

Tab 1	SB 6 by Rodriguez ; (Identical to H 06011) Relief of the Estate of Jason Sanchez by Miami-Dade County					
Tab 2	CS/SB 224 by GO, Hooper (CO-INTRODUCERS) Berman, Gruters, Collins, Harrell, Brodeur, Boyd, Polsky, Osgood, DiCeglie, Torres, Wright, Rouson, Trumbull, Pizzo, Book, Powell, Burgess, Davis, Rodriguez, Garcia, Jones, Avila ; (Compare to CS/CS/H 00239) Special Risk Class Retirement Date					
Tab 3	SB 512 by Hooper ; (Similar to CS/CS/H 00089) Building Construction					
343292	D	S	RCS	CA, Hooper	Delete everything after	04/07 10:57 AM
Tab 4	CS/SB 522 by JU, Grall ; (Similar to H 00441) Removal of Unknown Parties in Possession					
Tab 5	CS/SB 760 by TR, Perry ; (Similar to CS/H 00701) Wrecker and Towing-storage Operators					
Tab 6	SJR 1066 by Collins ; (Identical to H 00131) Recall of County Officers and Commissioners					
Tab 7	CS/SB 1072 by EN, Rodriguez ; (Similar to CS/H 00979) Dredging and Beach Restoration Projects					
226912	D	S	RCS	CA, Rodriguez	Delete everything after	04/06 03:47 PM
293890	AA	S	L RCS	CA, Rodriguez	Delete L.18:	04/06 03:47 PM
Tab 8	CS/SB 1096 by GO, Martin ; (Similar to CS/H 01607) Monuments and Memorials					
Tab 9	CS/SB 1110 by EE, Ingoglia ; (Compare to H 00477) Term Limits					
705842	A	S	L RCS	CA, Ingoglia	Delete L.13 - 25:	04/06 02:23 PM
Tab 10	CS/SB 1126 by CJ, Avila ; (Compare to CS/H 01539) Impeding, Threatening, or Harassing First Responders					
694266	A	S	RCS	CA, Avila	Delete L.20 - 29:	04/06 01:53 PM
Tab 11	SB 1256 by Collins ; (Similar to CS/H 01281) Preemption Over Utility Service Restrictions					
303542	D	S	L RCS	CA, Collins	Delete everything after	04/06 03:36 PM
Tab 12	SB 1400 by Martin ; (Similar to H 01347) County Constitutional Offices					
Tab 13	CS/SB 1454 by RI, Gruters ; (Compare to CS/H 00437) Homeowners' Right to Display and Store Items					
Tab 14	SB 1490 by Garcia ; (Identical to H 01373) County Constitutional Officers					
Tab 15	SB 1604 by Ingoglia ; (Similar to CS/H 00439) Land Use and Development Regulations					
590488	A	S	RCS	CA, Ingoglia	Delete L.53 - 571:	04/07 12:16 PM
708940	AA	S	RCS	CA, Ingoglia	Delete L.27:	04/07 12:16 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Calatayud, Chair
Senator Osgood, Vice Chair

MEETING DATE: Wednesday, April 5, 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 6 Rodriguez (Identical H 6011)	Relief of the Estate of Jason Sanchez by Miami-Dade County; Providing for the relief of the Estate of Jason Sanchez by Miami-Dade County; providing for an appropriation to compensate the Estate of Jason Sanchez for injuries and damages sustained by Jason Sanchez and his survivors as a result of the negligence of a Miami-Dade County employee; providing a limitation on compensation and the payment of attorney and lobbying fees, etc. SM JU 03/29/2023 Favorable CA 04/05/2023 Favorable RC	Favorable Yeas 7 Nays 0
2	CS/SB 224 Governmental Oversight and Accountability / Hooper (Compare CS/CS/H 239)	Special Risk Class Retirement Date; Revising the definition of "normal retirement date"; decreasing the age and years of service needed to reach the normal retirement date for certain members; authorizing certain members of the Special Risk Class to apply to participate in the Deferred Retirement Option Program within a specified time period; providing a declaration of important state interest, etc. GO 03/22/2023 Fav/CS CA 04/05/2023 Favorable AP	Favorable Yeas 8 Nays 0
3	SB 512 Hooper (Similar CS/CS/H 89)	Building Construction; Prohibiting local enforcing agencies from making or requiring substantive changes to plans or specifications after a permit has been issued; providing that a building code administrator, inspector, or plans reviewer is subject to disciplinary action under certain circumstances; requiring local fire officials to provide certain information to a permit applicant if building plans do not comply with the Florida Fire Prevention Code or Life Safety Code, etc. CA 04/05/2023 Fav/CS RI RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 522 Judiciary / Grall (Similar H 441)	Removal of Unknown Parties in Possession; Revising requirements for service on unknown parties in possession, etc. JU 03/29/2023 Fav/CS CA 04/05/2023 Favorable RC	Favorable Yeas 6 Nays 0
5	CS/SB 760 Transportation / Perry (Similar CS/H 701)	Wrecker and Towing-storage Operators; Prohibiting the Division of the Florida Highway Patrol from excluding wrecker operators from the wrecker operator system or from being designated as an authorized wrecker operator based solely on a prior felony conviction; authorizing a towing-storage operator to charge certain fees; providing that a lien can be placed on a vehicle only for specified fees; revising the timeframe in which certain unclaimed vehicles or vessels may be sold; revising the timeframe in which public notice of the sale of a vehicle or vessel must be published, etc. TR 03/20/2023 Fav/CS CA 04/05/2023 Favorable RC	Favorable Yeas 7 Nays 0
6	SJR 1066 Collins (Identical HJR 131, Compare H 209)	Recall of County Officers and Commissioners; Proposing an amendment to the State Constitution to authorize the Legislature to provide by general law for the recall of county officers and commissioners, etc. EE 03/21/2023 Favorable CA 04/05/2023 Favorable RC	Favorable Yeas 6 Nays 1
7	CS/SB 1072 Environment and Natural Resources / Rodriguez (Similar CS/H 979)	Dredging and Beach Restoration Projects; Directing the Department of Environmental Protection to require, as a condition of permits issued for certain dredging and beach restoration projects, that any adverse impact analysis conducted for the activity meet certain requirements; requiring a local government to provide notice of its intent to conduct an analysis to certain adjacent local governments, etc. EN 03/14/2023 Fav/CS CA 04/05/2023 Fav/CS RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1096 Governmental Oversight and Accountability / Martin (Similar CS/H 1607)	Monuments and Memorials; Citing this act as the "Historical Monuments and Memorials Protection Act"; defining the terms "memorial" and "monument"; providing that a person or an entity that damages, defaces, destroys, or removes a monument or memorial is liable for treble the costs to return, repair, or replace the monument or memorial; prohibiting the placement of specified objects on or near a memorial that existed before a specified date, etc. GO 03/15/2023 Fav/CS CA 04/05/2023 Favorable RC	Favorable Yeas 6 Nays 2
9	CS/SB 1110 Ethics and Elections / Ingoglia (Compare H 477)	Term Limits; Establishing term limits for county commissioners; revising term limits for district school board members, etc. EE 03/21/2023 Fav/CS CA 04/05/2023 Fav/CS RC	Fav/CS Yeas 6 Nays 1
10	CS/SB 1126 Criminal Justice / Avila (Compare CS/H 1539)	Impeding, Threatening, or Harassing First Responders; Defining the terms "first responder" and "harass"; prohibiting a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with specified intent, etc. CJ 03/27/2023 Fav/CS CA 04/05/2023 Fav/CS RC	Fav/CS Yeas 6 Nays 0
11	SB 1256 Collins (Similar CS/H 1281)	Preemption Over Utility Service Restrictions; Preventing certain local governmental entities from enacting or enforcing a resolution, ordinance, rule, code, or policy or from taking any action that restricts or prohibits or has the effect of restricting or prohibiting the use of certain major appliances, etc. CA 04/05/2023 Fav/CS RI RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1400 Martin (Similar H 1347)	County Constitutional Offices; Revising the base salary used to calculate the compensation of a clerk of the circuit court and county comptroller, a supervisor of elections, a property appraiser, and a tax collector, respectively; providing that county constitutional officer employees are eligible to receive certain adoption benefits from the state; authorizing specified county constitutional officers to budget for and pay specified bonuses to employees, pending a specified approval; authorizing a district school board to contract with a county tax collector's office to administer road tests on school grounds at one or more schools within the district, etc. CA 04/05/2023 Favorable AHS FP	Favorable Yeas 8 Nays 0
13	CS/SB 1454 Regulated Industries / Gruters (Compare CS/H 437)	Homeowners' Right to Display and Store Items; Authorizing homeowners to display no more than a certain number of specified flags regardless of certain prohibitions in the governing documents of the homeowners' association; prohibiting homeowners' associations from restricting parcel owners or tenants from displaying items on a parcel which are not visible from the parcel's frontage; prohibiting certain homeowners' association documents from precluding property owners from displaying a certain number of specified flags, etc. RI 03/21/2023 Fav/CS CA 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0
14	SB 1490 Garcia (Identical H 1373, Compare CS/H 1595, S 1588)	County Constitutional Officers; Prohibiting a county from creating any office, special district, or governmental unit, or expanding the powers or authority of such office, district, or unit, under certain conditions; providing that a county commissioner commits misfeasance or malfeasance in office under certain conditions; prohibiting a board of county commissioners' budget from providing funding to such offices, districts, and units under certain conditions, etc. CA 04/05/2023 Favorable GO RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 1604 Ingoglia (Similar CS/H 439)	Land Use and Development Regulations; Revising the types of data that comprehensive plans and plan amendments must be based on; requiring local governments to determine if plan amendments are necessary to reflect a certain minimum planning period; requiring, rather than encouraging, a local government to comprehensively evaluate and update its comprehensive plan to reflect changes in local conditions; revising requirements for local land development regulations, etc. CA 04/05/2023 Fav/CS JU RC	Fav/CS Yeas 6 Nays 0
16	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
3/24/23	SM	Favorable
3/29/23	JU	Favorable
4/3/23	CA	Favorable
	RC	

March 24, 2023

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

Re: **SB 6** – Senator Rodriguez
HB 6011 – Representative Porras
Relief of Jason Sanchez

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM BILL FOR LOCAL FUNDS IN THE AMOUNT OF \$950,000 BASED ON A SETTLEMENT AGREEMENT BETWEEN THE ESTATE OF JASON SANCHEZ AND MIAMI-DADE COUNTY WHICH RESOLVED A CIVIL ACTION THAT AROSE FROM THE NEGLIGENT OPERATION OF A COUNTY BUS CAUSING THE DEATH OF JASON SANCHEZ.

FINDINGS OF FACT:

On May 13, 2019, at approximately 7:49am, Jason Sanchez was driving his motorcycle heading north on SW 107th Ave. in Miami-Dade County, Florida. At the intersection of 107th Ave. and 176th St., Alcides Puella, who was operating a Miami-Dade County bus, rolled through a stop sign while making a left hand turn from 176th St. onto 107th Ave. This action placed the bus which Mr. Puella was operating directly in the path of Mr. Sanchez's motorcycle and, although Mr. Sanchez took evasive action, his motorcycle collided with the side of the bus. This collision and the resulting injuries caused Mr. Sanchez's death at the scene of the accident.

At the time the accident occurred, it was morning and the weather was warm, clear, and dry. There was a posted speed

limit of 30mph and the roadway was dry with paved shoulders and concrete curbing. The roadway was also free of obvious defects or obstructions which would have affected the collision.

Miami-Dade Police were called to the scene and the incident was investigate by the traffic homicide unit. Detective Jonathan Mesa filed the traffic homicide report and concluded that the accident was caused by Mr. Puello due to Mr. Puello failing observe Mr. Sanchez approaching the intersection, failing to make a complete stop at the posted stop sign, and subsequently failing to yield the right-of-way to Mr. Sanchez. Additionally, bus surveillance video footage shows Mr. Puello failing to come to a complete stop at that stop sign, as well as the three previous stop signs he encountered.

Mr. Sanchez was pronounced deceased at the scene and was subsequently transported to the Miami-Dade Medical Examiner's Office. The cause of death was determined to be multiple blunt force trauma as a result of the crash. Additionally, toxicology tests revealed that Mr. Sanchez was not under the influence of drugs or alcohol at the time of the accident.

Mr. Sanchez is survived by his mother, Jaqueline Abreu, and his father, Manuel Sanchez. They are divorced and Mrs. Abreu is remarried. Both parents, as well as Mr. Sanchez's brother, testified at the hearing that the family was very close. In fact, Mr. Sanchez was living with his father at the time of the accident and Manuel Sanchez stated that Jason would help around tasks around the house and help buying food and other household items. Both are citizens of the United States. Mrs. Abreu has no criminal history while Manuel Sanchez was convicted of a drug related felony in 1987 for which he served five years in prison.

LITIGATION HISTORY:

On September 17, 2019, Mrs. Abreu filed a complaint as the representative of the estate of Jason Sanchez with the Eleventh Judicial Circuit Court for Miami-Dade County. The complaint alleged that Mr. Sanchez's death was caused due to a reckless maneuver by Mr. Puello which caused the bus that Mr. Puello was driving to unlawfully obstruct oncoming traffic. Miami-Dade County's initial answer to the complaint, filed on November 20, 2019, generally denied liability for Mr.

Sanchez's death, however, on June 25, 2021, Miami-Dade County responded to the plaintiff's request for admissions the county admitted to the facts that Mr. Puello had failed to come to a complete stop at the stop sign and failed to yield the right of way to Mr. Sanchez.

On April 26, 2022, the plaintiff and Miami-Dade County entered into a settlement agreement. The County agreed to pay \$1.25 million to the estate of Jason Sanchez, on behalf of the survivors Mrs. Abreu and Manuel Sanchez. The plaintiff agreed to release all claims for the accident and Miami-Dade County agreed not to oppose the claim bill. Although in the settlement agreement, Miami-Dade County stated that it denied liability and was simply settling to avoid litigation, at the hearing the attorney for the County, Mr. Grob, stated that the County has admitted to negligence in the matter. Additionally, Mr. Grob stated that any amount of comparative negligence on the part of Mr. Sanchez in causing the accident had been taken into account when drafting the settlement.

As part of the settlement, Ms. Abreu and Manuel Sanchez agreed to set aside sufficient funds to pay any and all Medicare and Medicaid bills, claims, penalties, interest fines, and liens as necessary. In the hearing the attorney for the plaintiff, Mr. McCarron, stated that there are no outstanding liens or debts that need to be paid. The county has paid the statutory maximum amount of \$300,000 leaving the remaining \$950,000 to be paid should the claim bill pass.

CONCLUSIONS OF LAW:

Section 316.123, F.S., requires a driver of a vehicle approaching a stop intersection indicated by a stop sign to stop before entering the intersection. After stopping, the driver is to yield the right-of-way to any vehicle which ... is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. Mr. Puello had a statutory duty to yield the right-of-way to Mr. Sanchez's vehicle, which he negligently failed to do. This breach was the direct cause of the collision between the two vehicles which resulted in Mr. Sanchez's death.

Under the doctrine of respondeat superior, Miami-Dade County is vicariously liable for the negligence of its agents and employees, when such acts are within the course and scope

of the agency or employment. See Mallory v. O'Neil, 69 So.2d 313 (Fla.1954), and s. 768.28, F.S. At the time of the accident, Mr. Puello was an employee of Miami-Dade County who was acting within the course and scope of his employment and operating a county vehicle which caused the collision and resulting death. Accordingly, the negligence of Mr. Puello is attributable to Miami-Dade County.

The amount of \$1.25 million in damages is agreed to by settlement and are reasonable damages. The Florida Wrongful Death Act in s. 768.21(4), F.S., allows parents of adult children to recover for pain and suffering as long as there are no other survivors as is the case here. Additionally, the Act in s. 768.21(5) and (6), allows recovery for funeral expenses and lost wages. Section 768.28, F.S., limits recovery to \$300,000 and without passage of this claim bill, the full amount of the settlement cannot be paid.

ATTORNEY FEES:

Section 768.28(8), F.S., states that no attorney may charge, demand, receive, or collect for services rendered, fees in excess of 25 percent of any judgment or settlement. Claimant's counsel, the Haggard Law Firm, has submitted an affidavit that its fees, as well as the lobbying fees, costs, and other similar expenses relating to this claim will not exceed 25 percent of the total amount awarded under the claim bill.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that Senate Bill 6 be reported FAVORABLY.

Respectfully submitted,

Daniel Looke
Senate Special Master

cc: Secretary of the Senate

By Senator Rodriguez

40-00075-23

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1 A bill to be entitled
2 An act for the relief of the Estate of Jason Sanchez
3 by Miami-Dade County; providing for an appropriation
4 to compensate the Estate of Jason Sanchez for injuries
5 and damages sustained by Jason Sanchez and his
6 survivors as a result of the negligence of a Miami-
7 Dade County employee; providing a limitation on
8 compensation and the payment of attorney and lobbying
9 fees; providing an effective date.

10
11 WHEREAS, on May 13, 2019, Jason Sanchez was lawfully
12 traveling on his motorcycle northbound on Southwest 107th Avenue
13 toward the intersection at Southwest 176th Street in Miami-Dade
14 County, wearing his helmet and traveling at or below the posted
15 speed limit, and

16 WHEREAS, a Miami-Dade County employee operating a Miami-
17 Dade County passenger bus failed to stop at the marked
18 intersection and pulled out in front of Mr. Sanchez in an
19 attempted left turn, causing a collision, and

20 WHEREAS, Mr. Sanchez sustained fatal blunt force injuries
21 as a result of the collision, and

22 WHEREAS, the Estate of Jason Sanchez has alleged, through a
23 lawsuit filed on September 17, 2019, in the Circuit Court of the
24 Eleventh Judicial Circuit in and for Miami-Dade County, that the
25 negligence of Miami-Dade County, through its bus driver, was the
26 proximate cause of Mr. Sanchez's death, and

27 WHEREAS, Jacqueline Abreu, Mr. Sanchez's mother, and Manuel
28 Sanchez, Mr. Sanchez's father, have suffered significant
29 financial damages due to the loss of their son's financial

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support and have experienced extreme mental anguish and suffering as a result of the loss of their son, and

WHEREAS, following the filing of the lawsuit, the Estate of Jason Sanchez and Miami-Dade County have reached a tentative settlement agreement, pending county approval, in the amount of \$1.25 million, and

WHEREAS, pursuant to the agreement between the parties and the limits of liability set forth in s. 768.28, Florida Statutes, the settlement will be partially satisfied by Miami-Dade County in the amount of \$300,000, and the satisfaction of the remainder is contingent upon the passage of a claim bill in the amount of \$950,000, NOW, THEREFORE,

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

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

Section 2. Miami-Dade County is authorized and directed to appropriate from funds of the county not otherwise encumbered and to draw a warrant in the sum of \$950,000 payable to the Estate of Jason Sanchez as compensation for injuries and damages sustained.

Section 3. The amount paid by Miami-Dade County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the death of Jason Sanchez, including injuries and damages to the Estate of Jason Sanchez and his survivors. The total amount paid for attorney

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59 fees relating to this claim may not exceed \$190,000, and the
60 total amount paid for lobbying fees may not exceed \$47,500.

61 Section 4. This act shall take effect upon becoming a law.

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 224

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hooper and others

SUBJECT: Special Risk Class Retirement Date

DATE: April 3, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</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> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 224 modifies the normal retirement date for a Special Risk Class member enrolled in the Florida Retirement System (FRS). Currently, a special risk class member who enrolled in the Florida Retirement System before July 1, 2011, reaches his or her normal retirement date, at which the member may receive full retirement benefits from their chosen FRS retirement plan, at either age 55 or after 25 years of service—whichever comes first. However, Special Risk Class members who enrolled on or after July 1, 2011, reach their normal retirement date at either age 60, or after 30 years of service—whichever comes first. This bill lowers the age or service requirement for the normal retirement date for special risk class personnel who enrolled after July 1, 2011. This allows all Special Risk Class members to receive full retirement benefits at either age 55, or after 25 years of service, whether or not they enrolled after July 1, 2011.

With the earlier normal retirement date, some Special Risk Class members will have worked beyond the date upon which those members must enroll in the Deferred Option Retirement Program or be deemed ineligible to participate. The bill allows those members to enroll in DROP within 12 months of the effective date of this bill.

