section 200.065, F.S.

²⁸ Section 200.001(1) and (2), F.S.

²⁹ Sections 200.071 and 200.081, F.S.

³⁰ Sections 200.091 and 200.101, F.S.

³¹ *Id.*

General law provides specific requirements on school district millage elections, as needed to fund education in a county as allowed under Art. VII, s. 9 of the State Constitution.³² These taxes are temporarily authorized for either two or four years, and are supplemental to nonvoted millages levied by the school district, which are set at the minimum millage rate necessary to provide for the school district.³³ A district school board must direct the county commissioners to call an election at which the voters in the school district approve an ad valorem tax millage.³⁴ Such election may be held at any time, except that not more than one such election shall be held during any 12-month period.³⁵ A district school board may propose an election for a single millage or two separate millages, with one for operating expenses and another for a local capital improvement reserve fund. When two millage figures are proposed, each millage must be voted on separately.³⁶

Discretionary Sales Surtax

Counties are authorized to levy a discretionary sales surtax on transactions subject to state sales tax for specific purposes.³⁷ These purposes include:

- Operating a regional transportation system;
- Financing local government infrastructure projects;
- Providing additional revenue for small counties;
- Providing medical care for indigent persons;
- Funding trauma centers;
- Operating, maintaining, and administering a county public general hospital;
- Constructing and renovating schools;
- Providing emergency fire rescue services and facilities; and
- Funding pension liability shortfalls.³⁸

A referendum to adopt or amend a discretionary sales surtax must be held at a general election.³⁹ Current law does not specify when a referendum to reauthorize an existing sales surtax must occur.

Local Option Fuel Taxes

Counties may levy a ninth-cent fuel tax (1 cent on every net gallon of motor and diesel fuel sold within a county) if approved by extraordinary vote of its governing board or by voter referendum.⁴⁰

Counties also may levy other local option fuel taxes which include a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county, and a tax of 1 to 5 cents on every net

³² Section 1011.71, F.S.

³³ *Id.*

³⁴ Section 1011.73(1)-(2), F.S.

³⁵ *Id.*

³⁶ Section 1011.73(4)(a), F.S.

³⁷ Section 212.054, F.S.

³⁸ Section 212.055(1)-(9), F.S.

³⁹ Section 212.055(10), F.S.

⁴⁰ Section 336.021(1)(a), F.S.

gallon of motor fuel (excluding diesel) sold within a county.⁴¹ The latter tax on motor fuel may be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.⁴²

All impositions of the ninth-cent fuel tax or the local option fuel tax must be levied before October 1 of each year to be effective January 1 of the following year.⁴³ The Department of Revenue administers, collects, enforces, and distributes local option fuel taxes. The funds are used for transportation expenditures.⁴⁴

General Elections

A general election is an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.⁴⁵

III. Effect of Proposed Changes:

The bill provides, for various taxes, that a referendum to reenact an expiring temporary tax must be held at a general election, and only once in the 48 months preceding the effective date of the referendum. The bill applies this to:

- Tourist development taxes (section 1, amending s. 125.0104, F.S.);
- Tourist impact taxes (section 2, amending s. 125.0108, F.S.);
- Local government discretionary sales surtaxes (section 6, amending 212.055, F.S.);
- Ninth-cent fuel taxes (section 7, amending s. 336.021, F.S.); and
- Local option fuel taxes (section 8, amending s. 336.025, F.S.).

The bill similarly requires that other specified referendums be held in a general election, and only once in the 48 months immediately preceding the effective date of the referendum. This applies to those referendums:

- Permitting an increase in millage levied by a children's services independent special district (Section 3, amending s. 125.901, F.S.);
- Permitting a county (section 4, amending s. 200.091, F.S.) or municipality (section 5, amending s. 200.101, F.S.) to temporarily levy millage in excess of statutory limits; and
- Permitting a school district to temporarily levy millage (section 9, amending s. 1011.73, F.S.).

The bill will take effect July 1, 2023.

⁴¹ Section 336.025, F.S.

⁴² Section 336.025(1)(b), F.S.

⁴³ Section 336.025(1)(a)-(b), F.S.

⁴⁴ *Supra*, n. 4 at 217-18.

⁴⁵ Section 97.021(17), F.S.

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

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill ties limits on elections to the effective date of referendums. Referendums are held to approve ordinances, which have effective dates, but it is not clear whether a referendum itself has an effective date.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.0104, 125.0108, 125.901, 200.091, 200.101, 212.055, 336.021, 336.025, and 1011.73 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 29, 2023:

The CS provides, for each tax the bill applies to, that a referendum to extend or increase millage must be held only once during the 48-month period preceding the effective date of the referendum, as opposed to being held at the general election immediately preceding such effective date.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) is added to subsection (6) of
section 125.0104, Florida Statutes, to read:

125.0104 Tourist development tax; procedure for levying;
authorized uses; referendum; enforcement.—

(6) REFERENDUM.—

(e) A referendum to reenact an expiring tourist development



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11 tax must be held at a general election. Such a referendum may be
12 held only once during the 48-month period preceding the
13 effective date of the referendum.

14 Section 2. Subsection (5) of section 125.0108, Florida
15 Statutes, is amended to read:

16 125.0108 Areas of critical state concern; tourist impact
17 tax.—

18 (5) The tourist impact tax authorized by this section shall
19 take effect only upon express approval by a majority vote of
20 those qualified electors in the area or areas of critical state
21 concern in the county seeking to levy such tax, voting in a
22 referendum to be held in conjunction with a general election, as
23 defined in s. 97.021. However, if the area or areas of critical
24 state concern are greater than 50 percent of the land area of
25 the county and the tax is to be imposed throughout the entire
26 county, the tax shall take effect only upon express approval of
27 a majority of the qualified electors of the county voting in
28 such a referendum. A referendum to reenact an expiring tourist
29 impact tax must be held at a general election. Such a referendum
30 may be held only once during the 48-month period preceding the
31 effective date of the referendum.

32 Section 3. Subsection (1) of section 125.901, Florida
33 Statutes, is amended to read:

34 125.901 Children's services; independent special district;
35 council; powers, duties, and functions; public records
36 exemption.—

37 (1) Each county may by ordinance create an independent
38 special district, as defined in ss. 189.012 and 200.001(8)(e),
39 to provide funding for children's services throughout the county



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40 in accordance with this section. The boundaries of such district
41 shall be coterminous with the boundaries of the county. The
42 county governing body shall obtain approval at a general
43 election, as defined in s. 97.021, by a majority vote of those
44 electors voting on the question, to annually levy ad valorem
45 taxes which shall not exceed the maximum millage rate authorized
46 by this section. Any district created pursuant to the provisions
47 of this subsection shall be required to levy and fix millage
48 subject to the provisions of s. 200.065. Once such millage is
49 approved by the electorate, the district shall not be required
50 to seek approval of the electorate in future years to levy the
51 previously approved millage. However, a referendum to increase
52 the millage rate previously approved by the electors must be
53 held at a general election. Such a referendum may be held only
54 once during the 48-month period preceding the effective date of
55 the referendum.

56 (a) The governing body of the district shall be a council
57 on children's services, which may also be known as a juvenile
58 welfare board or similar name as established in the ordinance by
59 the county governing body. Such council shall consist of 10
60 members, including the superintendent of schools; a local school
61 board member; the district administrator from the appropriate
62 district of the Department of Children and Families, or his or
63 her designee who is a member of the Senior Management Service or
64 of the Selected Exempt Service; one member of the county
65 governing body; and the judge assigned to juvenile cases who
66 shall sit as a voting member of the board, except that said
67 judge shall not vote or participate in the setting of ad valorem
68 taxes under this section. If there is more than one judge



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69 assigned to juvenile cases in a county, the chief judge shall
70 designate one of said juvenile judges to serve on the board. The
71 remaining five members shall be appointed by the Governor, and
72 shall, to the extent possible, represent the demographic
73 diversity of the population of the county. After soliciting
74 recommendations from the public, the county governing body shall
75 submit to the Governor the names of at least three persons for
76 each vacancy occurring among the five members appointed by the
77 Governor, and the Governor shall appoint members to the council
78 from the candidates nominated by the county governing body. The
79 Governor shall make a selection within a 45-day period or
80 request a new list of candidates. All members appointed by the
81 Governor shall have been residents of the county for the
82 previous 24-month period. Such members shall be appointed for 4-
83 year terms, except that the length of the terms of the initial
84 appointees shall be adjusted to stagger the terms. The Governor
85 may remove a member for cause or upon the written petition of
86 the county governing body. If any of the members of the council
87 required to be appointed by the Governor under the provisions of
88 this subsection shall resign, die, or be removed from office,
89 the vacancy thereby created shall, as soon as practicable, be
90 filled by appointment by the Governor, using the same method as
91 the original appointment, and such appointment to fill a vacancy
92 shall be for the unexpired term of the person who resigns, dies,
93 or is removed from office.

94 (b) However, any county as defined in s. 125.011(1) may
95 instead have a governing body consisting of 33 members,
96 including the superintendent of schools, or his or her designee;
97 two representatives of public postsecondary education



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98 institutions located in the county; the county manager or the
99 equivalent county officer; the district administrator from the
100 appropriate district of the Department of Children and Families,
101 or the administrator's designee who is a member of the Senior
102 Management Service or the Selected Exempt Service; the director
103 of the county health department or the director's designee; the
104 state attorney for the county or the state attorney's designee;
105 the chief judge assigned to juvenile cases, or another juvenile
106 judge who is the chief judge's designee and who shall sit as a
107 voting member of the board, except that the judge may not vote
108 or participate in setting ad valorem taxes under this section;
109 an individual who is selected by the board of the local United
110 Way or its equivalent; a member of a locally recognized faith-
111 based coalition, selected by that coalition; a member of the
112 local chamber of commerce, selected by that chamber or, if more
113 than one chamber exists within the county, a person selected by
114 a coalition of the local chambers; a member of the early
115 learning coalition, selected by that coalition; a representative
116 of a labor organization or union active in the county; a member
117 of a local alliance or coalition engaged in cross-system
118 planning for health and social service delivery in the county,
119 selected by that alliance or coalition; a member of the local
120 Parent-Teachers Association/Parent-Teacher-Student Association,
121 selected by that association; a youth representative selected by
122 the local school system's student government; a local school
123 board member appointed by the chair of the school board; the
124 mayor of the county or the mayor's designee; one member of the
125 county governing body, appointed by the chair of that body; a
126 member of the state Legislature who represents residents of the



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127 county, selected by the chair of the local legislative
128 delegation; an elected official representing the residents of a
129 municipality in the county, selected by the county municipal
130 league; and 4 members-at-large, appointed to the council by the
131 majority of sitting council members. The remaining 7 members
132 shall be appointed by the Governor in accordance with procedures
133 set forth in paragraph (a), except that the Governor may remove
134 a member for cause or upon the written petition of the council.
135 Appointments by the Governor must, to the extent reasonably
136 possible, represent the geographic and demographic diversity of
137 the population of the county. Members who are appointed to the
138 council by reason of their position are not subject to the
139 length of terms and limits on consecutive terms as provided in
140 this section. The remaining appointed members of the governing
141 body shall be appointed to serve 2-year terms, except that those
142 members appointed by the Governor shall be appointed to serve 4-
143 year terms, and the youth representative and the legislative
144 delegate shall be appointed to serve 1-year terms. A member may
145 be reappointed; however, a member may not serve for more than
146 three consecutive terms. A member is eligible to be appointed
147 again after a 2-year hiatus from the council.

148 (c) This subsection does not prohibit a county from
149 exercising such power as is provided by general or special law
150 to provide children's services or to create a special district
151 to provide such services.

152 Section 4. Section 200.091, Florida Statutes, is amended to
153 read:

154 200.091 Referendum to increase millage.—The millage
155 authorized to be levied in s. 200.071 for county purposes,



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156 including dependent districts therein, may be increased for
157 periods not exceeding 2 years, provided such levy has been
158 approved by majority vote of the qualified electors in the
159 county or district voting in a general election, as defined in
160 s. 97.021, called for such purpose. Such an election may be
161 called by the governing body of any such county or district on
162 its own motion and shall be called upon submission of a petition
163 specifying the amount of millage sought to be levied and the
164 purpose for which the proceeds will be expended and containing
165 the signatures of at least 10 percent of the persons qualified
166 to vote in such election, signed within 60 days prior to the
167 date the petition is filed. Such a referendum may be held only
168 once during the 48-month period preceding the effective date of
169 the referendum.

170 Section 5. Section 200.101, Florida Statutes, is amended to
171 read:

172 200.101 Referendum for millage in excess of limits.—The
173 qualified electors of a municipality may, by majority vote at a
174 general election, as defined in s. 97.021, increase millage
175 above those limits imposed by s. 200.081 in a referendum called
176 for such purpose by the governing body of the municipality, but
177 the period of such increase may not exceed 2 years. Such
178 referendum also may be initiated by submission of a petition to
179 the governing body of the municipality containing the signatures
180 of 10 percent of those persons eligible to vote in such
181 referendum, which signatures were affixed to the petition within
182 60 days prior to its submission. Such a referendum may be held
183 only once during the 48-month period preceding the effective
184 date of the referendum.



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185 Section 6. Subsection (10) of section 212.055, Florida
186 Statutes, is amended to read:

187 212.055 Discretionary sales surtaxes; legislative intent;
188 authorization and use of proceeds.—It is the legislative intent
189 that any authorization for imposition of a discretionary sales
190 surtax shall be published in the Florida Statutes as a
191 subsection of this section, irrespective of the duration of the
192 levy. Each enactment shall specify the types of counties
193 authorized to levy; the rate or rates which may be imposed; the
194 maximum length of time the surtax may be imposed, if any; the
195 procedure which must be followed to secure voter approval, if
196 required; the purpose for which the proceeds may be expended;
197 and such other requirements as the Legislature may provide.
198 Taxable transactions and administrative procedures shall be as
199 provided in s. 212.054.

200 (10) DATES FOR REFERENDA.—A referendum to adopt, ~~or~~ amend,
201 or reenact a local government discretionary sales surtax under
202 this section must be held at a general election as defined in s.
203 97.021. Such a referendum may be held only once during the 48-
204 month period preceding the effective date of the referendum.

205 Section 7. Paragraph (a) of subsection (4) of section
206 336.021, Florida Statutes, is amended to read:

207 336.021 County transportation system; levy of ninth-cent
208 fuel tax on motor fuel and diesel fuel.—

209 (4) (a) 1. A certified copy of the ordinance proposing to
210 levy the tax pursuant to referendum shall be furnished by the
211 county to the department within 10 days after approval of such
212 ordinance.

213 2. A referendum to adopt, amend, or reenact a tax under



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214 this subsection must ~~shall~~ be held ~~only~~ at a general election,
215 as defined in s. 97.021. Such a referendum may be held only once
216 during the 48-month period preceding the effective date of the
217 referendum.

218 3. The county levying the tax pursuant to referendum shall
219 notify the department within 10 days after the passage of the
220 referendum of such passage and of the time period during which
221 the tax will be levied. The failure to furnish the certified
222 copy will not invalidate the passage of the ordinance.

223 Section 8. Paragraph (b) of subsection (1) and paragraph
224 (b) of subsection (3) of section 336.025, Florida Statutes, are
225 amended to read:

226 336.025 County transportation system; levy of local option
227 fuel tax on motor fuel and diesel fuel.—

228 (1)

229 (b) In addition to other taxes allowed by law, there may be
230 levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent,
231 4-cent, or 5-cent local option fuel tax upon every gallon of
232 motor fuel sold in a county and taxed under the provisions of
233 part I of chapter 206. The tax shall be levied by an ordinance
234 adopted by a majority plus one vote of the membership of the
235 governing body of the county or by referendum. A referendum to
236 adopt, amend, or reenact a tax under this subsection must ~~shall~~
237 be held ~~only~~ at a general election, ~~as defined in s. 97.021.~~
238 Such a referendum may be held only once during the 48-month
239 period preceding the effective date of the referendum.

240 1. All impositions and rate changes of the tax shall be
241 levied before October 1, to be effective January 1 of the
242 following year. However, levies of the tax which were in effect



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243 on July 1, 2002, and which expire on August 31 of any year may
244 be reimposed at the current authorized rate provided the tax is
245 levied before July 1 and is effective September 1 of the year of
246 expiration.

247 2. The county may, prior to levy of the tax, establish by
248 interlocal agreement with one or more municipalities located
249 therein, representing a majority of the population of the
250 incorporated area within the county, a distribution formula for
251 dividing the entire proceeds of the tax among county government
252 and all eligible municipalities within the county. If no
253 interlocal agreement is adopted before the effective date of the
254 tax, tax revenues shall be distributed pursuant to the
255 provisions of subsection (4). If no interlocal agreement exists,
256 a new interlocal agreement may be established prior to June 1 of
257 any year pursuant to this subparagraph. However, any interlocal
258 agreement agreed to under this subparagraph after the initial
259 levy of the tax or change in the tax rate authorized in this
260 section shall under no circumstances materially or adversely
261 affect the rights of holders of outstanding bonds which are
262 backed by taxes authorized by this paragraph, and the amounts
263 distributed to the county government and each municipality shall
264 not be reduced below the amount necessary for the payment of
265 principal and interest and reserves for principal and interest
266 as required under the covenants of any bond resolution
267 outstanding on the date of establishment of the new interlocal
268 agreement.

269 3. County and municipal governments shall use moneys
270 received pursuant to this paragraph for transportation
271 expenditures needed to meet the requirements of the capital



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272 improvements element of an adopted comprehensive plan or for
273 expenditures needed to meet immediate local transportation
274 problems and for other transportation-related expenditures that
275 are critical for building comprehensive roadway networks by
276 local governments. For purposes of this paragraph, expenditures
277 for the construction of new roads, the reconstruction or
278 resurfacing of existing paved roads, or the paving of existing
279 graded roads shall be deemed to increase capacity and such
280 projects shall be included in the capital improvements element
281 of an adopted comprehensive plan. Expenditures for purposes of
282 this paragraph shall not include routine maintenance of roads.

283 (3) The tax authorized pursuant to paragraph (1)(a) shall
284 be levied using either of the following procedures:

285 (b) If no interlocal agreement or resolution is adopted
286 pursuant to subparagraph (a)1. or subparagraph (a)2.,
287 municipalities representing more than 50 percent of the county
288 population may, prior to June 20, adopt uniform resolutions
289 approving the local option tax, establishing the duration of the
290 levy and the rate authorized in paragraph (1)(a), and setting
291 the date for a countywide referendum on whether to levy the tax.
292 A referendum to adopt, amend, or reenact a tax under this
293 subsection must ~~shall~~ be held ~~only~~ at a general election, as
294 defined in s. 97.021. Such a referendum may be held only once
295 during the 48-month period preceding the effective date of the
296 referendum. The tax shall be levied and collected countywide on
297 January 1 following 30 days after voter approval.

298 Section 9. Subsections (1), (2), and (3) of section
299 1011.73, Florida Statutes, are amended to read:

300 1011.73 District millage elections.—



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301 (1) MILLAGE AUTHORIZED NOT TO EXCEED 2 YEARS.—The district
302 school board, pursuant to resolution adopted at a regular
303 meeting, shall direct the county commissioners to call an
304 election at which the electors within the school districts may
305 approve an ad valorem tax millage as authorized in s. 9, Art.
306 VII of the State Constitution. ~~Such election may be held at any~~
307 ~~time, except that not more than one such election shall be held~~
308 ~~during any 12-month period.~~ Any millage so authorized shall be
309 levied for a period not in excess of 2 years or until changed by
310 another millage election, whichever is the earlier. In the event
311 any such election is invalidated by a court of competent
312 jurisdiction, such invalidated election shall be considered not
313 to have been held.

314 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district
315 school board, pursuant to resolution adopted at a regular
316 meeting, shall direct the county commissioners to call an
317 election at which the electors within the school district may
318 approve an ad valorem tax millage as authorized under s.
319 1011.71(9). ~~Such election may be held at any time, except that~~
320 ~~not more than one such election shall be held during any 12-~~
321 ~~month period.~~ Any millage so authorized shall be levied for a
322 period not in excess of 4 years or until changed by another
323 millage election, whichever is earlier. If any such election is
324 invalidated by a court of competent jurisdiction, such
325 invalidated election shall be considered not to have been held.

326 (3) HOLDING ELECTIONS.—All school district millage
327 elections shall be held and conducted in the manner prescribed
328 by law for holding general elections, except as provided in this
329 chapter. A referendum under this part must ~~shall~~ be held ~~only~~ at



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330 a general election, as defined in s. 97.021. Such a referendum
331 may be held only once during the 48-month period preceding the
332 effective date of the referendum.

333 Section 10. This act shall take effect July 1, 2023.

334

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

336 And the title is amended as follows:

337 Delete everything before the enacting clause
338 and insert:

339 A bill to be entitled
340 An act relating to local tax referenda requirements;
341 amending ss. 125.0104 and 125.0108, F.S.; requiring
342 that a referendum to reenact an expiring tourist
343 development tax or tourist impact tax, respectively,
344 be held at a general election; limiting the occurrence
345 of such a referendum; amending s. 125.901, F.S.;
346 requiring that a referendum to approve a millage rate
347 increase for a children's services independent special
348 district property tax be held at a general election;
349 limiting the occurrence of such a referendum; amending
350 ss. 200.091 and 200.101, F.S.; limiting the occurrence
351 of a referendum to approve a county or municipal ad
352 valorem tax millage increase, respectively; amending
353 s. 212.055, F.S.; requiring that a referendum to
354 reenact a local government discretionary sales surtax
355 be held at a general election; limiting the occurrence
356 of such a referendum; amending ss. 336.021 and
357 336.025, F.S.; requiring that a referendum to adopt,
358 amend, or reenact a ninth-cent fuel tax or local



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359 option fuel taxes, respectively, be held at a general
360 election; limiting the occurrence of such a
361 referendum; amending s. 1011.73, F.S.; deleting
362 provisions that authorize school district millage
363 elections to be held at any time; making a technical
364 change; revising a limitation on the occurrence of a
365 referendum; providing an effective date.

By Senator Ingoglia

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1 A bill to be entitled
2 An act relating to local tax referenda requirements;
3 amending ss. 125.0104 and 125.0108, F.S.; requiring a
4 referendum to reenact an expiring tourist development
5 tax or tourist impact tax, respectively, to be held at
6 the general election immediately preceding the
7 expiration date of the tax; amending s. 125.901, F.S.;
8 requiring a referendum to approve a millage rate
9 increase for a children's services independent special
10 district property tax to be held at the general
11 election immediately preceding the effective date of
12 the increase; amending ss. 200.091 and 200.101, F.S.;
13 requiring a referendum to approve a county or
14 municipal ad valorem tax millage increase,
15 respectively, to be held at the general election
16 immediately preceding the effective date of the
17 increase; amending s. 212.055, F.S.; requiring a
18 referendum to reenact an expiring local government
19 discretionary sales surtax to be held at the general
20 election immediately preceding the expiration date of
21 the surtax; amending ss. 336.021 and 336.025, F.S.;
22 requiring a referendum to reenact an expiring ninth-
23 cent fuel tax or expiring local option fuel taxes,
24 respectively, to be held at the general election
25 immediately preceding the expiration date of the tax;
26 amending s. 1011.73, F.S.; deleting provisions that
27 authorize school district millage elections to be held
28 at any time and specify a limit on such elections;
29 requiring such elections to be held at the general

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election immediately preceding the effective date of
the millage; providing an effective date.

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

Section 1. Paragraph (e) is added to subsection (6) of
section 125.0104, Florida Statutes, to read:

125.0104 Tourist development tax; procedure for levying;
authorized uses; referendum; enforcement.—

(6) REFERENDUM.—

(e) A referendum to reenact an expiring tourist development
tax must be held at the general election immediately preceding
the expiration date of the tax.

Section 2. Subsection (5) of section 125.0108, Florida
Statutes, is amended to read:

125.0108 Areas of critical state concern; tourist impact
tax.—

(5) The tourist impact tax authorized by this section shall
take effect only upon express approval by a majority vote of
those qualified electors in the area or areas of critical state
concern in the county seeking to levy such tax, voting in a
referendum to be held in conjunction with a general election, as
defined in s. 97.021. However, if the area or areas of critical
state concern are greater than 50 percent of the land area of
the county and the tax is to be imposed throughout the entire
county, the tax shall take effect only upon express approval of
a majority of the qualified electors of the county voting in
such a referendum. A referendum to reenact an expiring tourist
impact tax must be held at the general election immediately

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59 preceding the expiration date of the tax.

60 Section 3. Subsection (1) of section 125.901, Florida
61 Statutes, is amended to read:

62 125.901 Children's services; independent special district;
63 council; powers, duties, and functions; public records
64 exemption.—

65 (1) Each county may by ordinance create an independent
66 special district, as defined in ss. 189.012 and 200.001(8)(e),
67 to provide funding for children's services throughout the county
68 in accordance with this section. The boundaries of such district
69 shall be coterminous with the boundaries of the county. The
70 county governing body shall obtain approval at a general
71 election, as defined in s. 97.021, by a majority vote of those
72 electors voting on the question, to annually levy ad valorem
73 taxes which shall not exceed the maximum millage rate authorized
74 by this section. Any district created pursuant to the provisions
75 of this subsection shall be required to levy and fix millage
76 subject to the provisions of s. 200.065. Once such millage is
77 approved by the electorate, the district shall not be required
78 to seek approval of the electorate in future years to levy the
79 previously approved millage. However, a referendum to approve a
80 millage rate increase under s. 200.065 must be held at the
81 general election immediately preceding the effective date of the
82 increase.