The bill is expected to have a significant fiscal impact on state and local governments that employ members of the Special Risk Class of the FRS; the bill increases employer contributions by \$77.5 million annually system-wide to fund the benefit changes.

The bill takes effect July 1, 2023.

II. Present Situation:

The Florida Retirement System (FRS)

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.¹ The FRS is a contributory system, with active members contributing 3 percent of their salaries.²

The FRS is a multi-employer plan, governed by ch. 121, F.S., the "Florida Retirement System Act." As of June 30, 2022, the FRS had 629,073 active non-retired members, 448,846 annuitants, 14,858 disabled retirees, and 28,827 active participants of the Deferred Retirement Option Program (DROP).³ As of September 2022, the FRS consisted of 990 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and includes the 180 cities and 153 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 537,128 active members and 7,806 in renewed membership;
- The Special Risk Class⁶ includes 72,925 active members and 1,100 in renewed membership;
- The Special Risk Administrative Support Class⁷ has 104 active members and one in renewed membership;
- The Elected Officers' Class⁸ has 2,075 active members and 109 in renewed membership; and

¹ Florida Department of Management Services (DMS), Division of Retirement, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2021-22 Annual Comprehensive Financial Report*, 35, available at https://employer.frs.fl.gov/forms/2020-21_ACFR.pdf, (last visited Mar. 31, 2023).

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. *See*, ch. 2011-68, s. 33, Laws of Fla. Members in the Deferred Retirement Option Program do not contribute to the system.

³ *Supra*, n. 1 at 260.

⁴ DMS, Division of Retirement, *Participating Employers for Fiscal Year 2022-2023* (Sept. 2022), available at <https://employer.frs.fl.gov/forms/part-emp.pdf> (last visited Mar. 31, 2023).

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ 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.

⁷ 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 Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class includes elected state and county officers, and 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.

- The Senior Management Service Class⁹ has 7,610 active members and 210 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:¹¹

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.¹²

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.¹³

A member vests immediately in all employee contributions paid to the investment plan.¹⁴ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹⁵ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁶ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁷ 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.¹⁸

⁹ 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.

¹⁰ All figures are from *Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2021-22 Annual Comprehensive Financial Report*, at 263.

¹¹ Florida State Board of Administration (SBA), *Plan Comparison Chart* (Jul. 2020), available at <https://www.myfrs.com/pdf/forms/plancomparison.pdf> (last visited Mar. 31, 2023).

¹² See, ch. 2000-169, Laws of Fla.

¹³ Section 121.4501(1), F.S.

¹⁴ Section 121.4501(6)(a), F.S.

¹⁵ 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. Section 121.4501(6)(b)-(d), F.S.

¹⁶ Section 121.591, F.S.

¹⁷ See s. 121.4501(16), F.S.

¹⁸ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate a 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.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁹ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.²⁰

Pension Plan

The pension plan is administered by the Secretary of Management Services (DMS) through the Division of Retirement.²¹ The SBA manages the pension fund's assets.²²

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six 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 eight years of creditable service.²⁴ 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 most current members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.²⁶ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, 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, have longer service requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65; members in the Special Risk classes must complete 30 years of service or attain age 60.²⁸

Deferred Retirement Option Program (DROP)

Members who retire from the FRS pension plan are eligible to enroll in the DROP, which allows a member to continue employment with an FRS employer for up to 60 additional months.²⁹ While in the DROP, the member's retirement benefits accumulate in the FRS Trust Fund increased by a cost-of-living adjustment (COLA) each July and earn monthly interest equivalent to an annual rate of 1.30 percent on the preceding month's DROP accumulation until termination of participation in the DROP.³⁰

¹⁹ Section 121.4501(8), F.S.

²⁰ FLA. CONST. art. IV, s. 4.

²¹ Section 121.025, F.S.

²² Florida SBA, *Summary Overview of the State Board of Administration of Florida*, 4, available at https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20211025.pdf?ver=2021-10-28-120954-217 (last visited Mar. 31, 2023).

²³ Section 121.021(45)(a), F.S.

²⁴ Section 121.021(45)(b), F.S.

²⁵ Section 121.091, F.S. See also, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2021-22 Annual Comprehensive Financial Report*, 35-37, *supra* at 1.

²⁶ Section 121.021(29)(a)1., F.S.

²⁷ Section 121.021(29)(b)1., F.S.

²⁸ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁹ Section 121.091(13), F.S.

³⁰ *Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2021-22 Annual Comprehensive Financial Report*, *supra* note 1 at pp. 38-39.

Generally, eligible FRS pension plan members must elect to participate in the DROP within 12 months of their normal retirement date.³¹ However, a member initially enrolled in the FRS before July 1, 2011, who reaches normal retirement date based on years of service before he or she reaches age 62 (or age 55 for special risk class members) may defer his or her entry into DROP until 12 months immediately following their 57th birthday, or 52nd birthday for special risk class members. A member who enrolled in the FRS pension plan on or after July 1, 2011, and who reaches normal retirement date based on service before age 65, (or 60 for special risk class) may defer DROP participation until the 12 months immediately following his or her 60th birthday, or 55th birthday for special risk class.³²

K-12 instructional personnel employed with an FRS employer may extend their DROP participation for up to an additional 36 months, for a total of 8 years of DROP participation. Administrative personnel who are employed with a K-12 FRS employer may extend his or her DROP participation through the end of the current school year.³³

Similarly, law enforcement officers who are in the special risk class,³⁴ who elect to participate in DROP on or after July 1, 2022, may participate in DROP for an additional 36 calendar months beyond the 60-month DROP period, for a total of 8 years enrollment in the DROP. To qualify, the participant must enter DROP on or before June 30, 2028.³⁵

The Special Risk Class of the FRS

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S.

When originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions:

[A]re required to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.³⁶

³¹ Section 121.091(13)(a), F.S.

³² Section 121.091(13)(a)2., F.S.

³³ Section 121.091(13)(b)1., F.S.

³⁴ See, s. 121.0515(3)(a), F.S. This is a narrow permission that excludes sheriffs and elected police chiefs and does not encompass the special risk class as a whole.

³⁵ Section 121.091(13)(c), F.S.

³⁶ Section 121.0515(1), F.S.

Compared to Regular Class members, a person who is a member in the Special Risk Class of the FRS pension plan earns a higher annual service accrual rate, may retire at an earlier age and is eligible to receive higher disability and death benefits. As a result, the contribution rate to fund the normal cost of the Special Risk benefits is higher than the contribution rates to fund the normal cost of the Regular Class benefits. Similarly, the contribution rate to fund the unfunded liabilities of the Special Risk Class is higher than the same type contribution rate for the Regular Class. Special Risk Class members of the FRS investment plan receive total contributions into the individual investment accounts equal to 17 percent of salary. A Regular Class member receives total contributions equal to 9.3 percent of salary.³⁷

The table below shows the contribution rates for the Regular Class and the Special Risk Class as enacted for FY 2022-2023³⁸ and as recommended by the state actuary³⁹ beginning FY 2023-2024.

	2022-23		2023-24	
Rates to fund	Regular Class	Special Risk Class	Regular Class	Special Risk Class
Normal Cost	5.96%	16.44%	6.14%	17.05%
Unfunded Actuarial Liability	4.23%	9.67%	4.72%	10.83%
Total Contribution	10.19%	26.11%	10.86%	27.88%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.⁴⁰

Actuarial Study

The DMS requested an actuarial study to determine the required increase in employer contributions to fund the change in normal retirement date for Special Risk Class members who enrolled on or after July 1, 2011. According to the actuarial study, total combined employer contributions to the FRS Trust Fund will need to be increased by approximately \$77.5 million annually beginning in Fiscal Year 2023-2024.⁴¹

III. Effect of Proposed Changes:

Section 1 reduces the normal retirement date requirements for members of the Special Risk Class of the FRS who enrolled on or after July 1, 2011, from age 60 with 8 years of service or at any age with 30 years of service to age 55 with 8 years of service or at any age with 25 years of service. This standardizes the normal retirement date for all members of the FRS Special Risk Class, whether enrolled before or after July 1, 2011. Therefore, Special Risk Class members will

³⁷ Section 121.72(6), F.S.

³⁸ Section 121.71(4) and (5), F.S.

³⁹ Letter to Andrea Simpson, Florida DMS Division of Retirement Director, from Milliman Actuarial Services, entitled “Blended Proposed Statutory Rates for the 2023-2024 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP: Table 1” Dec. 2, 2022 (on file with the Senate Committee on Governmental Oversight and Accountability).

⁴⁰ Section 121.71(3), F.S.

⁴¹ Letter to Andrea Simpson, Florida DMS Division of Retirement Director, from Milliman Actuarial Services, entitled “Restore Normal Retirement and DROP Entry Eligibility Criteria to Pre-2011 Requirements for Tier II Special Risk Class Members” Feb. 20, 2023 (on file with the Senate Committee on Governmental Oversight and Accountability).

reach their normal retirement date, or eligibility for unreduced benefits, at the earlier of 25 years of creditable service instead of 30 years, or age 55 instead of age 60.

In order to collect retirement benefits on or after their normal retirement date, members of the Special Risk Class must also complete the total year(s) of creditable service in the Special Risk Class equal to or greater than the years of service required by their retirement plan to vest. A member of the Special Risk Class who enrolled in the pension plan on or after July 1, 2011, will still be required to complete 8 years of creditable service in the Special Risk Class, while members who enrolled before July 1, 2011, will be required to complete 6 years of service in the Special Risk Class. A member of the Special Risk Class who enrolled in the investment plan will be required to complete 1 year of creditable service in the Special Risk Class.

Sections 2 and 3 amends ss. 121.091 and 121.4501, F.S., respectively, to adopt the amended normal retirement date for Special Risk Class members who enrolled in an FRS retirement plan on or after July 1, 2011.

Section 4 creates an unnumbered section of law that authorizes Special Risk Class members who are not yet eligible to participate in DROP under current law, but who will be past their 12-month DROP election period as a result of this act to elect to participate in DROP within 1 year of the effective date of the bill.

Section 5 increases the employer-paid contribution rates to fund the benefit changes provided for in this bill.

Section 6 finds that the act fulfills an important state interest based on the legitimate and proper state purpose of extending basic protections afforded by governmental retirement systems in a manner that is managed, administered, and funded in an actuarially sound manner.

Section 7 provides that the bill takes effect 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 law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments.

The bill requires a county or municipality that employs special risk class personnel to increase their contributions to an FRS retirement plan. 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 and

employing members of the Special Risk Class), 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-paid 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 \$77.5 million annually, system-wide. The table below shows the annual contribution increases by employer group.

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$13.8 m
School Boards	\$2.9 m
State Universities	\$0.6 m
Colleges	\$0.2 m
Counties	\$55.1 m
Other	\$4.8 m
Total	\$77.5 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 121.021, 121.091, and 121.4501.

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 22, 2023:

The committee substitute:

- Allows a Special Risk Class member who has not yet reached DROP eligibility under current law, but who, upon enactment of this bill, would be past his or her 1-year DROP election period, to elect to participate in DROP within 1 year of the effective date of this bill.
- Provides the contribution rates paid by FRS employers necessary to adequately fund the benefits granted in the bill.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senators Hooper, Berman, Gruters, Collins, Harrell, Brodeur,
Boyd, Polsky, Osgood, DiCeglie, Torres, Wright, Rouson,
Trumbull, Pizzo, Book, Powell, Burgess, and Davis

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A bill to be entitled

An act relating to Special Risk Class retirement date;
amending s. 121.021, F.S.; revising the definition of
"normal retirement date"; decreasing the age and years
of service needed to reach the normal retirement date
for certain members; amending ss. 121.091 and
121.4501, F.S.; conforming provisions to changes made
by the act; authorizing certain members of the Special
Risk Class to apply to participate in the Deferred
Retirement Option Program within a specified time
period; revising required employer retirement
contribution rates to fund the benefit changes made by
the act; providing a directive to the Division of Law
Revision; providing a declaration of important state
interest; providing an effective date.

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

Section 1. Paragraph (b) of subsection (29) of section
121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as
used in this chapter have the respective meanings set forth
unless a different meaning is plainly required by the context:

(29) "Normal retirement date" means the date a member
attains normal retirement age and is vested, which is determined
as follows:

(b) For ~~If a~~ Special Risk Class members ~~member initially~~
~~enrolled:~~

~~1. Before July 1, 2011:~~

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30 ~~1.a.~~ The first day of the month the member attains age 55
31 and completes the years of creditable service in the Special
32 Risk Class equal to or greater than the years of service
33 required for vesting;

34 ~~2.b.~~ The first day of the month following the date the
35 member completes 25 years of creditable service in the Special
36 Risk Class, regardless of age; or

37 ~~3.e.~~ The first day of the month following the date the
38 member completes 25 years of creditable service and attains age
39 52, which service may include a maximum of 4 years of military
40 service credit if such credit is not claimed under any other
41 system and the remaining years are in the Special Risk Class.

42 ~~2. On or after July 1, 2011:~~

43 ~~a. The first day of the month the member attains age 60 and~~
44 ~~completes the years of creditable service in the Special Risk~~
45 ~~Class equal to or greater than the years of service required for~~
46 ~~vesting;~~

47 ~~b. The first day of the month following the date the member~~
48 ~~completes 30 years of creditable service in the Special Risk~~
49 ~~Class, regardless of age; or~~

50 ~~e. The first day of the month following the date the member~~
51 ~~completes 30 years of creditable service and attains age 57,~~
52 ~~which service may include a maximum of 4 years of military~~
53 ~~service credit if such credit is not claimed under any other~~
54 ~~system and the remaining years are in the Special Risk Class.~~

55
56 For pension plan members, normal retirement age is attained on
57 the normal retirement date. For investment plan members, normal
58 retirement age is the date a member attains his or her normal

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retirement date as provided in this section, or the date a member is vested under the investment plan as provided in s. 121.4501(6), whichever is later.

Section 2. Subsection (3) and paragraph (a) of subsection (13) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39) (a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her early retirement date, the member shall receive an immediate monthly benefit that shall begin to accrue on the first day of the month of the retirement date and be payable on the last day of that month and each month thereafter during his or her lifetime. Such benefit shall be calculated as follows:

(a) 1. For all Special Risk Class members or a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class initially enrolled:

~~1.~~ before July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement

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benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes the normal retirement date of age 62 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, and age 55 for a member of the Special Risk Class, or age 52 if a Special Risk member has completed 25 years of creditable service in accordance with s. 121.021(29)(b)3. ~~s.~~

~~121.021(29)(b)1.e.~~

2. For a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class initially enrolled on or after July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes the normal retirement date of age 65 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, ~~and age 60 for a member of the Special Risk Class, or age 57 if a special risk member has completed 30 years of creditable service in accordance with s. 121.021(29)(b)2.e.~~

(b) If the employment of a member is terminated by reason of death within 10 years before normal retirement as described in s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b., the monthly benefit payable to the member's beneficiary shall be calculated

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117 in accordance with subsection (1), but must be based on average
118 monthly compensation and creditable service as of the date of
119 death. The benefit so computed shall be reduced by five-twelfths
120 of 1 percent for each complete month by which death precedes the
121 normal retirement date specified above or the date on which the
122 member would have attained the normal retirement date had he or
123 she survived and continued his or her employment, whichever
124 provides a higher benefit.

125 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
126 subject to this section, the Deferred Retirement Option Program,
127 hereinafter referred to as DROP, is a program under which an
128 eligible member of the Florida Retirement System may elect to
129 participate, deferring receipt of retirement benefits while
130 continuing employment with his or her Florida Retirement System
131 employer. The deferred monthly benefits shall accrue in the
132 Florida Retirement System on behalf of the member, plus interest
133 compounded monthly, for the specified period of the DROP
134 participation, as provided in paragraph (c). Upon termination of
135 employment, the member shall receive the total DROP benefits and
136 begin to receive the previously determined normal retirement
137 benefits. Participation in the DROP does not guarantee
138 employment for the specified period of DROP. Participation in
139 DROP by an eligible member beyond the initial 60-month period as
140 authorized in this subsection shall be on an annual contractual
141 basis for all participants.

142 (a) *Eligibility of member to participate in DROP.*—All
143 active Florida Retirement System members in a regularly
144 established position, and all active members of the Teachers'
145 Retirement System established in chapter 238 or the State and

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County Officers' and Employees' Retirement System established in chapter 122, which are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in DROP if:

1. The member is not a renewed member under s. 121.122 or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., for all Special Risk Class members and Regular Class, Senior Management Service Class, or Elected Officers' Class members initially enrolled before July 1, 2011, election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains age 57, or age 52 for Special Risk Class members. Except as provided in subparagraph 6., for Regular Class, Senior Management Service Class, or Elected Officers' Class members initially enrolled on or after July 1, 2011, election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 65, ~~or age 60 for Special Risk Class members,~~ election to participate may be deferred to the 12 months immediately following the date the member attains age 60, ~~or age 55 for~~

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175 ~~Special Risk Class members~~. A member who delays DROP
176 participation during the 12-month period immediately following
177 his or her maximum DROP deferral date, except as provided in
178 subparagraph 6., loses a month of DROP participation for each
179 month delayed. A member who fails to make an election within the
180 12-month limitation period forfeits all rights to participate in
181 DROP. The member shall advise his or her employer and the
182 division in writing of the date DROP begins. The beginning date
183 may be subsequent to the 12-month election period but must be
184 within the original 60-month participation period provided in
185 subparagraph (b)1. When establishing eligibility to participate
186 in DROP, the member may elect to include or exclude any optional
187 service credit purchased by the member from the total service
188 used to establish the normal retirement date. A member who has
189 dual normal retirement dates is eligible to elect to participate
190 in DROP after attaining normal retirement date in either class.

191 3. The employer of a member electing to participate in
192 DROP, or employers if dually employed, shall acknowledge in
193 writing to the division the date the member's participation in
194 DROP begins and the date the member's employment and DROP
195 participation terminates.

196 4. Simultaneous employment of a member by additional
197 Florida Retirement System employers subsequent to the
198 commencement of a member's participation in DROP is permissible
199 if such employers acknowledge in writing a DROP termination date
200 no later than the member's existing termination date or the
201 maximum participation period provided in subparagraph (b)1.

202 5. A member may change employers while participating in
203 DROP, subject to the following:

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204 a. A change of employment takes place without a break in
205 service so that the member receives salary for each month of
206 continuous DROP participation. If a member receives no salary
207 during a month, DROP participation ceases unless the employer
208 verifies a continuation of the employment relationship for such
209 member pursuant to s. 121.021(39)(b).

210 b. The member and new employer notify the division of the
211 identity of the new employer on forms required by the division.

212 c. The new employer acknowledges, in writing, the member's
213 DROP termination date, which may be extended but not beyond the
214 maximum participation period provided in subparagraph (b)1.,
215 acknowledges liability for any additional retirement
216 contributions and interest required if the member fails to
217 timely terminate employment, and is subject to the adjustment
218 required in sub-subparagraph (c)5.d.

219 6. Effective July 1, 2001, for instructional personnel as
220 defined in s. 1012.01(2), election to participate in DROP may be
221 made at any time following the date on which the member first
222 reaches normal retirement date. The member shall advise his or
223 her employer and the division in writing of the date on which
224 DROP begins. When establishing eligibility of the member to
225 participate in DROP for the 60-month participation period
226 provided in subparagraph (b)1., the member may elect to include
227 or exclude any optional service credit purchased by the member
228 from the total service used to establish the normal retirement
229 date. A member who has dual normal retirement dates is eligible
230 to elect to participate in either class.

231 Section 3. Paragraph (b) of subsection (3) of section
232 121.4501, Florida Statutes, is amended to read:

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233 121.4501 Florida Retirement System Investment Plan.—

234 (3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

235 (b) Notwithstanding paragraph (a), an eligible employee who
236 elects to participate in, or who defaults into, the investment
237 plan and establishes one or more individual member accounts may
238 elect to transfer to the investment plan a sum representing the
239 present value of the employee's accumulated benefit obligation
240 under the pension plan, except as provided in paragraph (4)(b).
241 Upon transfer, all service credit earned under the pension plan
242 is nullified for purposes of entitlement to a future benefit
243 under the pension plan. A member may not transfer the
244 accumulated benefit obligation balance from the pension plan
245 after the time period for enrolling in the investment plan has
246 expired.