83 (a) The governing body of the district shall be a council
84 on children's services, which may also be known as a juvenile
85 welfare board or similar name as established in the ordinance by
86 the county governing body. Such council shall consist of 10
87 members, including the superintendent of schools; a local school

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88 board member; the district administrator from the appropriate
89 district of the Department of Children and Families, or his or
90 her designee who is a member of the Senior Management Service or
91 of the Selected Exempt Service; one member of the county
92 governing body; and the judge assigned to juvenile cases who
93 shall sit as a voting member of the board, except that said
94 judge shall not vote or participate in the setting of ad valorem
95 taxes under this section. If there is more than one judge
96 assigned to juvenile cases in a county, the chief judge shall
97 designate one of said juvenile judges to serve on the board. The
98 remaining five members shall be appointed by the Governor, and
99 shall, to the extent possible, represent the demographic
100 diversity of the population of the county. After soliciting
101 recommendations from the public, the county governing body shall
102 submit to the Governor the names of at least three persons for
103 each vacancy occurring among the five members appointed by the
104 Governor, and the Governor shall appoint members to the council
105 from the candidates nominated by the county governing body. The
106 Governor shall make a selection within a 45-day period or
107 request a new list of candidates. All members appointed by the
108 Governor shall have been residents of the county for the
109 previous 24-month period. Such members shall be appointed for 4-
110 year terms, except that the length of the terms of the initial
111 appointees shall be adjusted to stagger the terms. The Governor
112 may remove a member for cause or upon the written petition of
113 the county governing body. If any of the members of the council
114 required to be appointed by the Governor under the provisions of
115 this subsection shall resign, die, or be removed from office,
116 the vacancy thereby created shall, as soon as practicable, be

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117 filled by appointment by the Governor, using the same method as
118 the original appointment, and such appointment to fill a vacancy
119 shall be for the unexpired term of the person who resigns, dies,
120 or is removed from office.

121 (b) However, any county as defined in s. 125.011(1) may
122 instead have a governing body consisting of 33 members,
123 including the superintendent of schools, or his or her designee;
124 two representatives of public postsecondary education
125 institutions located in the county; the county manager or the
126 equivalent county officer; the district administrator from the
127 appropriate district of the Department of Children and Families,
128 or the administrator's designee who is a member of the Senior
129 Management Service or the Selected Exempt Service; the director
130 of the county health department or the director's designee; the
131 state attorney for the county or the state attorney's designee;
132 the chief judge assigned to juvenile cases, or another juvenile
133 judge who is the chief judge's designee and who shall sit as a
134 voting member of the board, except that the judge may not vote
135 or participate in setting ad valorem taxes under this section;
136 an individual who is selected by the board of the local United
137 Way or its equivalent; a member of a locally recognized faith-
138 based coalition, selected by that coalition; a member of the
139 local chamber of commerce, selected by that chamber or, if more
140 than one chamber exists within the county, a person selected by
141 a coalition of the local chambers; a member of the early
142 learning coalition, selected by that coalition; a representative
143 of a labor organization or union active in the county; a member
144 of a local alliance or coalition engaged in cross-system
145 planning for health and social service delivery in the county,

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146 selected by that alliance or coalition; a member of the local
147 Parent-Teachers Association/Parent-Teacher-Student Association,
148 selected by that association; a youth representative selected by
149 the local school system's student government; a local school
150 board member appointed by the chair of the school board; the
151 mayor of the county or the mayor's designee; one member of the
152 county governing body, appointed by the chair of that body; a
153 member of the state Legislature who represents residents of the
154 county, selected by the chair of the local legislative
155 delegation; an elected official representing the residents of a
156 municipality in the county, selected by the county municipal
157 league; and 4 members-at-large, appointed to the council by the
158 majority of sitting council members. The remaining 7 members
159 shall be appointed by the Governor in accordance with procedures
160 set forth in paragraph (a), except that the Governor may remove
161 a member for cause or upon the written petition of the council.
162 Appointments by the Governor must, to the extent reasonably
163 possible, represent the geographic and demographic diversity of
164 the population of the county. Members who are appointed to the
165 council by reason of their position are not subject to the
166 length of terms and limits on consecutive terms as provided in
167 this section. The remaining appointed members of the governing
168 body shall be appointed to serve 2-year terms, except that those
169 members appointed by the Governor shall be appointed to serve 4-
170 year terms, and the youth representative and the legislative
171 delegate shall be appointed to serve 1-year terms. A member may
172 be reappointed; however, a member may not serve for more than
173 three consecutive terms. A member is eligible to be appointed
174 again after a 2-year hiatus from the council.

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175 (c) This subsection does not prohibit a county from
176 exercising such power as is provided by general or special law
177 to provide children's services or to create a special district
178 to provide such services.

179 Section 4. Section 200.091, Florida Statutes, is amended to
180 read:

181 200.091 Referendum to increase millage.—The millage
182 authorized to be levied in s. 200.071 for county purposes,
183 including dependent districts therein, may be increased for
184 periods not exceeding 2 years, provided such levy has been
185 approved by majority vote of the qualified electors in the
186 county or district voting in the a general election, as defined
187 in s. 97.021, immediately preceding the effective date of the
188 increase and called for such purpose. Such an election may be
189 called by the governing body of any such county or district on
190 its own motion and shall be called upon submission of a petition
191 specifying the amount of millage sought to be levied and the
192 purpose for which the proceeds will be expended and containing
193 the signatures of at least 10 percent of the persons qualified
194 to vote in such election, signed within 60 days prior to the
195 date the petition is filed.

196 Section 5. Section 200.101, Florida Statutes, is amended to
197 read:

198 200.101 Referendum for millage in excess of limits.—The
199 qualified electors of a municipality may, by majority vote ~~at a~~
200 ~~general election, as defined in s. 97.021,~~ increase millage
201 above those limits imposed by s. 200.081 in a referendum called
202 for such purpose by the governing body of the municipality and
203 held at the general election, as defined in s. 97.021,

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204 immediately preceding the effective date of the increase, but
205 the period of such increase may not exceed 2 years. Such
206 referendum also may be initiated by submission of a petition to
207 the governing body of the municipality containing the signatures
208 of 10 percent of those persons eligible to vote in such
209 referendum, which signatures were affixed to the petition within
210 60 days prior to its submission.

211 Section 6. Subsection (10) of section 212.055, Florida
212 Statutes, is amended to read:

213 212.055 Discretionary sales surtaxes; legislative intent;
214 authorization and use of proceeds.—It is the legislative intent
215 that any authorization for imposition of a discretionary sales
216 surtax shall be published in the Florida Statutes as a
217 subsection of this section, irrespective of the duration of the
218 levy. Each enactment shall specify the types of counties
219 authorized to levy; the rate or rates which may be imposed; the
220 maximum length of time the surtax may be imposed, if any; the
221 procedure which must be followed to secure voter approval, if
222 required; the purpose for which the proceeds may be expended;
223 and such other requirements as the Legislature may provide.
224 Taxable transactions and administrative procedures shall be as
225 provided in s. 212.054.

226 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
227 local government discretionary sales surtax under this section
228 must be held at a general election as defined in s. 97.021. A
229 referendum to reenact an expiring local government discretionary
230 sales surtax under this section must be held at the general
231 election immediately preceding the expiration date of the
232 surtax.

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233 Section 7. Paragraph (a) of subsection (4) of section
234 336.021, Florida Statutes, is amended to read:

235 336.021 County transportation system; levy of ninth-cent
236 fuel tax on motor fuel and diesel fuel.—

237 (4) (a) 1. A certified copy of the ordinance proposing to
238 levy the tax pursuant to referendum shall be furnished by the
239 county to the department within 10 days after approval of such
240 ordinance.

241 2. A referendum under this subsection shall be held only at
242 a general election, as defined in s. 97.021. A referendum to
243 reenact an expiring tax must be held at the general election
244 immediately preceding the expiration date of the tax.

245 3. The county levying the tax pursuant to referendum shall
246 notify the department within 10 days after the passage of the
247 referendum of such passage and of the time period during which
248 the tax will be levied. The failure to furnish the certified
249 copy will not invalidate the passage of the ordinance.

250 Section 8. Paragraph (b) of subsection (1) and paragraph
251 (b) of subsection (3) of section 336.025, Florida Statutes, are
252 amended to read:

253 336.025 County transportation system; levy of local option
254 fuel tax on motor fuel and diesel fuel.—

255 (1)

256 (b) In addition to other taxes allowed by law, there may be
257 levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent,
258 4-cent, or 5-cent local option fuel tax upon every gallon of
259 motor fuel sold in a county and taxed under the provisions of
260 part I of chapter 206. The tax shall be levied by an ordinance
261 adopted by a majority plus one vote of the membership of the

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262 governing body of the county or by referendum. A referendum
263 under this subsection shall be held only at a general election,
264 as defined in s. 97.021. A referendum to reenact an expiring tax
265 must be held at the general election immediately preceding the
266 expiration date of the tax.

267 1. All impositions and rate changes of the tax shall be
268 levied before October 1, to be effective January 1 of the
269 following year. However, levies of the tax which were in effect
270 on July 1, 2002, and which expire on August 31 of any year may
271 be reimposed at the current authorized rate provided the tax is
272 levied before July 1 and is effective September 1 of the year of
273 expiration.

274 2. The county may, prior to levy of the tax, establish by
275 interlocal agreement with one or more municipalities located
276 therein, representing a majority of the population of the
277 incorporated area within the county, a distribution formula for
278 dividing the entire proceeds of the tax among county government
279 and all eligible municipalities within the county. If no
280 interlocal agreement is adopted before the effective date of the
281 tax, tax revenues shall be distributed pursuant to the
282 provisions of subsection (4). If no interlocal agreement exists,
283 a new interlocal agreement may be established prior to June 1 of
284 any year pursuant to this subparagraph. However, any interlocal
285 agreement agreed to under this subparagraph after the initial
286 levy of the tax or change in the tax rate authorized in this
287 section shall under no circumstances materially or adversely
288 affect the rights of holders of outstanding bonds which are
289 backed by taxes authorized by this paragraph, and the amounts
290 distributed to the county government and each municipality shall

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291 not be reduced below the amount necessary for the payment of
292 principal and interest and reserves for principal and interest
293 as required under the covenants of any bond resolution
294 outstanding on the date of establishment of the new interlocal
295 agreement.

296 3. County and municipal governments shall use moneys
297 received pursuant to this paragraph for transportation
298 expenditures needed to meet the requirements of the capital
299 improvements element of an adopted comprehensive plan or for
300 expenditures needed to meet immediate local transportation
301 problems and for other transportation-related expenditures that
302 are critical for building comprehensive roadway networks by
303 local governments. For purposes of this paragraph, expenditures
304 for the construction of new roads, the reconstruction or
305 resurfacing of existing paved roads, or the paving of existing
306 graded roads shall be deemed to increase capacity and such
307 projects shall be included in the capital improvements element
308 of an adopted comprehensive plan. Expenditures for purposes of
309 this paragraph shall not include routine maintenance of roads.

310 (3) The tax authorized pursuant to paragraph (1)(a) shall
311 be levied using either of the following procedures:

312 (b) If no interlocal agreement or resolution is adopted
313 pursuant to subparagraph (a)1. or subparagraph (a)2.,
314 municipalities representing more than 50 percent of the county
315 population may, prior to June 20, adopt uniform resolutions
316 approving the local option tax, establishing the duration of the
317 levy and the rate authorized in paragraph (1)(a), and setting
318 the date for a countywide referendum on whether to levy the tax.
319 A referendum under this subsection shall be held only at a

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320 general election, as defined in s. 97.021. A referendum to
321 reenact an expiring tax must be held at the general election
322 immediately preceding the expiration date of the tax. The tax
323 shall be levied and collected countywide on January 1 following
324 30 days after voter approval.

325 Section 9. Subsections (1), (2), and (3) of section
326 1011.73, Florida Statutes, are amended to read:

327 1011.73 District millage elections.—

328 (1) MILLAGE AUTHORIZED NOT TO EXCEED 2 YEARS.—The district
329 school board, pursuant to resolution adopted at a regular
330 meeting, shall direct the county commissioners to call an
331 election at which the electors within the school districts may
332 approve an ad valorem tax millage as authorized in s. 9, Art.
333 VII of the State Constitution. ~~Such election may be held at any~~
334 ~~time, except that not more than one such election shall be held~~
335 ~~during any 12-month period.~~ Any millage so authorized shall be
336 levied for a period not in excess of 2 years or until changed by
337 another millage election, whichever is the earlier. In the event
338 any such election is invalidated by a court of competent
339 jurisdiction, such invalidated election shall be considered not
340 to have been held.

341 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district
342 school board, pursuant to resolution adopted at a regular
343 meeting, shall direct the county commissioners to call an
344 election at which the electors within the school district may
345 approve an ad valorem tax millage as authorized under s.
346 1011.71(9). ~~Such election may be held at any time, except that~~
347 ~~not more than one such election shall be held during any 12-~~
348 ~~month period.~~ Any millage so authorized shall be levied for a

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349 period not in excess of 4 years or until changed by another
350 millage election, whichever is earlier. If any such election is
351 invalidated by a court of competent jurisdiction, such
352 invalidated election shall be considered not to have been held.

353 (3) HOLDING ELECTIONS.—All school district millage
354 elections shall be held and conducted in the manner prescribed
355 by law for holding general elections, except as provided in this
356 chapter. A referendum under this part shall be held only at the
357 a general election, as defined in s. 97.021, immediately
358 preceding the effective date of the millage.

359 Section 10. 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

3/29/2023

Meeting Date

698

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Bob McKee

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Address 100 S Monroe

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State

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Association of Counties

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 856

INTRODUCER: Senator Rodriguez

SUBJECT: Amendments to Land Development Regulations

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

The bill prohibits local governments from requiring an initiative and referendum process for amendments to land development regulations.

Current law prohibits an initiative or referendum process for any development order, as well as any local comprehensive plan amendment or map amendment that was not expressly authorized by specific language in a local government charter that was in effect on June 1, 2011.

The bill is effective July 1, 2023.

II. Present Situation:

Comprehensive Plans

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.¹ Each county and municipality must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁴

The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.⁵

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.⁶

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.⁷ Local governments are encouraged to use innovative land development regulations⁸ and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.⁹

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.¹⁰ Additionally, land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.¹¹

Development Permits and Orders

The Community Planning Act defines "development" as "the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels."¹² When a party wishes to engage in development activity, they must seek a development permit from the appropriate local government having jurisdiction. Under the Community Planning Act, a 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

⁴ Section 163.3177(6), F.S.

⁵ *Id.*

⁶ Section 163.3164, F.S.

⁷ Section 163.3202, F.S.

⁸ Section 163.3202(3), F.S.

⁹ Sections 125.01055 and 166.04151, F.S.

¹⁰ Sections 163.3174(4)(a) and 163.3184, F.S.

¹¹ *See* Sections 163.3161(6) and 163.3194(1)(a), F.S.

¹² Section 163.3164(14), F.S.

permitting the development of land."¹³ Once a local government has officially granted or denied a development permit, the official action constitutes a development order.¹⁴ A development order vests certain rights related to the land.¹⁵

Comprehensive Plans and Referendums

In 2006, the voters of the city of St. Pete Beach amended the city's charter to require a referendum for any future changes to the city's comprehensive plan. These actions effectively stalled local development and led to a series of litigation between the city and the proponents of the amendment to the city's charter.¹⁶ At the time, state law only prohibited an initiative or referendum concerning a development order, comprehensive plan amendment, or map amendment that affected five or fewer parcels of land.¹⁷ The prohibition was revised in 2011 as part of the Community Planning Act to apply to all initiatives and referenda concerning a development order, comprehensive plan amendment, or map amendment.¹⁸ This provision was further revised to allow an initiative and referendum process in regard to any local comprehensive plan amendment or map amendment if it was expressly authorized by the local government charter that was in effect on June 1, 2011.¹⁹

There is currently no prohibition against the use of initiatives or the referendum process in regard to land development regulations. Citizens within two cities, Venice²⁰ and Pinecrest,²¹ have initiated the referendum process in order to challenge land development regulations proposed by those municipalities. While the Venice vote is yet to occur, the Pinecrest initiative failed on March 7, 2023.²²

III. Effect of Proposed Changes:

The bill amends s. 163.3167, F.S., to prohibit local governments from requiring an initiative and referendum process for amendments to land development regulations.

Current law prohibits an initiative or referendum process for any development order, as well as any local comprehensive plan amendment or map amendment that was not expressly authorized by specific language in a local government charter that was in effect on June 1, 2011.

¹³ Section 163.3164 (16), F.S.

¹⁴ Section 163.3164 (15), F.S.

¹⁵ Section 163.3167(3), F.S.

¹⁶ Mike Vogel, *Where Citizens Decide Growth Changes*, Florida Trend, available at <https://www.floridatrend.com/print/article/4365> (last visited Mar. 26, 2023).

¹⁷ Section 163.3167(12), F.S. (2006).

¹⁸ Ch. 2011-139, s. 7, Laws of Fla.

¹⁹ Chs. 2012-99, 2013-115, 2013-213, and 2014-178, Laws of Fla.

²⁰ Earle Kimel, *Venice residents get OK to start petition for referendum on development rules*, Sarasota Herald-Tribune, available at <https://www.heraldtribune.com/story/news/politics/elections/2022/08/16/elections-2022-venice-residents-get-ok-start-petition-referendum-development-rules/10326297002/> (last visited Mar. 26, 2023).

²¹ Tess Riski, *Pinecrest touts its trees. But residents battle mayor over zoning changes*, Miami Herald, available at <https://www.msn.com/en-us/news/us/pinecrest-touts-its-trees-but-residents-battle-mayor-over-zoning-changes/ar-AA167IdZ> (last visited Feb. 13, 2023).

²² Miami Dade County Supervisor of Elections, Pinecrest Special Election, available at <https://enr.electionsfl.org/DAD/3366/Summary/> (last visited Mar. 26, 2023).

The bill is effective 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:

None.

C. Government Sector Impact:

Local governments that would need to conduct elections in response to an initiative or referendum regarding an amendment to a land development regulation would no longer need to do so. This would reduce potential election costs for local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.3167 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.



640988

LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) of section 163.3167, Florida
Statutes, is amended to read:

163.3167 Scope of act.—

(8) (a) An initiative or referendum process in regard to any
development order is prohibited.

(b) An initiative or referendum process in regard to any



640988

11 land development regulation is prohibited.

12 (c) ~~(b)~~ An initiative or referendum process in regard to any
13 local comprehensive plan amendment or map amendment is
14 prohibited unless it is expressly authorized by specific
15 language in a local government charter that was lawful and in
16 effect on June 1, 2011. A general local government charter
17 provision for an initiative or referendum process is not
18 sufficient.

19 (d) ~~(e)~~ It is the intent of the Legislature that an
20 initiative or ~~and~~ referendum process be prohibited in regard to
21 any development order or any land development regulation. It is
22 the intent of the Legislature that an initiative or ~~and~~
23 referendum process be prohibited in regard to any local
24 comprehensive plan amendment or map amendment, except as
25 specifically and narrowly allowed by paragraph (c) ~~(b)~~.
26 Therefore, the prohibition on any such initiative or ~~and~~
27 referendum stated in paragraphs (a) and (c) ~~(b)~~ is remedial in
28 nature and applies retroactively to any initiative or referendum
29 process commenced after June 1, 2011, and any such initiative or
30 referendum process commenced or completed thereafter is deemed
31 null and void and of no legal force and effect.

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

33
34 ===== T I T L E A M E N D M E N T =====

35 And the title is amended as follows:

36 Delete everything before the enacting clause
37 and insert:

38 A bill to be entitled
39 An act relating to land development initiative and



640988

40 referendum processes; amending s. 163.3167, F.S.;

41 prohibiting an initiative or referendum process in

42 regard to any land development regulation; providing

43 an effective date.

By Senator Rodriguez

40-00550B-23

2023856__

1 A bill to be entitled
2 An act relating to amendments to land development
3 regulations; amending s. 163.3167, F.S.; prohibiting
4 an initiative or referendum process on land
5 development regulation amendments; revising
6 legislative intent to conform to changes made by the
7 act; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraphs (a) and (c) of subsection (8) of
12 section 163.3167, Florida Statutes, are amended to read:

13 163.3167 Scope of act.—

14 (8) (a) An initiative or referendum process in regard to any
15 development order or any amendment to land development
16 regulations is prohibited.

17 (c) It is the intent of the Legislature that an initiative
18 and referendum process be prohibited in regard to any
19 development order or any amendment to land development
20 regulations. It is the intent of the Legislature that an
21 initiative and referendum process be prohibited in regard to any
22 local comprehensive plan amendment or map amendment, except as
23 specifically and narrowly allowed by paragraph (b). Therefore,
24 the prohibition on any such initiative and referendum process
25 stated in paragraphs (a) and (b) is remedial in nature and
26 applies retroactively to any initiative or referendum process
27 commenced after June 1, 2011, and any such initiative or
28 referendum process commenced or completed ~~thereafter~~ is deemed
29 null and void and of no legal force and effect.

40-00550B-23

2023856__

30

Section 2. 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

SB 856

Bill Number or Topic

640988

Amendment Barcode (if applicable)

3/29/23

Meeting Date

Community Affairs

Committee

Name

Jane West

Phone

904-671-4008

Address

308 W. Monroe

Email

jwest@1000fof.org

Street

Tally

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:

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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/29/23

Meeting Date

CA (401 sb)

Committee

The Florida Senate

APPEARANCE RECORD

856

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name David Cullen

Phone 941-323-2404

Address 2838 Little Deal Rd

Email cullenasea@gmail.com

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Sierra Club Florida

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

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

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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

SB 856
Bill Number or Topic

3/29/23
Meeting Date

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Ashton Mears

Phone 352-843-0248

Address 2600 Centennial Place
Street

Email amears@fhba.com

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
Florida Home Builders Assoc

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

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

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

S-001 (08/10/2021)

March 29, 2023

The Florida Senate

APPEARANCE RECORD

856

Meeting Date

Community Affairs

Bill Number or Topic

Committee

Pamela Burch Fort

Amendment Barcode (if applicable)

850-425-1344

Name

Phone

Address

104 South Monroe Street

Email

TcgLobby@aol.com

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Common Cause 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: CS/SB 978

INTRODUCER: Community Affairs Committee and Senator Bradley

SUBJECT: Secured Transactions

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 978 provides that language referring only to the type of collateral is insufficient to waive constitutional and statutory protections that prevent creditors from obtaining a judgment against certain assets, allowing the individual to pledge such assets as collateral.

These changes are in response to a recent federal court case which held that mere contractual reference to “all assets” included certain property previously understood to be excluded from such an agreement. Assets unexpectedly put at risk include retirement accounts, pension payments, and education savings accounts. The bill does not affect state or local revenue.

The bill takes effect upon becoming a law.

II. Present Situation:

Asset Protection from Legal Process

A creditor can collect money owed by filing an action for a judgment in state court. A judgment is an order of the court creating an obligation, typically a debt when creditors are involved. The creditor may then use that judgment to collect assets from the debtor. Chapter 222, F.S., contains exemptions that protect certain assets from legal process under Florida law, absent a waiver. Florida exempts the following assets against creditor claims in most situations:

- Homestead property (ss. 222.01-222.05, F.S.).

- Certain items of personal property (s. 222.061, F.S.).
- The proceeds of a life insurance policy (s. 222.13, F.S.).
- The cash surrender value of a life insurance policy and the proceeds of an annuity contract (s. 222.14, F.S.).
- Disability benefits payable from any insurance (s. 222.18, F.S.).

- Certain pension, retirement, or profit sharing benefits (s. 222.21, F.S.).
- Prepaid College Trust Fund moneys and Medical Savings Account funds (s. 222.22, F.S.).
- A debtor's interest in a motor vehicle, up to \$1,000 in value (s. 222.25, F.S.).
- A debtor's interest in any professionally prescribed health aids (s. 222.25, F.S.).
- Social security benefits, unemployment compensation, or public assistance benefits; veterans' benefits; disability, illness, or unemployment benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances (s. 222.201, F.S.).

These exemptions have historically been construed liberally in favor of the consumer against creditors' claims to exempt property.¹ When a consumer enters a security agreement – a contract in which a debtor offers assets as collateral (“security”) to guarantee repayment – the contract describes what assets are offered as security. Historically, a contract's blanket offering of “all assets” as security has not been interpreted to include assets subject to these exemptions.²

An individual must take additional steps in order to offer certain exempt assets as collateral. For example, in the case of a Floridian's homestead exemption, which protects homestead property from bankruptcy proceedings, a contractual waiver of those rights must be “knowing, voluntary, and intelligent” to have any effect.³ As another example, certain wages are exempt from legal process.⁴ The wages exemption may only be waived in writing, in a separate document attached to the security agreement, which must contain mandatory waiver language in at least 14-point font.⁵

Sufficiency of Description for Collateral in Security Agreements

An effective description of collateral in a security agreement identifies the asset by specific listing; category; type of collateral; quantity, computational or allocational formula; or any method under which the identity of the collateral is objectively determinable.⁶

¹ See e.g. *Patten Package Co. v. Houser*, 102 Fla. 603, 607, 136 So. 353, 355 (1931); *Killian v. Lawson*, 387 So.2d 960, 962 (Fla. 1980); *Havoco of Am. Ltd. v. Hill*, 790 So.2d 1018, 1021 (Fla. 2001); *Connor v. Seaside National Bank*, 135 So.3d 508, 509 (Fla. 5th DCA 2014).

² Section 679.1081(3), F.S., Official Comment 2 to U.C.C. s. 9-110 (s. 679.1081(3), F.S.).

³ See e.g. *Chames v. DeMayo*, 972 So.2d 850, 861 (Fla. 2007) (citing *State v. Upton*, 658 So.2d 86, 87 (Fla. 1995)).

⁴ Section 222.11, F.S.

⁵ Section 222.11(2), F.S.

⁶ Section 679.1081(2), F.S. Chapter 679, F.S., adopts Article 9 of the Universal Commercial Code (U.C.C.), dealing with secured transactions. Every state in the United States has adopted the U.C.C. See <https://www.uniformlaws.org/acts/ucc> (last visited March 24, 2023).