247 1. For purposes of this subsection, the present value of
248 the member's accumulated benefit obligation is based upon the
249 member's estimated creditable service and estimated average
250 final compensation under the pension plan, subject to
251 recomputation under subparagraph 2. For state employees, initial
252 estimates shall be based upon creditable service and average
253 final compensation as of midnight on June 30, 2002; for district
254 school board employees, initial estimates shall be based upon
255 creditable service and average final compensation as of midnight
256 on September 30, 2002; and for local government employees,
257 initial estimates shall be based upon creditable service and
258 average final compensation as of midnight on December 31, 2002.
259 The dates specified are the "estimate date" for these employees.
260 The actuarial present value of the employee's accumulated
261 benefit obligation shall be based on the following:

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a. The discount rate and other relevant actuarial assumptions used to value the Florida Retirement System Trust Fund at the time the amount to be transferred is determined, consistent with the factors provided in sub-subparagraphs b. and c.

b. A benefit commencement age, based on the member's estimated creditable service as of the estimate date.

c. Except as provided under sub-subparagraph d., for a member initially enrolled:

(I) Before July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 62; or

(B) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

(II) On or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 65; or

(B) The age the member would attain if the member completed 33 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

d. For members of the Special Risk Class and for members of the Special Risk Administrative Support Class entitled to retain

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the special risk normal retirement date:

~~(I) Initially enrolled before July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:~~

(I) ~~(A)~~ Age 55; or

(II) ~~(B)~~ The age the member would attain if the member completed 25 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

~~(II) Initially enrolled on or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:~~

~~(A) Age 60; or~~

~~(B) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.~~

e. The calculation must disregard vesting requirements and early retirement reduction factors that would otherwise apply under the pension plan.

2. For each member who elects to transfer moneys from the pension plan to his or her account in the investment plan, the division shall recompute the amount transferred under subparagraph 1. within 60 days after the actual transfer of funds based upon the member's actual creditable service and actual final average compensation as of the initial date of

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participation in the investment plan. If the recomputed amount differs from the amount transferred by \$10 or more, the division shall:

a. Transfer, or cause to be transferred, from the Florida Retirement System Trust Fund to the member's account the excess, if any, of the recomputed amount over the previously transferred amount together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon the effective annual interest equal to the assumed return on the actuarial investment which was used in the most recent actuarial valuation of the system, compounded annually.

b. Transfer, or cause to be transferred, from the member's account to the Florida Retirement System Trust Fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon 6 percent effective annual interest, compounded annually, pro rata based on the member's allocation plan.

3. If contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred under subparagraph 1., the member is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction. However, a return of such erroneous excess pretax contribution by the plan must be made within the period allowed by the Internal Revenue Service. The present value of the member's accumulated benefit obligation may not be recalculated.

4. As directed by the member, the state board shall

585-02906-23

2023224c1

transfer or cause to be transferred the appropriate amounts to the designated accounts within 30 days after the effective date of the member's participation in the investment plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that causes the suspension of trading on a national securities exchange in the country where the securities were issued. In that event, the 30-day period may be extended by a resolution of the state board. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash, as determined by the state board. Such securities are valued as of the date of receipt in the member's account.

5. If the state board or the division receives notification from the United States Internal Revenue Service that this paragraph or any portion of this paragraph will cause the retirement system, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. Upon such notice, the state board and the division shall notify the presiding officers of the Legislature.

Section 4. Members of the Special Risk Class of the Florida Retirement System who have not reached eligibility for participation in the Deferred Retirement Option Program (DROP) and who would be past their 12-month DROP election limitation period upon enactment of this act may apply for participation in DROP within the 12 months immediately following the effective date of this act.

Section 5. (1) In order to fund the benefit changes provided in this act, the required employer contribution rates

585-02906-23

2023224c1

for the members of the Florida Retirement System established in
s. 121.71(4), Florida Statutes, are increased as follows:

(a) By 0.87 percentage point for the Special Risk Class.

(b) By 0.20 percentage point for the Deferred Retirement
Option Program.

(2) In order to fund the benefit changes provided in this
act, the required employer contribution rates for the unfunded
actuarial liability of the Florida Retirement System established
in s. 121.71(5), Florida Statutes, are increased by 0.40
percentage point for the Special Risk Class.

(3) The adjustments provided in subsections (1) and (2) are
in addition to any other changes to such contribution rates
which may be enacted into law to take effect on July 1, 2023.
The Division of Law Revision is directed to adjust accordingly
the contribution rates provided in s. 121.71, Florida Statutes.

Section 6. The Legislature finds that a proper and
legitimate state purpose is served when employees and retirees
of the state and its political subdivisions, and the dependents,
survivors, and beneficiaries of such employees and retirees, are
extended the basic protections afforded by governmental
retirement systems that provide fair and adequate benefits and
that are managed, administered, and funded in an actuarially
sound manner as required by s. 14, Article X of the State
Constitution and part VII of chapter 112, Florida Statutes.
Therefore, the Legislature determines and declares that this act
fulfills an important state interest.

Section 7. This act shall take effect July 1, 2023.

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 224

Bill Number or Topic

Com Affairs

Committee

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

Name Jeremy Childress

Phone 386-233-4796

Address 488 Hickory St
Street

Email _____

New Smyrna Beach FL 32168
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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SB 224

Bill Number or Topic

04/05/23

Meeting Date

Comm Affair

Committee

Amendment Barcode (if applicable)

Name

Meeth Hamrah

Phone

407-903-24073

Address

2902 Katie Beth Ct

Email

Katiebethmusic349@gmail.com

Street

Missumee

State

FL

Zip

34744

City

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
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(travel, meals, lodging, etc.),
sponsored by:

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The Florida Senate

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5 Apr 2023
Meeting Date

Comm Affairs
Committee

SB 224
Bill Number or Topic

Amendment Barcode (if applicable)

Name James Totten

Phone 727 641 8171

Address 644 Northwest Blvd N,
Street

Email tottenj201@gmail.com

St. Pete, FL 33702
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
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The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

5 Apr 2023

Meeting Date

Comm Affairs

Committee

SB 224

Bill Number or Topic

Amendment Barcode (if applicable)

Name James Totten

Phone

Address 644 Northwest Blvd N.

Street

Email

St. Pete, FL 33702

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
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I am a registered lobbyist,
representing:



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The Florida Senate

APPEARANCE RECORD

4/5/23

Meeting Date

SB 224

Bill Number or Topic

Community Affairs

Committee

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

Name

Tatiana Finlay

Phone

407-967-8977

Address

2454 Bxley Dr

Email

tfinlayatge@gmail.com

Street

TAVARES

City

FL

State

32778

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:

☐

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The Florida Senate

APPEARANCE RECORD

SB 224

04/05/23

Meeting Date

Bill Number or Topic

Comm Affairs

Committee

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Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Kimberly Katz

Phone

2152007162

Address

4695 Ellis Cir

Email

Street

Titusville

State

FL

Zip

32780

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
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04/05/2023

Meeting Date

Community Affairs

Committee

SB 224

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jovan Rodriguez

Phone

321 942 2161

Address

2841 Spang Breeze Way

Street

Email

jovarodriguez.afce@gmail

Kissimmee FL

City

State

34746

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,
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I am not a lobbyist, but received
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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

415123

Meeting Date

SB 0224

Bill Number or Topic

Community affairs

Committee

Deliver both copies of this form to
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Special Rules

Amendment Barcode (if applicable)

Name Charles Tribiolo

Phone 561-208-8998

Address 1510 W 13th Street

Email

Riveria Beach FL

33404

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:

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S-001 (08/10/2021)

4/5/23
Meeting Date

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APPEARANCE RECORD

224

Bill Number or Topic

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Amendment Barcode (if applicable)

Committee
Name Brian Powell

Phone _____

Address 8000 N University Dr
Street

Email _____

TAMPA FL 33321
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
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sponsored by:

Metro Broward Firefighters Local 3080

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/23

Meeting Date

SB 0224

Bill Number or Topic

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name

Sheryl Posey

Phone

815-404-8601

Address

3104 Lake Jean Drive

Email

saposey818@gmail.com

Street

Orlando

City

FL

State

32817

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,
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I am not a lobbyist, but received
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4/5

Meeting Date

224

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

BRIAN ANTOINE

Phone

504 296 9730

Address

13737 Meadows Park Ave

Street

Email

ORLANDO

City

FL

State

32826

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:

☐

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SB 224

Bill Number or Topic

Meeting Date

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Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

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Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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APPEARANCE RECORD

4/3/23

Meeting Date

SB 224

Bill Number or Topic

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone 850-224-6926

Address 135 S. Monroe
Street

Email

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
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Meeting Date

The Florida Senate
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SB224

Bill Number or Topic

Special Risk

Amendment Barcode (if applicable)

Committee

Name

Lorraine Boone

Phone

954-326-6086

Address

2650 SW 114th Terr #108

Email

lboone2007@yahoo.com

Street

Miramar, FL 33025

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:

☐

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The Florida Senate
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SB 224
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Donna Pinsky

Phone

754 235 9966

Address

2226 SE Pearl Ln

Email

Street

Port St Lucie

34952

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

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4/5/23

Meeting Date

SB 0224

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Tatishka Thomas

Phone

727 686 6269

Address

1130 Beech St

Email

Street

Clearwater

City

FL

State

33785

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
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SB 224

Bill Number or Topic

4-5-2023

Meeting Date

Comm Affairs

Committee

Name

Pamela Burrell-Tomlinson

Phone

727-692-1467

Address

5488 30th Ave N

Email

bentley55@yahoo.com

Street

St, Petersburg FL 33710

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:

☐

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SB 0224
Bill Number or Topic

Amendment Barcode (if applicable)

4/5/23
Meeting Date

Committee

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
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☐

I am a registered lobbyist,
representing:

☐

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Deliver both copies of this form to
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4/5/2023

Meeting Date

224

Bill Number or Topic

community affairs

Committee

Amendment Barcode (if applicable)

Name

Nancy Luna

Phone

(407) 219-1787

Address

2934 Tanzanite Terrace

Street

Email

nancylb2002@gmail.com

Kissimmee

City

FL

State

34758

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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representing:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/5/2023

Meeting Date

SB 0224

Bill Number or Topic

Comm. AFFAIRS

Committee

Amendment Barcode (if applicable)

Name Mary Candace HARVEY

Phone 407-460-6514

Address 301 DAKOTA AVE

Street

Email yowcat@hotmail.com

ST Cloud FL 34769

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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4/5/23

Meeting Date

SB0224

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Asim Page

Phone

407-538-1013

Address

Street

Email

muzig2143@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 \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/2023

224

Meeting Date

Bill Number or Topic

Community Affairs

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name **Matt Dunagan**

Phone **850-877-2165**

Address **2617 Mahan Drive**

Email **mdunagan@flsheriffs.org**

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:

Florida Sheriffs Association

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 224

Bill Number or Topic

4/5/23

Meeting Date

Community Affairs

Committee

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

Name

John Lancaster Metro Dade Firefighter

Phone

(305) 498 8209

Address

8000 NW 21 St

Email

John.Lancaster@lccfl1903.org

Street

Miami

FL

33123

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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The Florida Senate

APPEARANCE RECORD

Meeting Date

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

Fraternal Order of Police

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

04-05-23

224

Meeting Date

Bill Number or Topic

Community Affairs

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name Steve Zona (Florida State FOP)

Phone 904-398-7010

Address 5530 Beach Blvd

Email szona@fop530.com

Street

Jax FL 32207

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ 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 5, 2023

Meeting Date

Community Affairs

Committee

CS/SB 224

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address FLORIDA FIRE CHIEFS' ASSOC.

Email ray@ffca.org

Street

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

4/5/23

Meeting Date

224

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

Andrew Ford

Phone

904-673-1794

Address

Clay FOP 104 2nd 104

Email

andrew.ford125@gmail.com

Street

25-47 CR. 220, Middleburg 32043

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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The Florida Senate

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4/5/23

Meeting Date

Community Affairs

Committee

224

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jeff Stinson - Orange County Sheriff's FOP-93 President

Phone

(407) 913-7284

Address

5505 S. Hensel Ave

Email

jeff.stinson@fop93.com

Street

Orlando

City

FL

State

32809

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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4-5-23

Meeting Date

Community Affairs

Committee

2241

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Howard Fryer CLAY FOP 104

Phone

904-589-1503

Address

2547 C.R. 220

Email

hfryer@clayfop104.com

Street

Middleburg FL 32008

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)

4/5/2023

The Florida Senate

APPEARANCE RECORD

224

Meeting Date

Community Affairs

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Bill Number or Topic

Committee

Wayne "Bernie" Bernoska

Amendment Barcode (if applicable)

321-231-9116

Name

Phone

Address

343 W. Madison St

Email

bernie@fpfp.org

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:

Florida Professional Firefighters

☐

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

4/5/23

Meeting Date

S 224

Bill Number or Topic

Deliver both copies of this form to
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Community Affairs

Committee

Amendment Barcode (if applicable)

Name William B. Smith

Phone 305-333-4344

Address 300 E. Brevard St
Street

Email WSmith@FLPBA.org

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:

FL PBA

☐ 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

04/05/2023

APPEARANCE RECORD

CS/SB 224

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 **Matt Cowart**

Phone **954-303-4265**

Address **900 South State Road 7**

Email **matt@6020.iupa.org**

Street

Plantation

Florida

33317

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:

International Union of Police Associations

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

4/5/23

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
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SB224

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Stephen Busse (pronounced Boo-say)

Phone

305-283-9939

Address

8200 NW 21st St

Street

Email

Stephen.busse@local1403.org

Miami

City

FL

State

33132

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:

Metro Dade Firefighters Local 1403



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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SB 224

Bill Number or Topic

4/5/23

Meeting Date

Comm. Affairs

Committee

Amendment Barcode (if applicable)

Name

William McAllister

Phone

786 999-2323

Address

PRESIDENT, METRO DADE FIREFIGHTERS LOCAL 1403

Email

president@local1403.org

Street

8000 NW 21 ST

City

MIAMI

State

FL

Zip

33122

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
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 512

INTRODUCER: Committee on Community Affairs and Senator Hooper

SUBJECT: Building Construction

DATE: April 7, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 512 allows Class A air-conditioning and mechanical contractors to conduct work on power wiring, breakers, or fuses on the *line side* of the dedicated existing electrical disconnect switch, but not the main breaker.

The bill also makes the following changes pertaining to the review and issuance of building plans:

- Prohibits a local government from making substantive changes to plans *after a permit has been issued* unless such changes are required under the Florida Building Code or the Fire Prevention Code.
- Requires any changes a local government makes to plans *after a permit has been issued* to identify the specific parts of the plan that do not conform to the applicable code in writing.
- Requires a building official or inspector who asks another person or employee other than a building official, plans examiner, or inspector to review the building plans to notify the local government if such person or employee determines the plans do not comply with the Florida Building Code.
- Requires a local fire official to notify the permit applicant of specific reasons why plans do not comply with the Fire Prevention Code.
- Allows a plans examiner, inspector, building official, or fire safety inspector to have their certificate disciplined for failure to notify the appropriate person of the reasons for making substantive changes to building plans.

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

II. Present Situation:

Class A Air-conditioning and Mechanical Contractors

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professions in Florida, including construction contractors. Construction contractors are certified or registered and regulated by the Construction Industry Licensing Board (CILB).¹

Certified contractors are allowed to practice their specific license category in any jurisdiction in the state.² Two of the HVAC³ license categories are Class A air-conditioning contractors and mechanical contractors.

To be eligible for licensure as a Class A air-conditioning or mechanical contractor, an applicant must complete the license application, pass the certification examination, and meet certain combinations of education and experience, which consists of 4 to 5 years of college-level courses and/or HVAC work experience.⁴

Class A air-conditioning contractors⁵ and mechanical contractors may install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems.⁶ These services include **replacing, disconnecting, or reconnecting power wiring** on the **load** side of the dedicated existing electrical disconnect switch.⁷ Mechanical contractors may also work on completing the piping and duct work in connection with the complete HVAC and gas system, but may not work on potable water lines.⁸

Generally, before working on the HVAC unit, an HVAC contractor is required to obtain a building permit.⁹ After the work on the HVAC unit is finished, the HVAC contractor is required notify the building official that the work is ready for inspection to close the permit. This process ensures that the HVAC unit is properly installed in accordance with the Florida Building Code (Building Code).¹⁰

HVAC Electrical Disconnect Switch Installation Requirements

HVAC equipment or air-conditioning units are required to be installed in accordance with manufacturer specifications, which include the electrical needs of such equipment as indicated

¹ Section 20.165, F.S.

² Section 489.105, F.S.

³ Heating, ventilation, and air conditioning.

⁴ DBPR, *Certified Class A Air Conditioning Contractor as an Individual: Application Requirements*, available at: https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1030&clientCode=0601&XACT_DEFN_ID=2940 (last visited April 7, 2023).

⁵ Class B and Class C air-conditioning contractors are HVAC contractors with a more limited scope.

⁶ Section 489.105(3)(f), F.S.

⁷ Section 489.105(3)(f), F.S.

⁸ Section 489.105(3)(i), F.S.

⁹ Section 105.1 of the Seventh edition of the Florida Building Code (Building); *see also*, s. 489.126(1), F.S.

¹⁰ Section 110.1 of the Seventh edition of the Florida Building Code (Building).

on either the equipment or in the manual. The Building Code requires that listed or labeled equipment be installed and used in accordance with any instructions included in the listing or labeling.¹¹ This ensures the safety of both the contractor and the premises. The manufacturer establishes values for a given load, rated voltage, and rated frequency of the equipment it serves to ensure that the air conditioner disconnecting means (usually a switch) and controller have proper interrupting capacities.¹²

The Building Code specifically requires compliance with the manufacturer's nameplate markings.¹³ This information is used to determine the rating or ampacity of the disconnecting means, the branch-circuit conductors, the controller, branch circuit short-circuit and ground-fault protection, and the separate motor overload protection. If the nameplate specifies fuses only, substitution of a listed circuit breaker is a violation of the Building Code and the manufacturer's warranties.

A disconnecting means is required to be located "within sight from and readily accessible" from the air-conditioning equipment¹⁴, which is usually located on a concrete pad outside the dwelling or structure, under the building in a crawl space, or mounted on a rooftop. This disconnecting means can be installed on or within the air-conditioning equipment itself.¹⁵

The disconnecting means is typically located next to¹⁶ the air-conditioning unit. Sufficient working space in the direction of access to the equipment, or the part of the equipment, that is likely to be worked on while there are live, exposed parts, must be provided in accordance with the Building Code to access the disconnecting means for purposes of examination, adjustment, servicing, or maintenance while energized. The purpose is to provide a ready and visible means of disconnection for the person who will service or repair the equipment. Safe access must also be provided to the control equipment within the unit at the time the equipment is being installed or serviced. It is common for service persons to examine or test HVAC equipment while it is energized.¹⁷

HVAC Electrical Disconnect Switch Components

The line side consists of upstream components and wires coming from the main power source that supply power. It always carries current when there is power supply from the power source. The load side consists of downstream components and wires that take the electrical current and supply it to other electric devices. It only carries current when the switch is turned on, signaling a

¹¹ Florida Building Code, 6th ed. (2017), s. E3702.11 Branch circuits for air-conditioning and heat pump equipment.

¹² Keith Lofland, International Association of Electrical Inspectors Magazine, *Air-Conditioning Equipment Installations*, available at: <https://iaeimagazine.org/2017/julyaugust-2017/air-conditioning-equipment-installations/> (last visited April 6, 2023).

¹³ Florida Building Code, 6th ed. (2017), s. E3702.11 Branch circuits for air-conditioning and heat pump equipment.

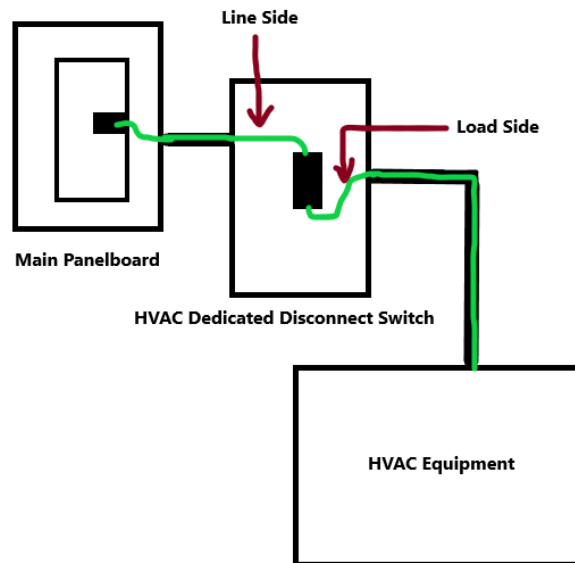
¹⁴ Florida Building Code, 6th ed. (2017), s. E4101.5 Disconnecting means.

¹⁵ Keith Lofland, *supra* note 9.

¹⁶ Typically, a locking type of disconnecting means located out of sight from the unit is not acceptable. *Id.*

¹⁷ Keith Lofland, *supra* note 9.

closed circuit that allows current to flow through.¹⁸ Below is an illustration of the “load” and “line” sides of an HVAC breaker:¹⁹



A dedicated circuit has its own circuit breaker and only supports one outlet, which means only one electrically powered device can draw voltage from that circuit at any given time.²⁰ A disconnect switch is used to isolate electrical circuits by interrupting the flow of electrical current. By quickly stopping the flow of power, disconnect switches allow for emergency shutdowns, switching to alternate power sources, and maintenance.²¹

There are several circuit breakers in the main electrical panel, also known as a breaker box or main panelboard. One of those circuit breakers goes to the outside air-conditioning unit and then runs to a dedicated existing electrical disconnect switch for the unit.²²

A circuit breaker and a fuse are both designed to interrupt the flow of electricity, but they operate through different mechanisms. The fuse works as a piece of metal that melts down when

¹⁸ Alex Klein, *How to Identify Line and Load Wires*, Electro University (Aug. 16, 2022), available at: <https://electrouniversity.com/how-to-identify-line-and-load-wires/>, (last visited Mar. 31, 2023).

¹⁹ See Assured Electrical, *Just Answer*, available at: https://ww2-secure.justanswer.com/uploads/AssuredElectrical/2012-05-29_153354_240acdconnect.gif, (last visited Mar. 31, 2023).

²⁰ Harrison Electric, Inc. *Dedicated Circuits: What They Are & How to Determine If You Need Them*, Aug. 16, 2021, available at: <https://harrison-electric.com/Blog/entryid/243/dedicated-circuits-what-they-are-how-to-determine-if-you-need-them> (last visited Mar. 31, 2023).

²¹ Bisco Industries, *What is a Disconnect Switch?* available at: <https://press.biscoind.com/2016/08/18/what-is-a-disconnect-switch/> (last visited Mar. 3, 2023).

²² Russell E. Smith, “Installation of Heating, Cooling, and Refrigeration Systems.” *Electricity for Refrigeration, Heating, and Air Conditioning*, 10th ed., Cengage Learning, Boston, MA, 2018, p. 18. (The Florida Building Code requires that a 125-volt, 15- and 20-ampere receptacle for servicing air-conditioning and refrigeration equipment is to be located not less than 7.5 m (25 ft) from, and on the same level as, the equipment itself. The receptacle must be in a readily accessible location from the equipment and must be GFCI-protected as applicable to outdoor receptacles at dwelling occupancies.)

overheated, and a circuit breaker works by operating a switching mechanism when an overflow of electricity is detected. Circuit breakers generally have a higher breaking capacity than fuses.²³

Line Side Work in Florida

While Class A air-conditioning contractors may work on the load side, they cannot install, disconnect, or reconnect power wiring on the line side²⁴ of the dedicated existing electrical disconnect switch.²⁵ Only a licensed electrical contractor can work on the line side.²⁶ Therefore, Class A air-conditioning contractors have to refer work on the line side to an electrical contractor, which causes Class A air-conditioning contractors to stop their work until an electrical contractor completes this portion.

Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code. In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work and a study was commissioned to make recommendations. In 1998, the Legislature adopted the recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.²⁷ The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.²⁸

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²⁹

The Florida Building Commission (Building Commission) implements the Building Code. The Building Commission, which is housed within DBPR, reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.³⁰

A local enforcement agency is an agency of local government with jurisdiction to make inspections of buildings and to enforce the Building Code.³¹

²³ Hi-Lite Electric, Inc., *What's the Difference Between Fuses and Circuit Breakers?*, Aug. 26, 2019, available at: <https://hi-liteelectricinc.ca/about-us/blog/power-surges/whats-difference-fuses-circuit-breakers/> (last visited Mar. 31, 2023).

²⁴ Klein, *supra* note 13.

²⁵ Section 489.105(3)(f), F.S.

²⁶ Section 489.505(12), F.S.

²⁷ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at: http://www.floridabuilding.org/fbc/2006_Legislature_Rpt_rev2.pdf (last visited Mar. 31, 2023).

²⁸ Florida Building Commission Homepage, available at <https://floridabuilding.org/c/default.aspx> (last visited Mar. 31, 2023).

²⁹ See s. 553.72(1), F.S.

³⁰ Sections 553.73, and 553.74, F.S.

³¹ Section 553.71(5), F.S.

Building Code Administrators, Inspectors, and Plans Examiners

Building code administrators, inspectors, and plans examiners are regulated by the Building Code Administrators and Inspectors Board (BCAIB) within DBPR.³²

A building code administrator, also known as a building official, is a local government employee or a person contracted by a local government who supervises Building Code activities, including plans review, enforcement, and inspection.³³

A building code inspector (inspector) is a local government employee or a person contracted by a local government who inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories for which the inspector has been licensed. The inspector categories are:³⁴

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

A plans examiner, also known as a plans reviewer, reviews plans submitted for building permits to determine design compliance with the Building Code. A plans examiner's ability to practice is limited to the category or categories for which the examiner is licensed. The plans examiner categories are:³⁵

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.

The BCAIB may discipline building code administrators, plans examiners, and inspectors for violations of the practice act, such as violating BCAIB or DBPR rules, and failing to properly enforce applicable building codes or permit requirements.³⁶ Types of discipline includes:³⁷

- Denial of an application for certification.
- Permanent revocation.
- Suspension of a certificate.
- Fines.
- Probation.

³² See Ss. 120.569, 120.57(1)-(2), 468.605, 468.606, and 468.621, F.S.

³³ Section 468.603(2), F.S.

³⁴ Section 468.603(4) and (5), F.S.

³⁵ Section 468.603(8), F.S.

³⁶ Sections 468.601, 486.621, and 468.633, F.S.; see also R. 61G19-5.003, F.A.C.

³⁷ Section 486.621, F.S.

Florida Fire Prevention Code

Florida law designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, within the Department of Financial Services (DFS), is charged with enforcing laws relating to fire safety, and has the responsibility to minimize the loss of life and property in this state due to fire.³⁸

The State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

The State Fire Marshal also adopts by rule the Fire Prevention Code, which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules³⁹.

The State Fire Marshal adopts a new edition of the Fire Prevention Code every three years.⁴⁰ When adopting the Fire Prevention Code, the Fire Marshal is required to adopt the most current version of the national fire and life safety standards set forth by the National Fire Protection Association (NFPA), including the:⁴¹

- NFPA's Fire Code (1);
- Life Safety Code (101); and
- Guide on Alternative Approaches to Life Safety (101A).

The State Fire Marshal may modify the national fire safety and life safety standards as needed to accommodate the specific needs of the state.⁴² The most recent Fire Prevention Code is the 7th edition, which is referred to as the 2020 Florida Fire Prevention Code. The 7th edition of the Fire Prevention Code took effect on December 31, 2020.⁴³

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Prevention Code as the minimum fire prevention code.⁴⁴ These local enforcing authorities may adopt more stringent fire safety standards, subject to certain requirements, but may not enact fire safety ordinances that conflict with other state law.⁴⁵

³⁸ Section 633.104, F.S.

³⁹ Chapter 69A-60, F.A.C.

⁴⁰ Section 633.202, F.S.

⁴¹ Section 633.202(2), F.S. Founded in 1896, the National Fire Protection Association delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. NFPA, *About NFPA*, available at: <http://www.nfpa.org/about-nfpa> (last visited on Mar. 31, 2023).

⁴² *Id.*

⁴³ Division of State Fire Marshal, *Florida Fire Prevention Code (FFPC)*, available at: <https://www.myfloridacfo.com/division/sfm/bfp/floridafirepreventioncodepage.htm> (last visited Mar 31, 2023).

⁴⁴ Section 633.108 and 633.208, F.S.

⁴⁵ Section 633.208 and 633.214(4), F.S.

Fire Safety Inspectors

Each county, municipality, and special district with fire safety enforcement responsibilities is required to employ or contract with a fire safety inspector to conduct all fire safety inspections required by law.⁴⁶ A fire safety inspector is a person who is officially assigned the duties of conducting fire safety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with fire safety responsibilities. Fire safety inspectors are certified and regulated by the State Fire Marshal and are separate from building code administrators, inspectors, and plans examiners who are regulated by the BCAIB.⁴⁷

The State Fire Marshal may discipline fire safety inspectors by denying, refusing to renew, suspending, or revoking their certificate if the State Fire Marshal finds that the fire safety inspector has violated the practice act, including:⁴⁸

- Violating Fire Prevention laws or any rule or order of the State Fire Marshal, and
- Failing to properly enforce applicable fire codes or permit requirements within this state which the certificateholder knows are applicable by “committing willful misconduct, gross negligence, gross misconduct, repeated negligence, or negligence resulting in a significant danger to life or property.”

Building Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.⁴⁹ Every local government must enforce the Building Code and issue building permits.⁵⁰

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.⁵¹ Any construction work that requires a building permit also requires plan reviews and inspections by the building official, inspector, or plans reviewer to ensure the work complies with the Building Code.⁵²

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁵³

A building permit is not valid until the fees for the permit have been paid.⁵⁴

⁴⁶ Section 633.216(1), F.S.

⁴⁷ Sections 633.102(12) and 633.216, F.S.

⁴⁸ Section 633.216(5)(a)-(g), F.S.; *see also*, s. 633.106, F.S.

⁴⁹ Section 553.72, F.S.

⁵⁰ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

⁵¹ Sections 468.603(2), F.S.; S. 202 of the Seventh edition of the Florida Building Code (Building).

⁵² Sections 107, 110.1, and 110.3 of the Seventh edition of the Florida Building Code (Building).

⁵³ Sections 125.56(4)(a) and 553.79(1), F.S.

⁵⁴ Section 109.1 of the Seventh edition of the Florida Building Code (Building).

Building Plans

To obtain a permit an applicant must complete an application for the proposed work on the form furnished by the local enforcing agency, which must be posted on its website.⁵⁵ An application for a permit must include building plans. Building plans are plans for construction, erection, alteration, modification, repair, or demolition of any building or structure and must comply with the applicable building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable construction codes in the Building Code.⁵⁶

A local enforcing agency may not issue a permit until the building official or plans reviewer has reviewed the building plans and determined that they comply with the Building Code.⁵⁷ When the building official issues the permit, the building official must approve the plans by writing or stamping, “Reviewed for Code Compliance” on the plans. The local building official must keep one set of plans and another set must be returned to the applicant, who must keep the set at the work site.⁵⁸

Fire Prevention Code Plans Review

With respect to fire inspections and review, building officials or plans reviewers do not review building plans to determine if they comply with the Fire Prevention Code. If the building or structure is subject to the Fire Prevention Code, the local fire safety official must also review the building plans.⁵⁹ A local enforcing agency may not issue the permit until the local fire safety official has approved the plans. However, if the building or structure is not subject to the Fire Prevention Code, the local enforcing agency may not require the local fire safety inspector to review the plans.⁶⁰

Changes to the Building Permit or Plans

Construction work must be done in accordance with the approved plans, and any changes made during construction that are not in compliance with the approved plans must be resubmitted for approval as an amended set of construction documents.⁶¹

If the local building official or plans reviewer finds that building plans do not comply with the Building Code, the local building official or inspector must identify the specific plan features that do not comply with the Building Code, identify the specific chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. The local enforcing agency must provide this information to the permit applicant.⁶²

Whenever a permit is denied or revoked because plans are found to not comply with the Building Code, the local enforcing agency must identify the specific plan features that do not comply with

⁵⁵ Section 125.56(4)(b), 553.79(1), and 713.135(5) and (6), F.S.

⁵⁶ Section 468.603(8), and 553.79(2), F.S.

⁵⁷ Section 553.79(2), F.S.

⁵⁸ Section 107.3.1 of the Seventh edition of the Florida Building Code (Building).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Section 107.4 of the Seventh edition of the Florida Building Code (Building).

⁶² Section 553.79(2), F.S.

the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit applicant.⁶³ A plans reviewer or building official who is responsible for issuing a denial, revocation, or modification request but fails to provide to the permit applicant a reason for denying, revoking, or requesting a modification, based on compliance with the Building Code, is subject to licensure disciplinary action.⁶⁴

There is no similar requirement for fire safety officials or inspectors when they deny, revoke, or modify plans based on the Fire Prevention Code.

Current law is not clear on whether local governments must notify permit holders about the specific reasons why the buildings plans do not comply with the Building Code or the Fire Prevention Code if they make or require substantive changes to building plans *after* the permit is issued.

III. Effect of Proposed Changes:

Class A Air-conditioning and Mechanical Contractors

Section 1 amends s 489.105, F.S., to expand the scope of service that Class A air-conditioning contractors and mechanical contractors may provide. The bill allows such contractors to:

- Replace, disconnect, or reconnect power wiring, breakers, or fuses on the line side of the dedicated existing electrical circuit disconnect switch and not the main breaker; and
- Replace, disconnect, or reconnect air-conditioning disconnect switches and boxes.

Building Plan Requirements

Section 2 amends s 553.79, F.S., to provide that after a local enforcement agency or local government issues a building permit, the local government may not make or require any substantive changes to the building plans unless the changes are required for compliance with the Building Code, the Fire Prevention Code, or local amendments thereto.

If changes are needed after the permit has been issued, the local enforcement agency must identify specific parts of the plan that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit holder in writing.

The bill provides that if the building code administrator or inspector requests another local enforcing agency employee or a person contracted by the local enforcing agency to review the plans and such person identifies specific plan features that do not comply with the Building Code, the building code administrator or inspector must provide this information to the local enforcing agency.

The bill provides that a plans reviewer or inspector who fails to provide the building code administrator with the reasons for making or requiring substantive changes to building plans is subject to discipline against their license.

⁶³ Section 553.79(2), F.S.

⁶⁴ Section 553.79(1), F.S.

The bill provides that a building code administrator who fails to provide a permit applicant or permit holder with the reasons for making or requiring substantive changes to building plans is subject to discipline against his or her license.

Section 3 amends s. 633.208, F.S., to provide that if a county, municipality, or special district concludes that the building plans for a building permit application do not comply with the Florida Fire Prevention Code or Life Safety Code or local amendments thereto, the local fire official must identify the specific parts of the plan that do not comply with the applicable codes, identify the specific chapters and sections upon which the determination is based, and provide the information to the permit applicant.

The bill also provides similar language to section two of the bill, applying to the Florida Fire Prevention code, requiring that after a local government issues a building permit, it may not make or require any substantive changes to the building plans except those required for compliance with the Florida Fire Prevention Code or Life Safety Code, or local amendments thereto.

If the local fire official requires changes to a permit that has already been issued in such a circumstance, and fails to cite specific parts in the plans that need changes to comply with the applicable codes and does not provide the information to the permit applicant, the local fire official is subject to disciplinary action against his or her license.

Section 4 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:

There may be a positive economic impact for Class A air-conditioning contractors, mechanical contractors, and homeowners as they would be able to complete more tasks without needing to refer homeowners to an electrical contractor.

Subsequently, there may be a negative economic impact for electrical contractors who work on the line side of HVAC systems.

Construction industry professionals may benefit from efficiencies provided in the bill pertaining to the administration of building plans and permits.

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: 489.105, 553.79, and 633.208.

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 April 5, 2023:

The CS:

- Allows mechanical contractors to perform the same limited work on the line side as Class A air-conditioning contractors.
- Specifies that the expanded scope of work for Class A air-conditioning and mechanical contractors excludes work on the main breaker.
- Clarifies that if a person contracted by the local enforcing agency or local enforcing agency employee other than a building official, plans examiner, or inspector identifies

a specific issue with building plans, the information must be given to the permit applicant.

- Specifies that a written notice be given to the permit applicant when the plans do not meet the Building Code.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (f) and (i) of subsection (3) of
section 489.105, Florida Statutes, are amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and
is only responsible for, the project contracted for and means,
except as exempted in this part, the person who, for



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11 compensation, undertakes to, submits a bid to, or does himself
12 or herself or by others construct, repair, alter, remodel, add
13 to, demolish, subtract from, or improve any building or
14 structure, including related improvements to real estate, for
15 others or for resale to others; and whose job scope is
16 substantially similar to the job scope described in one of the
17 paragraphs of this subsection. For the purposes of regulation
18 under this part, the term "demolish" applies only to demolition
19 of steel tanks more than 50 feet in height; towers more than 50
20 feet in height; other structures more than 50 feet in height;
21 and all buildings or residences. Contractors are subdivided into
22 two divisions, Division I, consisting of those contractors
23 defined in paragraphs (a)-(c), and Division II, consisting of
24 those contractors defined in paragraphs (d)-(q):

25 (f) "Class A air-conditioning contractor" means a
26 contractor whose services are unlimited in the execution of
27 contracts requiring the experience, knowledge, and skill to
28 install, maintain, repair, fabricate, alter, extend, or design,
29 if not prohibited by law, central air-conditioning,
30 refrigeration, heating, and ventilating systems, including duct
31 work in connection with a complete system if such duct work is
32 performed by the contractor as necessary to complete an air-
33 distribution system, boiler and unfired pressure vessel systems,
34 and all appurtenances, apparatus, or equipment used in
35 connection therewith, and any duct cleaning and equipment
36 sanitizing that requires at least a partial disassembling of the
37 system; to install, maintain, repair, fabricate, alter, extend,
38 or design, if not prohibited by law, piping, insulation of
39 pipes, vessels and ducts, pressure and process piping, and



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pneumatic control piping; to replace, disconnect, or reconnect power wiring, breakers, or fuses on the load side of the dedicated existing electrical circuit disconnect switch; to replace, disconnect, or reconnect power wiring, breakers, or fuses on the line side directly connected to the dedicated existing electrical circuit disconnect switch and not the main breaker; to replace, disconnect, or reconnect air-conditioning disconnect switches and boxes; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring. A Class A air-conditioning contractor may test and evaluate central air-conditioning, refrigeration, heating, and ventilating systems, including duct work; however, a mandatory licensing requirement is not established for the performance of these specific services.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and



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ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, liquefied petroleum gas lines within buildings, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring, breakers, or fuses on the load side of the dedicated existing electrical circuit disconnect switch; to replace, disconnect, or reconnect power wiring, breakers, or fuses on the line side directly connected to the dedicated existing electrical circuit disconnect switch and not the main breaker; to replace, disconnect, or reconnect air-conditioning disconnect switches and boxes; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as potable water



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lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring. A mechanical contractor may test and evaluate central air-conditioning, refrigeration, heating, and ventilating systems, including duct work; however, a mandatory licensing requirement is not established for the performance of these specific services.

Section 2. Subsection (2) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(2)(a)1. Except as provided in subsection (8), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found the plans to be in compliance with the Florida Building Code. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. If the building code administrator, plans examiner, or inspector requests another local enforcing agency employee or a person contracted by the local enforcing agency to review the plans and that employee or person identifies specific plan features that do not comply with the applicable codes, the building code



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127 administrator, plans examiner, or inspector must provide this
128 information to the local enforcing agency. The local enforcing
129 agency shall provide this information to the permit applicant.

130 2. ~~In addition,~~ An enforcing agency may not issue any
131 permit for construction, erection, alteration, modification,
132 repair, or demolition of any building until the appropriate
133 firesafety inspector certified pursuant to s. 633.216 has
134 reviewed the plans and specifications required by the Florida
135 Building Code, or local amendment thereto, for such proposal and
136 found that the plans comply with the Florida Fire Prevention
137 Code and the Life Safety Code. Any building or structure which
138 is not subject to a firesafety code shall not be required to
139 have its plans reviewed by the firesafety inspector.

140 3. Any building or structure that is exempt from the local
141 building permit process may not be required to have its plans
142 reviewed by the local building code administrator. Industrial
143 construction on sites where design, construction, and firesafety
144 are supervised by appropriate design and inspection
145 professionals and which contain adequate in-house fire
146 departments and rescue squads is exempt, subject to local
147 government option, from review of plans and inspections,
148 providing owners certify that applicable codes and standards
149 have been met and supply appropriate approved drawings to local
150 building and firesafety inspectors.