Current law specifically provides that a description of collateral as “all the debtor’s assets” or “all the debtor’s personal property” does not reasonably identify collateral.⁷

Finally, current law provides that a description defined by “type” of collateral alone for a commercial tort claim or, in a consumer transaction, for a security entitlement, securities account, or commodity account, is not sufficient.⁸ For example, “all existing and after-acquired investment property” or “all existing and after-acquired security entitlements,” without more, would be insufficient in a consumer transaction to describe a security entitlement, securities account, or commodity account.⁹

Kearney Construction Co, LLC v. Travelers Casualty & Surety Company of America

A recent federal court case held that general, broad pledges of “all assets” waives ch. 222, F.S., protections. In *Kearney Construction Company, LLC v. Travelers Casualty and Surety Company of America*¹⁰ the debtor obtained a line of credit and pledged collateral in the contract as follows:

Grant of Security Interest. As security for any and all Indebtedness (as defined below), the Pledgor hereby irrevocably and unconditionally grants a security interest in the collateral described in the following properties[:] all assets and rights of the Pledgor, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof, all goods (including inventory, equipment and any accessories thereto), instruments (including promissory notes)[,] documents, accounts, chattel paper, deposit accounts, letters of credit, rights, securities and all other investment property, supporting obligation[s], any contract or contract rights or rights to the payment of money, insurance claims, and proceeds, and general intangibles (the “Collateral”).¹¹

The Eleventh Circuit considered whether this language included assets held in the debtor’s Individual Retirement Account (IRA). The debtor argued that the IRA should not have been included in all assets and was never intended to have been offered as collateral.¹² The court found that the security agreement’s language constituted an “unambiguous pledge” of all assets, which includes those exempt under ch. 222, F.S.¹³ Kearney’s IRA was not specifically listed in the agreement, but the court concluded that the broad language of the contract “encompassed potential retirement accounts or funds, such as the [IRA] at issue here.”¹⁴

The courts did not address whether ch. 222, F.S., exemptions or ch. 679, F.S., description requirements should have any weight in interpreting the contract. The courts also did not explain what part of the security agreement encompassed the IRA. It is unclear if it was part of a specific

⁷ Section 679.1081(3), F.S.

⁸ Section 679.1081(5), F.S.

⁹ Section 679.1081(5), F.S.; Official Comment 5 to U.C.C. s. 9-108 (s. 679.1081(5), F.S.).

¹⁰ 795 Fed.Appx. 671 (Fla. 11th Cir. Nov. 13, 2019).

¹¹ *Id.* at 673

¹² *Id.*

¹³ *Id.*

¹⁴ Magistrate Judge’s Report and Recommendation, Case 8:09-cv-01850-JSM-TBM, Docket 865, at 28.

collateral category such as a deposit account, investment property, general intangible, or another category,¹⁵ each of which could have different treatment.¹⁶

Federal law treats the use of any funds inside a tax-advantaged retirement account as a taxable distribution from that account.¹⁷ Therefore, any such funds used unexpectedly for a pledge of “all assets” towards a debt risk losing their tax-advantaged status, subject to back taxes and penalties.

In the 2022, the Legislature passed SB 406 to address this issue by providing that language referring only to the type of collateral is insufficient to waive constitutional and statutory protections that prevent creditors from obtaining a judgment against certain assets, allowing the individual to pledge such assets as collateral. The provision was intended to apply retroactively. The bill was vetoed by the Governor.¹⁸

III. Effect of Proposed Changes:

The bill provides that a general description only by type of collateral is an insufficient description to pledge as collateral, for the purposes of a security agreement, accounts and other entitlements set forth in ss. 222.13-222.16, 222.18, and 222.201-222.22, F.S. These include:

- Funds held in an IRA and other tax-exempt accounts.
- A life insurance policy’s proceeds or cash surrender value.
- An annuity contract’s proceeds.
- Funds held in qualified tuition programs, medical savings accounts, Coverdell education accounts, and hurricane savings accounts.
- Disability income benefits.
- A deceased person’s wages, travel expenses, and reemployment assistance or unemployment compensation payments.
- Social security benefits; unemployment compensation; public assistance benefits; veterans’ benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.

In order to include such an asset in a security agreement, the asset must be described by specific reference to the individual asset as provided in s. 679.1081, F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18, of the State Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax

¹⁵ *Id.*

¹⁶ Sections 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081 and 679.1091, F.S.

¹⁷ I.R.C. s. 408(e)(4).

¹⁸ Ron DeSantis, letter, Jun. 24, 2022, available at <https://www.flgov.com/wp-content/uploads/2022/06/6.24.22-SB-406-Veto-Letter.pdf> (last visited March 24, 2023).

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

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not affect state or local revenue.

B. Private Sector Impact:

The bill protects consumers from unknowingly pledging otherwise exempt assets.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 679.1081 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 29, 2023:

The CS removes language providing that the bill is intended to clarify existing law.

- B. **Amendments:**

None.

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



844828

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**

2

3 Delete lines 24 - 25.

4

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

6 And the title is amended as follows:

7 Delete line 6

8 and insert:

9 agreements; providing an

By Senator Bradley

6-00465A-23

2023978__

1 A bill to be entitled
 2 An act relating to secured transactions; amending s.
 3 679.1081, F.S.; providing that a description of
 4 certain accounts and entitlements by a certain type of
 5 collateral is insufficient for the purpose of security
 6 agreements; providing legislative intent; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (5) of section 679.1081, Florida
 12 Statutes, is amended to read:

13 679.1081 Sufficiency of description.—

14 (5) A description only by type of collateral defined in
 15 this chapter is an insufficient description of:

- 16 (a) A commercial tort claim;
- 17 (b) In a consumer transaction, consumer goods, a security
 18 entitlement, a securities account, or a commodity account; ~~or~~
- 19 (c) An account consisting of a right to payment of a
 20 monetary obligation for the sale of real property that is the
 21 debtor's homestead under the laws of this state; or
- 22 (d) Accounts and other entitlements set forth in ss.
 23 222.13-222.16, s. 222.18, and ss. 222.201-222.22.

24 Section 2. The amendment made by this act to s. 679.1081,
 25 Florida Statutes, is intended to clarify existing law.

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

3/29/23

APPEARANCE RECORD

978

Meeting Date

Bill Number or Topic

Community Affairs

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

844828

Committee

Amendment Barcode (if applicable)

Name **Martha Edenfield**

Phone **850-999-4100**

Address **106 E. College Ave #1200**

Email **medenfield@deanmead.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:

The Real Property, Probate and Trust Law Section of the Florida Bar

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 \(flsenate.gov\)](#)

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

3/29/23

APPEARANCE RECORD

978

Meeting Date

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

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Martha Edenfield

Phone 850-999-4100

Address 106 E. College Ave #1200

Email medenfield@deanmead.com

Street

Tallahassee

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32301

City

State

Zip

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

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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 \(flsenote.gov\)](#)

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: CS/SB 980

INTRODUCER: Regulated Industries Committee and Senator Brodeur and others

SUBJECT: 911 Public Safety Telecommunicator Certifications

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 980 increases the timeframe, from 180 days to six years, within which a 911 public safety telecommunicator (PST) certificateholder may renew an involuntarily inactive PST certificate before said certificate permanently expires.

The bill has an effective date of July 1, 2023.

II. Present Situation:

911 Public Safety Telecommunicator Certification

Chapter 401, F.S., relates to medical telecommunications and transportation. Part I of ch. 401, F.S., is specific to the state's emergency telecommunication systems, administered by the Department of Management Services. Part II of ch. 401, F.S., is specific to the emergency medical services (EMS) grants program administered by the Department of Health (DOH). Part III of ch. 401, F.S., consisting of ss. 401.2101 through 401.465, F.S., is specific to medical transportation services and provides for the regulation of EMS by the DOH, including the licensure of EMS service entities, the certification of staff employed by those services, and the permitting of vehicles used by such staff—whether for basic life support (BLS), advanced life support (ALS), or air ambulance services (AAS).

Section 401.465, F.S., is specific to PST certification, administered as part of the EMS program, and defines:

- “911 public safety telecommunicator” as a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. The term does not include, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.
- “Public safety telecommunication training program” as a 911 emergency public safety telecommunication training program that the DOH determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the DOE and consists of at least 232 hours.¹

Any person employed as a PST at a public safety answering point² must be certified by the DOH. A public safety agency,³ may employ a PST for a period not to exceed 12 months if the trainee works under the direct supervision of a certified PST, as determined by rule of the DOH, and is enrolled in a PST training program.

An applicant for certification or recertification as a PST must apply to the DOH under oath on the DOH-provided forms. The DOH, under the rules set forth in Fla. Admin. Code Ch. 64J-3, has established educational and training criteria for the certification and recertification of PSTs, determines whether the applicant meets the statutory and rule requirements, and issues certificates to persons meeting those requirements. Section 401.465(2)(d), F.S., specifies that, at minimum, the requirements must include all of the following:

- Completion of an appropriate 911 PST training program.
- Certification, under oath, that the applicant is not addicted to alcohol or any controlled substance.
- Certification, under oath, that the applicant is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties.
- Submission of the appropriate application fee.
- Submission of a completed DOH-approved application to the DOH which indicates compliance with PST certificate application requirements.
- Passage of a DOH-approved examination that measures the applicant’s competency and proficiency in the subject material of the PST training program.

A person who was previously employed as a PST or a state-certified firefighter before April 1, 2012, must pass the examination approved by the DOH, which measures the competency and

¹ Section 401.465(1), F.S.

² Section 365.172 (3)(y), F.S., defines a “public safety answering point” as the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.

³ Section 365.171(3)(d), F.S., defines a “public safety agency” as a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

proficiency in the subject material of the PST program, and, upon passage of the examination, the completion of the PST training program is waived.⁴ In addition, the requirement for certification as a PST is waived for a person employed as a sworn, state-certified law enforcement officer, provided that the officer:

- Is selected by his or her chief executive to perform as a PST;
- Performs as a PST on an occasional or limited basis; and
- Passes the DOH-approved examination that measures the competency and proficiency of an applicant in the subject material comprising the public safety telecommunication program.⁵

An initial PST application requires a fee of \$50. In addition, statutes allows the DOH to assess the following fees (currently, the DOH charges these fees at the statutory maximum):

- Examination fee, set by the DOH, not to exceed \$75;
- Biennial renewal certificate, set by the DOH, not to exceed \$50;
- Training program fee, set by the DOH, not to exceed \$50; and
- Duplicate, substitute, or replacement certificate fee, set by the DOH, not to exceed \$25.⁶

Fees collected are deposited into the EMS Trust Fund within DOH, and used solely for administering this program.⁷

The DOH has adopted three rules specific to its PST program responsibilities. These rules, which address PST certification, PST course equivalency, and certification renewal were adopted in 2012.⁸

The DOH website provides extensive details specific to the PST program and includes links to all applicable forms for individuals who are seeking to become certified or re-certified as a PST, including PST examination details, training program requirements, and fees. Training programs must follow the DOE Public Safety Telecommunication Curriculum Framework and consist of not less than 232 hours in order to be approved as a PST training program. The DOH uses a vendor, Prometric,⁹ to administer the testing for PST candidates.¹⁰

The DOH develops the learning objectives for the PST program, and these are reflected in the 142-page program study guide.¹¹ Until Fiscal Year 2014-2015, the DOH learning objectives and the DOE curriculum framework included a requirement that PST training must include CPR training. In conjunction with the DOE and other stakeholders, the CPR element of this required

⁴ Section 401.465(2)(i), F.S.

⁵ *Id.*

⁶ Section 401.465(4), F.S.

⁷ Section 401.465(3), F.S.

⁸ Fla. Admin. Code R. 64J-3.001, 64J-3.001, and 64J-3.001

⁹ Prometric is a provider of technology-enabled testing and assessment solutions to many licensing and certification organizations, academic institutions, and government agencies. Prometric, *About Us*, available at <https://www.prometric.com/about-us/about-prometric> (last visited Mar. 25, 2023).

¹⁰ Department of Health, *911 Public Safety Telecommunicator Program*, available at <http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/index.html> (last visited Mar. 25, 2022)

¹¹ See the Department of Health, *Florida 911 Public Safety Telecommunicator Study Guide*, 2019, available at: <https://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/documents/911-pst-studyguide.pdf> (last visited Mar. 25, 2023).

training was discontinued.¹² However, in 2022, HB 593, was passed by the Legislature and enacted as Chapter 2022-51, Laws of Florida. This law amended s. 401.465, F.S., to require certain PST practitioners to again complete CPR training.¹³ PSTs who answer telephone calls and provide dispatch functions for emergency medical conditions must complete telecommunicator CPR training every two years.

Renewal of 911 Public Safety Telecommunicator Certification

PST certificates are renewed biennially, in odd numbered years, with a due date of February 1 in those years, and requires that, as part of the filing of the renewal, the certificateholder must complete 20 hours of training for each biennial PST certification renewal.¹⁴ Though s. 401.465, F.S., provides for a biennial renewal period, under DOH may suspend or revoke a certificate at any time if it determines that the certificateholder does not meet the applicable qualifications.¹⁵

911 Public Safety Telecommunicator Involuntary versus Voluntary Inactive Status

Statutes delineate two types of inactive status. The first is involuntary, as inherently created by the renewal requirements and procedures.¹⁶ The second is voluntary inactive status, as created by the procedure in s. 401.465(2)(h), F.S.

Involuntary inactive status specifies that a PST certificate expires automatically if not renewed at the end of its two-year certification period.¹⁷ For 180 days thereafter, such an expired certificate may be reactivated and renewed by the certificateholder by paying a \$50 late fee, in addition to the required \$50 renewal fee, and submitting the required renewal form to the DOH (as long as such certificateholder meets all other qualifications for renewal).¹⁸ A certificate so made involuntarily inactive, and not renewed within 180 days, expires and may no longer be renewed.

Section 401.465(2)(h), F.S., allows a certificateholder to place their certificate in voluntary inactive status. To do so, the certificateholder must pay a \$50 fee and apply with the DOH prior to the expiration of their PST certificate pursuant to s. 401.465(2)(f), F.S. Once a certificate is voluntarily inactive statutes, provide that:

- A certificateholder whose certificate has been on inactive status for one year or less may renew his or her certificate pursuant to the rules adopted by the DOH and upon payment of a renewal fee set by the department, which may not exceed \$50.
- A certificateholder whose certificate has been on inactive status for more than one year may renew his or her certificate pursuant to rules adopted by the department.
- A certificate that has been inactive for more than six years automatically expires and may not be renewed.¹⁹

¹² E-mail from Department of Education to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Regulated Industries).

¹³ Section 401.465(3)(a), F.S.

¹⁴ Fla. Admin. Code R. 64J-3.003 (2012) implements Section 401.465, F.S.

¹⁵ Section 401.465(2)(g), F.S.,

¹⁶ Section 401.465(2)(f), F.S.

¹⁷ Section 401.465(2)(f), F.S.

¹⁸ See Fla. Admin. Code R. 64J-3.003 (2012), which incorporates by reference DOH form 5068, 01/12, *Renewal/Change of Status 911 Public Safety Telecommunicator Certification Form*, available at:

<https://www.flrules.org/Gateway/reference.asp?No=Ref-01490> (last visited Mar. 25, 2023).

¹⁹ Section 401.465(2)(f), F.S.

Though statutes identify two types of certificateholders who have unexpired, but voluntarily inactive licenses, (i.e. a person who has their PST certificate on voluntary inactive status for one year or less versus a certificateholder who has been on such status for at least one but less than six years), current DOH rules treat them the same. Under either circumstance, a person must have completed all renewal requirements and pay a \$50 renewal fee.²⁰

For both involuntary and voluntary inactive status, once a certificate expires (after 180 days of involuntary inactive status or six years of voluntary inactive status) it may not be renewed and an applicant must meet all of the application and training requirements of a new PST certificate in order to regain PST certification.²¹

911 Public Safety Telecommunicator Shortage

According to the National Emergency Number Association (NENA), there is no national database that tracks turnover in dispatch department units (which would include PSTs).²² As of January 2023, NENA states that it is seeing, anecdotally, an approximate 30 percent staffing shortage on average at 911 centers across the nation.²³ A June 2022 survey of Florida counties by the Florida Telecommunicator Emergency Response found that, of the 39 Florida counties responding:

- All but one had unfilled PST positions;
- Eighteen had a PST position vacancy rate of 25 percent or more; and
- Overall, 831 of 3,889 authorized PST positions were vacant at that time in those counties (for an overall vacancy rate of 21 percent).²⁴

Current Public Safety Telecommunicator Certificateholders in Florida

Currently, according to the DOH, there are 6,081 PST certificateholders in Florida. During the past three renewal cycles—February 2017, 2019, and 2021—the number of persons whose licenses expired after 180 days of involuntary inactive status were 1,965, 1,887, and 1,840, respectively.²⁵

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 401.465(2)(f), F.S., to allow that for all 911 public safety telecommunicator certificates not renewed at the end of the 2-year certificate period, the

²⁰ *Id.*

²¹ Section 401.465(2)(f) and (h)3., F.S.

²² Malique Rankin, *911 dispatchers facing staffing shortages as calls increase*, CBS 10 TAMPA BAY WTSP.COM, (Aug. 8, 2021), available at <https://www.wtsp.com/article/news/local/911-dispatchers-staffing-shortages/67-a17c5a42-92f4-462f-8c61-eaf1b1885255> (last visited: Mar. 25, 2023).

²³ Chris Nussman, *NENA Launches Workforce-Recruitment Resources to Help Combat the 9-1-1 Staffing Crisis*, National Emergency Number Association (Jan. 27, 2023), available at <https://www.nena.org/news/news.asp?id=629650&hhSearchTerms=%22shortage%22> (last visited: Mar 25, 2023).

²⁴ Florida Telecommunicator Emergency Response Taskforce, *911 Public Safety Telecommunicator Certificates* (on file with Senate Regulated Industries Committee).

²⁵ E-mail from Charles Smith, Legislative Planning Director, Florida Department of Health, to Senate Regulated Industries Committee staff (Mar. 13, 2023)(on file with the Senate Regulated Industries Committee).

certificate would enter inactive status for a period not to exceed six years. Such a certificate may be renewed by the certificateholder within this six year period by meeting all other qualifications for renewal and paying a \$50 late fee.

Under current s. 401.465, F.S., such a six-year inactive period and renewal window is limited only to certificateholders electing to place their certificate in voluntary inactive status and paying a \$50 fee to the Department of Health (DOH), prior to the certificate expiring 180 days after the renewal was due. In extending the 6-year renewal period to all inactive certificates, the bill eliminates all statutory distinctions between involuntarily or voluntarily inactive public safety telecommunicator certificates and allows up to six years for any certificateholder to renew a certificate before the certificate irrevocably expires.

The bill also:

- Prohibits the DOH from requiring the certificateholder to pay a fee or make an election before placing a certificate in inactive status.
- Provides that for any fee paid by a certificateholder to place their certificate in inactive status in the past six years, the DOH shall apply that fee paid to the cost of renewing the certificateholder's certificate.
- Provides that the bill is remedial in nature and applies retroactively to any public safety telecommunicator certificate that has expired pursuant to s. 401.465(2)(f), F.S., during the 6-year period before the effective date of the act.

The DOH expects that the revisions to s. 401.465(2)(f), F.S., would potentially impact 5,692 former certificateholders whose certificates are currently expired pursuant to the 180-day renewal limitation for certificates on involuntary inactive status under current s. 401.465(2)(f), F.S.²⁶

Section 2 of the bill provides that it is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁶ *Id.*

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under the bill, the number of persons who are eligible to apply for a renewal of 911 public safety telecommunicator (PST) certification will likely increase. In addition, the number of persons applying for new PST certifications may be reduced, as those whose certifications may have previously been expired are now eligible for renewal instead. The exact impact at this time is unknown, however the DOH did indicate via email that the proposed changes in CS/SB 980 could impact up to 5,692 former certificateholders whose certificates are currently expired and not renewable.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 401.465 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries on March 14, 2023:**

The committee substitute:

- Eliminates a distinction in current s. 401.465, F.S., distinguishing between public safety telecommunicator certificates that become involuntarily or voluntarily inactive and allows up to six years for any certificateholder to renew a certificate before it irrevocably expires. Under current law, the 6-year renewal period is only available by

²⁷ *Id.*

applying with the Department of Health for voluntary inactive status and paying a \$50 fee (otherwise, the renewal period is 180 days—i.e. involuntary inactive status).

- Prohibits the Department of Health from requiring the payment of a fee or making of an election before placing a certificate in inactive status.
- Provides that for any fee paid by a certificateholder to place their certificate in inactive status in the past six years, the Department of Health shall apply that fee paid to the cost of renewing the certificateholder's certificate.
- Provides for retroactive application.

B. Amendments:

None.



194472

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 68 and 69

insert:

This credit is valid for 6 years after the effective date of this act.

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

And the title is amended as follows:

Delete line 16



194472

11 and insert:
12 the certificateholder; providing that such credit is
13 valid for a specified period; providing for
14 retroactive

By the Committee on Regulated Industries; and Senators Brodeur and Stewart

580-02577-23

2023980c1

1 A bill to be entitled
2 An act relating to 911 public safety telecommunicator
3 certifications; amending s. 401.465, F.S.; increasing
4 the timeframe within which an inactive 911 public
5 safety telecommunicator certificate may be reactivated
6 before it permanently expires; deleting a process by
7 which a certificateholder may voluntarily place his or
8 her certificate in inactive status; providing
9 applicability; prohibiting the Department of Health
10 from requiring certificateholders to pay a fee or to
11 make an election to place their certificates in
12 inactive status, beginning on a specified date;
13 requiring that certain fees paid by a
14 certificateholder before a specified date be credited
15 toward any future renewal fees required to be paid by
16 the certificateholder; providing for retroactive
17 application; providing an effective date.

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

20
21 Section 1. Paragraphs (f) and (h) of subsection (2) of
22 section 401.465, Florida Statutes, are amended to read:

23 401.465 911 public safety telecommunicator certification.—

24 (2) PERSONNEL; STANDARDS AND CERTIFICATION.—

25 (f) A 911 public safety telecommunicator certificate
26 expires automatically if not renewed at the end of the 2-year
27 period and may be renewed if the holder meets the qualifications
28 for renewal as established by the department. A certificate that
29 is not renewed at the end of the 2-year period automatically

580-02577-23

2023980c1

30 reverts to an inactive status for a period that may not exceed 6
31 years ~~180 days~~. Such certificate may be reactivated and renewed
32 within the 6-year ~~180-day~~ period by ~~if~~ the certificateholder
33 pursuant to paragraph (h). A certificate that has been inactive
34 for more than 6 years automatically expires and may not be
35 renewed ~~meets all other qualifications for renewal and pays a~~
36 ~~\$50 late fee. Reactivation shall be in a manner and on forms~~
37 ~~prescribed by department rule.~~

38 (h) ~~A certificateholder may request that his or her 911~~
39 ~~public safety telecommunicator certificate be placed on inactive~~
40 ~~status by applying to the department before his or her current~~
41 ~~certification expires and paying a fee set by the department,~~
42 ~~which may not exceed \$50.~~

43 ~~1. A certificateholder whose certificate has been on~~
44 ~~inactive status for 6 years 1 year or less may renew his or her~~
45 ~~certificate pursuant to the rules adopted by the department and~~
46 ~~upon payment of a renewal fee set by the department, which may~~
47 ~~not exceed \$50.~~

48 ~~2. A certificateholder whose certificate has been on~~
49 ~~inactive status for more than 1 year may renew his or her~~
50 ~~certificate pursuant to rules adopted by the department.~~

51 ~~3. A certificate that has been inactive for more than 6~~
52 ~~years automatically expires and may not be renewed.~~

53 Section 2. (1) The amendments made by this act to s.
54 401.465(2)(f) and (h), Florida Statutes, apply regardless of
55 whether the certificateholder voluntarily placed his or her
56 certificate in inactive status pursuant to former s.
57 401.465(2)(h), Florida Statutes, or the certificate reverted to
58 inactive status pursuant to s. 401.465(2)(f), Florida Statutes,

580-02577-23

2023980c1

59 during the 6-year period before the effective date of this act.
60 Beginning on the effective date of this act, the Department of
61 Health may not require a certificateholder to pay a fee or to
62 make an election to place his or her certificate in inactive
63 status.

64 (2) Any fee paid by a certificateholder to voluntarily
65 place his or her certificate in inactive status during the 6-
66 year period before the effective date of this act must be
67 credited toward any future renewal fee required to be paid by
68 the certificateholder under s. 401.465(2)(h), Florida Statutes.

69 (3) This act is remedial in nature and applies
70 retroactively to any public safety telecommunicator certificate
71 that has expired pursuant to former s. 401.465(2)(f), Florida
72 Statutes, during the 6-year period before the effective date of
73 this act.

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

The Florida Senate

APPEARANCE RECORD

980

3-29-23

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 Commander James Cunningham Phone 239-253-3935

Address 3319 Tamiami Tr E Email 6830@CollierSheriff.org

Street

Naples FL 34119

City

State

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. §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

980

3/29

Meeting Date

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

Bill Number or Topic

Comm Affairs

Committee

Amendment Barcode (if applicable)

Name Richard Pinsky

Phone

Address 201 E Park Ave

Email

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:

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

911 Emergency Dispatchers

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

SB 0980

Bill Number or Topic

03/29/23

Meeting Date

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

COMMUNITY AFFAIRS

Committee

Amendment Barcode (if applicable)

Name LT. CHIP DENMARK

Phone 407-448-1690

Address ORANGE COUNTY S.O.

Email CHARLES.DENMARK@ALSOFL.COM

Street

2500 W. COLONIAL DR ORLANDO, 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:

SHERIFF JOHN MNA

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 1034

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez

SUBJECT: State-administered Retirement Systems

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1034 allows a correctional officer participating in the Florida Retirement System Pension Plan to extend participation in the Deferred Retirement Optional Program (DROP) up to 36 months beyond the general 60-month limitation. To be eligible to extend for the additional 36 months, the correctional officer must in be the DROP on or after July 1, 2023, and before June 30, 2028.

State and local governments participating in the Florida Retirement System will pay an additional \$18.0 million annually to fund the benefits granted in this legislation.

The bill finds that the act fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the act, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement

System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group. The FRS was amended in 1998 to add the Deferred Retirement Option Program (DROP) under the defined benefit plan and amended in 2000 to provide a defined contribution plan alternative to the defined benefit plan for FRS members effective July 1, 2002.¹

The FRS is a multi-employer, contributory plan² governed by the Florida Retirement System Act.³ As of June 30, 2022, the FRS had 629,073 active members,⁴ 448,846 retired members and beneficiaries, and 28,827 members in DROP.⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and state universities. The FRS also serves as the retirement plan for participating employees of the 180 municipalities, 153 special districts, and two independent hospitals that have elected to join the system.⁶

The membership of the FRS is divided into five membership classes:

- The Regular Class⁷ has 537,128 active members and 7,806 in renewed membership.
- The Special Risk Class⁸ has 72,925 active members and 1,100 in renewed membership.
- The Special Risk Administrative Support Class⁹ has 104 active members and one in renewed membership.
- The Elected Officers' Class¹⁰ has 2,075 active members and 109 in renewed membership.
- The SMSC¹¹ has 7,610 active members and 210 in renewed membership.¹²

Plan Choice

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the FRS Investment Plan; and
- The defined benefit plan, also known as the FRS Pension Plan.