151 4. The enforcing agency shall issue a permit to construct,
152 erect, alter, modify, repair, or demolish any building or
153 structure when the plans and specifications for such proposal
154 comply with the Florida Building Code and the Florida Fire
155 Prevention Code and the Life Safety Code as determined by the



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local authority in accordance with this chapter and chapter 633.

(b) After the local enforcing agency issues a permit, the local enforcing agency may not make or require any substantive changes to the plans or specifications except changes required for compliance with the Florida Building Code, the Florida Fire Prevention Code, or the Life Safety Code, or local amendments thereto. If a local enforcing agency makes or requires substantive changes to the plans or specifications after a permit is issued, the local enforcing agency must identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide the information to the permitholder in writing.

(c)1. A plans examiner or inspector who fails to provide the building code administrator with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. 468.621(1)(i).

2. A building code administrator who fails to provide a permit applicant or permitholder with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. 468.621(1)(i).

Section 3. Subsection (2) of section 633.208, Florida Statutes, is amended to read:

633.208 Minimum firesafety standards.—

(2)(a) Pursuant to subsection (1), each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code as the minimum



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firesafety code required by this section.

(b) If a municipality, county, or special district determines that the building plans for a building permit application do not comply with the Florida Fire Prevention Code or the Life Safety Code, or local amendments thereto, the local fire official must identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the determination is based, and provide this information to the permit applicant.

(c) After a municipality, county, or special district issues a building permit, it may not make or require any substantive changes to the building plans except those required for compliance with the Florida Fire Prevention Code or the Life Safety Code, or local amendments thereto. If a municipality, county, or special district makes or requires substantive changes to building plans after a permit is issued, the local fire official must identify the specific plan features that do not comply with the Florida Fire Prevention Code or the Life Safety Code, or local amendments thereto, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permitholder.

(d) A local fire official, who is also a certified firesafety inspector, who fails to comply with paragraph (b) or paragraph (c) is subject to disciplinary action against his or her certificate under s. 633.216(5)(f).

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

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



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Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to building construction; amending s.
489.105, F.S.; revising definitions; amending s.
553.79, F.S.; requiring local building code
administrators, plans examiners, or inspectors to
provide certain information to the local enforcing
agency under certain circumstances; prohibiting local
enforcing agencies from making or requiring
substantive changes to plans or specifications after a
permit has been issued; providing exceptions;
requiring local enforcing agencies that require
substantive changes to plans or specifications after a
permit has been issued to provide certain information
to the permitholder in writing; providing that a plans
examiner, inspector, or building code administrator is
subject to disciplinary action under certain
circumstances; amending s. 633.208, F.S.; requiring
local fire officials to provide certain information to
a permit applicant if building plans do not comply
with the Florida Fire Prevention Code or the Life
Safety Code; prohibiting a municipality, county, or
special district from making or requiring substantive
changes to building plans after a permit has been
issued; providing exceptions; requiring a local fire
official to provide certain information to the
permitholder if a municipality, county, or special
district requires substantive changes to building



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243 plans after a permit is issued; providing that a local
244 fire official who is a certified firesafety inspector
245 is subject to disciplinary action under certain
246 circumstances; providing an effective date.

By Senator Hooper

21-00481A-23

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A bill to be entitled

An act relating to building construction; amending s. 489.105, F.S.; revising the definition of the term "class A air-conditioning contractor"; amending s. 553.79, F.S.; requiring local building code administrators or inspectors to provide certain information to the local enforcing agency; prohibiting local enforcing agencies from making or requiring substantive changes to plans or specifications after a permit has been issued; providing exceptions; requiring local enforcing agencies that make or require substantive changes to plans or specifications after a permit has been issued to provide certain information to the permitholder; providing that a building code administrator, inspector, or plans reviewer is subject to disciplinary action under certain circumstances; amending s. 633.208, F.S.; requiring local fire officials to provide certain information to a permit applicant if building plans do not comply with the Florida Fire Prevention Code or Life Safety Code; prohibiting a municipality, county, or special district from making or requiring substantive changes to building plans after a permit has been issued; providing exceptions; requiring a local fire official to provide certain information to the permitholder if a municipality, county, or special district makes or requires substantive changes to building plans after a permit is issued; providing that a local fire official who is a certified

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firesafety inspector is subject to disciplinary action
under certain circumstances; providing an effective
date.

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

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

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and
is only responsible for, the project contracted for and means,
except as exempted in this part, the person who, for
compensation, undertakes to, submits a bid to, or does himself
or herself or by others construct, repair, alter, remodel, add
to, demolish, subtract from, or improve any building or
structure, including related improvements to real estate, for
others or for resale to others; and whose job scope is
substantially similar to the job scope described in one of the
paragraphs of this subsection. For the purposes of regulation
under this part, the term "demolish" applies only to demolition
of steel tanks more than 50 feet in height; towers more than 50
feet in height; other structures more than 50 feet in height;
and all buildings or residences. Contractors are subdivided into
two divisions, Division I, consisting of those contractors
defined in paragraphs (a)-(c), and Division II, consisting of
those contractors defined in paragraphs (d)-(q):

(f) "Class A air-conditioning contractor" means a
contractor whose services are unlimited in the execution of
contracts requiring the experience, knowledge, and skill to

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install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring, breakers, or fuses on the line or load side of the dedicated existing electrical circuit disconnect switch; to replace, disconnect, or reconnect air-conditioning disconnect switches and boxes; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring. A Class A air-conditioning contractor

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may test and evaluate central air-conditioning, refrigeration, heating, and ventilating systems, including duct work; however, a mandatory licensing requirement is not established for the performance of these specific services.

Section 2. Subsection (2) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(2) (a)1. Except as provided in subsection (8), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found the plans to be in compliance with the Florida Building Code. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. If the building code administrator or inspector requests another person to review the plans and such person identifies specific plan features that do not comply with the applicable codes, the building code administrator or inspector must provide this information to the local enforcing agency. The local enforcing agency shall provide this information to the permit applicant.

2. ~~In addition,~~ An enforcing agency may not issue any permit for construction, erection, alteration, modification,

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117 repair, or demolition of any building until the appropriate
118 firesafety inspector certified pursuant to s. 633.216 has
119 reviewed the plans and specifications required by the Florida
120 Building Code, or local amendment thereto, for such proposal and
121 found that the plans comply with the Florida Fire Prevention
122 Code and the Life Safety Code. Any building or structure which
123 is not subject to a firesafety code shall not be required to
124 have its plans reviewed by the firesafety inspector.

125 3. Any building or structure that is exempt from the local
126 building permit process may not be required to have its plans
127 reviewed by the local building code administrator. Industrial
128 construction on sites where design, construction, and firesafety
129 are supervised by appropriate design and inspection
130 professionals and which contain adequate in-house fire
131 departments and rescue squads is exempt, subject to local
132 government option, from review of plans and inspections,
133 providing owners certify that applicable codes and standards
134 have been met and supply appropriate approved drawings to local
135 building and firesafety inspectors.

136 4. The enforcing agency shall issue a permit to construct,
137 erect, alter, modify, repair, or demolish any building or
138 structure when the plans and specifications for such proposal
139 comply with the Florida Building Code and the Florida Fire
140 Prevention Code and the Life Safety Code as determined by the
141 local authority in accordance with this chapter and chapter 633.

142 (b) After the local enforcing agency issues a permit, the
143 local enforcing agency may not make or require any substantive
144 changes to the plans or specifications except changes required
145 for compliance with the Florida Building Code, the Florida Fire

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146 Prevention Code, or the Life Safety Code, or local amendments
147 thereto. If a local enforcing agency makes or requires
148 substantive changes to the plans or specifications after a
149 permit is issued, the local enforcing agency must identify the
150 specific plan features that do not comply with the applicable
151 codes, identify the specific code chapters and sections upon
152 which the finding is based, and provide the information to the
153 permitholder.

154 (c)1. A plans reviewer or inspector who fails to provide
155 the building code administrator with the reasons for making or
156 requiring substantive changes to the plans or specifications is
157 subject to disciplinary action against his or her certificate
158 under s. 468.621(1)(i).

159 2. A building code administrator who fails to provide a
160 permit applicant or permitholder with the reasons for making or
161 requiring substantive changes to the plans or specifications is
162 subject to disciplinary action against his or her certificate
163 under s. 468.621(1)(i).

164 Section 3. Subsection (2) of section 633.208, Florida
165 Statutes, is amended to read:

166 633.208 Minimum firesafety standards.—

167 (2)(a) Pursuant to subsection (1), each municipality,
168 county, and special district with firesafety responsibilities
169 shall enforce the Florida Fire Prevention Code as the minimum
170 firesafety code required by this section.

171 (b) If a municipality, county, or special district
172 determines that the building plans for a building permit
173 application do not comply with the Florida Fire Prevention Code
174 or Life Safety Code, or local amendments thereto, the local fire

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official must identify the specific plan features that do not
comply with the applicable codes, identify the specific code
chapters and sections upon which the determination is based, and
provide this information to the permit applicant.

(c) After a municipality, county, or special district
issues a building permit, it may not make or require any
substantive changes to the building plans except those required
for compliance with the Florida Fire Prevention Code or Life
Safety Code, or local amendments thereto. If a municipality,
county, or special district makes or requires substantive
changes to building plans after a permit is issued, the local
fire official must identify the specific plan features that do
not comply with the Florida Fire Prevention Code or Life Safety
Code, or local amendments thereto, identify the specific code
chapters and sections upon which the finding is based, and
provide this information to the permitholder.

(d) A local fire official, who is also a certified
firesafety inspector, who fails to comply with paragraph (b) or
paragraph (c) is subject to disciplinary action against his or
her certificate under s. 633.216(6) (f).

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

The Florida Senate

APPEARANCE RECORD

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

4/5/23

Meeting Date

Community Affairs

Committee

512

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Edward Briggs**

Phone **8509335994**

Address **113 E. College Ave.**

Email **edward@teamrsa.com**

Street

Brandon

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 Refridgeration and Air
Conditoning Contractors Association**

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

MARCH 5, 2023

Meeting Date

Community Affairs

Committee

SB 512

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address FLORIDA Fire Chiefs' Assoc.

Email ray@ffca.org

221 Pinewood Dr

Street

TALLAHASSEE

City

FL

State

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:

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 522

INTRODUCER: Judiciary Committee and Senator Grall

SUBJECT: Removal of Unknown Parties in Possession

DATE: April 3, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bond	Cibula	JU	Fav/CS
2. Hackett	Ryon	CA	Favorable
3. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 522 allows, in civil litigation where possession of real property is an issue, for a single service of process on a defendant or defendants who are unknown to the plaintiff and thus are an unknown party in possession of real property. Current law requires a separate “unknown” summons for each unknown party in possession. The bill also clarifies that a writ of possession may include all unknown parties in possession.

The bill is effective July 1, 2023.

II. Present Situation:

Service of process is the term used to describe the giving of notice of a legal proceeding to a party, making that party subject to the court’s jurisdiction.

Unknown parties may be in possession of real property through a number of means. An unknown party may be a person who believes that he or she is the lawful owner of the property, a tenant who has been defrauded by a landlord who is not the owner, a subtenant, an heir, a licensee, or a squatter. Unknown parties in possession appear in landlord-tenant actions, mortgage foreclosures, suits to quiet title, and ejectment actions.

Constitutional concepts of due process require adequate service of process on such unknown persons prior to hearing and forcible removal by a law enforcement officer. Of course, in an ideal

world the person in possession would be named and given personal service. But, if they were known to the plaintiff they would have been listed, and served, by name. Instead, an “unknown person” who may possibly have a legal right to possession of the property, is listed as defendant and service of process is attempted. The U.S. Supreme Court explained the law on such unknown persons:

“The fundamental requisite of due process of law is the opportunity to be heard.” And the “right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest.” Personal service guarantees actual notice of the pendency of a legal action; it thus presents the ideal circumstance under which to commence legal proceedings against a person, and has traditionally been deemed necessary in actions styled in personam. Nevertheless, certain less rigorous notice procedures have enjoyed substantial acceptance throughout our legal history; in light of this history and the practical obstacles to providing personal service in every instance, we have allowed judicial proceedings to be prosecuted in some situations on the basis of procedures that do not carry with them the same certainty of actual notice that inheres in personal service.

But we have also clearly recognized that the Due Process Clause does prescribe a constitutional minimum: “An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” It is against this standard that we evaluate the procedures employed in this case.¹

Until recently, service upon an unknown party in possession of real property was not addressed in statute. SB 1068, in the 2022 regular session, effective January 1, 2023, included creation of s. 48.184, F.S., codifying a procedure for service of process on the unknown party or parties in possession of real property.² Service is commenced by attempting service in the name of “Unknown Party in Possession.” A separate summons must be issued for each such unknown occupant. The process server is required to make three attempts at service, and if someone actually answers the knock on the door, the process server must ask who they are. Unless the plaintiff discovers the real name of the occupant, the final eviction order, known as a writ of possession, is issued in the name of “Unknown Party in Possession.”

In practice, the language used in the statute may be impractical. Technically, in all statutes, the singular also means the plural.³ However, service of process statutes are strictly construed, and are used and interpreted often by lay persons who are not familiar with this rule of interpretation. One practical problem lies in this paradox: if the occupant or occupants are unknown, how does one provide a separate summons for each, as they are unknown?

¹ *Greene v. Lindsey*, 456 U.S. 444, 449–50 (1982) (internal citations omitted).

² Chapter 2022-190, Laws of Fla.

³ Section 1.01(1), F.S.

III. Effect of Proposed Changes:

CS/SB 522 amends s. 48.184, F.S., to specify that an initial summons in a civil action where possession of real property is an issue is to be issued in the name of the “Unknown Parties in Possession.” Only one such initial summons need be issued. Section 48.184, F.S., is also amended to make clear that the writ of possession may be addressed to the party or parties in possession, and that therefore the deputy sheriff enforcing the writ of possession is to remove all persons and put the property owner in possession of the property.

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:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 48.184 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 Judiciary on March 29, 2023:

The CS added that unknown parties in possession may be included in a writ of possession, and made other technical and conforming changes.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Grall

590-03284-23

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1 A bill to be entitled
2 An act relating to removal of unknown parties in
3 possession; amending s. 48.184, F.S.; revising
4 requirements for service on unknown parties in
5 possession; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 48.184, Florida Statutes, is amended to
10 read:

11 48.184 Service of process for removal of unknown parties in
12 possession.—

13 (1) This section applies only to actions governed by s.
14 82.03, s. 83.21, s. 83.59, or s. 723.061 and only to the extent
15 that such actions seek relief for the removal of an unknown
16 party or parties in possession of real property. The provisions
17 of this section are cumulative to other provisions of law or
18 rules of court about service of process, and all other such
19 provisions are cumulative to this section.

20 (2) A summons must be issued in the name of "Unknown Party
21 or Parties in Possession" when the name of an occupant or
22 occupants of real property is not known to the plaintiff and the
23 property may be or is known to be occupied by an ~~the~~ unknown
24 party ~~is identified in the complaint and summons. A separate~~
25 ~~summons must be issued for each such unknown occupant.~~

26 (3) The plaintiff shall attempt to serve the summons on any
27 unknown occupant of the property described in the summons and
28 complaint. If service on the unknown occupant or occupants is
29 not effectuated on the first attempt, at least two additional

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attempts must be made. The three attempts to obtain service must be made once during business hours, once during nonbusiness hours, and once during a weekend. The process server shall make an inquiry as to the name of the unknown occupant or occupants at the time of service. The return of service must note the name of every ~~the~~ occupant if obtained by the process server or state that the name of the occupant or occupants could not be obtained after inquiry. If the name of an ~~the~~ occupant becomes known to the plaintiff through the return of service or otherwise, without notice or hearing thereon, all subsequent proceedings must be conducted under the true name of such occupant and all prior proceedings are deemed amended accordingly.

(4) Service of process must also be made on unknown occupants by both of the following means:

(a) By attaching a copy of the summons and complaint to a conspicuous location on the premises involved in the proceedings.

(b) Upon issuance of the summons, by the plaintiff providing the clerk of the court with one additional copy of the summons and complaint for each unknown occupant and a prestamped envelope for each unknown occupant addressed to the unknown occupant at the address of the premises involved in the proceedings. The clerk of the court shall immediately mail a copy of the summons and complaint by first-class mail, note the fact of mailing in the docket, and file a certificate in the court file of the fact and date of mailing. The clerk of the court shall charge such fees for such services as provided by law.

(5) Service is effective on the unknown occupant or

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59 occupants in possession on the later of the date that personal
60 service is made, the date of attaching the summons and complaint
61 to a conspicuous location on the premises, or upon mailing by
62 the clerk.

63 (6) The judgment and writ of possession must refer to any
64 unknown occupant in possession by name if the name is shown on
65 the return of service or is otherwise known to the plaintiff. If
66 the name of any unknown occupant in possession is not shown on
67 the return of service or otherwise known to the plaintiff and
68 service has been effectuated as provided in this section, the
69 judgment and writ of possession must refer to the ~~each such~~
70 ~~person as~~ "Unknown Party or Parties in Possession," and the writ
71 of possession must be executed by the sheriff by dispossessing
72 all of the occupants and placing the plaintiff in possession of
73 the property.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 760

INTRODUCER: Transportation Committee and Senator Perry

SUBJECT: Wrecker and Towing-storage Operators

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	Fav/CS
2.	Hackett	Ryon	CA	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 760 makes changes related to wrecker operator systems and towing-storage operator practices, including allowable fees, credit card acceptance, lien requirements, sale of unclaimed vehicles, and record retention. Specifically, the bill:

- Prohibits the Florida Highway Patrol from excluding a wrecker operator from its wrecker operator system based solely on a prior felony conviction, unless such conviction is for a forcible felony.
- Provides that a towing-storage operator may only charge certain fees.
- Removes allowance of a lien by a towing-storage operator for a local government fee.
- Requires towing-storage operators accept credit cards, debit cards, or electronic payment methods.
- Reduces the timeframe in which a towing-storage operator must send the notice of lien, from seven to three business days, and reduces storage charges that may be charged if a lienor fails to provide this notice, also from seven to three days.
- Increases the timeframe an unclaimed vehicle or vessel three years of age or newer may be sold by a lienor, from 50 days to 65 days from the storage date, and requires the notice of lien must not be sent less than 60 days before the sale.
- Adds a 60-day time limit for a towing company to file a claim on a bond posted by the owner or lienholder for a towed vehicle or vessel to be released.
- Increases the timeframe for the public notice requirement related to sale on an unclaimed vehicle by a towing-storage operator, from ten days to 30 days before the sale.

- Clarifies that the third-party vendor must “substantially” comply with the notification to enforce a lien.
- Prohibits a towing-storage operator from releasing a towed rental vehicle to a renter unless the rental car company that owns the vehicle appoints the renter as an agent of the company.
- Requires a towing-storage operator to make a towed vehicle available for inspection by a non-rental owner, lienholder, insurance company representative, or their agents during regular business hours within three days after receiving a written request to inspect.
- Requires a towing-storage operator accept electronic titles as well as paper titles as evidence of a person’s interest in a vehicle or vessel.
- Requires a towing-storage operator retain all records of vehicles recovered, towed, or stored; all notice publications and certified mailings; and fees imposed under s 713.78, F.S.
- Designates s. 713.78, F.S., as the exclusive remedy for the placement or foreclosure of a storage lien placed on a vehicle or vessel.

The bill does not appear to have a fiscal impact on state or local government.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida Highway Patrol Wrecker Operator System

Section 321.051, F.S. authorizes the Florida Highway Patrol (FHP) to establish a wrecker operator system using qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles from a crash scene or for removal and storage of abandoned vehicles. All reputable wrecker operators shall be eligible for use in the system provided their equipment and drivers meet recognized safety qualifications and mechanical standards set by FHP rules. The FHP has established rules for wrecker qualifications that apply only for those wreckers who participate in FHP’s wrecker operator system.¹

Rule 15B-9.007, F.A.C., provides FHP grounds to deny inclusion of, remove, or suspend a wrecker operator from FHP’s wrecker rotation list. The rule includes removal from the list for “lack of reputability of a wrecker operator,” which means, “FHP cannot trust the wrecker operator to safeguard the welfare and property of the public.” This includes, but is not limited to:

- Conviction of any felony without restoration of the person’s civil rights; and
- Conviction of any felony or first degree misdemeanor directly related to the business of operating a wrecker, regardless of whether civil rights have been restored.