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2022, at 35, available at: https://employer.frs.fl.gov/forms/2021-22_ACFR.pdf (last visited Mar. 24, 2023).

² Prior to 1975, members of the FRS were required to make employee contributions of either four percent gross compensation for Regular Class members or six percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011, at three percent.

³ Ch. 121, F.S.

⁴ As of June 30, 2022, the FRS Pension Plan, which is a defined benefit plan, had 444,150 members, and the investment plan, which is a defined contribution plan, had 184,923 members. FRS Comprehensive Annual Report, *supra* note 1 at 260.

⁵ FRS Comprehensive Annual Report, *supra* note 1 at 42.

⁶ *Id.* at 298.

⁷ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁸ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁹ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

¹⁰ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹¹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹² FRS Comprehensive Annual Report, *supra* note 1 at 263.

When an employee is initially hired in an FRS-covered position, the member has 8 months after the month of hire to choose to participate in either the pension plan or the investment plan. If the employee does not choose within that period, a member in the Special Risk Class is deemed to have chosen to participate in the pension plan and all other members are deemed to have chosen to participate in the investment plan. After a member has made an active election to participate in a plan or the member’s choice window has expired, the member has one additional opportunity to choose to switch between plans (this is referred to as the second election).¹³

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002. The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁴ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁵

A member vests immediately in all employee contributions paid to the investment plan.¹⁶ With respect to the employer contributions, a member vests after completing 1 work year with an FRS employer.¹⁷ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁸

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member’s account varies by class as follows:¹⁹

Membership Class	Percentage of Gross Compensation *
Regular Class	9.30%
Special Risk Class	17.00%
Special Risk Administrative Support Class	10.95%
Elected Officers’ Class:	
Justices and Judges	16.23%
County Elected Officers	14.34%
Others	12.38%
Senior Management Service Class	10.67%

*Includes the three percent employee contribution.

¹³ Section 121.4501(4)(b), F.S.

¹⁴ Section 121.4501(8), F.S.

¹⁵ Art. IV, s. 4(e), FLA. CONST.

¹⁶ Section 121.4501(6)(a), F.S.

¹⁷ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member’s account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member’s account to the SBA’s suspense account are forfeited. S. 121.4501(6)(b) – (d), F.S.

¹⁸ Section 121.591, F.S.

¹⁹ Section 121.72(6), F.S.

The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.²⁰ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.²¹

Pension Plan

The pension plan is a defined benefit plan administered by the secretary of the Department of Management Services through the Division of Retirement.²² The pension plan's investments are managed by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing 6 years of service with an FRS employer.²³ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after 8 years of creditable service.²⁴ A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²⁵ For members of the pension plan initially enrolled before July 1, 2011, normal retirement, which is when a member is first eligible for unreduced benefits, occurs at the earliest attainment of 30 years of service or age 62.²⁶ For members in the Special Risk and Special Risk Administrative Support Classes enrolled before July 1, 2011, normal retirement is the earliest of 25 years of service or age 55.²⁷ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁸

Deferred Retirement Option Program

All membership classes in the FRS Pension Plan may participate in DROP.²⁹ The program allows eligible members³⁰ of the FRS to defer receipt of retirement benefits while continuing employment with the FRS employer. The deferred monthly benefits accrue, plus interest, in the FRS on behalf of the member for the period of time the member participates in DROP. Upon

²⁰ See s. 121.4501(16), F.S.

²¹ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

²² Section 121.025, F.S.

²³ Section 121.021(45)(a), F.S.

²⁴ Section 121.021(45)(b), F.S.

²⁵ Section 121.091(1), F.S.

²⁶ Section 121.021(29)(a)1., F.S.

²⁷ Section 121.021(29)(b)1., F.S.

²⁸ Section 121.021(29)(a)2. and (b)2., F.S.

²⁹ A member in the FRS Investment Plan may not participate in DROP. Investment Plan members are considered retired from the FRS when the member takes a distribution from his or her account.

³⁰ See s. 121.091(13)(a), F.S.

termination of the employment, the member receives the total DROP benefits and begins to receive the previously determined normal retirement benefits.³¹

Eligible members may elect to participate in DROP for a period not to exceed a maximum of 60 calendar months.³² However, instructional personnel employed by the Florida School for the Deaf and the Blind, instructional personnel in grades K-12, and personnel employed by a developmental research school may participate in DROP for up to 36 calendar months beyond the 60-month period.³³ In addition, in 2022 the Legislature authorized a member of the Special Risk Class who is a law enforcement officer and who is a DROP participant on or after July 1, 2022, to participate for up to 36 calendar months beyond the 60-month period if the participant enters DROP on or before June 30, 2028.³⁴

Actuarial Special Studies

In 2022, the state actuary completed a special actuarial study on the recommended blended statutory rates for 2022-2023 reflecting the extension of the maximum length of DROP participation for law enforcement members by up to 36 months.³⁵ The study shows increases for the Special Risk Class by 0.09 percentage points in the normal cost contribution rate and 0.14 percentage points for the UAL contribution rate. An increase of 0.02 percentage points in the DROP rate is also necessary. These increases result in a \$13.1 million annual increase in contributions system-wide.

The state actuary has not completed a special actuarial study relating to the extension of DROP participation for correctional officers only. However, the state actuary has completed a study associated with a 36 month extension for all DROP members, regardless of class or occupation.³⁶ The results of that study indicate that Special Risk Class contribution rates need to be increased by 0.13 percentage points in the normal cost contribution rate and 0.19 percentage points for the UAL contribution rate. An increase of 0.06 percentage points in the DROP rate is also necessary. These increases result in a \$19.5 million annual increase in contributions system-wide.

III. Effect of Proposed Changes:

Section 1 amends s. 121.091, F.S., to allow a member of the Special Risk Class who is a correctional officer³⁷ and who is a DROP participant on or after July 1, 2023, to participate for

³¹ Section 121.091(13), F.S.

³² Section 121.091(13)(b), F.S.

³³ Section 121.091(13)(b)1.a., F.S.

³⁴ Ch. 2022-156, Laws of Fla., codified in s. 121.091(13)(b)1.c., F.S.

³⁵ Letter to Ms. Andrea Simpson, *Re: Extend Maximum DROP Participation by 36 Months for Law Enforcement Officer Members*, dated January 26, 2022 (on file with the Senate Committee on Governmental Oversight and Accountability).

³⁶ Letter to Ms. Andrea Simpson, *Re: Extend Maximum DROP Participation to 8 years for all Membership Classes*, dated January 30, 2023 (on file with the Senate Committee on Governmental Oversight and Accountability).

³⁷ In order to be designated as a special risk member, effective October 1, 1978, the member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395, F.S. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or as of July 1, 1984, the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included; however, wardens and assistant wardens, as defined by rule, are included. Section 121.0515(3)(c), F.S.

up to 36 calendar months beyond the 60-month period if he or she enters DROP on or before June 30, 2028.

Section 2 makes a legislative finding that the act fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

Section 3 provides that the act shall take effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated....”

This bill includes legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, state universities, community colleges, counties, municipalities, and special districts.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Actuarial requirements: Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act” (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

The bill includes employer contributions that are expected to meet the funding needs on a sound actuarial basis.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill increases employer contribution rates to generate \$18.0 million annually system-wide. The table below shows the annual contribution increases by employer group.

Employer Group	Annual Increase in Contributions
State	\$3.3 m
School Boards	\$0.2 m
State Universities	\$0.1 m
Colleges	\$0.0
Counties	\$13.2 m
Other	\$1.5 m
Total	\$18.0 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.091 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 15, 2023:

The CS increases employer contributions to the FRS Trust Fund to offset the costs of the benefit increases authorized by the bill.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Rodriguez

585-02616-23

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1 A bill to be entitled
2 An act relating to state-administered retirement
3 systems; amending s. 121.091, F.S.; authorizing
4 specified correctional officers to elect to
5 participate in the Deferred Retirement Option Program
6 for an additional 36 months; revising required
7 employer retirement contribution rates to fund the
8 benefit changes made by the act; providing a directive
9 to the Division of Law Revision; providing a
10 declaration of important state interest; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (b) of subsection (13) of section
16 121.091, Florida Statutes, is amended to read:

17 121.091 Benefits payable under the system.—Benefits may not
18 be paid under this section unless the member has terminated
19 employment as provided in s. 121.021(39) (a) or begun
20 participation in the Deferred Retirement Option Program as
21 provided in subsection (13), and a proper application has been
22 filed in the manner prescribed by the department. The department
23 may cancel an application for retirement benefits when the
24 member or beneficiary fails to timely provide the information
25 and documents required by this chapter and the department's
26 rules. The department shall adopt rules establishing procedures
27 for application for retirement benefits and for the cancellation
28 of such application when the required information or documents
29 are not received.

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30 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
31 subject to this section, the Deferred Retirement Option Program,
32 hereinafter referred to as DROP, is a program under which an
33 eligible member of the Florida Retirement System may elect to
34 participate, deferring receipt of retirement benefits while
35 continuing employment with his or her Florida Retirement System
36 employer. The deferred monthly benefits shall accrue in the
37 Florida Retirement System on behalf of the member, plus interest
38 compounded monthly, for the specified period of the DROP
39 participation, as provided in paragraph (c). Upon termination of
40 employment, the member shall receive the total DROP benefits and
41 begin to receive the previously determined normal retirement
42 benefits. Participation in the DROP does not guarantee
43 employment for the specified period of DROP. Participation in
44 DROP by an eligible member beyond the initial 60-month period as
45 authorized in this subsection shall be on an annual contractual
46 basis for all participants.

47 (b) *Participation in DROP.*—Except as provided in this
48 paragraph, an eligible member may elect to participate in DROP
49 for a period not to exceed a maximum of 60 calendar months.

50 1.a. Members who are instructional personnel employed by
51 the Florida School for the Deaf and the Blind and authorized by
52 the Board of Trustees of the Florida School for the Deaf and the
53 Blind, who are instructional personnel as defined in s.
54 1012.01(2)(a)-(d) in grades K-12 and authorized by the district
55 school superintendent, or who are instructional personnel as
56 defined in s. 1012.01(2)(a) employed by a developmental research
57 school and authorized by the school's director, or if the school
58 has no director, by the school's principal, may participate in

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59 DROP for up to 36 calendar months beyond the 60-month period.
60 Effective July 1, 2018, instructional personnel who are
61 authorized to extend DROP participation beyond the 60-month
62 period must have a termination date that is the last day of the
63 last calendar month of the school year within the DROP extension
64 granted by the employer. If, on July 1, 2018, the member's DROP
65 participation has already been extended for the maximum 36
66 calendar months and the extension period concludes before the
67 end of the school year, the member's DROP participation may be
68 extended through the last day of the last calendar month of that
69 school year. The employer shall notify the division of the
70 change in termination date and the additional period of DROP
71 participation for the affected instructional personnel.

72 b. Administrative personnel in grades K-12, as defined in
73 s. 1012.01(3), who have a DROP termination date on or after July
74 1, 2018, may be authorized to extend DROP participation beyond
75 the initial 60 calendar month period if the administrative
76 personnel's termination date is before the end of the school
77 year. Such administrative personnel may have DROP participation
78 extended until the last day of the last calendar month of the
79 school year in which their original DROP termination date
80 occurred if a date other than the last day of the last calendar
81 month of the school year is designated. The employer shall
82 notify the division of the change in termination date and the
83 additional period of DROP participation for the affected
84 administrative personnel.

85 c. Effective July 1, 2022, a member of the Special Risk
86 Class who is a law enforcement officer who meets the criteria in
87 s. 121.0515(3)(a) and who is a DROP participant on or after July

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88 1, 2022, or a correctional officer who meets the criteria in s.
89 121.0515(3)(c) and who is a DROP participant on or after July 1,
90 2023, may participate in DROP for up to 36 calendar months
91 beyond the 60-month period if he or she enters DROP on or before
92 June 30, 2028.

93 2. Upon deciding to participate in DROP, the member shall
94 submit, on forms required by the division:

95 a. A written election to participate in DROP;

96 b. Selection of DROP participation and termination dates
97 that satisfy the limitations stated in paragraph (a) and
98 subparagraph 1. The termination date must be in a binding letter
99 of resignation to the employer establishing a deferred
100 termination date. The member may change the termination date
101 within the limitations of subparagraph 1., but only with the
102 written approval of the employer;

103 c. A properly completed DROP application for service
104 retirement as provided in this section; and

105 d. Any other information required by the division.

106 3. The DROP participant is a retiree under the Florida
107 Retirement System for all purposes, except for paragraph (5)(f)
108 and subsection (9) and ss. 112.3173, 112.363, 121.053, and
109 121.122. DROP participation is final and may not be canceled by
110 the participant after the first payment is credited during the
111 DROP participation period. However, participation in DROP does
112 not alter the participant's employment status, and the member is
113 not deemed retired from employment until his or her deferred
114 resignation is effective and termination occurs as defined in s.
115 121.021.

116 4. Elected officers are eligible to participate in DROP

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117 subject to the following:

118 a. An elected officer who reaches normal retirement date
119 during a term of office may defer the election to participate
120 until the next succeeding term in that office. An elected
121 officer who exercises this option may participate in DROP for up
122 to 60 calendar months or no longer than the succeeding term of
123 office, whichever is less.

124 b. An elected or a nonelected participant may run for a
125 term of office while participating in DROP and, if elected,
126 extend the DROP termination date accordingly; however, if such
127 additional term of office exceeds the 60-month limitation
128 established in subparagraph 1., and the officer does not resign
129 from office within such 60-month limitation, the retirement and
130 the participant's DROP is null and void as provided in sub-
131 subparagraph (c)5.d.

132 c. An elected officer who is dually employed and elects to
133 participate in DROP must terminate all employment relationships
134 as provided in s. 121.021(39) for the nonelected position within
135 the original 60-month period or maximum participation period as
136 provided in subparagraph 1. For DROP participation ending:

137 (I) Before July 1, 2010, the officer may continue
138 employment as an elected officer as provided in s. 121.053. The
139 elected officer shall be enrolled as a renewed member in the
140 Elected Officers' Class or the Regular Class, as provided in ss.
141 121.053 and 121.122, on the first day of the month after
142 termination of employment in the nonelected position and
143 termination of DROP. Distribution of the DROP benefits shall be
144 made as provided in paragraph (c).

145 (II) On or after July 1, 2010, the officer may continue

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146 employment as an elected officer but must defer termination as
147 provided in s. 121.053.

148 Section 2. (1) In order to fund the benefit changes
149 provided in this act, the required employer contribution rates
150 for the members of the Florida Retirement System established in
151 s. 121.71(4), Florida Statutes, are increased as follows:

152 (a) By 0.13 percentage point for the Special Risk Class.

153 (b) By 0.06 percentage point for the Deferred Retirement
154 Option Program.

155 (2) In order to fund the benefit changes provided in this
156 act, the required employer contribution rates for the unfunded
157 actuarial liability of the Florida Retirement System established
158 in s. 121.71(5), Florida Statutes, are increased by 0.19
159 percentage point for the Regular Class.

160 (3) The adjustments provided in subsections (1) and (2) are
161 in addition to any other changes to such contribution rates
162 which may be enacted into law to take effect on July 1, 2023.
163 The Division of Law Revision is directed to adjust accordingly
164 the contribution rates provided in s. 121.71, Florida Statutes.

165 Section 3. The Legislature finds that a proper and
166 legitimate state purpose is served when employees, officers, and
167 retirees of the state and its political subdivisions, and the
168 dependents, survivors, and beneficiaries of such employees,
169 officers, and retirees, are extended the basic protections
170 afforded by governmental retirement systems. These persons must
171 be provided benefits that are fair and adequate and that are
172 managed, administered, and funded in an actuarially sound manner
173 as required by s. 14, Article X of the State Constitution and
174 part VII of chapter 112, Florida Statutes. Therefore, the

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175 Legislature determines and declares that this act fulfills an
176 important state interest.

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

3/29/

Meeting Date

Community Affairs

Committee

The Florida Senate APPEARANCE RECORD

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1034 Drop Ext for Con

Bill Number or Topic

Name James Baiardi (PBA)

Amendment Barcode (if applicable)
Phone 305 586 4071

Address 300 EAST BREVARD ST

Street

Email jimmy@FI PBA.ROU

TALL FLA 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:

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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3/29/2023

Meeting Date

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SB 1034

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Committee

Amendment Barcode (if applicable)

Name JOHN CARROLL

Phone 352-585-5404

Address 1279 WATERFALL DRIVE

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SPRINGHILL

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State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

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3/29/23

Meeting Date

1034

Bill Number or Topic

Comm - Affairs
Gov Oversight

Committee

Amendment Barcode (if applicable)

Name LINDA Edson

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Address 1841 Myrick Rd.
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State

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Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

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S-001 (08/10/2021)

The Florida Senate

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3-29-23

Meeting Date

1039

Bill Number or Topic

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name Commander James Cunningham

Phone 239-253-3935

Address 3319 TAMMING TR E

Email 0830@CollierSheriff.org

Street

Naples

FL 34119

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 \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/29/2023

Meeting Date

CS/SB 1034

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Carson Ealey, Jr.

Phone 850-973-7773

Address 239 SW ER Scott St.

Email educate2536@yahoo.com

Street

Madison, Fla

32340

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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The Florida Senate

APPEARANCE RECORD

CS/SB 1034

3/23/2023

Meeting Date

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name Edwenna Williams

Phone 850 291 1149

Address 3950 Plantation Cove Ct

Email edwennarae@gmail.com

Street

Milton

FL

32583

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FREA

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

3/29/23

Meeting Date

SB 1034

Bill Number or Topic

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COMMUNITY AFFAIRS

Committee

Amendment Barcode (if applicable)

Name DAVID ERICKS

Phone 850-224-0880

Address 205 S. ADAMS ST

Street

Email david@ERICKSCONSULTING.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:

NATIONAL FEDERATION OF PUBLIC EMPLOYEES

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

3/29/23

Meeting Date

SB 1052

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 Loren Levy

Phone 850-219-0220

Address 1828 Riggins Rd

Email llevy@levylawfirm.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Property Appraisers' Ass'n of Fla.

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 1052

INTRODUCER: Senator Berman

SUBJECT: Exemptions for Totally and Permanently Disabled Veterans

DATE: March 27, 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 1052 provides that a totally and permanently disabled veteran or their surviving spouse who acquires property between January 1 and November 1 may receive a prorated refund of taxes paid in the year of acquisition if he or she applies for and receives an ad valorem tax exemption for totally and permanently disabled veterans in the subsequent tax year. The veteran must have qualified as having had a service-connected total and permanent disability as of January 1 of the year of acquisition.

Current law provides such a refund only when the property owner actually received such exemption for a different homestead property in the year of acquisition.

The Revenue Estimating Conference has estimated the bill will reduce local government revenue by \$200,000 beginning in Fiscal Year 2024-2025.

The bill first applies to the 2024 tax roll, and takes effect July 1, 2023.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes,⁷ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁸

The Florida Constitution prohibits the state from levying ad valorem taxes⁹ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.¹⁰

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person’s primary residence, with an exemption from taxes.¹¹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹² Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹³

Every person having a legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹⁴ An additional \$25,000 exemption applies to homestead property value between

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise (FLA. CONST. art VII, s. 4.). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ *See* Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar 9, 2023).

⁵ *See* Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar 9, 2023).

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ *See* FLA. CONST. art. VII, s. 4.

¹¹ FLA. CONST. art. VII, s. 6.

¹² FLA. CONST. art. VII, s. 4.

¹³ *Id.* at (c).

¹⁴ FLA. CONST. art VII, s. 6(a).

\$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.¹⁵

Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.¹⁶ The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.¹⁷

Exemption for Veterans with Total and Permanent Service-Connected Disability

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.¹⁸ To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse, and the spouse is unmarried.¹⁹

A totally and permanently disabled veteran, or his or her surviving spouse, who acquires legal or beneficial title to property between January 1 and November 1, may receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer provided they were eligible for and granted the exemption on another homestead property in the previous tax year.²⁰

III. Effect of Proposed Changes:

The bill amends s. 196.081, F.S., to provide that a totally and permanently disabled veteran or their surviving spouse who acquire property between January 1 and November 1 may receive a prorated refund of taxes paid in the year of acquisition if he or she applies for and receives an ad valorem tax exemption for totally and permanently disabled veterans in the subsequent tax year. The property owner must have qualified as having had a service-connected total and permanent disability as of January 1 of the year of acquisition.

¹⁵ *Id.*

¹⁶ Section 196.011(1)(a), F.S.

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ Section 196.081(1), F.S.

¹⁹ Section 196.081(3), F.S.

²⁰ Section 196.081(1)(b), F.S.

Current law provides such a refund only when the property owner actually received such exemption for a different homestead property in the year of acquisition.

The bill first applies to the 2024 tax roll, and takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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. However, the mandate requirement does not apply to laws having an insignificant impact,²¹ which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.²² As the Revenue Estimating Conference has estimated the bill will reduce local government revenue by \$200,000 beginning in Fiscal Year 2024-2025, the mandates provision likely does not apply.

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.

²¹ FLA. CONST. art. VII, s. 18(d).

²² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 15, 2023).

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

The Revenue Estimating Conference has estimated the bill will reduce local government revenue by \$200,000 beginning in Fiscal Year 2024-2025.²³

B. Private Sector Impact:

The bill may positively impact property owners who take advantage of the granted refund.

C. Government Sector Impact:

The bill may negatively impact local governments who furnish the refund to newly eligible property owners.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.081 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.

²³ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 1052/HB 1001*, 322-23, (Mar. 24, 2023), available at: http://edr.state.fl.us/content/conferences/revenueimpact/archives/2023/_pdf/impact0324.pdf (last visited Mar. 25, 2023).

By Senator Berman

26-01737A-23

20231052__

1 A bill to be entitled
2 An act relating to exemptions for totally and
3 permanently disabled veterans; amending s. 196.081,
4 F.S.; deleting a condition that a veteran or his or
5 her surviving spouse have received a specified
6 homestead tax exemption to qualify for a prorated
7 refund of ad valorem taxes paid on homestead property
8 acquired during a specified timeframe; specifying a
9 requirement for qualifying for the prorated refund;
10 providing applicability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (b) of subsection (1) of section
15 196.081, Florida Statutes, is amended to read:

16 196.081 Exemption for certain permanently and totally
17 disabled veterans and for surviving spouses of veterans;
18 exemption for surviving spouses of first responders who die in
19 the line of duty.—

20 (1)

21 (b) If legal or beneficial title to property is acquired
22 between January 1 and November 1 of any year by a veteran or his
23 or her surviving spouse ~~receiving an exemption under this~~
24 ~~section on another property for that tax year,~~ the veteran or
25 his or her surviving spouse may receive a refund, prorated as of
26 the date of acquisition transfer, of the ad valorem taxes paid
27 for the newly acquired property if he or she applies for and
28 receives an exemption under this section for the newly acquired
29 property in the next tax year. The veteran must have qualified

26-01737A-23

20231052__

30 as having a service-connected total and permanent disability
31 under subsection (2) as of January 1 of the year the new
32 property was acquired. If the property appraiser finds that the
33 applicant is entitled to an exemption under this section for the
34 newly acquired property, the property appraiser shall
35 immediately make such entries upon the tax rolls of the county
36 that are necessary to allow the prorated refund of taxes for the
37 previous tax year.

38 Section 2. The amendment made by this act to s. 196.081,
39 Florida Statutes, applies beginning with the 2024 tax roll.

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

The Florida Senate

APPEARANCE RECORD

SB 1052

3/29/2023

Meeting Date

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 Roy CLARK FLORIDA DEPARTMENT OF VETERANS AFFAIRS Phone (850) 487-1533

Address 400 S. MONROE St. 2105 The Capitol Email CLARKR@FDVA.STATE.FL.US

Street

TALHESSEE FL 32399

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:

FDVA

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

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3/29/2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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SB 1052

Bill Number or Topic

Amendment Barcode (if applicable)

Name Nicole Swope with Leon County Property Appraiser's Office

Phone 850-606-6200

Address 315 S. Calhoun Street
Street

Email aakinyemi@leonpa.gov

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:

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)

3/29/2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

SB 1052

Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Akin Akinyemi, Leon County Property Appraiser

Phone 850-606-6200

Address 315 S. Calhoun Street

Email aakinyemi@leonpa.gov

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:

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1082

INTRODUCER: Senator DiCeglie

SUBJECT: Floating Vessel Platforms

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1082 removes the provision within s. 403.813, F.S., that authorizes a local government to require a permit for certain floating vessel platforms (*i.e.*, those not attached to a bulkhead).

The bill provides that a local government may only require a one-time registration of such platforms where the platform owner self-certifies compliance with the exemption criteria. Local governments may require this self-certification to ensure, among other things, compliance with ordinances, codes, state-delegated or state mandated plans or programs, or regulations relating to building or zoning, which may not be applied more stringently than, or inconsistent with, the exemption criteria and address subjects other than subjects addressed by the exemption criteria.

II. Present Situation:

Environmental Resource Permitting

The Department of Environmental Protection's (DEP) Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.¹ The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).²

For a number of low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.³ Engaging in these activities and projects requires compliance with

¹ Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330.

² Fla. Admin. Code R. 62-330.010(1)-(3). The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

³ Section 403.813, F.S.

applicable local requirements, but generally requires no notice to DEP.⁴ A broad array of activities are expressly exempted from the ERP program, including, but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and foot bridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.⁵ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees or a water management district in its governmental or proprietary capacity.⁶

Permits for Floating Vessel Platforms or Floating Boat Lifts

Generally, an ERP permit is required to construct, alter, operate, maintain, or remove floating vessel platforms or floating boat lifts.⁷ Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations.⁸ Local governments may also require permitting or one-time registration of all other floating vessel platforms (*i.e.*, those not attached to a bulkhead) as necessary to ensure compliance with the exemption criteria under s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria under s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this statute.⁹

However, a permit is *not* required for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:¹⁰

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- Are wholly contained within a boat slip previously permitted under state law, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in state law;
- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

⁴ Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

⁵ Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

⁶ Section 403.813(1), F.S.; *but see* s. 403.813(1)(s), F.S. (specifically relieving qualifying floating structures from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees).

⁷ Fla. Admin. Code R. 62-330.428.

⁸ Section 403.813(1)(s), F.S.

⁹ *Id.*

¹⁰ Section 403.813(1)(s), F.S.

- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with state law, or other form of authorization issued by a local government.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 403.813, F.S., which provides exemptions to Environmental Resource Permitting (ERP) requirements. The bill removes the provision that authorizes a local government to require a permit for certain floating vessel platforms (*i.e.*, those not attached to a bulkhead). The bill provides that a local government may only require a one-time registration of such platforms where the platform owner self-certifies compliance with the exemption criteria established under this section. Local governments may require this self-certification to ensure, among other things, compliance with ordinances, codes, state-delegated or state mandated plans or programs, or regulations relating to building or zoning, which may not be applied more stringently than, or inconsistent with, the exemption criteria and address subjects other than subjects addressed by the exemption criteria.

Section 2 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.

¹¹ Section 403.813(1)(s)1.-5., 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 403.813 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 DiCeglie

18-00374-23

20231082__

1 A bill to be entitled
2 An act relating to floating vessel platforms; amending
3 s. 403.813, F.S.; removing a provision authorizing
4 local governments to require permitting for certain
5 floating vessel platforms; revising conditions under
6 which local governments may require one-time
7 registrations of floating vessel platforms; making
8 technical changes; providing an effective date.

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

11
12 Section 1. Paragraph (s) of subsection (1) of section
13 403.813, Florida Statutes, is amended to read:

14 403.813 Permits issued at district centers; exceptions.—

15 (1) A permit is not required under this chapter, chapter
16 373, chapter 61-691, Laws of Florida, or chapter 25214 or
17 chapter 25270, 1949, Laws of Florida, and a local government may
18 not require a person claiming this exception to provide further
19 department verification, for activities associated with the
20 following types of projects; however, except as otherwise
21 provided in this subsection, this subsection does not relieve an
22 applicant from any requirement to obtain permission to use or
23 occupy lands owned by the Board of Trustees of the Internal
24 Improvement Trust Fund or a water management district in its
25 governmental or proprietary capacity or from complying with
26 applicable local pollution control programs authorized under
27 this chapter or other requirements of county and municipal
28 governments:

29 (s) The construction, installation, operation, or

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30 maintenance of floating vessel platforms or floating boat
31 lifts., ~~provided that such structures:~~

32 1. To qualify for an exemption under this paragraph, the
33 structure must:

34 a. Float at all times in the water for the sole purpose of
35 supporting a vessel so that the vessel is out of the water when
36 not in use;

37 ~~b.2. Be~~ Are wholly contained within a boat slip previously
38 permitted under ss. 403.91-403.929, 1984 Supplement to the
39 Florida Statutes 1983, as amended, or part IV of chapter 373, or
40 ~~do~~ not exceed a combined total of 500 square feet, or 200 square
41 feet in an Outstanding Florida Water, when associated with a
42 dock that is exempt under this subsection or associated with a
43 permitted dock with no defined boat slip or attached to a
44 bulkhead on a parcel of land where there is no other docking
45 structure;

46 ~~c.3. Not be~~ Are not used for any commercial purpose or for
47 mooring vessels that remain in the water when not in use, and ~~do~~
48 not substantially impede the flow of water, create a
49 navigational hazard, or unreasonably infringe upon the riparian
50 rights of adjacent property owners, as defined in s. 253.141;

51 ~~d.4. Be~~ Are constructed and used so as to minimize adverse
52 impacts to submerged lands, wetlands, shellfish areas, aquatic
53 plant and animal species, and other biological communities,
54 including locating such structures in areas where seagrasses are
55 least dense adjacent to the dock or bulkhead; and

56 ~~e.5. Are~~ Not be constructed in areas specifically
57 prohibited for boat mooring under conditions of a permit issued
58 in accordance with ss. 403.91-403.929, 1984 Supplement to the

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59 Florida Statutes 1983, as amended, or part IV of chapter 373, or
60 other form of authorization issued by a local government.

61 2. The owner of a structure ~~Structures~~ that qualifies
62 ~~qualify~~ for an ~~this~~ exemption under this paragraph is not
63 required ~~are relieved from any requirement~~ to obtain permission
64 to use or occupy lands owned by the Board of Trustees of the
65 Internal Improvement Trust Fund, and, with the exception of
66 those structures attached to a bulkhead on a parcel of land
67 where there is no docking structure, the structure may not be
68 subject to any more stringent permitting requirements,
69 registration requirements, or other regulation by any local
70 government. For a floating vessel platform to be attached to a
71 bulkhead on a parcel of land where there is no docking
72 structure, a local government ~~governments~~ may require the
73 platform owner to obtain a permit ~~either permitting~~ or one-time
74 registration of the floating vessel platform ~~platforms to be~~
75 ~~attached to a bulkhead on a parcel of land where there is no~~
76 ~~other docking structure~~ as necessary to ensure compliance with
77 local ordinances, codes, or regulations. A local government
78 ~~governments~~ may require only a ~~either permitting~~ or one-time
79 registration of all other floating vessel platforms where the
80 platform owner self-certifies ~~as necessary to ensure~~ compliance
81 with the exemption criteria in this section, to ensure
82 compliance with ~~local~~ ordinances, codes, state-delegated or
83 state-mandated plans or programs, or regulations relating to
84 building or zoning, which may not be applied more stringently
85 ~~are no more stringent than, or inconsistent with,~~ the exemption
86 criteria in this section and ~~or~~ address subjects other than
87 subjects addressed by the exemption criteria in this section;

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88 and to ensure proper installation, maintenance, and
89 precautionary or evacuation action following a tropical storm or
90 hurricane watch of a floating vessel platform or floating boat
91 lift that is proposed to be attached to a bulkhead or parcel of
92 land where there is no other docking structure.

93 3. The exemption provided in this paragraph ~~is shall be~~ in
94 addition to the exemption provided in paragraph (b). The
95 department shall adopt a general permit by rule for the
96 construction, installation, operation, or maintenance of those
97 floating vessel platforms or floating boat lifts that do not
98 qualify for the exemption provided in this paragraph but do not
99 cause significant adverse impacts to occur individually or
100 cumulatively. The issuance of such general permit constitutes
101 ~~shall also constitute~~ permission to use or occupy lands owned by
102 the Board of Trustees of the Internal Improvement Trust Fund. A
103 local government ~~governments~~ may not impose a more stringent
104 regulation, permitting requirement, registration requirement, or
105 other regulation covered by such general permit. A local
106 government ~~governments~~ may require a structure owner to obtain
107 either a permit permitting or one-time registration of floating
108 vessel platforms as necessary to ensure compliance with the
109 general permit in this section; to ensure compliance with local
110 ordinances, codes, or regulations relating to building or zoning
111 that are no more stringent than the general permit in this
112 section; and to ensure proper installation and maintenance of a
113 floating vessel platform or floating boat lift that is proposed
114 to be attached to a bulkhead or parcel of land where there is no
115 other docking structure.

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

APPEARANCE RECORD

SB1082

March 29, 2023

Meeting Date

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

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name **Timothy Riley**

Phone **8509994100**

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

Email **triley@deanmead.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:

JetDock

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

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

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

5-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1162

INTRODUCER: Community Affairs Committee, Regulated Industries Committee and Senator DiCeglie

SUBJECT: Renewable Energy Cost Recovery

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1162 amends s. 366.91, F.S., relating to Florida’s renewable energy policy, in the following ways:

- The bill allows all public utilities under ch. 366, F.S., not only natural gas companies, to be approved for cost recovery for renewable natural gas (RNG) contracts where the pricing of the natural gas exceeds the market price of conventional natural gas
- The bill revises the test for the approval of the provision from “prudent and reasonable” to meeting the goals as stated in s. 366.91(1), F.S., “by promoting the development or use of renewable energy resources in this state and providing fuel diversification and the contract is otherwise reasonable.”
- The bill also allows public utilities to recover, through an appropriate cost-recovery mechanism administered by the Florida Public Service Commission, reasonable incurred costs for certain renewable natural gas and hydrogen fuel infrastructure projects.
- The bill specifies limitations and approval requirements for cost recovery for renewable natural gas or hydrogen-based fuel infrastructure projects.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Florida Public Service Commission

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

The PSC monitors the safety and reliability of the electric power grid⁴ and may order the addition or repair of infrastructure as necessary.⁵ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities.⁶ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁷ Municipally owned utility rates and revenues are regulated by their respective local governments. Rates and revenues for a cooperative utility are regulated by their governing body elected by the cooperative's membership.

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).⁸ In addition, there are eight investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, Florida Division of Chesapeake Utilities, FPUC, FPUC-Fort Meade Division, FPUC-Indiantown Division, Sebring Gas System, and St. Joe Natural Gas Company. Of these eight gas IOUs, five engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, FPUC-Fort Meade Division, Peoples Gas System, and St. Joe Natural Gas Company. Florida Division of Chesapeake Utilities, FPUC-Indiantown Division, and Sebring Gas System are only engaged in firm transportation service.⁹

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, available at <http://www.psc.state.fl.us> (last visited Mar 16, 2023).

³ Florida Public Service Commission, *About the PSC*, available at <https://www.psc.state.fl.us/about> (last visited Mar. 26, 2023).

⁴ Section 366.04(5) and (6), F.S.

⁵ Section 366.05(1) and (8), F.S.

⁶ Section 366.05, F.S.

⁷ Florida Public Service Commission, *About the PSC*, *supra* note 3.

⁸ Florida Public Service Commission, *2022 Facts and Figures of the Florida Utility Industry*, pg. 5, Apr. 2022 available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202022.pdf> (last visited Mar. 26, 2023)

⁹ *Id.* Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

Electric IOU and Gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.¹⁰

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.¹¹

Public Utilities under Chapter 366, Florida Statutes

Pursuant to s. 366.02(8), F.S., “public utility,” as used in ch. 366, F.S., means “every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state.” However, all of the following types of utilities are exempted from this definition:

- Rural electric cooperatives.
- Municipal electric and gas utilities.
- Dependent or independent special natural gas districts.
- Any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers.
- Any entity, selling or arranging for sales of natural gas, that neither owns nor operates natural gas transmission or distribution facilities within the state.
- A person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

Renewable Energy

Section 366.91, F.S., establishes a number of renewable policies for the state. The purpose of these policies, as established in statute, states that it is in the public interest to promote the development of renewable energy resources in this state.¹² Further, the statute is intended to encourage fuel diversification to meet Florida’s growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourages investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.¹³

The section defines “renewable energy” as:

[E]lectrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil

¹⁰ PSC, *2022 Annual Report*, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2022.pdf>) (last visited: Mar. 26, 2023).

¹¹ *Id.*

¹² Section 366.91(1), F.S.

¹³ *Id.*

fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.¹⁴

Renewable Natural Gas

Natural gas is a fossil energy source which forms beneath the earth's surface. Natural gas contains many different compounds, the largest of which is methane.¹⁵ Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and hydraulic fracturing, commonly referred to as "fracking." The term renewable natural gas (RNG) refers to biogas that has been upgraded to use in place of fossil fuel natural gas (i.e. conventional natural gas).¹⁶

Section 366.91, F.S., identifies sources for producing RNG as a potential source of renewable energy.¹⁷ The section specifically defines renewable natural gas as anaerobically generated biogas,¹⁸ landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater. Under the definition, such gas may be used as a transportation fuel or for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.¹⁹ Raw biogas has a methane content between 45 and 65 percent.²⁰ Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content comparable to natural gas and is thus a suitable energy source in applications that require pipeline-quality gas, such as vehicle applications.²¹

¹⁴ Section 366.91(2)(e), F.S.

¹⁵ United States Energy Information Administration, *Natural gas explained*, Dec. 27, 2022. Available at <https://www.eia.gov/energyexplained/natural-gas/> (last visited Mar. 26, 2023).

¹⁶ Environmental Protection Agency, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, available at <https://www.epa.gov/lmop/renewable-natural-gas> (last visited Mar. 26, 2023).

¹⁷ Section 366.91(2)(e), F.S., defines "renewable energy, in part, as energy produced from biomass. Section 366.91(2)(b), F.S., defines "biomass" in part, as "a power source that is comprised of, but not limited to, combustible residues or gases from... waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas." RNG would be such a combustible gas.

¹⁸ Section 366.91(2)(a) defines "biogas" as a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.

¹⁹ Environmental Protection Agency, *supra* note 16.

²⁰ *Id.*

²¹ United States Department of Energy, *Renewable Natural Gas Production*, available at https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited: Mar. 26, 2023).

RNG meeting certain standards, qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.²² This program was enacted by Congress in order to reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.²³

Nationally, there were 548 landfill gas facilities in operation as of September 2021, and, as of 2017, 250 anaerobic digester systems operating at commercial livestock farms in the United States.²⁴ Of the more than 16,000 wastewater treatment plants in operation in the United States, approximately 1,300 have anaerobic digesters on site and 860 of those have the equipment to use their biogas on site.²⁵

Hydrogen Fuel

The production of hydrogen involves the separation of the element from other elements in which it occurs. While there are many different sources of hydrogen and methods for producing it as a fuel, the most common methods used currently are steam-methane reforming and electrolysis.²⁶ Through either method, hydrogen is not an energy source, per se, since it is produced using other energy sources. Rather, produced hydrogen is an energy carrier.²⁷

Steam-Methane Reforming

The most-widely used method for hydrogen production, which accounts for nearly all commercially produced hydrogen in the United States, is steam-methane reforming. With steam-methane reforming, hydrogen atoms are separated from carbon atoms in methane using high temperature (1,300-1,800 degrees Fahrenheit) under 3-25 bar pressure²⁸ in the presence of a catalyst. The end-result of this process is the production of hydrogen, carbon-monoxide, and a small amount of carbon dioxide.²⁹

For industrial facilities and petroleum refineries, natural gas is the typical base material from which to produce hydrogen by steam-methane reforming. Biogas and landfill gas is also a base material to produce hydrogen used by several fuel cell power plants in the United States.

²² United States Department of Energy, *Renewable Fuel Standard*, available at [\(https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20\(RFS,Act%20of%202007%20\(EIS%20A\)](https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20(RFS,Act%20of%202007%20(EIS%20A))) (last visited: Mar. 26, 2023).

²³ Environmental Protection Agency, *Renewable Fuel Standard Program*, available at <https://www.epa.gov/renewable-fuel-standard-program> (last visited Mar. 26, 2023).

²⁴ United States Department of Energy, *supra* note 21.

²⁵ *Id.*

²⁶ United States Energy Information Administration, *Hydrogen Explained: Production of Hydrogen*, Jan. 21, 2022, available at [https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20\(splitting%20water%20with%20electricity.\(last](https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20(splitting%20water%20with%20electricity.(last) visited Mar. 26, 2023)

²⁷ International Renewable Energy Agency, *Hydrogen*, available at <https://www.irena.org/Energy-Transition/Technology/Hydrogen> (last visited Mar. 26, 2023).

²⁸ One bar equals 14.5 pounds per square inch of pressure. For comparison, at sea level, the average air pressure on Earth is 1.0132 bars. National Oceanic and Atmospheric Administration, *Air Pressure*, available at <https://www.noaa.gov/jetstream/atmosphere/air-pressure#:~:text=The%20standard%20pressure%20at%20sea,the%20atmosphere%20decreases%20with%20height> (last visited: Mar. 26, 2023).

²⁹ United States Energy Information Administration, *supra* note 26.

Electrolysis

Electrolysis, in the sense of hydrogen production, means a process where hydrogen is split from water using an electric current. On a large, commercial scale, the process may be referred to as power-to-gas, where power is electricity and gas is hydrogen.³⁰ This hydrogen is then captured and used or sold as an end product or as a fuel to generate electricity.³¹ The electrolysis process itself is emission-free and has no by-products other than hydrogen and oxygen. However, the energy source used to power the electrolysis (which could be from renewables, nuclear, or fossil fuels) may or may not be emission-free or have other byproducts.

Hydrogen Categories

Recently, to distinguish between the energy sources used to power hydrogen production, hydrogen producers, marketers, government agencies, and others have used a color-coded system. The nine commonly used color categories are detailed below:

- Green: Hydrogen produced by water electrolysis and employing renewable electricity as the fuel source. It is so called because the process itself does not produce emissions.
- Blue: Hydrogen produced from fossil fuels, but the carbon dioxide produced by the process is sequestered underground. Thus, the process is considered carbon neutral.
- Gray: Hydrogen produced by steam-methane reforming and the emissions produced from the burning of fossil fuels in the method are released into the atmosphere.
- Black or Brown: Hydrogen produced from the burning of coal, “black” being from the burning of bituminous coal and “brown” being from the burning of lignite coal. The comparatively large amount of carbon dioxide and carbon monoxide is released into the atmosphere with this type of production.
- Turquoise: This now experimental method of hydrogen production involves the thermal splitting of methane through pyrolysis. Though carbon is formed in this process, it is in a solid state that can be stored and not a carbon dioxide gas.
- Purple: Hydrogen made using nuclear power and heat through combined chemo thermal electrolysis splitting of water.
- Pink: This is the production of hydrogen through electrolysis where the energy source is electricity from a nuclear power plant.
- Red: Hydrogen produced through high-temperature catalytic splitting of water using nuclear power thermal energy as an energy source.
- White: Naturally-occurring hydrogen.³²

Transmission and Use of Hydrogen Fuel

Due to hydrogen’s low volumetric energy density, transportation, storage, and final delivery to the point of use can have a significant impact on the cost of using hydrogen as a fuel carrier. These factors can lead to inefficiencies that increase the farther hydrogen must be transported

³⁰ *Id.*

³¹ Florida Public Service Commission, *Bill Analysis for SB 1162* (Mar. 14, 2023) (on file with the Senate Regulated Industries Committee).

³² Bulletin H2, *Hydrogen Colours Codes*, available at <https://www.h2bulletin.com/knowledge/hydrogen-colours-codes/> (last visited: Mar. 26, 2023).

before reaching its end use.³³ Thus, currently, most hydrogen is produced in close proximity to its end use.³⁴ However, technology is in development that may bring these costs down and allow for easier transport and transmission of hydrogen.³⁵

The two typical methods for transporting hydrogen fuel currently are via pipeline or by truck through the use of cryogenic liquid tanker trucks or gaseous tube trailers. Pipelines are most popular in areas where demand is high and expected to remain stable or grow. Trucking of hydrogen is used in areas with less demand.³⁶

Potential uses for hydrogen are in:³⁷

- Industrial uses such as powering oil refineries and powering ammonia, methanol, and steel production. Currently, this is the largest use, by far, for hydrogen.
- Transportation, powering hydrogen-fueled vehicles.
- Buildings where hydrogen can be blended into existing natural gas networks. It is possible currently to blend small amounts of hydrogen in existing natural gas transmission systems with little to no changes to infrastructure, equipment, and appliances.
- Power generation where emerging technology is available to use hydrogen as a medium to store renewable energy, such as solar and wind. Hydrogen and ammonia can be used in gas turbines to increase power system flexibility, and ammonia can be used to reduce emissions from coal-fired power plants.

Recently, as part of a 2021 settlement agreement, FPL was authorized by the PSC to develop a green hydrogen pilot project named the Cavendish NextGen Hydrogen Hub. The hub, located in Okeechobee, Florida, uses solar energy to power electrolysis and then, in turn, compresses and stores this hydrogen. The hydrogen then will be blended with natural gas to fuel its nearby natural-gas fired electric generation plant.³⁸ In this way, energy produced by solar power can be essentially stored for later use.

FPL Woodford Decision

In *Citizens of State v. Graham*, 191 So. 3d 897 (Fla. 2016), the Florida Supreme Court found that the PSC lacked statutory authority to approve cost recovery for FPL's investment in a natural gas production facility in the Woodford Shale Gas Region in Oklahoma (Woodford Project). The Woodford Project involved exploration and production of natural gas and not the purchase of actual fuel—something that would generally be within the types of activities an electric utility would engage in. The Supreme Court cited to s. 366.02(2), F.S. (2014), which defines an “electric utility” as, “any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or

³³ United States Office of Energy Efficiency and Renewable Energy, *Hydrogen Delivery*, available at <https://www.energy.gov/eere/fuelcells/hydrogen-delivery> (last visited: Mar. 26, 2023).

³⁴ Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 31.

³⁵ See Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 31, which describes potential new technologies that can overcome the transportation and transmission cost hurdle for hydrogen.

³⁶ United States Office of Energy Efficiency and Renewable Energy, *supra* note 33.

³⁷ International Renewable Energy Agency, *supra* note 27.

³⁸ Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 31, and Florida Power & Light, *Welcome to the sunshine energy state*, available at <https://www.fpl.com/landing/sunshine.html?icid=hpherosb> (last visited: Mar. 26, 2023).

distribution system within the state,” and found that the Woodford Project activities did not fall within this definition.³⁹

However, in making its decision, the Supreme Court noted the following:

This may be a good idea, but whether advance cost recovery of speculative capital investments in gas exploration and production by an electric utility is in the public interest is a policy determination that must be made by the Legislature. For example, in contrast to natural gas exploration and production, the Legislature has authorized the PSC to approve cost recovery for capital investments in nuclear power plants and energy efficient and renewable energy power sources. See ss. 366.8255; 366.92; 366.93, Fla. Stat. (2014). Without statutory authorization from the Legislature, the recovery of FPL's costs and capital investment in the Woodford Project through the fuel clause is overreach.⁴⁰

Thus, while the Supreme Court determined that the PSC could not approve cost recovery for capital electric utility investments in natural gas production, it did provide that the Legislature would have the authority to allow for such if it chose to do so.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 366.91, F.S., regarding renewable energy policy in Florida. The bill revises s. 366.91(9), F.S., which under current law, allows the Florida Public Service Commission (PSC) to approve cost recovery by a gas public utility for renewable natural gas (RNG) contracts where the pricing of the natural gas exceeds the market price of conventional natural gas. The PSC may approve such pricing if it deems the contract otherwise reasonable and prudent.

The bill revises this subsection to remove the restriction limiting its application to gas public utilities and applies it to all public utilities under ch. 366, F.S. The bill also revises the standards for the PSC's approval of such cost recovery. It removes the requirement that the PSC must find the contract “reasonable and prudent” and, instead, requires that the contract be otherwise reasonable and meet the overall goals established in s. 366.091(1), F.S.,⁴¹ for the section by promoting the development or use of renewable energy resources in Florida and providing fuel diversification. It also expands the provisions of s. 366.91, F.S., to the purchase of hydrogen-based fuel as well.

The bill also creates a new s. 366.091(10), F.S., which allows public utilities to recover, through an appropriate cost-recovery mechanism administered by the PSC, incurred costs for RNG and hydrogen-based fuel projects located in Florida. Such costs must be reasonable, not result in

³⁹ Citizens of State v. Graham, 191 So. 3d 897, 901-2 (Fla. 2016).

⁴⁰ *Id.* at 902.

⁴¹ Section 366.091(1), F.S., provides the intent for the section and states that “the Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida’s growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.”

undue hardship to customers, and facilitate the goals of s. 366.091(1), F.S. Under the bill, RNG may include mixtures of natural gas and RNG. Eligible projects would include, but not be limited to:

- Capital investment in projects necessary to prepare or produce RNG and hydrogen fuel for pipeline distribution and usage;
- Capital investment in facilities, including pipelines, necessary to inject and deliver RNG and hydrogen fuel throughout this state;
- RNG and hydrogen-based fuel storage facilities;
- Operation and maintenance expenses associated with any such RNG and hydrogen fuel infrastructure projects; and
- An appropriate return on investment consistent with that allowed for other utility plants used to provide service to customers.

Once approved by the PSC, the project costs are not subject to disallowance or any additional prudence review except where the utility has engaged in fraud, perjury, or intentional withholding of key information.

Cost recovery for a RNG and hydrogen-based fuel project must be approved by the PSC. In making its determination, the PSC must consider whether the projected costs for the project are reasonable and consistent with the provisions of proposed s. 366.091(10), F.S. Such recovery may not begin until the project is placed into service; however, upon approval by the PSC, costs incurred before the facility is placed into service may be deferred on the public utility's books for recovery once the facility is in service. This prohibition does not preclude the application of any other regulatory accounting rules that are otherwise deemed appropriate (such as normal recovery costs for construction work in progress).

Section 2 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:

Under the new provisions of the bill, public utilities will likely expand their use and sale of hydrogen and RNG.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.91 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Community Affairs on March 29, 2023:

The CS makes a technical change to incorporate the substance of subsection (11) into subsection (10).

CS by Regulated Industries on March 21, 2023:

The committee substitute makes the following changes:

- Specifies that the bill applies to public utilities.
- Requires that for contracts for the purchase of hydrogen-based fuel and renewable natural gas authorized under the bill, the contract must be reasonable in order to allow for recovery.
- Requires that, for cost recovery for renewable natural gas and hydrogen-based fuel infrastructure projects authorized under the bill, the project cost be reasonable

(instead of prudently incurred), will not result in an undue hardship to customers, and will facilitate achieving the renewable energy goals of the section.

- Require that renewable natural gas or hydrogen-based fuel infrastructure projects be in Florida.
- Require that cost recovery for renewable natural gas or hydrogen-based fuel infrastructure projects be approved by the commission.
- Require that recovery of costs for renewable natural gas or hydrogen-based fuel infrastructure projects may not occur until the project is placed into service. Costs incurred before such approval may be deferred.
- Specify applicability of renewable natural gas or hydrogen-based fuel infrastructure projects cost rules.
- Make technical changes.

B. Amendments:

None.



156380

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with directory amendment)

Delete lines 62 - 74

and insert:

provide service to customers. Cost recovery for any renewable natural gas or hydrogen-based fuel infrastructure project sought pursuant to this subsection must be approved by the commission.