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites. After the establishment of such contracts, the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a

¹ Chapter 15B-9, F.A.C.

combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”³

Counties must establish maximum rates for the towing of vehicles or vessels removed from private property, as well as the towing and storage of vehicles or vessels removed from the scene of an accident or from where the vehicle or vessel is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.⁴

Towing and Wrecker Companies

Towing and wrecker companies are licensed and regulated by county ordinances in the counties in which they operate.⁵ These ordinances may establish license application procedures and fees, maximum towing rates, towing authorization requirements, and penalties for ordinance violations, among other things.⁶

State law does not require towing and wrecker companies to accept specific forms of payment. However, 11 states mandate towing companies accept credit cards as a form of payment.⁷

Liens for Recovering, Towing, or Storing Vehicles or Vessels

Liens are claims against property that evidence a debt, obligation, or duty. Liens can be created by judgment, equity, agreement, or statute. The rights and duties of a lienholder depend on the type of lien created and are generally set out in the order, agreement, or statute creating the lien. Liens on a vehicle or vessel for towing and storage charges are created in statute.⁸

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee, an administrative fee or charge imposed by a county or municipality, and a storage fee (for a vehicle or vessel stored for six hours or more) if the vehicle or vessel is removed upon instructions from:

² Section 323.002(1)(c), F.S.

³ Section 323.002(1)(a)-(b), F.S.

⁴ Sections 125.0103(1)(c) and 166.043(1)(c), F.S. Section 715.07, F.S., relates to the towing and storage of vehicles or vessels illegally parked on *private* property without the consent of the registered owner or other legally authorized person in control of the vehicle.

⁵ See, e.g., Hillsborough County, *Towing Companies*, available at <https://www.hillsboroughcounty.org/businesses/entrepreneur-and-small-business-support/business-licensing/towing-companies> ; Orange County, *Towing Information*, available at <http://www.orangecountyfl.net/traffictransportation/towingandparkinginformation/towinginformation.aspx#.XHdwbVxKiUk> (last visited March 31, 2023).

⁶ See, e.g., Miami-Dade County, *Towing License*, available at https://www8.miamidade.gov/global/license.page?Mduid_license=lic1495741572333567 (last visited March 31, 2023).

⁷ Van Cleef, Jacob and Murray, Teresa, *Towing Kickbacks: Only one-third of states ban incentives to property owners, law enforcement* (April 26, 2022), PIRG, available at <https://pirg.org/resources/towing-kickbacks-only-one-third-states-ban-incentives-property-owners-law-enforcement/> (last visited March 31, 2023).

⁸ Section 713.78, F.S.

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner or lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.⁹

A wrecker operator who claims a lien is required to give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle, and all persons claiming a lien, as disclosed by the records in the Department of Highway Safety and Motor Vehicles (DHSMV) or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check.

A towing-storage operator currently must use a third-party service¹⁰ approved by the DHSMV to transmit the notice (as well as any other notices required under s. 713.78, F.S.). If there is no approved service, the operator may mail the notice and provide evidence of compliance upon application for a certificate of title.¹¹ The notice of lien must be sent by certified mail within seven business days after the date of storage of the vehicle or vessel.¹²

A lienor or its agent may charge an administrative fee¹³ to the registered owner or other person claiming a lien against the vehicle or vessel for a release from the lien, not to exceed \$250.¹⁴

If a law enforcement agency authorized a towing-storage operator to remove a vehicle or vessel, or a towing-storage operator notifies a law enforcement agency of possession of a towed vehicle or vessel,¹⁵ the law enforcement agency where the vehicle or vessel is stored must contact the DHSMV, or the appropriate agency in the state of registration, if known, within 24 hours and provide a full description of the vehicle or vessel.¹⁶ The DHSMV, or appropriate state agency,

⁹ Section 713.78(2), F.S.

¹⁰ The term “third-party service” is defined in s. 713.78(16)(a), F.S., to mean a qualified business entity that, upon a request submitted through a website by an operator: 1) Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle; 2) Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the DHSMV; 3) Electronically generates the notices required of a towing-storage operator through the website; 4) Prints and sends the notices to each owner, lienholder, and insurer of record by certified mail; 5) Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator; and 6) Electronically reports to the DHSMV via an electronic data exchange process certain information related to the towing and storage notice.

¹¹ Section 713.78(16), F.S.

¹² Section 713.78(4)(a) and (c), F.S.

¹³ Defined to mean a lien fee or any fee imposed by the lienor or the lienor’s agent for administrative costs added to the amount due for towing and storing the vehicle or vessel. Section 713.78(15)(a), F.S.

¹⁴ *Id.*

¹⁵ Within 30 minutes after completion of a tow or removal from private property without the consent of the registered owner or other legally authorized person, a towing-storage operator must notify the municipal police department, or, in an unincorporated area, the sheriff, of the tow or removal, the storage site, the time of the tow or removal, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. S. 715.07(2)(a)2., F.S.

¹⁶ Section 713.78(4)(b), F.S.

must search its records to determine the identity of the owner, the company insuring the vehicle or vessel, and any lienholders and provide the information to the law enforcement agency within 72 hours.¹⁷ The towing-storage operator must obtain such information from the law enforcement agency within 5 days after the date of storage and provide the required notice.¹⁸

If a towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder, the operator must, after seven business days after the initial tow or storage, notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail or acknowledged hand delivery, that the operator has been unable to locate the name and address, a physical search of the vehicle or vessel has revealed no ownership information, and a “good faith effort”¹⁹ has been made, including a records check of the DHSMV database and of the National Motor Vehicle Title Information System.²⁰

Failure of the towing-storage operator to make a good faith effort to identify the owner or lienholder of the vehicle or vessel precludes the towing-storage operator from assessing any storage charges.²¹

Inspection of Vehicles and Vessels and Release of Property

Towing and storage operators must permit vehicle or vessel owners, lienholders, insurance company representatives, or agents to inspect a towed vehicle or vessel and release to that person the vehicle, vessel, or all personal property that was not affixed when the vehicle or vessel came into the custody of the towing or storage operator.²² The authorization of agency must be documented in an original writing acknowledged by the owner before a notary public or someone authorized to administer oaths.

Whoever violates the inspection and release provisions contained in s. 713.78(10), F.S., is guilty of a third degree felony²³ which is punishable by a fine that does not exceed \$5,000²⁴ and imprisonment that does not exceed five years.²⁵

Bond to Release Vehicle or Vessel

The owner or lienholder of a vehicle or vessel subject to a lien for towing and storage charges may, within ten days after learning of the location of the vehicle or vessel, file a complaint in the county court of the county where the vehicle or vessel is stored to determine whether the vehicle

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 713.78(5)(e), F.S., defines the term to mean that the operator has performed a list of “checks” of items such as searching specified databases and information systems; looking for any type of tag, tag record, temporary or regular tag on the vehicle or vessel; or looking for the vehicle identification number or the vessel registration number.

²⁰ “The National Motor Vehicle Title Information System (NMVTIS) is a system that allows the titling agency to instantly and reliably verify the information on the paper title with the electronic data from the state that issued the title.” See AAMVA, *National Motor Vehicle Title Information System (NMVTIS)*, available at <https://www.aamva.org/technology/systems/vehicle-systems/nmvtis#> (last visited March 31, 2023).

²¹ Section 713.78(9), F.S.

²² Section 713.78(10), F.S.

²³ Section 713.78(12)(b), F.S.

²⁴ Section 775.083(1)(c), F.S.

²⁵ Section 775.082(3)(e), F.S. Additional penalties may apply for certain habitual felony offenders under s. 775.084, F.S.

or vessel was wrongfully taken or withheld.²⁶ The vehicle or vessel must be released if, at any time before sale of the vehicle or vessel, the owner or lienholder posts with the court cash or a surety bond or other adequate security to ensure the payment of charges owed for towing and storage should the owner or lienholder not prevail in litigation.²⁷ After posting bond, the clerk must issue a notice of the bond to the towing-storage operator and direct the towing-storage operator to release the vehicle or vessel.²⁸

Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. The final order provides immediate payment in full of recovery, towing, and storage fees by the responsible party.²⁹

Sale of Vehicles and Vessels and Required Notice

A towing-storage operator may sell at public sale a stored vehicle or vessel that remains unclaimed, or for which charges for recovery, towing, or storage remain unpaid, after:

- 35 days from the date of storage if the vehicle or vessel is more than 3 years old; or
- 50 days from the date of storage if the vehicle or vessel is 3 years old or less.³⁰

If the date of the sale was not included in the notice of claim of lien, the towing-storage operator must send a notice of sale by certified mail, no less than 30 days before the date of the sale, to:

- The person in whose name the vehicle or vessel is registered; and
- All persons claiming a lien on the vehicle or vessel as shown in the records of the DHSMV or any corresponding agency in any other state in which the vehicle is identified as being titled by a records check of the NMVTIS or an equivalent commercially available system.³¹

The towing-storage operator must also publish notice of the time and place of the sale, at least ten days before the date of the sale, in a newspaper of general circulation in the county where the sale will occur.³²

Proceeds of Sale

If the owner or lienholder of the vehicle or vessel sold is absent, the proceeds of the sale of the vehicle or vessel, minus any reasonable towing and storage charges owed and costs of the sale, must be deposited with the clerk of the court for the county where the sale occurred.³³ The clerk must hold the proceeds for the benefit of the owner or lienholder whose interest in the vehicle or vessel was destroyed by the sale.³⁴

²⁶ Section 713.78(5)(a), F.S.

²⁷ Section 713.78(5)(b), F.S.

²⁸ *Id.*

²⁹ Section 713.78(5)(c), F.S.

³⁰ Section 713.78(6), F.S.

³¹ *Id.*

³² Section 713.78(6), F.S.

³³ *Id.*

³⁴ *Id.*

III. Effect of Proposed Changes:

The bill defines a “towing-storage operator” as a person who regularly engages in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier. The bill makes numerous changes relating to towing-storage operators.

Florida Highway Patrol Wrecker Operator System

The bill amends s. 322.051, F.S., to prohibit the Florida Highway Patrol (FHP) from excluding a wrecker operator from FHP’s wrecker operator system or fail to designate him or her as an authorized wrecker operator based solely on a prior felony conviction, unless such conviction was for a forcible felony³⁵.

Towing-Storage Operator Fees and Payment

The bill provides towing-storage operators may charge only the following fees for, or incidental to, the recovery, removal, or storage of a vehicle or vessel:

- A reasonable hazardous waste fee.
- A reasonable fee for a service authorized by county of municipal ordinance in which the service is performed.
- A reasonable fee for service authorized by rule of the DHSMV.
- A lien release administrative fee as set forth in 713.78(15)(a), F.S.
- A reasonable fee or charge that is imposed upon the owner of the vehicle or vessel by a county or local government.

The bill also requires towing-storage operators accept credit cards, debits cards, or electronic payment methods.

Liens for Recovering, Towing, or Storing Vehicles or Vessels

The bill amends various parts of s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles or vessels, and designates this section as the exclusive remedy for the placement or foreclosure of a storage lien placed on a vehicle or vessel. The bill prohibits ss. 83.09, 83.805, 677.210, F.S., related to placing and foreclosing a lien by a landlord, self-storage facility, or warehouse, being used for placing a lien on a vehicle or vessel.

The bill also:

- Removes the ability of a towing-storage operator to impose a lien for a local government fee. A lien may only be imposed for a reasonable recovery fee, reasonable towing fee, and a reasonable storage fee (unless the vehicle was stored for fewer than six hours).
- Reduces the notification timeframe in which a towing-storage operator must send the notice of lien to the registered owner, the insurance company insuring the vehicle, and all other lienholders, from seven business days to three business days.

³⁵ A “forcible felony” is defined as “treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.” Section 776.08, F.S.

- Removes notification requirements in s. 713.78(4)(b), F.S., to determine the owner, insurance company insuring, or any lienholders on the vehicle or vessel. This requirement may no longer be needed due to required use of the third-party service in s. 713.78(16), F.S.
- Reduces the timeframe, within three days instead of seven business days, for a towing-storage operator to notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail, if the towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder. Removes that this can be done through acknowledged hand delivery.
- Provides that failure to make good faith efforts to *substantially* comply with the requirements of this section or to provide notice claiming a lien precludes the imposition of storage charges against the vehicle or vessel for more than three days of storage (formerly seven days of storage fees for failure to provide notice of a lien).

Inspection of Vehicles and Vessels and Release of Property

The bill clarifies that rental car owners, lienholders, insurance company representatives, or their agents are authorized to inspect a towed vehicle and release to that person the vehicle or all personal property that was not affixed when the vehicle came into the custody of the towing-storage operator. The bill prohibits a towing company to release a vehicle owned by a rental car company to the renter of the vehicle unless the renter is an agent of the rental car company. Such appointment must be evidenced in an original writing acknowledged by the rental car company before a notary public or other person empowered by law to administer oaths.

For non-rental vehicle or vessel owners, lienholders, insurance company representatives, or their agents, the bill adds that a towing-storage operator must make the vehicle or vessel available for inspection during regular business hours within three business days after receiving a written request to inspect the vehicle or vessel. Additionally, a towing-storage operator must accept a copy of an electronic or a paper title as evidence of a person's interest in a vehicle or vessel.

Bond to Release Vehicle or Vessel

The bill amends ss. 713.78 and 559.917, F.S., to add towing-storage operators to the process currently used for posting a bond to release a possessory lien claimed by a motor vehicle repair shop. This process is similar to that already in statute for a bond to release vehicle or vessels, but adds that the lienor has 60 days to file suit to recover the bond. The prevailing party in that action may be entitled to damage plus court costs and reasonable attorney fees. If the lienor fails to file suit within 60 days after the posting of such bond, the bond will be discharged by the clerk of court.

This change also allows a person to initiate judicial proceedings against a repair towing-storage operator that does not release or return the vehicle after receiving notice of the bond and a directive to release the vehicle.

Sale of Vehicles and Vessels and Required Notice

The bill increases the timeframe an unclaimed vehicle or vessel 3 years of age or newer may be sold by a lienor, from 50 days to 65 days. For a vehicle 3 years of age or newer, the notice of lien must be sent no less than 60 days before the sale of the vehicle or vessel. The bill also increases

the timeframe required for publishing notice of the time and place of the sale in a newspaper of general circulation in the county where the sale will occur, from at least 10 days to 30 days before the sale.

Towing-Storage Operators Record Retention Requirements

The bill requires towing-storage operators to retain records for all vehicles and vessels recovered, towed, stored, or released for three years. Such records must include:

- All notice publications and certified mailings;
- The purchase price of unclaimed vehicles or vessels sold;
- The names and addresses of unclaimed vehicle or vessel purchasers;
- The names and addresses of persons to which vehicles or vessels were released; and
- All fees imposed under s. 713.78, F.S.

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:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate negative fiscal impact on towing-storage operators due to the increased requirements and limitation on fees that can be charged.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 321.051, 713.78, 559.917, 83.19, 83.805, 677.210, and 715.07.

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

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

CS by Transportation on March 20, 2023:

The CS makes several changes to the bill. Specifically, the CS:

- Amends the type of fees provided in the bill that are authorized to be charged by a towing-storage operator;
- Requires towing-storage operators to also accept debit cards or electronic payment methods;
- Clarifies that a towing-storage operator must allow a rental vehicle owner to inspect and must release personal property to the owner of the towed rental vehicle in the towing-storage operator's possession;
- Prohibits a towing company from releasing a towed rental vehicle to the vehicle's renter unless the rental company appoints the renter as the company's agent and provides required evidence;
- Requires a towing-storage operator to make a towed vehicle or vessel available to a non-rental owner for inspection during regular business hours within three business days after receiving a written request to inspect the vehicle or vessel;
- Requires towing-storage operators to accept electronic titles as well as paper titles as evidence of a person's interest in a vehicle or vessel; and
- Removes changes made by the bill to the administrative fee authorized in s. 713.78, F.S.

B. Amendments:

None.

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

By the Committee on Transportation; and Senator Perry

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A bill to be entitled

An act relating to wrecker and towing-storage operators; amending s. 321.051, F.S.; prohibiting the Division of the Florida Highway Patrol from excluding wrecker operators from the wrecker operator system or from being designated as an authorized wrecker operator based solely on a prior felony conviction; providing an exception; amending s. 713.78, F.S.; defining the term "towing-storage operator"; authorizing a towing-storage operator to charge certain fees; providing that a lien can only be placed on specified fees; requiring a towing-storage operator to accept specified payment methods; removing certain requirements for law enforcement agencies and the Department of Highway Safety and Motor Vehicles; revising the timeframe in which certain unclaimed vehicles or vessels may be sold; specifying that a vehicle is considered a motor vehicle for certain purposes; revising the timeframe in which a notice of lien must be sent for certain unclaimed vehicles or vessels; revising the timeframe in which a towing-storage operator must provide certain notice to the public agency of jurisdiction; requiring that such notice be sent by certified mail; requiring the posting of a bond or other security be done in a specified manner; revising the timeframe in which public notice of the sale of a vehicle or vessel must be published; restricting the imposition of storage charges under certain circumstances; revising

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provisions regarding permission to inspect vehicle or vessel; providing means by which a rental car company may appoint its agent; providing when a vehicle must be made available for inspection; requiring a towing-storage operator to maintain certain records for a specified period of time; providing the exclusive remedy for certain liens; conforming cross-references; making technical changes; amending s. 559.917, F.S.; providing procedures and requirements for acquiring a bond to release certain liens; providing definitions; amending ss. 83.19, 83.805, 677.210, and 715.07 F.S.; conforming provisions to changes made by the act; amending s. 715.07, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsection (5) is added to section 321.051, Florida Statutes, to read:

321.051 Florida Highway Patrol wrecker operator system; penalties for operation outside of system.—

(5) The Division of the Florida Highway Patrol may not exclude a wrecker operator from the wrecker operator system or fail to designate him or her as an authorized wrecker operator based solely on a prior felony conviction, unless such conviction is for a forcible felony as defined in s. 776.08.

Section 2. Subsections (1), (2), (4), (5), (6), (9), and (10), paragraph (a) of subsection (11), paragraph (a) of subsection (12), and paragraphs (a), (b), and (d) of subsection

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(13) of section 713.78, Florida Statutes, are amended, and subsections (18) and (19) are added to that section, to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

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

(d) ~~(a)~~ "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(e) ~~(b)~~ "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02.

(c) "Towing-storage operator" means a person who regularly engages in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier.

(f) ~~(e)~~ "Wrecker" means any truck or other vehicle that ~~which~~ is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and ~~which~~ is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(b) ~~(d)~~ "National Motor Vehicle Title Information System" means the federally authorized electronic National Motor Vehicle Title Information System.

(a) ~~(e)~~ "Equivalent commercially available system" means a service that charges a fee to provide vehicle information and that at a minimum maintains records from those states participating in data sharing with the National Motor Vehicle Title Information System.

(2) (a) ~~Whenever~~ A towing-storage operator may charge only the following fees for, or incidental to, the recovery, removal,

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or storage of a vehicle or vessel:

1. A reasonable hazardous waste fee.

2. A reasonable fee for a service authorized by ordinance of the county or municipality in which the service is performed.

3. A reasonable fee for service authorized by rule of the Department of Highway Safety and Motor Vehicles.

4. A lien release administrative fee as set forth in paragraph (15) (a).

5. A reasonable administrative fee or charge imposed upon the owner of a vehicle or vessel by a county or municipality.

(b) If a towing-storage operator ~~person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier~~ recovers, removes, or stores a vehicle or vessel upon instructions from:

1. ~~(a)~~ The owner thereof;

2. ~~(b)~~ The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;

3. ~~(c)~~ The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or

4. ~~(d)~~ Any law enforcement agency,

she or he has ~~shall have~~ a lien on the vehicle or vessel for a reasonable recovery fee, a reasonable towing fee, ~~for a reasonable administrative fee or charge imposed by a county or municipality,~~ and ~~for~~ a reasonable storage fee; except that a

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storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours.

(c) A towing-storage operator must accept credit cards, debit cards, or electronic payment methods.