(a) In assessing whether cost recovery for any renewable natural gas or hydrogen-based fuel infrastructure projects is appropriate, the commission shall consider whether the projected



156380

11 costs for such renewable natural gas or hydrogen-based fuel
12 infrastructure projects are reasonable and consistent with this
13 subsection.

14 (b) Recovery of costs incurred by a public utility for a
15 renewable natural gas or hydrogen-based fuel infrastructure
16 project approved for cost recovery under this subsection may not
17 be

18
19 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

20 And the directory clause is amended as follows:

21 Delete line 24

22 and insert:

23 Statutes, is amended, and subsection (10) is added to

By the Committee on Regulated Industries; and Senator DiCeglie

580-02858-23

20231162c1

1 A bill to be entitled
2 An act relating to renewable energy cost recovery;
3 amending s. 366.91, F.S.; revising the types of
4 contracts which are eligible for cost recovery by a
5 public utility under certain circumstances;
6 authorizing a public utility to recover prudently
7 incurred renewable natural gas or hydrogen-based fuel
8 infrastructure project costs through an appropriate
9 Florida Public Service Commission cost-recovery
10 mechanism; providing that such costs are not subject
11 to further actions except under certain circumstances;
12 specifying eligible renewable natural gas and
13 hydrogen-based fuel infrastructure projects; requiring
14 that cost recovery for such projects be approved by
15 the commission; providing requirements for the
16 approval determination; prohibiting cost recovery
17 until a facility is placed in service; providing that
18 certain other regulatory accounting rules may apply to
19 such cost recovery; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (9) of section 366.91, Florida
24 Statutes, is amended, and subsections (10) and (11) are added to
25 that section, to read:

26 366.91 Renewable energy.—

27 (9) A public utility's ~~The commission may approve cost~~
28 ~~recovery by a gas public utility for~~ contracts for the purchase
29 of renewable natural gas and hydrogen-based fuel in which the

580-02858-23

20231162c1

30 pricing provisions exceed the current market price of natural
31 gas are eligible for cost recovery, but only if ~~which are~~
32 ~~otherwise deemed reasonable and prudent by the commission~~ finds
33 that the contract meets the overall goals of subsection (1) by
34 promoting the development or use of renewable energy resources
35 in this state and providing fuel diversification and that the
36 contract is otherwise reasonable.

37 (10) A public utility may recover, through an appropriate
38 cost-recovery mechanism administered by the commission,
39 prudently incurred costs for renewable natural gas or hydrogen-
40 based fuel infrastructure projects. If the commission determines
41 that such costs were reasonable, that the incremental bill
42 impact will not result in an undue hardship to customers, and
43 that the project will facilitate achieving the goals of
44 subsection (1), those costs are not subject to disallowance or
45 further prudence review except for fraud, perjury, or
46 intentional withholding of key information by the public
47 utility. For purposes of utility cost recovery pursuant to this
48 subsection only, renewable natural gas may include a mixture of
49 natural gas and renewable natural gas. Eligible renewable
50 natural gas and hydrogen-based fuel infrastructure projects must
51 be located in this state. Types of costs eligible for cost
52 recovery include, but are not limited to, capital investment in
53 projects necessary to prepare or produce renewable natural gas
54 and hydrogen-based fuel for pipeline distribution and usage;
55 capital investment in facilities, including pipelines, necessary
56 to inject and deliver renewable natural gas and hydrogen-based
57 fuel; renewable natural gas and hydrogen-based fuel storage
58 facilities; operation and maintenance expenses associated with

580-02858-23

20231162c1

59 any such renewable natural gas and hydrogen-based fuel
60 infrastructure projects; and an appropriate return on investment
61 consistent with that allowed for other utility plants that
62 provide service to customers.

63 (11) Cost recovery for any renewable natural gas or
64 hydrogen-based fuel infrastructure project sought pursuant to
65 this section must be approved by the commission.

66 (a) In assessing whether cost recovery for any renewable
67 natural gas or hydrogen-based fuel infrastructure projects is
68 appropriate, the commission shall consider whether the projected
69 costs for such renewable natural gas or hydrogen-based fuel
70 infrastructure projects are reasonable and consistent with
71 subsection (10).

72 (b) Recovery of costs incurred by a public utility for a
73 renewable natural gas or hydrogen-based fuel infrastructure
74 project approved for cost recovery under this section may not be
75 allowed until such facility is placed in service. Upon approval
76 of cost recovery by the commission, costs incurred before the
77 facility is placed in service may be deferred on the public
78 utility's books for recovery once the facility is in service.
79 This does not preclude application of any other regulatory
80 accounting rules that are otherwise deemed appropriate,
81 including, but not limited to, normal recovery of costs for
82 construction work in progress.

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

The Florida Senate

APPEARANCE RECORD

3/29/23

Meeting Date

1162

Bill Number or Topic

Community Affairs

Committee

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Amendment Barcode (if applicable)

Name

Enilda Hidalgo

Phone

(787) 461-5283

Address

2301 SW 75th

Email

enildahg@gmail.com

Street

Miami

FL

State

33133

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

accident

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:

Catalyst Miami

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 29, 2023

APPEARANCE RECORD

1102

Meeting Date

Bill Number or Topic

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Crystal Morales

Phone

305 924 4385

Address

9021 SW 136 St #Apt 217

Email

crystalnealestate

Street

Miami FL 33157

paralegal@gmail.com

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

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29 April 2023

Meeting Date

1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Camilo Mejia

Phone 786 302 8842

Address 3482 Frow Ave

Email camilom@catalystmiami.org

Street

Miami

FL

33133

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

1162

3/29/23

Meeting Date

Bill Number or Topic

CA (401 sb)

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Committee

Amendment Barcode (if applicable)

Name **David Cullen**

Phone **941-323-2404**

Address **2838 Little Deal Rd**

Email **cullenasea@gmail.com**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Sierra Club Florida

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

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

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3/29/2023

Meeting Date

1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Ronald Brise

Phone 305-934-3979

Address 215 South Monroe

Street

Email rbrise@gunster.com

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:

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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3/29/2023

Meeting Date

SB 1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Bradley Marshall

Phone 850-681-0031

Address 300 S. Duval St.

Street

Email bmarshall@earthjustice.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:

Employee of Earthjustice on behalf of Earthjustice, but not a registered lobbyist.

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 \(flsenote.gov\)](#)

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The Florida Senate

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Meeting Date

Community Affairs

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Dale Calhoun

Phone 8506810496

Address 201 South Monroe St Unit A

Email dale.calhoun@floridagas.org

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 Natural Gas 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 \(flisenate.gov\)](#)

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Meeting Date

Community Affairs

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name **Zayne Smith**

Phone **(850) 228-4243**

Address **215 South Monroe Suite 603**

Email **zsmith@aarp.org**

Street

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:

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

AARP

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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SB 1162

Bill Number or Topic

COMMUNITY AFFAIRS

Committee

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Amendment Barcode (if applicable)

Name ALI SAVI - SCI-FPL CONSUMER

Phone 954-947-1308

Address 1318 SW 172ND AVE

Email XCORE2@live.com

Street

Pembroke Pines FL

State

33029

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: AARP

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 1162

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Meeting Date

Bill Number or Topic

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name Yvette Martinez - Concerned Citizen Phone 718 640 - 4538

Address 21075 NE 34th Ave Email zuzuspets11@yahoo.com

Street

Aventura FL 33180

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- [] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [X] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: AARP

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flisenate.gov)

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The Florida Senate

APPEARANCE RECORD

SB1162
Bill Number or Topic

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Meeting Date

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COMMUNITY AFFAIRS
Committee

Amendment Barcode (if applicable)

Name MARTHA STOLLBERG Phone 561 632-4562

FPL RATE PAYER & CONCERNED CITIZEN

Address 3656 ARALIA CT Email marstas2@yahoo.com
Street

W. PALM BEACH FL 33406
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: AARP

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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APPEARANCE RECORD

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Meeting Date

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COMMUNITY AFFAIRS

Committee

Amendment Barcode (if applicable)

Name ALLAN STOLLBERG Phone 561 632-4561

FPL RATE PAYER + CONCERNED CITIZEN + NAVY VETERAN

Address 3656 ARALIA CT Email stollbergallan@yahoo.com

W. PALM BEACH FL 33406

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- [] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [x] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: AARP

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 1162

3/29/2023

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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Residential Rate payer

Amendment Barcode (if applicable)

Name Angelique DAWKINS

Phone 305 467 5852

Address 1200 N.W. Little River

Email adldawkins81@gmail.com

Street

Drive

Miami Fla 33147

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:

AARP

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

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The Florida Senate

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Bill Number or Topic

Community Affairs

Committee

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FPL

Amendment Barcode (if applicable)

Name Dr Susan Lehrker Ratepayer

Phone 713-524-3629

Address 770 S Palm Ave #1002

Email forteheart@gmail.com

Street

Sarasota FL

34736

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:

AARP

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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March 29, 2023

Meeting Date

SB 1162

Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Kenneth Thomas AARP Volunteer State President Phone 561 289-8104

Address 18711 Ocean Mist Dr. Email kethomas@aarp.org

Boca Raton, FL 33498
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: AARP

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 1162

March 29, 2023

Meeting Date

Bill Number or Topic

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jill Auld concerned citizen

Phone 904-982-4325

Address 602 Lower 8th Ave S.

Street

Email jill.auld13@gmail.com

Jax, Fla.

City

FL

State

32250

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: AARP

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD SB 1162

3/29/23

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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AARP Executive
Council
Volunteer

Amendment Barcode (if applicable)

Name Cheryl Jefferson

Phone

904-612-6255

Address 11514 Broadhead Dr.

Email

cheryljeffersonH@comcast.net

Jacksonville FL 32225

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: AARP

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S-001 (08/10/2021)

APPEARANCE RECORD

SB 1162

March 29, 2023

Meeting Date

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

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Terry Elder, FPL shareholder

Phone

239.877-4342

Address

2836 Aintree Lane J201

Email

tnfvselder@gmail.com

Street

Naples, FL 34112

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:

AARP

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The Florida Senate

APPEARANCE RECORD

3-29-23

Meeting Date

SB 1162

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 Nick Mayor

Phone 350-524-9658

Address 215 S Monroe St.

Email NMayor@AARP.org

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] 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:

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

March 29 2023

Meeting Date

SB 1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name David Kistle, FPL Rate Payer, FPL Phone 651 276 8222

Address 2940 North Course Dr. # 402 Email dkistle@msn.com

Street

Pompano Beach FL 33069

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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 1162

3/29/2023

Meeting Date

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 Leonardo TOMASI (CONCERN citizen)

Phone 239 961 8216

Address 111 NE 2ND AVE APT 1506

Email leo.tomas11985@gmail.com

City Miami

State FL

Zip 33132

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: AARP

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

3/29/22

Meeting Date

SB 1162

Bill Number or Topic

Community Affairs

Committee

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

FPL rate payer

Amendment Barcode (if applicable)

Name Mariana Tareras

Phone 786-239-9074

Address 14986 SW 113 St. Street

Email marriatareras58@gmail.com

Miami City

FL State

33196 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: AARP

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 1162

Bill Number or Topic

3/29/23

Meeting Date

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

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Thayera L. Hausheer Air Force Veteran FPL Rate Payer

Phone 305 720-4447

Address 10522 SW 143 Ct

Street

Email ThayeraHausheer@gmail.com

Miami

City

FL

State

33186

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:

AARP

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1162

MARCH 29, 2023

Meeting Date

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

Bill Number or Topic

COMMUNITY AFFAIR

Committee

Amendment Barcode (if applicable)

Name MYRON STINSON AARP VOLUNTEER Phone 786 553 6140

Address 16915 SW 119 R Email WARD 9555@BELLSOUTH.NET

Street

MIAMI FL 33177

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:

AARP

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

SB 1162

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Meeting Date

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

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name VICTORIA PRICE

Phone

Address 310 West College Ave

Email

vprice@chpk.com

Street

Tallahassee

State

FL

32303

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:

Chesapeake Utilities Corp/ FPU

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 \(flsenate.gov\)](#)

APPEARANCE RECORD

1162

March 29, 2023

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 **Erin Ballas**

Phone **8507286387**

Address **730 East Park Ave**

Email **erinballas@paconsultants.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:

Brightmark

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/29

Meeting Date

SB 1142

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone

Address 134 S Bronaugh St

Email

Street

Tallahassee FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Chamber of Commerce

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

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3/29/23

Meeting Date

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Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Adam Basford

Name

Phone

516 N Adams St

Address

Email

abasford@a.f.com

Street

Tallahassee

State

FL 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:

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

Associated Industries of FL

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

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Meeting Date

1162

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 Anaruth Solache

Phone 305-528-8495

Address 7385 fairway drive
Street

Email

Miami Lakes FL 33014
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:

Cataly of Miami

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

3/29/23

Meeting Date

1162

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

~~Michelle~~ Christian Perez

Phone

786-387-3013

Address

20710 Leeward Lane

Email

christian@perezchavez.com

Street

Miami

FL

33189

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

MARCH 29, 2023

Meeting Date

1162

Bill Number or Topic

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

COMMITTEE AFFAIRS

Committee

Amendment Barcode (if applicable)

Name HAROLD MCINTYRE

Phone 786 488 1153

Address 2930 New 184 St. A11A

Email ARCHIE380941@gmail.com

Street

Miami

City

FL

State

33056

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:

Catalyst

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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3-29-22

Meeting Date

1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Alecia Tramel-McIntyre

Phone 305-494-4538

Address 2930 NW 184th Street

Email alecia.tramel@gmail.com

Miami

City

FL.

State

33055

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

ATM

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)

3/29/2023

Meeting Date

The Florida Senate APPEARANCE RECORD

1162

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 Gena Grant

Phone 786 6 082414

Address 62 NW 161 St

Email MSBARR38@gmail.com

Street

Miami FL 33169

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:

Catalyst Miami

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

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

3/29/23

Meeting Date

1162

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Michelle Goodman

Phone 786-387-3013

Address 1322 NW 117th Street

Email mrsmyg@yahoo.com

Street

miami, FL 33161

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:

Catalyst

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11162

Bill Number or Topic

Amendment Barcode (if applicable)

03/29/23

Meeting Date

Community Affairs
Committee

Name Kerlande K. Cleant

Phone 954 865 2487

Address 3330 NW 23rd CT
Street

Email KerlandeKCleant@gmail.com

Coconut Creek FL 33066
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:

Catalyst Miami

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

3.29.23

Meeting Date

1162

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 Taylor Neverman

Phone 850 510 3589

Address 408 NE 206th LN #108

Email Neverman.Taylor@gmail.com

Street

Miami

FL

33179

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: Catalyst Miami

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

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

3/29/23

Meeting Date

SB1162

Bill Number or Topic

Regulated Industries

Committee

973390

Amendment Barcode (if applicable)

Name Sharon Ozbun

Phone 352.585.6281

Address 993 Sunrise Circle

Email ozbunsharon@gmail.com

Street

Palm Harbor

FL

34683

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 (Senate 401) (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/29/2023

Meeting Date

1162

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 Korene Stuart

Phone 305 684-8986

Address 7771 Indigo St

Street

Email Korene17@gmail.com

MIRAMAR

City

FL

State

33023

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:

Catalyst

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 1162

Bill Number or Topic

Amendment Barcode (if applicable)

3/29/23

Meeting Date

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

Community Affairs

Committee

Name Regina Silas Phone

Address 18015 NW 25th Ct Email

Street

Miami Gardens FL 33056

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] 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

3/29/23

Meeting Date

5B 1162

Bill Number or Topic

Regulated Industries

Committee

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

973390

Amendment Barcode (if applicable)

Name John E. Darovec Jr

Phone (941) 752-1760

Address 9202 68th Ave E

Street

Email jsdarovec@verizon.net

Bradenton

City

FL

State

34202

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

3/29/23

Meeting Date

SB 1162

Bill Number or Topic

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

Regulated Industries

Committee

973390

Amendment Barcode (if applicable)

Name Susan Darovec

Phone 941-752-1760

Address 9202 68th Ave E

Street

Email jsdarovec@verizon.net

Bradenton

City

FL

State

34202

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

CS/SB 1162

Bill Number or Topic

3/29/23

Meeting Date

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

Regulated Energy
Committee

Amendment Barcode (if applicable)

Name Edwinna Williams

Phone 858 291 1149

Address 3950 Plantation Cove Ct.

Email edwinna.rae@gmail.com

Street

Milton

FL

32583

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

3/29/2023

Meeting Date

SB 1162

Bill Number or Topic

Regulated Industries

Committee

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

973390

Amendment Barcode (if applicable)

Name Susan (Sue) Cotton

Phone 954-695-5065

Address 1120 SE 9th Ave

Email scotton@bellsouth.net

Street

Pompano Beach, FL 33060

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. 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

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3/29/23

Meeting Date

5B1162

Bill Number or Topic

Reg Industries

Committee

973390

Amendment Barcode (if applicable)

Name LINDA EDSON

Phone 850-510-2729

Address 1841 Myrick Rd

Street

Email edson@nettally.com

Tallahassee Fl. 32303

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

3-29-23

Meeting Date

SB 1162

Bill Number or Topic

Regulated Industries

Committee

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973390

Amendment Barcode (if applicable)

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Street

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33182

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

APPEARANCE RECORD

3-29-23

Meeting Date

SB1162

Bill Number or Topic

Regulated Industries

Committee

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973390

Amendment Barcode (if applicable)

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St. Pete

City

FL

State

33704

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

APPEARANCE RECORD

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3/29/2023 Meeting Date

SB1162 Bill Number or Topic

Regulated Industries Committee

973390 Amendment Barcode (if applicable)

Name Janet Hayes

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Email janetdhayes@gmail.com

Gainesville Fla 32641 City State Zip

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

OR Waive Speaking: [X] In Support [X] 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:

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1268

INTRODUCER: Senator Rouson

SUBJECT: Urban Agriculture Pilot Projects

DATE: March 27, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1268 provides that urban agriculture pilot projects may include commercial agricultural uses, in addition to noncommercial uses. Urban agriculture pilot projects, first instituted in 2021, are grant-funded farming projects in dense urban areas designed to increase access to fresh produce in city centers.

The bill takes effect July 1, 2023.

II. Present Situation:

Urban Agriculture

Over the past decade, food policy in the United States has responded to ongoing shifts in consumer preferences and producer trends that favor local and regional food systems while also supporting traditional farm enterprises.¹ This support for local and regional farming has helped to increase agricultural production in urban areas within and surrounding major U.S. cities.

Urban farming operations represent a diverse range of systems and practices. They encompass large-scale innovative systems and capital-intensive operations, vertical and rooftop farms, hydroponic greenhouses (e.g., soilless systems), and aquaponics facilities (e.g., growing fish and plants together in an integrated system).² Urban farming also includes a variety of operations such as vacant city lots, city parks, churchyards, schoolyards, backyards, and community gardens. Urban farming and gardening is often presented as a potential solution for improving health outcomes, increasing self-reliance, strengthening community, and achieving social goals.

¹ Congressional Research Service, The Library of Congress, *2018 Farm Bill Primer: Support for Urban Agriculture* (2019), available at <https://fas.org/sgp/crs/misc/IF11210.pdf> (last visited March 10, 2023).

² *Id.*

Urban Agriculture Pilot Projects

In 2021 the Legislature authorized the Florida Department of Agriculture and Consumer Services (department) to approve five urban agricultural pilot project projects in municipalities throughout the state.³ For the purpose of these projects, “urban agriculture” is defined as new or existing noncommercial agricultural uses, not including vegetable gardens for personal consumption, on nonagricultural land in a dense urban land area.⁴

Municipalities with a population of more than 250,000 apply for project grants by submitting a proposal for the project including its location, what products will be cultivated, community involvement, and anticipated outcomes.⁵ Projects are approved for an initial 3-year period and may be renewed thereafter, and municipalities must submit a report to the department outlining outcome and impact of their pilot projects by a specified date.⁶ The department is then required to submit a report on the outcomes and impacts of the pilot projects to the President of the Senate and the Speaker of the House of Representatives.⁷ Municipalities are authorized to regulate land use on urban agriculture pilot programs beyond the Right to Farm act.⁸

Types of Urban Agriculture

The many forms of urban agriculture can be categorized as either commercial or community-based.⁹ Commercial urban farms typically frame their business model on creating economically viable businesses that provide employment, food, and education opportunities to serve local needs.¹⁰

The primary objective of community-based urban gardens is to create spaces for local residents to engage in individual and neighborhood development and empowerment while growing, sharing, or selling fresh fruits and vegetables with each other.¹¹ Profitability is not necessarily the goal of community-based urban agriculture;¹² instead, these efforts seek dedicated outside funding to realize urban agricultures promises of increased healthy food access, food justice, education, job training, ecological literacy, and community empowerment and development.¹³

³ Chapter 2021-115, L.O.F.

⁴ Section 604.73(3), F.S.

⁵ Section 604.73(4), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 604.73(5), F.S.

⁹ Hodgson, K., Caton Campbell, M., & Bailkey, M, *Urban agriculture: Growing healthy, sustainable places*, (2011) Chicago, IL: American Planning Association Planning Advisory Service.

¹⁰ Rangarajan, A., & Riordan, M., *The Promise of Urban Agriculture: National Study of Commercial Farming in Urban Areas* (2019), United States Department of Agriculture/Agricultural Marketing Service and Cornell University Small Farms Program.

¹¹ *Id.*

¹² Hodgson, K., Caton Campbell, M., & Bailkey, M, *Urban agriculture: Growing healthy, sustainable places*, (2011) Chicago, IL: American Planning Association Planning Advisory Service.

¹³ Vitiello, D. and Wolf-Powers, L, *Growing food to grow cities: The potential of agriculture for economic and community development in the urban United States*, Community Development Journal, (2014), p. 508-523.

“Right to Farm” Laws; Generally

In the 1970s, states began to identify the potential conflicts between farmers and developers as urban sprawl crept into rural, agricultural areas. One of the initial concerns was that the relocation of city dwellers into agricultural areas would result in a rash of very expensive nuisance lawsuits once the new neighbors were confronted with the sensory nature of farm life, complete with an inescapable array of odors, loud noises, dust, and other side-effects.¹⁴

In an effort to protect farms and agricultural operations from the encroaching sprawl, states passed anti-nuisance laws that are referred to as “Right to Farm” laws. These laws, enacted in all 50 states, protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a “coming to the nuisance” defense theory. These laws provide a liability shield for pre-existing agricultural operations when changes are made to the use of nearby parcels, such that the plaintiffs are described as “coming to the nuisance.”¹⁵ The Florida Right to Farm Act was enacted in 1979.¹⁶

Nuisance

A nuisance is described as an activity, condition, or situation created by someone that significantly interferes with another person’s use or enjoyment of their property. A private nuisance affects a person’s private right that is not common to the public while a public nuisance is an interference that affects the general public, for example, a condition that is dangerous to health or community standards.¹⁷

The Florida Right to Farm Act

The Florida Right to Farm Act protects farm operations from nuisance lawsuits if the operations comply with generally accepted agricultural and management practices.¹⁸

The Florida Right to Farm Act states that a farm operation cannot be classified as a public or private nuisance if the farm:

- Has been in operation for 1 year or more since its established date of operation;
- Was not a nuisance when it was established; and
- Conforms to generally accepted agricultural and management practices.¹⁹

However, the following four unsanitary conditions constitute evidence of a nuisance:

- The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life;
- The presence of improperly built or improperly maintained septic tanks, water closets, or privies;

¹⁴ Alexia B. Borden and Thomas R. Head, III, *The “Right To Farm” In The Southeast – Does it Go Too Far?* (2007).

¹⁵ *Id.*

¹⁶ Chapter 79-61, ss. 1-2, Laws of Fla.

¹⁷ Black’s Law Dictionary (11th ed. 2019).

¹⁸ Section 823.14, F.S.

¹⁹ Section 823.14(4)(a), F.S.

- The keeping of diseased animals which are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program; or
- The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.²⁰

Additionally, a farm operation cannot be classified as a public or private nuisance due to a change:

- In ownership;
- In the type of farm product that is produced;
- In conditions in or around the locality of the farm; or
- Made in compliance with Best Management Practices adopted by local, state, or federal agencies.²¹

The Florida Right to Farm Act, however, may not be construed to permit an existing farm operation to increase to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing operation is adjacent to an established homestead or business.^{22,23}

III. Effect of Proposed Changes:

The bill amends s. 604.73(3)(b), F.S., to provide that eligible urban agriculture pilot projects, developments funded by state grants designed to bring fresh agricultural goods to city centers, may include new commercial uses in addition to new or existing noncommercial uses. This expands the scope of what types of projects can be approved, but does not affect the total funding or processes related to these projects.

The bill also reenacts s. 604.40(2), F.S., and s. 604.50(2)(e), F.S., to update references to urban agriculture used in regulations regarding storage of farm equipment and the construction of farm buildings and fences.

The bill will take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁰ *Id.*

²¹ Section 823.14(4)(b), F.S.

²² Section 823.14(5), F.S.

²³ In an effort to eliminate duplication of regulatory authority over farm operations, local governments may not adopt an ordinance or similar policy to prohibit or limit an activity of a bona fide farm operation on land that is classified as agricultural land in accordance with statute, where the activity is regulated through implemented best management practices or certain interim measures. The full text of this prohibition is contained in s. 823.14(6), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill reenacts sections 604.40 and 604.50 of the Florida Statutes.

This bill substantially amends section 604.73 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 Rouson

16-00648A-23

20231268__

1 A bill to be entitled
2 An act relating to urban agriculture pilot projects;
3 amending s. 604.73, F.S.; redefining the term "urban
4 agriculture" to include new commercial agricultural
5 uses; reenacting ss. 604.40(2) and 604.50(2)(e), F.S.,
6 relating to farm equipment used in urban agriculture
7 and nonresidential farm buildings, farm fences, and
8 farm signs, respectively, to incorporate the amendment
9 made to s. 604.73, F.S., in references thereto;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (b) of subsection (3) of section
15 604.73, Florida Statutes, is amended to read:

16 604.73 Urban agriculture pilot projects; local regulation
17 of urban agriculture.—

18 (3) DEFINITIONS.—As used in this section, the term:

19 (b) "Urban agriculture" means any new or existing
20 noncommercial or new commercial agricultural uses on land that
21 is:

- 22 1. Within a dense urban land area, as described in s.
23 380.0651(3)(a);
24 2. Not classified as agricultural pursuant to s. 193.461;
25 3. Not zoned as agricultural as its principal use; and
26 4. Designated by a municipality for inclusion in an urban
27 agricultural pilot project that has been approved by the
28 department.
29

16-00648A-23

20231268__

30 The term does not include vegetable gardens, as defined in s.
31 604.71(4), for personal consumption on residential properties.

32 Section 2. For the purpose of incorporating the amendment
33 made by this act to section 604.73, Florida Statutes, in a
34 reference thereto, subsection (2) of section 604.40, Florida
35 Statutes, is reenacted to read:

36 604.40 Farm equipment.—

37 (2) This section does not apply to farm equipment that is
38 used in urban agriculture, as defined in s. 604.73(3).

39 Section 3. For the purpose of incorporating the amendment
40 made by this act to section 604.73, Florida Statutes, in a
41 reference thereto, paragraph (e) of subsection (2) of section
42 604.50, Florida Statutes, is reenacted to read:

43 604.50 Nonresidential farm buildings; farm fences; farm
44 signs.—

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

46 (e) "Urban agriculture" has the same meaning as in s.
47 604.73(3).

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

The Florida Senate

APPEARANCE RECORD

3/29/23

1268

Meeting Date

Bill Number or Topic

CA (401 sb)

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Committee

Amendment Barcode (if applicable)

Name David Cullen

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FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Sierra Club Florida

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

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S-001 (08/10/2021)

The Florida Senate
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 1310

INTRODUCER: Community Affairs Committee and Senators DiCeglie and Hooper

SUBJECT: Expanding Public Sector Career Opportunities

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1310 requires public employers (state agencies and branches, state universities and public colleges, counties, cities, special districts, school boards, and all other governmental entities) to prioritize direct work experience over postsecondary education in their hiring considerations. Postsecondary education may be considered in hiring decisions only (a) as an alternative for direct work experience or (b) if the position requires advanced accreditation or licensure that is available only to a person holding a specific postsecondary degree.

The bill grants authority to the Department of Management Services to enforce the new requirements either (a) through appeals by applicants who allege the lack of a postsecondary degree is the sole basis for the applicant not being hired by the public employer or (b) notices from any person that a job posting for a public sector job required a postsecondary degree without including information justifying the requirement for the degree.

The bill's impact state or local government revenues and expenditures is indeterminate. However, the Department of Management Services may incur costs associated the resolution of appeals and reports of noncompliance by public employers.

The bill takes effect July 1, 2023.

II. Present Situation:

State Employment Policy

According to the employment policy of the state, conditions of employment in state government must be made without regard to age, sex, color, religion, national origin, political affiliation, marital status, or disability.¹ The state and its political subdivisions must comply with the Americans with Disabilities Act,² Equal Employment Opportunity Act,³ Florida Civil Rights Act,⁴ and Fair Labor Standards Act.⁵ In addition, the state and its political subdivisions must give preference to veterans for positions of employment.⁶

State Hiring Process

The State's employment process is decentralized with each state agency being responsible for its recruitment, selection, and hiring decisions.⁷ Selection of candidates for employment is based on an assessment of the specific knowledge, skills, and abilities necessary for the successful performance of the position's duties.⁸ After assembling a pool of candidates, an agency's hiring official compares candidates' education, experience, and any necessary license or certification requirements.⁹ Candidates who appear to possess the required knowledge, skills, abilities, licensure and certifications will proceed further in the selection process.¹⁰ The hiring official then determines the candidates who will be asked to participate in additional selection procedures, such as oral interviews or work sample exercises.¹¹ The job-related information gained during the selection process assists the hiring official in making the final selection decision. The final selection decision is the sole responsibility of the employing agency.¹² Agencies are required to document the qualifications of the selected candidate to ensure the candidate meets the minimum requirements specified by the employing agency, any licensure or certification requirements, and possess the requisites for the position.¹³

Section 110.201 F.S., authorizes the Department of Management Services (DMS), in consultation with agencies, to create rules relating to employees and positions in the Career

¹ Section 110.105(2)(a), F.S.

² U.S. Department of Labor, *Employers' Responsibilities, Americans with Disabilities Act*, available at <https://www.dol.gov/general/topic/disability/employersresponsibilities> (last visited Mar. 25, 2023).

³ U.S. Equal Employment Opportunity Commission, *Overview*, available at [https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%2%20\(40%20or](https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%2%20(40%20or) (last visited Mar. 25, 2023).

⁴ Section 760.02(7), F.S.

⁵ U.S. Department of Labor, *Wages and the Fair Labor Standards Act*, available at <https://www.dol.gov/agencies/whd/flsa> (last visited Mar. 25, 2023).

⁶ Section 296.07, F.S.

⁷ DMS, *Job Candidate Program Manual, Division of Human Resource Management*, available at https://www.dms.myflorida.com/content/download/99277/573474/Job_Candidate_Program_Manua_l_Final_3-21-17.pdf (last visited Mar. 25, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 110.211(1), F.S.

¹³ Section 110.213(2), F.S.

Service.¹⁴ The statute allows the DMS to adopt rules providing alternative requirements. Section 110.2035, F.S., requires employing agencies to maintain, on a current basis, a position description of each authorized and established position within the agency. The position description must include a description of the assigned duties and responsibilities, along with any other pertinent information concerning the position.¹⁵ The position description serve as a record of the official assignment of duties to the position.¹⁶

The DMS has established rules¹⁷ that provide agencies with discretion to establish the duties for any given position, which includes:

- An accurate description of the duties and responsibilities assigned to the position;
- The job related knowledge, skills, and abilities;
- Any licensure, certification, or registration; and
- Any position designators.¹⁸

County and Municipal Powers

Section 125.74, F.S., of the County Administration Law of 1974, enumerates specific powers and duties which the county administrator possesses, including the power to recommend to the board of county commissioners (Board) position classifications and pay plans for all positions in county service. The county administrator is also responsible for selecting, employing, and supervising all personnel, and filling all vacancies, positions, or employment under the jurisdiction of the Board, although the employment of department heads requires confirmation by the Board.¹⁹

Section 166.021, F.S., of Florida's Municipal Home Rule Powers Act, contains general provisions that govern the exercise of municipal powers under the framework established in article VIII, section 2(b) of the Florida Constitution. Section 166.021(1), F.S., grants municipalities the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. The statute grants municipalities the ability to exercise any power for municipal purposes, except when expressly prohibited by law.²⁰

Hiring Authority of Elected Officers

Section 27.25, F.S., grants the state attorney the authority to employ assistant state attorneys, an executive director, and other staff.

Section 27.53, F.S., grants the public defender the authority to employ assistant public defenders and other staff.

¹⁴ The Career Service system provides uniform pay, job classifications, benefits and recruitment for the majority of non-management jobs within state agencies.

¹⁵ Section 110.2035(5)(a), F.S.

¹⁶ *Id.*

¹⁷ Rule 60L-31.003, F.A.C.

¹⁸ Rule 60L-31.003(1), F.A.C.

¹⁹ Section 125.74(k), F.S.

²⁰ Section 166.021(a), F.S.

Section 28.06, F.S., grants the clerk of the court the authority to appoint a deputy or deputies.

Section 30.53, F.S., preserves the independence of sheriffs concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing, and setting of salaries of such personnel.

Authority of Special Districts

A “special district” is a unit of local government created for a special purpose operating within a limited geographic boundary.²¹ Special districts are created by general law, special act, local ordinance, or administrative rule of the Governor and Cabinet.²² Special districts are created to provide a wide variety of services, such as mosquito control,²³ children’s services,²⁴ fire control and rescue,²⁵ and drainage and water control.²⁶

Special districts cooperate and coordinate their activities within the units of general-purpose local government in which they are located.²⁷ Chapter 189, F.S., does not expressly provide special districts the authority to employ people or the ability to set out any requirements regarding education or work experience.

Substitution of work experience for postsecondary educational requirements

Section 112.219, F.S., allows an employing agency to substitute equivalent work experience in lieu of a postsecondary education. Work experience may not be substituted for any required licensure, certification, or registration as established by the agency and indicated on the position description. The section requires any employing agency that elects to substitute work experience for post-secondary education to include a notice in the job advertisement that substitution is authorized and a description of what education and work experience equivalencies apply. This section does not abridge state and federal laws and regulations governing equal opportunity employment.

This section defines the term “employing agency” to mean any agency or unit of government of the state or any county, municipality, or political subdivision thereof, including special districts, authorized to employ personnel to carry out the responsibilities of the agency or unit of government.

Veteran Preference in Hiring and Retention

Section 295.07, F.S., directs the state and its political subdivisions to give preference to disabled veterans, spouses, widows and widowers of veterans, and current members of the reserve component of the United State Armed Forces or the Florida National Guard. The state and its

²¹ Section 189.012(6), F.S.

²² *Id.*

²³ Section 388.021(1), F.S.

²⁴ Section 125.901(1), F.S.

²⁵ Section 191.002, F.S.

²⁶ Section 298.01, F.S.

²⁷ Section 189.011(3), F.S.

political subdivisions may waive postsecondary educational requirements if the veteran or current member of the armed forces is otherwise qualified for the position.

Section 295.11, F.S., authorizes the Department of Veterans' Affairs (DVA) to investigate any complaint that indicates a person has applied for a job with the state or a political subdivision and the job was awarded to a nonveteran. The DVA issues its opinion as to the merit or lack of merit to the parties and to the Public Employees Relation Commission (PERC). If the DVA opines that the claim lacks merit and the PERC agrees, no hearing is necessary. Otherwise, the PERC will hold a hearing and render a decision that is deemed final agency action.

Public Employees Relations Commission

The PERC is created by law,²⁸ consisting of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. Relevant to this discussion, the PERC is authorized to hear appeals relating to certain employers not employing a preferred veteran applicant.²⁹ The appeal hearing must be held within 30 days of the filing of the claim, unless an extension of time is granted for good cause.³⁰

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the “Expanding Public Sector Career Opportunities Act.”

Section 2 amends s.112.219, F.S., to use the term “public employer”³¹ instead of “employing agency,” in the context of allowing such employers to substitute work experience for postsecondary educational requirements.

Section 3 creates s. 112.2195, F.S., to establish a policy on the way a public employer considers applicants.

A public employer must determine for each position the baseline requirements that an applicant must meet. The baseline requirements may include:

- Prior direct experience or specified certifications or courses; and
- A postsecondary degree, only as an alternative to the number of years of direct experience, ranging two to nine years depending on the level of the degree.

A public employer may not deny consideration of an applicant solely on the basis of the applicant lacking a postsecondary degree unless the public employer clearly demonstrates that the job duties require a postsecondary degree. In the job posting, the public employer must substantiate the necessity for the postsecondary degree on the basis that the degree is the best

²⁸ Section 447.205, F.S.

²⁹ Section 447.207(9)(c), F.S.

³⁰ Section 447.208(1), F.S.

³¹ “Public employer” is defined in s. 448.095(1)(i), F.S., as an entity within state, regional, county, local, or municipal government, whether executive, judicial, or legislative, or any public school, community college, or state university that employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor.

measure to determine whether an applicant possesses the specific skills required for the job or that the position requires advanced accreditation or licensure only available to a person who holds a specific postsecondary degree.

If an applicant is eliminated from a hiring consideration solely because of the lack of a postsecondary degree, the applicant may appeal the decision to the Department of Management Services (DMS).

A person (not limited to an applicant) may report to the DMS any job postings by a public employer which require a postsecondary degree, but fail to include the information substantiating the necessity of the degree.

If an appeal by an applicant or a report by a person are substantiated by the DMS, the public employer must reopen the hiring process, modify the job posting, or take other action as directed by the DMS.

None of these requirements apply to political appointments (undefined) or other positions hired by elected representatives in this state.

Section 4 amends s. 287.057, F.S., to allow an agency³² to substitute verifiable, related work experience in lieu of postsecondary educational requirements for a contract for services if the person seeking to contract is otherwise qualified for the position.

Section 5 provides that the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³² "Agency" is defined in s. 287.012(1), F.S., as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. The term does not include the university and college boards of trustees or the state universities and colleges.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The overall impact on state and local government expenditures is indeterminate. Public employers will experience incur some additional workload in modifying position descriptions and reviewing knowledge, skills, and abilities of each position to determine whether a postsecondary degree is a necessary requirement in hiring considerations. Public employers who choose to require a postsecondary degree in its hiring considerations may incur new costs associated with appeals from applicants and others.

The DMS will incur additional cost associated with addressing the appeals from unsuccessful applicants and those persons reporting a job notice not in compliance with the new requirements.

VI. Technical Deficiencies:

On lines 137 through 139, the bill exempts from its application “political appointments or other employment positions hired by elected representatives in this state”. The bill does not define “political appointments.” Consideration should be given to defining the term so that public employers and the DMS will not incur the cost of appeals or reports of noncompliance.

In terms of the “other employment positions hired by elected representatives in this state” appears to exempt employees of the clerks of court, the sheriffs, the state attorneys and public defenders, the Legislature, and the Executive Office of the Governor, and potentially some portion of the employees of the Department of Financial Services (hired by the Chief Financial Officer), the Department of Agriculture and Consumer Services (hired by the Commissioner of Agriculture), the Department of Legal Affairs (hired by the Attorney General). If the exemption, as described above, is intended to be interpreted more broadly or more narrowly, consideration should be given to more concisely define the exemption.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections the following sections of the Florida Statutes: 112.2195 and 112.219, and 287.057.

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 29, 2023:

The committee substitute:

- Amends ch. 112, F.S., rather than ch. 110, F.S., to establish the new policy for considering applicants for public employment opportunities.
- Replaces the term “employing agency” with “public employer” in s. 112.219, F.S.
- Moves the bill provisions allowing an agency to substitute work experience in lieu of postsecondary education for contracts for services to the procurement statute in ch. 287, F.S., and omits verbiage pertaining to licensure requirements.

- B. **Amendments:**

None.



271196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Sections 112.219 and 112.2195, Florida Statutes,
may be cited as the "Expanding Public Sector Career
Opportunities Act."

Section 2. Section 112.219, Florida Statutes, is amended to
read:

112.219 Substitution of work experience for postsecondary



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11 educational requirements.-

12 (1) ~~Beginning July 1, 2022,~~ The head of a public employer
13 ~~an employing agency~~ may elect to substitute verifiable, related
14 work experience in lieu of postsecondary educational
15 requirements for a position of employment if the person seeking
16 the position of employment is otherwise qualified for such
17 position.

18 (2) Related work experience may not substitute for any
19 required licensure, certification, or registration required for
20 the position of employment as established by the public employer
21 ~~employing agency~~ and indicated in the advertised description of
22 the position of employment.

23 (3) If the head of a public employer ~~an employing agency~~
24 elects to substitute related work experience for postsecondary
25 educational requirements, the public employer ~~employing agency~~
26 must include, in all advertisements for the position of
27 employment made by the public employer ~~employing agency~~, a
28 notice that such substitution is authorized and a description of
29 the related work experience equivalencies that may be
30 substituted for the required postsecondary education.

31 (4) This section and s. 112.2195 do ~~does~~ not abridge state
32 and federal laws and regulations governing equal opportunity
33 employment.

34 (5) For purposes of this section, the term "public
35 employer" has the same meaning as in s. 448.095(1) "~~employing~~
36 ~~agency~~" ~~means any agency or unit of government of the state or~~
37 ~~any county, municipality, or political subdivision thereof,~~
38 ~~including special districts, that is authorized to employ~~
39 ~~personnel to carry out the responsibilities of the agency or~~



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40 ~~unit of government.~~

41 Section 3. Section 112.2195, Florida Statutes, is created
42 to read:

43 112.2195 Expanding public sector career opportunities.—

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

45 (a) "Applicant" means a person seeking gainful employment
46 from a public employer.

47 (b) "Baseline requirement" means the minimum skills or
48 previous training or experience required to satisfactorily
49 perform the primary duties of an employment position.

50 (c) "Department" means the Department of Management
51 Services.

52 (d) "Direct experience" means any previous work experience
53 during which:

54 1. The applicant's primary duties were consistent with the
55 employment position he or she is currently seeking; or

56 2. The skills required for the applicant's primary duties
57 are transferable to the employment position he or she is
58 currently seeking.

59 (e) "Hiring consideration" means all of the following:

60 1. A decision to offer an applicant an interview.

61 2. An interview held in good faith between the public
62 employer and the applicant.

63 3. A decision to move an applicant to a subsequent round in
64 the hiring process.

65 4. A decision to include the applicant on a list of
66 applicants for consideration by another member of the public
67 employer.

68 5. A final offer of employment.



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69 (f) "Postsecondary degree" means an associate degree, a
70 bachelor's degree, or a graduate degree from an accredited
71 college or university.

72 (g) "Public employer" has the same meaning as in s.
73 448.095(1).

74 (2) Both of the following apply for hiring considerations
75 by public employers:

76 (a) A public employer may not deny consideration to an
77 applicant solely on the basis of the applicant lacking a
78 postsecondary degree, except as provided under subsection (3).

79 (b) A public employer shall determine for each employment
80 position baseline requirements that an applicant must meet.
81 Prior direct experience or specified certifications or courses
82 may be included as a baseline requirement. A postsecondary
83 degree may only be included as a baseline requirement as
84 provided in subsection (4).

85 (3) Paragraph (2)(a) does not apply if a public employer
86 clearly demonstrates that the job duties of the employment
87 position require a postsecondary degree. In the job posting, a
88 public employer must substantiate the necessity of a
89 postsecondary degree on the basis that the postsecondary degree
90 is the best measure to determine if an applicant possesses
91 specific skills required for the job or that the employment
92 position requires advanced accreditation or licensure that is
93 only available to a person who holds a specific postsecondary
94 degree.

95 (4) A public employer may include a postsecondary degree as
96 a baseline requirement only as an alternative to the number of
97 years of direct experience required, not to exceed:



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98 (a) Two years of direct experience for an associate degree;

99 (b) Four years of direct experience for a bachelor's

100 degree;

101 (c) Six years of direct experience for a master's degree;

102 (d) Seven years of direct experience for a professional

103 degree; or

104 (e) Nine years of direct experience for a doctoral degree.

105 (5) (a) An applicant who is eliminated from a hiring

106 consideration solely because the applicant lacks a postsecondary

107 degree may appeal such decision to the department.

108 (b) A person may report to the department any job postings

109 by a public employer which require a postsecondary degree but

110 fail to include the information required under subsection (3).

111 (c) If an appeal or report is substantiated by the

112 department, the public employer must reopen the hiring process,

113 modify the job posting, or take other action as directed by the

114 department.

115 (6) This section does not apply to political appointments

116 or other employment positions hired by elected representatives

117 in the state.

118 (7) The department may adopt rules to implement the

119 requirements of subsection (5).

120 Section 4. Subsection (28) is added to section 287.057,

121 Florida Statutes, to read:

122 287.057 Procurement of commodities or contractual

123 services.—

124 (28) An agency may substitute verifiable, related work

125 experience in lieu of postsecondary education requirements for

126 contractual services pursuant to ss. 112.219 and 112.2195 if the



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127 person seeking the contract for services is otherwise qualified
128 for such contract.

129 Section 5. This act shall take effect July 1, 2023.

130

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

132 And the title is amended as follows:

133 Delete everything before the enacting clause
134 and insert:

135 A bill to be entitled
136 An act relating to substitution of work experience for
137 postsecondary education requirements; providing a
138 short title; amending s. 112.219, F.S.; removing
139 obsolete language; defining the term "public
140 employer"; conforming provisions to changes made by
141 the act; creating s. 112.2195, F.S.; defining terms;
142 providing requirements for hiring considerations by
143 public employers; providing an exception; providing
144 that a postsecondary degree may be a baseline
145 requirement under a certain circumstance; authorizing
146 an applicant to appeal a hiring consideration to the
147 Department of Management Services; authorizing a
148 person to report to the department any job postings
149 that fail to include specified information; providing
150 remedies if the department substantiates an appeal or
151 a report; providing applicability; authorizing the
152 department to adopt rules; amending s. 287.057, F.S.;
153 authorizing an agency to substitute certain work
154 experience for postsecondary educational requirements
155 for a person seeking to enter into a contract with the



156
157

agency under certain circumstances; providing an
effective date.

By Senator DiCeglie

18-00824B-23

20231310__

1 A bill to be entitled
2 An act relating to expanding public sector career
3 opportunities; providing a short title; creating s.
4 110.1075, F.S.; defining terms; providing requirements
5 for hiring considerations by public employers;
6 providing an exception; providing that a postsecondary
7 degree may be a baseline requirement under a certain
8 circumstance; providing direct experience to degree
9 equivalencies; authorizing an applicant to appeal a
10 hiring consideration to the Department of Management
11 Services; authorizing a person to report to the
12 department that certain job openings do not include
13 specified required information; providing remedies if
14 the department substantiates an appeal or report;
15 providing applicability; requiring the department to
16 adopt specified rules; amending s. 112.219, F.S.;
17 deleting obsolete language; authorizing the head of an
18 employing agency to elect to substitute certain work
19 experience for postsecondary educational requirements
20 for a person seeking to enter into a contract with the
21 employing agency under certain circumstances;
22 prohibiting the substitution of work experience for
23 certain licensure, certification, or registration
24 requirements; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. This act may be cited as the "Expanding Public
29 Sector Career Opportunities Act."

18-00824B-23

20231310__

30 Section 2. Section 110.1075, Florida Statutes, is created
31 to read:

32 110.1075 Expanding public sector career opportunities.-

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

34 (a) "Applicant" means a person seeking gainful employment
35 from a public employer.

36 (b) "Baseline requirement" means the minimum skills or
37 previous training or experience required to satisfactorily
38 perform the primary duties of an employment position.

39 (c) "Direct experience" means any previous work experience
40 during which:

41 1. The applicant's primary duties were consistent with the
42 employment position he or she is currently seeking; or

43 2. The skills required for the applicant's primary duties
44 are transferable to the employment position he or she is
45 currently seeking.

46 (d) "Hiring consideration" means all of the following:

47 1. A decision to offer an applicant an interview.

48 2. An interview held in good faith between the public
49 employer and the applicant.

50 3. A decision to move an applicant to a subsequent round in
51 the hiring process.

52 4. A decision to include the applicant on a list of
53 applicants for consideration by another member of the public
54 employer.

55 5. A final offer of employment.

56 (e) "Postsecondary degree" means an associate degree, a
57 bachelor's degree, or a graduate degree earned from an
58 accredited college or university.

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59 (f) "Public employer" has the same meaning as in s.
60 448.095(1).

61 (2) Both of the following apply for hiring considerations
62 by public employers:

63 (a) A public employer may not deny consideration to an
64 applicant solely on the basis of the applicant lacking a
65 postsecondary degree.

66 (b) A public employer shall determine for each employment
67 position the baseline requirements that an applicant must meet.
68 Prior direct experience or specified certifications or courses
69 may be included as a baseline requirement. A postsecondary
70 degree may only be included as a baseline requirement as
71 provided in subsection (4).

72 (3) Paragraph (2)(a) does not apply if a public employer
73 clearly demonstrates that the job duties of the employment
74 position require a postsecondary degree. In the job posting, a
75 public employer must substantiate the necessity of a
76 postsecondary degree on the basis that the postsecondary degree
77 is the best measure to determine if an applicant possesses
78 specific skills required for the job or that the employment
79 position requires advanced accreditation or licensure that is
80 only available to a person who holds a specific postsecondary
81 degree.

82 (4) A public employer may include a postsecondary degree as
83 a baseline requirement only as an alternative to the number of
84 years of direct experience required, not to exceed:

85 (a) Two years of direct experience for an associate degree;

86 (b) Four years of direct experience for a bachelor's
87 degree;

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88 (c) Six years of direct experience for a master's degree;

89 (d) Seven years of direct experience for a professional
90 degree; or

91 (e) Nine years of direct experience for a doctoral degree.

92 (5) (a) An applicant eliminated from a hiring consideration
93 solely because he or she lacks a postsecondary degree may appeal
94 such decision to the department.

95 (b) A person may report to the department any job postings
96 by a public employer which require a postsecondary degree but
97 fail to include the information required under subsection (3).

98 (c) If an appeal or report is substantiated by the
99 department, the public employer must reopen the hiring process,
100 modify the job posting, or take other action as directed by the
101 department.

102 (6) This section does not apply to political appointments
103 or other employment positions for which hiring is done by
104 elected representatives in this state.

105 (7) The department shall adopt rules to implement the
106 requirements of subsection (5).

107 Section 3. Present subsections (4) and (5) of section
108 112.219, Florida Statutes, are redesignated as subsections (5)
109 and (6), respectively, subsection (1) of that section is
110 amended, and a new subsection (4) is added to that section, to
111 read:

112 112.219 Substitution of work experience for postsecondary
113 educational requirements.—

114 (1) ~~Beginning July 1, 2022,~~ The head of an employing agency
115 may elect to substitute verifiable, related work experience in
116 lieu of postsecondary educational requirements for a position of

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20231310__

117 employment if the person seeking the position of employment is
118 otherwise qualified for such position.

119 (4) (a) The head of an employing agency may elect to
120 substitute verifiable, related work experience in lieu of
121 postsecondary educational requirements for a contract for the
122 performance of services with the employing agency if the person
123 seeking to enter into the contract with the employing agency is
124 otherwise qualified for such position.

125 (b) Related work experience may not substitute for any
126 licensure, certification, or registration required for the
127 contract, as established by the employing agency and indicated
128 in the advertised description of the contract.

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

The Florida Senate

APPEARANCE RECORD

3/29/23

Meeting Date

1310

Bill Number or Topic

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

Community Affairs

Committee

1310

Amendment Barcode (if applicable)

850 - 222 - 9075

Name Chris Schoonover

Phone

Address 124 W Jefferson St

Email

Chris@cccfla.com

Street

Tallahassee FL 32322

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:

Cicero Action



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)

3-29-23

The Florida Senate

APPEARANCE RECORD

1310

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 Derick Tabertshofer

Phone 863-220-0138

Address 107 E. College

Email dtabertshofer@afhq.org

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:

Americans for Prosperity

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 1368

INTRODUCER: Community Affairs Committee and Senator Wright

SUBJECT: Unlawful Dumping

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1368 amends the Florida Litter Law. The bill adds to drain and to discharge to the definition of “dump.” The bill also adds personal property, pharmaceuticals of any kind, household items, sheds, trucks, trailers, and motorhomes to the definition of “litter.” The bill defines “water control district” (WCD) as a WCD that exists pursuant to chapter 298, F.S., concerning drainage and water control, or was created by special act of the Legislature.