(4) (a) A towing-storage operator ~~person regularly engaged in the business of recovering, towing, or storing vehicles or vessels~~ who comes into possession of a vehicle or vessel pursuant to paragraph (2) (b) ~~subsection (2)~~, and who claims a lien for recovery, towing, or storage services, must ~~shall~~ give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

~~(b) Whenever a law enforcement agency authorizes the removal of a vehicle or vessel or whenever a towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the~~

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~~vehicle or vessel, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding s. 627.736.~~

~~(b)(c)~~ The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all other persons claiming a lien thereon within 3 ~~7~~ business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. ~~However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel.~~ The notice must state:

1. If the claim of lien is for a vehicle, the last 8 digits of the vehicle identification number of the vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest in ~~therein~~ or lien on the vehicle or vessel ~~thereon~~.

2. The name, physical address, and telephone number of the

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lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in paragraph (2) (b) ~~subsection (2)~~ is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 65 ~~50~~ days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(c) ~~(d)~~ The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of a the vehicle or vessel that is more than 3 years of age or less than 60 days before the sale of a vehicle

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or vessel that is 3 years of age or less.

(d)~~(e)~~ If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 3 ~~7~~ business days, excluding Saturday and Sunday, after the initial tow or storage, notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail ~~or acknowledged hand delivery~~ that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. For purposes of this paragraph and subsection (9), the term "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and for title:

1. A check of the department's database for the owner and any lienholder.

2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.

3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement

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officer.

5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.

6. If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.

7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

8. A check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

9. A check of the vehicle for a vehicle identification number.

10. A check of the vessel for a vessel registration number.

11. A check of the vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5) (a) The owner of a vehicle or vessel removed pursuant to paragraph (2) (b) ~~subsection (2)~~, or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored to determine whether

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her or his property was wrongfully taken or withheld.

(b) Regardless of whether a complaint is filed pursuant to paragraph (a), ~~At~~ any time before the sale of the vehicle or vessel, an owner or lienholder may have her or his vehicle or vessel released upon payment of the applicable fee in s. 28.24 and posting with the court a cash or surety bond, or other adequate security, in accordance with s. 559.917 equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. A vehicle under this paragraph is considered a motor vehicle for the purposes of s. 559.917 ~~Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.~~

(c) Upon determining the respective rights of the parties, the court may award damages, attorney ~~attorney's~~ fees, and costs in favor of the prevailing party. In the event the lienor prevails ~~In any event,~~ the final order must ~~shall~~ provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) A vehicle or vessel that is stored pursuant to paragraph (2)(b) ~~subsection (2)~~ and remains unclaimed, or for

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291 which reasonable charges for recovery, towing, or storing remain
292 unpaid, and any contents not released pursuant to subsection
293 (10), may be sold by the owner or operator of the storage space
294 for such towing or storage charge 35 days after the vehicle or
295 vessel is stored by the lienor if the vehicle or vessel is more
296 than 3 years of age or 65 ~~50~~ days after the vehicle or vessel is
297 stored by the lienor if the vehicle or vessel is 3 years of age
298 or less. The sale must ~~shall~~ be at public sale for cash. If the
299 date of the sale was not included in the notice required in
300 subsection (4), notice of the sale must ~~shall~~ be given to the
301 person in whose name the vehicle or vessel is registered and to
302 all persons claiming a lien on the vehicle or vessel as shown on
303 the records of the Department of Highway Safety and Motor
304 Vehicles or of any corresponding agency in any other state in
305 which the vehicle is identified through a records check of the
306 National Motor Vehicle Title Information System or an equivalent
307 commercially available system as being titled. Notice of the
308 sale must be sent by certified mail to the owner of the vehicle
309 or vessel and the person having the recorded lien on the vehicle
310 or vessel at the address shown on the records of the registering
311 agency at least 30 days before the sale of the vehicle or
312 vessel. ~~The notice must have clearly identified and printed, if~~
313 ~~the claim of lien is for a motor vehicle,~~ The last 8 digits of
314 the vehicle identification number of the ~~motor~~ vehicle subject
315 to the lien, or, if the claim of lien is for a vessel, the hull
316 identification number of the vessel subject to the lien, must be
317 clearly identified and printed in the delivery address box and
318 on the outside of the envelope sent to the registered owner and
319 all other persons claiming an interest in ~~therein~~ or lien on the

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320 ~~vehicle or vessel thereon. The notice must be sent to the owner~~
321 ~~of the vehicle or vessel and the person having the recorded lien~~
322 ~~on the vehicle or vessel at the address shown on the records of~~
323 ~~the registering agency at least 30 days before the sale of the~~
324 ~~vehicle or vessel.~~ The notice must state the name, physical
325 address, and telephone number of the lienor, and the vehicle
326 identification number if the claim of lien is for a vehicle or
327 the hull identification number if the claim of lien is for a
328 vessel, all of which must also appear in the return address
329 section on the outside of the envelope containing the notice of
330 sale. After diligent search and inquiry, if the name and address
331 of the registered owner or the owner of the recorded lien cannot
332 be ascertained, the requirements of notice by mail may be
333 dispensed with. In addition to the notice by mail, public notice
334 of the time and place of sale must ~~shall~~ be made by publishing a
335 notice thereof one time, at least 30 ~~10~~ days before the date of
336 the sale, in a newspaper of general circulation in the county in
337 which the sale is to be held. The proceeds of the sale, after
338 payment of reasonable towing and storage charges, and costs of
339 the sale, in that order of priority, must ~~shall~~ be deposited
340 with the clerk of the circuit court for the county if the owner
341 or lienholder is absent, and the clerk shall hold such proceeds
342 subject to the claim of the owner or lienholder legally entitled
343 thereto. The clerk is ~~shall be~~ entitled to receive 5 percent of
344 such proceeds for the care and disbursement thereof. ~~The~~
345 ~~certificate of title issued under this law shall be discharged~~
346 ~~of All liens~~ Upon compliance by the towing-storage operator with
347 this section, all liens on the certificate of title issued under
348 this section must be discharged unless otherwise provided by

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349 court order. The owner or lienholder may file a complaint after
350 the vehicle or vessel has been sold in the county court of the
351 county in which it is stored. Upon determining the respective
352 rights of the parties, the court may award damages, attorney
353 fees, and costs in favor of the prevailing party.

354 (9) Failure to make good faith efforts to substantially
355 comply with the ~~notice~~ requirements of this section or precludes
356 ~~the imposition of any storage charges against the vehicle or~~
357 ~~vessel. If a lienor fails to provide notice to a person claiming~~
358 ~~a lien on a vehicle or vessel in accordance with subsection (4),~~
359 precludes the imposition of storage charges against the vehicle
360 or vessel the lienor may not charge the person for more than 3 7
361 days of storage, but such failure does not affect charges made
362 for towing the vehicle or vessel or the priority of liens on the
363 vehicle or vessel.

364 (10) (a) A towing-storage operator ~~Persons who provide~~
365 ~~services pursuant to this section~~ shall permit rental car
366 ~~vehicle or vessel~~ owners, lienholders, insurance company
367 representatives, or their agents, which agency is evidenced by
368 an original writing acknowledged by the owner before a notary
369 public or other person empowered by law to administer oaths, to
370 inspect the towed vehicle ~~or vessel~~ and shall release to the
371 owner, lienholder, or agent the vehicle, ~~vessel~~, or all personal
372 property not affixed to the vehicle ~~or vessel~~ which was in the
373 vehicle ~~or vessel~~ at the time the vehicle ~~or vessel~~ came into
374 the custody of the person providing such services. For the
375 purposes of this paragraph, a rental car agreement does not
376 constitute evidence that the person who rented a vehicle is an
377 agent of the owner of the vehicle, and a towing company may not

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378 release a vehicle owned by a rental car company to the person
379 who rented the vehicle unless the rental car company appoints
380 the person who rented the vehicle as its agent. Such appointment
381 must be evidenced in an original writing acknowledged by the
382 rental car company before a notary public or other person
383 empowered by law to administer oaths and must authorize the
384 person to inspect and redeem the towed vehicle.

385 (b) A towing-storage operator shall permit non-rental
386 vehicle or vessel owners, lienholders, insurance company
387 representatives, or their agents to inspect the towed vehicle or
388 vessel. The towing-storage operator must make the vehicle or
389 vessel available for inspection during regular business hours
390 within 3 business days after receiving a written request to
391 inspect the vehicle or vessel and shall release to the owner,
392 lienholder, or agent the vehicle, vessel, or all personal
393 property not affixed to the vehicle or vessel which was in the
394 vehicle or vessel at the time the vehicle or vessel came into
395 the custody of the towing-storage operator. A towing-storage
396 operator must accept a copy of either an electronic title or a
397 paper title as evidence of a person's interest in a vehicle or
398 vessel.

399 (11) (a) A towing-storage operator ~~Any person regularly~~
400 ~~engaged in the business of recovering, towing, or storing~~
401 ~~vehicles or vessels~~ who comes into possession of a vehicle or
402 vessel pursuant to paragraph (2) (b) ~~subsection (2)~~ and who has
403 complied with ~~the provisions of~~ subsections (4) ~~(3)~~ and (6),
404 when such vehicle or vessel is to be sold for purposes of being
405 dismantled, destroyed, or changed in such manner that it is not
406 the ~~motor~~ vehicle or vessel described in the certificate of

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407 title, must ~~shall~~ report the vehicle to the National Motor
408 Vehicle Title Information System and apply to the Department of
409 Highway Safety and Motor Vehicles for a certificate of
410 destruction. A certificate of destruction, which authorizes the
411 dismantling or destruction of the vehicle or vessel described
412 therein, is ~~shall be~~ reassignable a maximum of two times before
413 dismantling or destruction of the vehicle is ~~shall be~~ required,
414 and must ~~shall~~ accompany the vehicle or vessel for which it is
415 issued, when such vehicle or vessel is sold for such purposes,
416 in lieu of a certificate of title. The application for a
417 certificate of destruction must include proof of reporting to
418 the National Motor Vehicle Title Information System and an
419 affidavit from the applicant that she or he ~~it~~ has complied with
420 all applicable requirements of this section and, if the vehicle
421 or vessel is not registered in this state or any other state, by
422 a statement from a law enforcement officer that the vehicle or
423 vessel is not reported stolen, and must ~~shall~~ be accompanied by
424 such documentation as may be required by the department.

425 (12) (a) Any person who violates paragraph (2) (b) ~~any~~
426 ~~provision of subsection (1), subsection (2),~~ subsection (4),
427 subsection (5), subsection (6), or subsection (7) is guilty of a
428 misdemeanor of the first degree, punishable as provided in s.
429 775.082 or s. 775.083.

430 (13) (a) Upon receipt by the Department of Highway Safety
431 and Motor Vehicles of written notice from a wrecker operator who
432 claims a wrecker operator's lien under subparagraph (2) (b) 4.
433 ~~paragraph (2) (d)~~ for recovery, towing, or storage of an
434 abandoned vehicle or vessel upon instructions from any law
435 enforcement agency, for which a certificate of destruction has

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436 been issued under subsection (11) and the vehicle has been
437 reported to the National Motor Vehicle Title Information System,
438 the department shall place the name of the registered owner of
439 that vehicle or vessel on the list of those persons who may not
440 be issued a license plate or revalidation sticker for any motor
441 vehicle under s. 320.03(8). If the vehicle or vessel is owned
442 jointly by more than one person, the name of each registered
443 owner must ~~shall~~ be placed on the list. The notice of wrecker
444 operator's lien must ~~shall~~ be submitted on forms provided by the
445 department and, ~~which must~~ include:

446 1. The name, address, and telephone number of the wrecker
447 operator.

448 2. The name of the registered owner of the vehicle or
449 vessel and the address to which the wrecker operator provided
450 notice of the lien to the registered owner under subsection (4).

451 3. A general description of the vehicle or vessel,
452 including its color, make, model, body style, and year.

453 4. The vehicle identification number (VIN); registration
454 license plate number, state, and year; validation decal number,
455 state, and year; vessel registration number; hull identification
456 number; or other identification number, as applicable.

457 5. The name of the person or the corresponding law
458 enforcement agency that requested that the vehicle or vessel be
459 recovered, towed, or stored.

460 6. The amount of the wrecker operator's lien, not to exceed
461 the amount allowed by paragraph (b).

462 (b) For purposes of this subsection only, the amount of the
463 wrecker operator's lien for which the department will prevent
464 issuance of a license plate or revalidation sticker may not

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465 exceed the amount of the charges for recovery, towing, and
466 storage of the vehicle or vessel for 7 days. These charges may
467 not exceed the maximum rates imposed by the ordinances of the
468 respective county or municipality under ss. 125.0103(1)(c) and
469 166.043(1)(c). This paragraph does not limit the amount of a
470 wrecker operator's lien claimed under paragraph (2)(b)
471 ~~subsection (2)~~ or prevent a wrecker operator from seeking civil
472 remedies for enforcement of the entire amount of the lien, but
473 limits only that portion of the lien for which the department
474 will prevent issuance of a license plate or revalidation
475 sticker.

476 (d) Upon discharge of the amount of the wrecker operator's
477 lien allowed by paragraph (b), the wrecker operator must issue a
478 certificate of discharged wrecker operator's lien on forms
479 provided by the department to each registered owner of the
480 vehicle or vessel attesting that the amount of the wrecker
481 operator's lien allowed by paragraph (b) has been discharged.
482 Upon presentation of the certificate of discharged wrecker
483 operator's lien by the registered owner, the department must
484 ~~shall~~ immediately remove the registered owner's name from the
485 list of those persons who may not be issued a license plate or
486 revalidation sticker for any motor vehicle under s. 320.03(8),
487 thereby allowing issuance of a license plate or revalidation
488 sticker. Issuance of a certificate of discharged wrecker
489 operator's lien under this paragraph does not discharge the
490 entire amount of the wrecker operator's lien claimed under
491 paragraph (2)(b) ~~subsection (2)~~, but only certifies to the
492 department that the amount of the wrecker operator's lien
493 allowed by paragraph (b), for which the department will prevent

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issuance of a license plate or revalidation sticker, has been discharged.

(18) For 3 years, a towing-storage operator must retain records produced for all vehicles or vessels recovered, towed, stored, or released, which records must include at least the following:

(a) All notice publications and certified mailings;

(b) The purchase price of unclaimed vehicles or vessels sold;

(c) The names and addresses of persons to which vehicles or vessels were released;

(d) The name and address of vehicle or vessel purchasers; and

(e) All fees imposed under this section.

(19) This section is the exclusive remedy for the placement or foreclosure of a storage lien placed on a vehicle or vessel pursuant to s. 83.19, s. 83.805, or s. 677.210.

Section 3. Section 559.917, Florida Statutes, is amended to read:

559.917 Bond to release possessory lien claimed by motor vehicle repair shop or towing-storage operator.—

(1) (a) A customer or a person of record claiming a lien against a motor vehicle or vessel may obtain the release of the motor vehicle or vessel from any lien claimed under part II of chapter 713 by a motor vehicle repair shop for repair work performed under a written repair estimate or by a towing-storage operator for recovery, towing, or storage charges by filing with the clerk of the court in the circuit in which the disputed transaction occurred a cash or surety bond, payable to the

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523 person claiming the lien and conditioned for the payment of any
524 judgment which may be entered on the lien. The bond must ~~shall~~
525 be in the amount stated on the notice of lien required under s.
526 713.78(4) or on the invoice required by s. 559.911, plus accrued
527 storage charges, if any, less any amount paid to the motor
528 vehicle repair shop as indicated on the invoice. The customer or
529 person is ~~shall~~ not be required to institute judicial
530 proceedings in order to post the bond in the registry of the
531 court and is ~~shall~~ not be required to use a particular form for
532 posting the bond unless the clerk provides such form to the
533 customer or person for filing. Upon the posting of such bond,
534 the clerk of the court shall automatically issue a certificate
535 notifying the lienor of the posting of the bond and directing
536 the lienor to release the motor vehicle or vessel.

537 (b) The lienor has ~~shall have~~ 60 days to file suit to
538 recover the bond. The prevailing party in that action may be
539 entitled to damages plus court costs and reasonable attorney
540 fees. If the lienor fails to file suit within 60 days after the
541 posting of such bond, the bond must ~~shall~~ be discharged by the
542 clerk.

543 (2) ~~If the failure of~~ a lienor fails to release or return
544 to the customer or person the motor vehicle or vessel upon which
545 any lien is claimed, upon receiving a copy of a certificate
546 giving notice of the posting of the bond and directing release
547 of the motor vehicle or vessel, the lienor is ~~shall~~ subject ~~the~~
548 ~~lienor~~ to judicial proceedings which may be brought by the
549 customer or person to compel compliance with the certificate. If
550 ~~Whenever~~ a customer or person brings an action to compel
551 compliance with the certificate, the customer or person must

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552 ~~need only~~ establish the following that:

553 (a) That the bond in the amount on the notice of lien
554 required under s. 713.78(4) or on ~~of~~ the invoice, plus accrued
555 storage charges, if any, less any amount paid to the motor
556 vehicle repair shop as indicated on the invoice, was posted.~~;~~

557 (b) That a certificate was issued under ~~pursuant to~~ this
558 section.~~;~~

559 (c) That the motor vehicle repair shop or towing-storage
560 operator, or any employee or agent thereof who is authorized to
561 release the motor vehicle or vessel, received a copy of a
562 certificate issued under ~~pursuant to~~ this section.~~;~~ and

563 (d) That the motor vehicle repair shop or towing-storage
564 operator, or an employee or agent thereof who is authorized to
565 release the motor vehicle or vessel, failed to release the motor
566 vehicle or vessel.

567
568 The customer or person of record, claiming a lien against a
569 motor vehicle or vessel, upon a judgment in her or his favor in
570 an action brought under this subsection, may be entitled to
571 damages plus court costs and reasonable attorney fees sustained
572 by her or him by reason of such wrongful detention or retention.
573 Upon a judgment in favor of the motor vehicle repair shop or
574 towing-storage operator, the shop or towing-storage operator may
575 be entitled to reasonable attorney fees.

576 (3) A motor vehicle repair shop or towing-storage operator
577 ~~that~~, or an employee or agent thereof who is authorized to
578 release the motor vehicle or vessel, who, upon receiving a copy
579 of a certificate giving notice of the posting of the bond in the
580 required amount and directing release of the motor vehicle or

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vessel, fails to release or return the property to the customer or person pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) A customer or person who stops payment on a credit card charge or a check drawn in favor of a motor vehicle repair shop on account of an invoice or who fails to post a cash or surety bond under ~~pursuant to~~ this section is ~~shall be~~ prohibited from any recourse under this section with respect to the motor vehicle repair shop.

(5) For purposes of this section, the terms "towing-storage operator" and "vessel" have the same meanings as in s. 713.78(1).

Section 4. Subsection (5) is added to section 83.19, Florida Statutes, to read:

83.19 Sale of property distrained.—

(5) A lien on a vehicle or vessel, as those terms are defined in s. 713.78(1), of a tenant or lessee must be foreclosed pursuant to s. 713.78 and may not be foreclosed under this chapter.

Section 5. Section 83.805, Florida Statutes, is amended to read:

83.805 Lien.—

(1) The owner of a self-service storage facility or self-contained storage unit and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property, whether or not owned by the tenant, located at a self-service storage facility or in a self-contained storage unit for rent, labor charges, or other charges, present

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or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to ss. 83.801-83.809. The lien provided for in this section attaches as of the date that the personal property is brought to the self-service storage facility or as of the date the tenant takes possession of the self-contained storage unit, and the priority of this lien shall be the same as provided in s. 83.08; however, in the event of default, the owner must give notice to persons who hold perfected security interests under the Uniform Commercial Code in which the tenant is named as the debtor.

(2) A lien on a vehicle or vessel, as those terms are defined in s. 713.78(1), of a tenant or lessee must be foreclosed pursuant to s. 713.78 and may not be placed or foreclosed under this chapter.

Section 6. Subsection (10) of section 83.806, Florida Statutes, is amended to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(10) If a lien is claimed on property that is a motor vehicle or a watercraft and rent and other charges related to the property remain unpaid or unsatisfied for 60 days after the maturity of the obligation to pay the rent and other charges, the facility or unit owner may sell the property pursuant to s. 713.78 ~~this section~~ or have the property towed. If a motor vehicle or watercraft is towed, the facility or unit owner is not liable for the motor vehicle or watercraft or any damages to the motor vehicle or watercraft once a wrecker takes possession of the property. The wrecker taking possession of the property

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639 must comply with all notification and sale requirements provided
640 in s. 713.78.