The bill makes it unlawful for any person to dump litter in or on any WCD property or canal right-of-way, unless the person has prior consent. When any litter is thrown or discarded from a boat, the operator and/or owner of the boat are in violation of the Florida Litter Law.

The bill requires a member of a WCD board of directors or a district manager who discovers that a person has committed unlawful dumping in or on WCD property or canal right-of-way without prior consent to report the incident to the appropriate law enforcement agency. The bill allows a law enforcement officer to enter any district canal right-of-way, property, or facility to respond to such an incident.

The bill provides that land owned by a WCD or that was created by special act of the Legislature is “posted land” if signs are placed at or near the intersection of any district canal right-of-way and a road right-of-way.

The bill is effective October 1, 2023.

II. Present Situation:

Aquatic Trash

Trash that escapes into waterways affects water quality, endangers plants and animals, and pollutes areas used for tourism and recreation.¹ Trash can easily end up in waterways if it is not properly disposed of, because stormwater runoff and wind carry it into storm drain, streams, canals, and rivers. Trash also may end up in waterways because of illegal dumping, especially in places where there is a lack of regular trash pickup services or publicly available dumpsters.² Trash can travel long distances and often ends up in the ocean. Marine debris often includes plastic, metal, rubber, paper, textiles, microplastics, derelict fishing gear, and abandoned and derelict vessels.³

The images below show debris accumulation in a canal in South Florida.⁴



Florida Litter Law

Florida law prohibits dumping litter in any manner or amount unless otherwise authorized by law or permit:

- In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. The owner and/or operator of a motor vehicle violates this law if litter is thrown or discarded from the vehicle;

¹ U.S. Environmental Protection Agency (EPA), *Learn about Aquatic Trash*, available at <https://www.epa.gov/trash-free-waters/learn-about-aquatic-trash> (last visited Mar. 25, 2023).

² *Id.*

³ *Id.*; National Oceanic and Atmospheric Administration (NOAA), *What is Marine Debris?*, available at <https://marinedebris.noaa.gov/discover-marine-debris/what-marine-debris> (last visited Mar. 25, 2023).

⁴ Rich Virgil, South Florida Water Management District, *Aquatic Vegetation, Litter, and Debris Entering District Waterways*, 232 (2022), available at <https://d3n9y02raazwpg.cloudfront.net/sfwmd/d0abad98-f938-11ec-baa3-0050569183fa-72fe29af-2810-417d-9194-0eba8f28d3a3-1670874235.pdf>.

- In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. The owner and/or operator of a boat is in violation of this law if litter is thrown or discarded from the boat;
- In or on any private property, unless the owner has given consent and dumping the litter will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.⁵

Litter is defined as any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.⁶

Littering Penalties

Violation	Degree of Offense	Fine or Incarceration	Additional Penalties
Dumping no more than 15 lbs. or 27 ft. of litter (not for commercial purposes)	Noncriminal infraction	Fine: \$150	May be required to pick up litter or perform other community service
Dumping 15-500 lbs. or 27-100 ft. of litter (not for commercial purposes)	1 st Degree Misdemeanor	Max: \$1,000 Max: one year	Will be required to pick up litter or perform community service; three-point penalty on violator’s driver license if applicable
Dumping over 500 lbs. or 100 ft. of litter or any quantity for commercial purposes; dumping hazardous waste	3 rd Degree Felony	Max: \$5,000 Max: five years	May be required to remove or render the litter harmless, repair or restore property damaged by the litter, pay damages for harm caused by the litter, or perform community service

In addition to the penalties on the previous page, a motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter than exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and subject to forfeiture.⁷ All law enforcement officers are charged with enforcement of Florida’s litter law.

⁵ Section 403.413(4), F.S.

⁶ Section 403.413(2), F.S.

⁷ Section 40.413(6), F.S.

Special Districts

A special district is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.⁸ Special districts are created by general law, special act, local ordinance, or by rule of the governor and cabinet.⁹ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.¹⁰ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.¹¹ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.¹²

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCDs). WCDs include water management districts or drainage districts created pursuant to the method authorized in ch. 298, F.S., or water management districts created by special act.¹³ A WCD has the authority to construct, complete, operate, maintain, repair, and replace any and all works and improvement necessary to execute the water control plan adopted by the WCD.¹⁴ A WCD is authorized to acquire real property.¹⁵

Posted Land

“Posted land” is land where no trespassing signs are placed along, and at each corner of the boundaries of the land at 500-foot intervals or less. The signs must be clearly visible and bear the words “no trespassing” in letters two or more inches in height, and include the name of the owner, lessee, or occupant of the land.¹⁶

“Posted land” also includes land where conspicuous, orange “no trespassing” notices are painted on trees or posts on the property at 500-foot intervals or less. The painted letters must be at least two inches high and one inch wide and placed between three and five feet from the ground. Painted notices must be accompanied by signs bearing the words “no trespassing,” and include the name of the owner, lessee, or occupant of the land that are placed conspicuously at property entrances.¹⁷

⁸ Florida Assoc. of Special Districts, *What is a Special District*, available at <https://www.fasd.com/what-is-a-special-district-> (last visited Mar. 25, 2023).

⁹ See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

¹⁰ 2020 – 2022 *Local Gov't Formation Manual*, 64, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Mar. 25, 2023).

¹¹ *Id.*

¹² *Id.* at 70-73.

¹³ Section 298.001, F.S.

¹⁴ Section 298.22, F.S.

¹⁵ *Id.*

¹⁶ Section 810.011(5), F.S.

¹⁷ Section 810.011(5), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 403.413, F.S., to add drain and discharge to the definition of “dump.” The bill adds the following to the definition of “litter:”

- Personal property,
- Pharmaceuticals of any kind,
- Household items,
- Sheds,
- Trucks,
- Trailers, and
- Motorhomes.

The bill specifically excludes from the definition of litter any substances resulting from permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater.

The bill defines “water control district” (WCD) as a WCD that exists pursuant to ch. 298, F.S., concerning drainage and water control, or was created by special act of the Legislature.

The bill makes it unlawful for any person to dump any litter in or on WCD property or canal right-of-way, unless the district board of directors or the district manager or his or her designee has given prior consent. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, are in violation of the Florida Litter Law.

The bill requires a member of a WCD board of directors or a district manager who discovers that a person has committed unlawful dumping in or on WCD property or canal right-of-way without prior consent to report the incident to the appropriate law enforcement agency with jurisdiction over the district. A law enforcement officer may enter any district canal right-of-way, property, or facility to respond to such an incident.

The bill makes conforming changes.

Section 2 amends s. 810.011, F.S., to add to the definition of “posted land.” The bill provides that land owned by a WCD that exists pursuant to ch. 298, F.S., concerning drainage or water control, or that was created by special act of the Legislature is “posted land” if signs are placed at or near the intersection of any district canal right-of-way and a road right-of-way.

The bill makes conforming changes.

Section 3 reenacts s. 403.4135(1), F.S., for the purpose of incorporating the amendment made by the bill to the Florida Litter Law in a reference thereto.

Section 4 reenacts s. 810.12(6), F.S., for the purpose of incorporating the amendment made by the bill to the Florida Litter Law in references thereto.

Section 5 provides an effective date of 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 403.413 and 810.011 of the Florida Statutes.

This bill reenacts sections 403.4135(1) and 810.12(6) of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 29, 2023:

The CS excludes from the definition of “litter” any substances resulting from permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater.

- B. **Amendments:**

None.



833130

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 45
and insert:
governmental operations, excluding the permitted, regulated, or
authorized drainage, pumping, or runoff of surface water or
stormwater.

By Senator Wright

8-01436A-23

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1 A bill to be entitled
2 An act relating to unlawful dumping; amending s.
3 403.413, F.S.; revising the definitions of the terms
4 "dump" and "litter"; defining the term "water control
5 district"; specifying that it is unlawful to dump
6 litter in or on any water control district property or
7 canal right-of-way without specified consent;
8 providing that when litter is thrown or discarded from
9 a boat, the operator or owner, or both, are in
10 violation of certain provisions; requiring a water
11 control district board of directors member or district
12 manager to report an unlawful dumping to the
13 appropriate law enforcement agencies; authorizing law
14 enforcement officers to enter water control district
15 property under certain circumstances; amending s.
16 810.011, F.S.; revising the definition of the term
17 "posted land" to include land owned by a water control
18 district which has no trespassing signs placed at
19 specified points; reenacting ss. 403.4135(1) and
20 810.12(6), F.S., relating to litter receptacles and
21 prima facie evidence of trespass, respectively, to
22 incorporate the amendment made to s. 403.413, F.S., in
23 references thereto; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraphs (d) and (f) of subsection (2),
28 subsection (4), and paragraph (i) of subsection (6) of section
29 403.413, Florida Statutes, are amended, and paragraph (j) is

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30 added to subsection (2) of that section, to read:

31 403.413 Florida Litter Law.—

32 (2) DEFINITIONS.—As used in this section:

33 (d) "Dump" means to dump, throw, discard, place, deposit,
34 drain, discharge, or dispose of.

35 (f) "Litter" means any personal property; garbage; rubbish;
36 trash; refuse; can; bottle; box; container; paper; tobacco
37 product; pharmaceutical of any kind; tire; household item; shed;
38 appliance; mechanical equipment or part; building or
39 construction material; tool; machinery; wood; motor vehicle or
40 motor vehicle part, including a truck, trailer, or motor home;
41 vessel; aircraft; farm machinery or equipment; sludge from a
42 waste treatment facility, water supply treatment plant, or air
43 pollution control facility; or substance in any form resulting
44 from domestic, industrial, commercial, mining, agricultural, or
45 governmental operations.

46 (j) "Water control district" means a water control district
47 that exists pursuant to chapter 298 or was created by special
48 act of the Legislature.

49 (4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized
50 by law or permit, it is unlawful for any person to dump litter
51 in any manner or amount in or on any of the following areas:

52 (a) ~~In or on~~ Any public highway, road, street, alley, or
53 thoroughfare, including any portion of the right-of-way thereof,
54 or any other public lands, except in containers or areas
55 lawfully provided therefor. When any litter is thrown or
56 discarded from a motor vehicle, the operator or owner of the
57 motor vehicle, or both, are ~~shall be deemed~~ in violation of this
58 section.†

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59 (b) ~~In or on~~ Any freshwater lake, river, canal, or stream
 60 or tidal or coastal water of the state, including canals. When
 61 any litter is thrown or discarded from a boat, the operator or
 62 owner of the boat, or both, are ~~shall be deemed~~ in violation of
 63 this section. ~~;~~ ~~or~~

64 (c) Any water control district property or canal right-of-
 65 way, unless the district board of directors or the district
 66 manager or his or her designee has given prior consent. When any
 67 litter is thrown or discarded from a boat, the operator or owner
 68 of the boat, or both, are in violation of this section.

69 (d) ~~In or on~~ Any private property, unless the owner has
 70 given prior consent ~~of the owner has been given~~ and unless the
 71 dumping of such litter by such person will not cause a public
 72 nuisance or otherwise be in violation of any other state or
 73 local law, rule, or regulation.

74 (6) PENALTIES; ENFORCEMENT.—

75 (i) It is ~~shall be~~ the duty of all law enforcement officers
 76 to enforce ~~the provisions of~~ this section. If a member of a
 77 water control district board of directors or a district manager
 78 discovers that a person has committed unlawful dumping in
 79 violation of paragraph (4)(c), he or she must report the
 80 incident to the appropriate law enforcement agency with
 81 jurisdiction over the district. A law enforcement officer may
 82 enter any district canal right-of-way, property, or facility to
 83 respond to such an incident.

84 Section 2. Paragraph (a) of subsection (5) of section
 85 810.011, Florida Statutes, is amended to read:

86 810.011 Definitions.—As used in this chapter:

87 (5) (a) "Posted land" is ~~that~~ land upon which any of the

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88 following are placed:

89 1. Signs ~~are~~ placed not more than 500 feet apart along~~r~~ and
90 at each corner of~~r~~ the boundaries of the land or, for land owned
91 by a water control district that exists pursuant to chapter 298
92 or was created by special act of the Legislature, signs placed
93 at or near the intersection of any district canal right-of-way
94 and a road right-of-way, which, upon which signs there appears
95 prominently display~~r~~ in letters of not less than 2 inches in
96 height~~r~~, the words "no trespassing" and ~~in addition thereto~~ the
97 name of the owner, lessee, or occupant of the said land. The
98 ~~Said~~ signs must ~~shall~~ be placed along the boundary line of
99 posted land in a manner and in such position as to be clearly
100 noticeable from outside the boundary line; or

101 2.a. Conspicuous no trespassing notice is painted on trees
102 or posts on the property, provided that the notice is:

103 (I) Painted in an international orange color and displaying
104 the stenciled words "No Trespassing" in letters no less than 2
105 inches high and 1 inch wide either vertically or horizontally;

106 (II) Placed so that the bottom of the painted notice is not
107 less than 3 feet from the ground or more than 5 feet from the
108 ground; and

109 (III) Placed at locations that are readily visible to any
110 person approaching the property and no more than 500 feet apart
111 on agricultural land.

112 b. When a landowner uses the painted no trespassing posting
113 to identify a no trespassing ~~"no trespassing"~~ area, those
114 painted notices must ~~shall~~ be accompanied by signs complying
115 with subparagraph 1. and must be placed conspicuously at all
116 places where entry to the property is normally expected or known

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117 to occur.

118 Section 3. For the purpose of incorporating the amendment
119 made by this act to section 403.413, Florida Statutes, in a
120 reference thereto, subsection (1) of section 403.4135, Florida
121 Statutes, is reenacted to read:

122 403.4135 Litter receptacles.—

123 (1) DEFINITIONS.—As used in this section “litter” and
124 “vessel” have the same meanings as provided in s. 403.413.

125 Section 4. For the purpose of incorporating the amendment
126 made by this act to section 403.413, Florida Statutes, in
127 references thereto, subsection (6) of section 810.12, Florida
128 Statutes, is reenacted to read:

129 810.12 Unauthorized entry on land; prima facie evidence of
130 trespass.—

131 (6) The unlawful dumping by any person of any litter in
132 violation of s. 403.413(4) is prima facie evidence of the
133 intention of such person to commit an act of trespass. If any
134 waste that is dumped in violation of s. 403.413(4) is discovered
135 to contain any article, including, but not limited to, a letter,
136 bill, publication, or other writing that displays the name of a
137 person thereon, addressed to such person or in any other manner
138 indicating that the article last belonged to such person, that
139 discovery raises a mere inference that the person so identified
140 has violated this section. If the court finds that the discovery
141 of the location of the article is corroborated by the existence
142 of an independent fact or circumstance which, standing alone,
143 would constitute evidence sufficient to prove a violation of s.
144 403.413(4), such person is rebuttably presumed to have violated
145 that section.

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146

Section 5. 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

3/29/23

Meeting Date

Community Affairs

Committee

1368

Bill Number or Topic

833130

Amendment Barcode (if applicable)

Name Ernie Barnett

Phone 850 284 6170

Address 4524 Gun Club Rd

Email Barnett@florida water and land

Street

West Palm Beach FL 33415

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: Fla. Land Council

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/29/23

Meeting Date

1368

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 Jim Spratt

Phone 850-228-1296

Address 119 S. Monroe St

Email jim@wajrolinstrategiesllc.com

Street

TLH

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 Nursery, Grounds & LANDSCAPE Association

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

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

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

5-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 401
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 3/29/2023 8:35:28 AM
Ends: 3/29/2023 10:08:19 AM
Length: 01:32:52

8:35:27 AM Chair Osgood calls meeting to order
8:35:33 AM Roll Call
8:35:47 AM Quorum is present
8:35:56 AM Take up Tab 14 SB 1268 Urban Agricultural Pilot Projects
8:36:29 AM Chair Osgood recognizes Senator Rouson to explain bill
8:38:41 AM Public Appearance by David Cullen of Sierra Club of Florida
8:38:56 AM Chair Osgood recognizes Senator Rouson to close
8:39:09 AM Roll Call SB 1268
8:39:16 AM Vote recorded
8:39:36 AM Take up Tab 2 SB 518 Public Records/ Animal from an Animal Shelter
8:40:05 AM Chair Osgood recognizes Senator DiCeglie to explain
8:41:12 AM Public Appearance by Diana Ferguson of Florida Animal Control Association
8:41:34 AM Chair Osgood recognizes Senator DiCeglie to close
8:42:01 AM Roll Call SB 518
8:42:06 AM Vote recorded
8:42:22 AM Take up Tab 12 SB 1082 Floating Vessel Platforms
8:42:38 AM Chair Osgood recognizes Senator DiCeglie to explain
8:43:20 AM Public Appearance by Timothy Riley of JetDock
8:43:32 AM Chair Osgood recognizes Senator DiCeglie to close
8:43:50 AM Roll Call SB 1082
8:44:02 AM Vote Recorded
8:44:16 AM Take up Tab 15 SB 1310
8:44:26 AM Chair Osgood recognizes Senator DiCeglie to explain
8:44:44 AM Take up amendment 271196
8:44:59 AM Chair recognizes Senator DiCeglie to explain
8:45:12 AM Question by Senator Berman
8:45:25 AM Chair Osgood recognizes Senator DiCeglie to close
8:46:24 AM Action on amendment recorded, back on bill
8:46:32 AM Public Appearance by Derick Tabershufner of Americans for Prosperity
8:46:59 AM Public Appearance by Chris Schoonover of Cicero Action
8:47:17 AM Chair recognizes Senator DiCeglie to close
8:47:26 AM Roll Call SB 1310
8:47:35 AM Vote recorded
8:47:39 AM Take up Tab 13 SB 1162 Renewable Energy Costs Recovery
8:48:07 AM Chair Osgood recognizes Senator DiCeglie to explain
8:48:48 AM Question by Senator Berman
8:49:50 AM Take up amendment barcode 153680
8:50:02 AM Chair recognizes Senator DiCeglie to explain
8:50:50 AM Chair recognizes Senator DiCeglie to close
8:50:55 AM Action on amendment recorded, back on bill
8:51:56 AM Public Appearance by David Cullen of Sierra Club
8:52:55 AM Public Appearance by Ronald Brise
8:54:58 AM Public Appearance by Bradley Marshall
8:55:58 AM Public Appearance by Dale Calhoun of Florida Natural Gas Association
8:57:55 AM Public Appearance by Zayne Smith of AARP
9:00:14 AM Public Appearances, waiving speaking time
9:02:56 AM Public Appearance by Adam Basford of Associated Industries
9:03:59 AM Public Appearances, waiving speaking time
9:04:59 AM Comment by Senator Brodeur
9:05:44 AM Comment by Senator Berman
9:06:44 AM Comment by Senator Baxley
9:09:51 AM Comment by Senator Osgood

9:09:54 AM Chair Osgood recognizes Senator DiCeglie to close on bill
9:10:27 AM Roll Call SB 1162
9:10:38 AM Vote recorded
9:10:56 AM Take up Tab 11 SB 1052 Exemptions for Totally and Permanently Disabled Veterans
9:11:39 AM Chair recognizes Senator Berman to explain
9:12:43 AM Public Appearances, waiving speaking time
9:13:26 AM Chair Osgood recognizes Senator Berman to close
9:13:39 AM Roll Call SB 1052
9:13:42 AM Vote recorded
9:13:57 AM Take up Tab 5 SB 594 Residential Property Insurance Rates
9:13:59 AM Chair Osgood recognizes Senator Martin to explain bill
9:14:33 AM Take up amendment barcode 252724
9:15:50 AM Chair Osgood recognizes Senator Martin to explain
9:16:14 AM Question by Senator Pizzo
9:16:33 AM Public Appearance, waiving speaking time
9:17:31 AM Chair Osgood recognizes Senator Martin to close
9:17:53 AM Action on amendment recorded, back on bill
9:18:00 AM Public Appearance, waiving speaking time
9:18:23 AM Chair Osgood recognizes Senator Martin to close
9:18:39 AM Roll Call SB 594
9:18:47 AM Vote recorded
9:18:49 AM Take up Tab 8 SB 978 Secured Transactions
9:19:08 AM Chair Osgood recognizes Senator Bradley to explain
9:19:18 AM Take up amendment barcode 844828
9:20:02 AM Chair Osgood recognizes Senator Bradley to explain amendment
9:20:17 AM Public Appearance by Martha Eden field of The Real Property
9:20:37 AM Action on amendment recorded, back on bill
9:20:46 AM Public Appearance by Martha Eden field of The Real Property
9:20:52 AM Chair Osgood recognizes Senator Bradley to close
9:21:06 AM Roll Call SB 978
9:21:09 AM Vote recorded
9:21:19 AM Take up Tab 4 SB 566 Ad Valorem Tax Exemptions
9:21:33 AM Chair Osgood recognizes Senator Wright to explain bill
9:21:52 AM Question by Senator Berman
9:22:51 AM Take up amendment barcode 336346
9:23:14 AM Chair Osgood recognizes Senator Wright to explain
9:23:24 AM Public Appearance by Jeffrey Sharkey of Wendover Housing Partners
9:23:53 AM Chair recognizes Senator Wright to close
9:24:04 AM Action on amendment recorded, back on bill
9:24:23 AM Chair Osgood recognizes Senator Wright to close
9:24:46 AM Roll Call SB 566
9:24:51 AM Vote recorded
9:24:53 AM Take up Tab 16 SB 1368 Unlawful Dumping
9:25:18 AM Chair Osgood recognizes Senator Wright to explain
9:25:48 AM Take up amendment barcode 833130
9:26:23 AM Chair Osgood recognizes Senator Wright to explain
9:26:37 AM Public Appearance by Ernie Barnett of FL Land Council
9:26:58 AM Chair Osgood recognizes Senator Wright to close
9:27:06 AM Action on amendment recorded, back on bill
9:27:15 AM Public Appearance by Jim Spratt of Florida Nursey
9:27:32 AM Chair Osgood recognizes Senator Wright to close
9:27:42 AM Roll Call SB 1368
9:27:48 AM Vote recorded
9:28:01 AM Take up Tab 6 SB 698 Local Tax Referenda Requirements
9:28:32 AM Chair Osgood recognizes Senator Ingoglia to explain
9:28:42 AM Question by Senator Bradley
9:29:19 AM Questions by Senator Pizzo
9:32:58 AM Take up amendment 833130
9:33:58 AM Chair recognizes Senator Ingoglia to explain amendment
9:34:16 AM Chair recognizes Senator Ingoglia to close on amendment
9:34:29 AM Action on amendment recorded, back on bill
9:34:39 AM Public Appearance by Bob McKee of Florida Association of Counties

9:35:57 AM Comment by Senator Pizzo
9:36:58 AM Comment by Senator Brodeur
9:38:05 AM Chair Osgood recognizes Senator Ingoglia to close
9:39:34 AM Roll Call SB 698
9:40:34 AM Vote recorded
9:40:44 AM Take up Tab 1 SB 10 Relief of Kristin A Stewart of Sarasota County
9:41:15 AM Chair recognizes Senator Gruters to explain
9:41:35 AM Public Appearance by Carter Scott
9:42:34 AM Public Appearance by Matthew Blair
9:42:43 AM Chair recognizes Senator Gruters to close
9:42:50 AM Roll Call SB 10
9:43:11 AM Take up Tab 3 SB 556 Hurricane Protection for Condominium Associations
9:43:38 AM Chair Osgood recognizes Senator Hooper to explain
9:44:20 AM Chair Osgood recognizes Senator Hooper to close
9:44:30 AM Roll Call SB 556
9:44:35 AM Vote recorded
9:44:39 AM Take up Tab 9 SB 980 Public Safety Telecommunicator Certifications
9:45:20 AM Chair Osgood recognizes Senator Brodeur to explain
9:45:34 AM Take up amendment barcode 194472
9:45:50 AM Action on amendment recorded, back on bill
9:45:57 AM Public Appearance by Lt. Chip Denmark of Sheriff John Mna
9:46:06 AM Public Appearance by Richard Pinsky of 911 Emergency Dispatchers
9:46:11 AM Public Appearance by Commander James
9:46:26 AM Chair Osgood recognizes Senator Brodeur to close
9:47:02 AM Roll Call SB 980
9:47:06 AM Vote recorded
9:47:30 AM Meeting in recess
9:50:30 AM Recording Paused
9:50:42 AM Recording Resumed
9:50:42 AM Meeting called back to order
9:50:51 AM Take up Tab 7 Amendments to Land Development Regulations
9:51:18 AM Chair Osgood recognizes Senator Rodriguez to explain bill
9:51:32 AM Take up amendment barcode 640988
9:51:38 AM Chair Osgood recognizes Senator Rodriguez to explain amendment
9:51:53 AM Public Appearance by Jane West of 1000 Friends of Florida
9:54:02 AM Chair recognizes Senator Rodriguez to close
9:54:14 AM Action on amendment recorded, back on bill
9:54:23 AM Public Appearance by David Cullen of Sierra Club
9:55:09 AM Public Appearance by Pamela Burch Fort of Common Cause FL
9:56:08 AM Public Appearance by Ashton Mears of Florida Builders Association
9:56:20 AM Comment by Senator Baxley
10:00:15 AM Comment by Senator Pizzo
10:01:38 AM Chair Osgood recognizes Senator Rodriguez to close
10:02:37 AM Action on bill recorded
10:02:46 AM Take up Tab 10 SB 1034 State- administered Retirement System
10:03:31 AM Chair Osgood recognizes Senator Rodriguez to explain bill
10:03:43 AM Public Appearance by James Baiard of PBA
10:04:20 AM Public Appearance, waiving speaking time
10:04:40 AM Question by Senator Pizzo
10:06:34 AM Chair Osgood recognizes Senator Rodriguez to close
10:06:44 AM Roll Call SB 1034
10:06:53 AM Vote recorded
10:07:03 AM Senators record votes
10:07:57 AM Senator Berman moves
10:08:03 AM Meeting adjourned