641 Section 7. Subsection (10) is added to section 677.210,
642 Florida Statutes, to read:

643 677.210 Enforcement of warehouse's lien.—

644 (10) A lien on a vehicle or vessel, as those terms are
645 defined in s. 713.78(1), must be placed and foreclosed pursuant
646 to s. 713.78 and may not be placed or foreclosed under this
647 chapter.

648 Section 8. Paragraph (a) of subsection (2) of section
649 715.07, Florida Statutes, is amended to read:

650 715.07 Vehicles or vessels parked on private property;
651 towing.—

652 (2) The owner or lessee of real property, or any person
653 authorized by the owner or lessee, which person may be the
654 designated representative of the condominium association if the
655 real property is a condominium, may cause any vehicle or vessel
656 parked on such property without her or his permission to be
657 removed by a person regularly engaged in the business of towing
658 vehicles or vessels, without liability for the costs of removal,
659 transportation, or storage or damages caused by such removal,
660 transportation, or storage, under any of the following
661 circumstances:

662 (a) The towing or removal of any vehicle or vessel from
663 private property without the consent of the registered owner or
664 other legally authorized person in control of that vehicle or
665 vessel is subject to substantial compliance with the following
666 conditions and restrictions:

667 1.a. Any towed or removed vehicle or vessel must be stored

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at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of fewer than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of fewer than 500,000 population.

2. The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

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697 3. A person in the process of towing or removing a vehicle
698 or vessel from the premises or parking lot in which the vehicle
699 or vessel is not lawfully parked must stop when a person seeks
700 the return of the vehicle or vessel. The vehicle or vessel must
701 be returned upon the payment of a reasonable service fee of not
702 more than one-half of the posted rate for the towing or removal
703 service as provided in subparagraph 6. The vehicle or vessel may
704 be towed or removed if, after a reasonable opportunity, the
705 owner or legally authorized person in control of the vehicle or
706 vessel is unable to pay the service fee. If the vehicle or
707 vessel is redeemed, a detailed signed receipt must be given to
708 the person redeeming the vehicle or vessel.

709 4. A person may not pay or accept money or other valuable
710 consideration for the privilege of towing or removing vehicles
711 or vessels from a particular location.

712 5. Except for property appurtenant to and obviously a part
713 of a single-family residence, and except for instances when
714 notice is personally given to the owner or other legally
715 authorized person in control of the vehicle or vessel that the
716 area in which that vehicle or vessel is parked is reserved or
717 otherwise unavailable for unauthorized vehicles or vessels and
718 that the vehicle or vessel is subject to being removed at the
719 owner's or operator's expense, any property owner or lessee, or
720 person authorized by the property owner or lessee, before towing
721 or removing any vehicle or vessel from private property without
722 the consent of the owner or other legally authorized person in
723 control of that vehicle or vessel, must post a notice meeting
724 the following requirements:

725 a. The notice must be prominently placed at each driveway

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access or curb cut allowing vehicular access to the property within 10 feet from the road, as defined in s. 334.03(22). If there are no curbs or access barriers, the signs must be posted not fewer than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not fewer than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not fewer than 24 hours before the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs before any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not fewer than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in

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sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control or custody of a vehicle or vessel to pay the costs of towing and storage before redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control or custody of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1) ~~s. 713.78(1)(c)~~, or other vehicles used in the towing or removal, have the name, address, and telephone number

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of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or person in control or custody within 1 hour after requested. Any vehicle or vessel owner or person in control or custody has the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or person in control or custody at the time of the redemption may be required from any vehicle or vessel owner or person in control or custody as a condition of release of the vehicle or vessel to its owner or person in control or custody. A detailed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

Section 9. 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

4/5/23

Meeting Date

760

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Doug Bell

Phone

Address

Street

Email

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 Bar
Business Law Section

☐

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

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4/5/23

Meeting Date

760

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Leslie Dughi

Phone

Address

Street

Email

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:

Enterprise,
AUI's

☐

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)

4-5-23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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760

Bill Number or Topic

Com Affairs

Committee

Amendment Barcode (if applicable)

Name

TED SMITH

Phone

850 445 0435

Address

400 N. Meridian

Email

teds@flada.org

Street

Tallah

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:

FI Automobile Dealers

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)

April 5, 2023

Meeting Date

Community Affairs

Committee

The Florida Senate
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760 C1

Bill Number or Topic

Amendment Barcode (if applicable)

Name David R. Custin Phone (305) 607-8576

Address 6401 SW 113 Place Email CustinDR@DavidRCustin.com

Street

Miami

FL

33173

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:

Beach Towing, Inc.

☐ 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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5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

04/05/23

Meeting Date

5760

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

Mike Moore

Phone

850-671-4401

Address

123 S Adams Street

Street

Email

moore@thesoutherngroup.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:

Guardian Fleet services

☐

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

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

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S-001 (08/10/2021)

The Florida Senate

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4/5/23

Meeting Date

Community Affairs

Committee

SB 760

Bill Number or Topic

Amendment Barcode (if applicable)

Name Eric De Campos

Phone 847-484-7104

Address 1111 E. Touhy Ave Ste 400

Street

Des Plaines

City

IL

State

60018

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

National Insurance Crime Bureau

☐ 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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4.5.23

Meeting Date

Community Affairs

Committee

760

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bob Cortes

Phone

407-463-8257

Address

1201 Bunnell Rd

Email

bob@bobcortes.com

Street

Alt. Springs

City

FL

State

32714

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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CS/SB 760

Bill Number or Topic

Amendment Barcode (if applicable)

4/5/23

Meeting Date

Community Affairs

Committee

Name Anna Higgins

Phone 202-384-6657

Address 3375 Rommitch Ct

Street

Email anna@team180.com

Pensacola

City

FL

State

32504

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:

Self Storage Association

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

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

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S-001 (08/10/2021)

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4-5-23

Meeting Date

760

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Harvey Spencer

Phone

352-672-8486

Address

261 NE 341 Ave

Email

tricitytowing352@yahoo.com

Street

Old Town

City

FL

State

32680

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

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4-5-2023

Meeting Date

760

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Ramon Crespo

Phone

305 986-5364

Address

12340 SW 98th St

Email

Street

Miami FL 33186

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

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760

Bill Number or Topic

4/5/23

Meeting Date

Committee

Amendment Barcode (if applicable)

Name

MARSON JOHNSON Jr

Phone

727-638-7198

Address

545 52nd Street S.

Email

MARSON JOHNSON

Street

St Petersburg

City

FL

State

33707

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 760

4/5/23

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

Cardice Ericks

Phone

954-648-1204

Address

205 S. Adams

Email

Cardice@tsec.gov

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:

JM Family Enterprises

☐

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: SJR 1066

INTRODUCER: Senator Collins

SUBJECT: Recall of County Officers and Commissioners

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Biehl	Roberts	EE	Favorable
2.	Hackett	Ryon	CA	Favorable
3.			RC	

I. Summary:

SJR 1066 proposes an amendment to the Florida Constitution to allow the Legislature to provide by general law for the recall of county officers and commissioners.

The bill requires three-fifths vote of the membership of each house of the Legislature for passage.¹

If adopted by 60 percent of the electors voting on the measure at the 2024 general election, the amendment will go into effect on January 7, 2025.

II. Present Situation:

County Officers and Commissioners

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties² and has the authority to create municipalities.³

Pursuant either to general or special law, a county government may be adopted by charter approved by the county voters.⁴ A county without a charter has such powers of self-government as provided by general⁵ or special law.⁶ A county with a charter has all powers of self-

¹ Article XI, s.1, FLA. CONST.

² Article VIII, s. 1(a), FLA. CONST.

³ Article VIII, s. 2(a), FLA. CONST.

⁴ Section 125.60, F.S.

⁵ Chapter 125, Part I, F.S.

⁶ Article VIII, s. 1(f), FLA. CONST.

government not inconsistent with general law or special law approved by the county voters.⁷ The Florida Constitution provides unique authorization⁸ for specific home rule charters including those of Duval⁹ and Miami-Dade Counties.¹⁰ Currently, 20 Florida counties have adopted charters.¹¹

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court (collectively, the five county constitutional officers).¹² The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These county constitutional officers have duties prescribed in general law.¹³ The continuation, duties, or term in office of each of the five constitutional officers may not be altered. Other provision for the county government duties of the clerk of the court may be made as provided under Article V, section 16 of the Florida Constitution or by special act approved by the voters of the county.¹⁴

The Florida Constitution also provides that each county, except as otherwise provided by a county charter, is governed by a board of county commissioners composed of five or seven members serving staggered four-year terms.¹⁵ Each county must be divided into districts that are contiguous and as nearly equal in population as practicable, which are redrawn after each decennial census. One commissioner must reside in each district as provided by law.

⁷ Article VIII, s. 1(g), FLA. CONST.

⁸ Article VIII, s. 6(e), FLA. CONST., incorporating by reference ss. 9, 10, 11, 24 from Article VIII of the 1885 Constitution, states that these specific provisions respectively for Duval, Miami-Dade, Monroe, and Hillsborough Counties “shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article.”

⁹ The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Fla., adopted pursuant to Art. VIII, s. 9, FLA. CONST. (1885).

¹⁰ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 Florida Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami Dade Charter can only be altered through constitutional amendment, general law, or County actions approved by referendum. *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

¹¹ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. See the *Local Government Formation Manual*, Appendix C, p. 106, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2023&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited March 17, 2023).

¹² Article VIII, s. 1(d), FLA. CONST.

¹³ See ch. 30, F.S. (stating certain duties of the sheriff as a constitutional officer); ch. 197, F.S. (stating certain duties of the tax collector as a constitutional officer); ch. 193, Part I, F.S. (stating certain duties of the property appraiser as a constitutional officer); ch. 102, F.S. (stating certain duties of the supervisor of elections as a constitutional officer); and ch. 28, F.S. (stating certain duties of the clerk of the circuit court as a constitutional officer).

¹⁴ Article VIII, s. 1(d), FLA. CONST.

¹⁵ Article VIII, s. 1(e), FLA. CONST.

The default method created by general law provides that each county has a five-member commission, with a commissioner representing each district elected at-large by all voters of the county.¹⁶ Subject to approval in a referendum of the county's voters, the commission may alternatively be structured as:

- A five-member board, with each member elected only by the qualified electors who reside in the same county commission district as the commissioner; or
- A seven-member board, with five members elected only by the qualified electors who reside in the same county commission district as the commissioner and two members elected at-large.¹⁷

Most counties use the default five-member board, elected at-large method, while 20 counties elect commissioners from single-member districts and seven counties use the seven-member board system.¹⁸

Recall of Officials

General law provides for the recall of members of the governing body of a municipality or charter county. The recall process begins with a petition of the electors of the district (or the entire governmental unit if the subject member is elected at large).¹⁹ The petition must include the name of the member sought to be recalled and a statement of grounds for the recall.²⁰ The statement of grounds may not exceed 200 words and must describe malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or conviction of a felony involving moral turpitude.²¹ A separate petition is required for each member sought to be recalled.²²

The recall petition must be signed by the greater of a set population threshold based on size of the municipality, county, or district, or ten percent of the registered voters of the municipality, county, or district.²³ The petition process must be completed within 30 days after the first signature is obtained, and the completed petition must be submitted to the clerk of the municipality or county by the chair of the recall committee.²⁴ After receipt of the petition, the clerk is responsible for submitting the petition to the supervisor of elections (supervisor) for the purpose of verifying signatures.²⁵

¹⁶ Section 124.011(1), F.S.

¹⁷ Section 124.011(1)(a)-(b), F.S.

¹⁸ Fla. Association of Counties, *County Districting*, available at <https://www.fl-counties.com/county-districting> (last visited March 17, 2023). On November 8, 2022, the voters of Alachua County approved an amendment to s. 2.2(A) the county charter and now require county commissioners to be elected only by the qualified electors within their respective districts. See ch. 2022-257, Laws of Fla.

¹⁹ Section 100.361(1), F.S.

²⁰ Section 100.361(2)(a), F.S.

²¹ Section 100.361(2)(a), F.S.

²² Section 100.361(2)(a), F.S.

²³ Section 100.361(2)(b), F.S.

²⁴ Section 100.361(2)(f), F.S. The recall committee consists of all electors of the municipality, county, or district making charges contained in the statement of grounds for recall, as well as those signing the recall petition. One member of the recall committee must serve as the chair. Section 100.361(2)(c), F.S.

²⁵ Section 100.361(2)(g), F.S.

If the requisite number of signatures has been obtained, and the supervisor determines a sufficient number of signatures are valid, the clerk of the county or municipality must serve a certified copy of the petition to the member for which a recall is sought.²⁶ The member has five days after service within which to file a defensive statement with the clerk. Upon receipt of the defensive statement, the clerk, within five days, must prepare a sufficient number of copies of the petition and defensive statement, and copies of the names, addresses, and oaths on the original petition. The clerk must deliver these copies to the chair of the recall committee and obtain a receipt from the chair. The clerk's prepared copies are referred to as the "Recall Petition and Defense."²⁷

The Recall Petition and Defense must be signed by at least 15 percent of the electors.²⁸ The chair of the recall committee has 60 days from the delivery of the "Recall Petition and Defense" to obtain signatures and file the petition with the clerk. The clerk, after assembling the petitions and checking witness oaths, must deliver the petition to the supervisor, who verifies signatures, purges all names stricken, and certifies within 30 days if the petition contains the requisite number of signatures.²⁹ The supervisor must report his or her findings to the governing body.

If the required signatures are not obtained, the clerk must report this information to the governing body, file the petitions with the supervisor, and terminate the proceedings.³⁰ The petitions cannot be used again. If, however, the required signatures are obtained, the clerk must serve notice on the member being recalled and deliver to the governing body a certificate stating the percentage of qualified voters who signed.

If the member does not resign within five days of the receipt of the final notice, the chief judge of the judicial circuit sets a date for a recall election to occur no less than 30 days and no more than 60 days after the expiration of the five-day period.³¹ If the recall election results in a single vacancy, the vacancy is filled by the governing body using the ordinary method provided by law for filling vacancies.³² If multiple members of the governing body are subject to recall, any potential vacancy may be filled by a special election held at the same time as the recall (for positions elected at-large) or at a special election held less than 30 days and no more than 60 days after the recall election (for positions elected from districts).³³

A member may be recalled only after serving at least one-fourth of the term of office. A member against whom a recall petition is filed is not eligible for appointment to the governing body for two years following recall or resignation after a recall petition has been filed against him or her.³⁴

²⁶ Section 100.361(3), F.S.

²⁷ Section 100.361(3)(b), F.S.

²⁸ Section 100.361(3)(c), F.S.

²⁹ Section 100.361(3)(e), F.S.

³⁰ Section 100.361(3)(d)-(f), F.S.

³¹ Section 100.361(4), F.S. If a general or special election is set within the time period, the recall election must be set on the same day.

³² Section 100.361(6)(d), F.S.

³³ Section 100.361(6)(a)-(b), F.S.

³⁴ Section 100.361(8), F.S.

Additionally, most charter counties provide for recall in their charters.³⁵ While not expressly identified in Article VIII, section 1(d) of the Florida Constitution, there is no constitutional prohibition limiting the ability of a county charter to impose additional removal procedures on county commissioners. The broad home rule powers of charter counties allow them to act so long as the action taken is not “inconsistent with general law, or with special law approved by vote of the electors.”³⁶ Thus, a charter county currently may modify its recall procedures through charter amendment or special law approved by the voters.³⁷

Apart from the power of charter counties to provide for recall, the Florida Constitution provides for four-year terms of county officers.³⁸

III. Effect of Proposed Changes:

SJR 1066 proposes an amendment to the Florida Constitution to allow the Legislature to provide by general law for the recall of any county officer or commissioner. Current law allows recall of county commissioners only in charter counties.

The joint resolution must pass each house of the Legislature with a three-fifths vote before it may be placed on the ballot. Thereafter, it must be approved by at least 60 percent of the electors voting on the measure. If approved, the proposed constitutional amendment would become effective on January 7, 2025.³⁹

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandates provision applies only to general laws, not to a joint resolution proposing to amend the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁵ Of the state’s 20 charter counties, 18 provide for the recall of county commissioners. Additionally, the charters of Brevard, Clay, Duval, Miami-Dade, and Sarasota provide for the recall of the five constitutional officers. *See* Fla. Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/sites/default/files/2021-03/Charter%20County%20Provision%20Comparisons.2020.pdf> (last visited March 31, 2023).

³⁶ Article VIII, s. 1(g), FLA. CONST.

³⁷ *See Telli v. Broward County*, 94 So. 3d 504, 512-13 (Fla. 2012) (allowing charter counties to adopt term limits on county commissioners and explicitly overruling a prior case which barred this in the case of the Five Constitutional Officers).

³⁸ Article VIII, s. 1(d) and (e), FLA. CONST.

³⁹ Article XI, s. 5(e), FLA. CONST., provides that a constitutional amendment is effective on the first Tuesday after the first Monday in January following the general election at which the amendment is adopted.

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:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State is also required to provide each supervisor of elections with either booklets or posters displaying to full text of each proposed amendment.⁴⁰ The cost to advertise the amendment and procure booklets would be paid from non-recurring General Revenue funds. The fiscal impact of this requirement is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends Article VIII of the Florida Constitution.

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

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

None.

⁴⁰ Section 101.171, F.S.

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 Collins

14-00638-23

20231066__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution to authorize the Legislature to provide by general law for the recall of county officers and commissioners.

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

That the following amendment to Section 1 of Article VIII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and

14-00638-23

20231066__

30 a clerk of the circuit court. Unless otherwise provided by
31 special law approved by vote of the electors or pursuant to
32 Article V, section 16, the clerk of the circuit court shall be
33 ex officio clerk of the board of county commissioners, auditor,
34 recorder and custodian of all county funds. Notwithstanding
35 subsection 6(e) of this article, a county charter may not
36 abolish the office of a sheriff, a tax collector, a property
37 appraiser, a supervisor of elections, or a clerk of the circuit
38 court; transfer the duties of those officers to another officer
39 or office; change the length of the four-year term of office; or
40 establish any manner of selection other than by election by the
41 electors of the county.

42 (e) COMMISSIONERS. Except when otherwise provided by county
43 charter, the governing body of each county shall be a board of
44 county commissioners composed of five or seven members serving
45 staggered terms of four years. After each decennial census the
46 board of county commissioners shall divide the county into
47 districts of contiguous territory as nearly equal in population
48 as practicable. One commissioner residing in each district shall
49 be elected as provided by law.

50 (f) NON-CHARTER GOVERNMENT. Counties not operating under
51 county charters shall have such power of self-government as is
52 provided by general or special law. The board of county
53 commissioners of a county not operating under a charter may
54 enact, in a manner prescribed by general law, county ordinances
55 not inconsistent with general or special law, but an ordinance
56 in conflict with a municipal ordinance shall not be effective
57 within the municipality to the extent of such conflict.

58 (g) CHARTER GOVERNMENT. Counties operating under county

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20231066__

59 charters shall have all powers of local self-government not
60 inconsistent with general law, or with special law approved by
61 vote of the electors. The governing body of a county operating
62 under a charter may enact county ordinances not inconsistent
63 with general law. The charter shall provide which shall prevail
64 in the event of conflict between county and municipal
65 ordinances.

66 (h) TAXES; LIMITATION. Property situate within
67 municipalities shall not be subject to taxation for services
68 rendered by the county exclusively for the benefit of the
69 property or residents in unincorporated areas.

70 (i) COUNTY ORDINANCES. Each county ordinance shall be filed
71 with the custodian of state records and shall become effective
72 at such time thereafter as is provided by general law.

73 (j) VIOLATION OF ORDINANCES. Persons violating county
74 ordinances shall be prosecuted and punished as provided by law.

75 (k) COUNTY SEAT. In every county there shall be a county
76 seat at which shall be located the principal offices and
77 permanent records of all county officers. The county seat may
78 not be moved except as provided by general law. Branch offices
79 for the conduct of county business may be established elsewhere
80 in the county by resolution of the governing body of the county
81 in the manner prescribed by law. No instrument shall be deemed
82 recorded until filed at the county seat, or a branch office
83 designated by the governing body of the county for the recording
84 of instruments, according to law.

85 (l) RECALL OF COUNTY OFFICERS AND COMMISSIONERS. The
86 legislature may provide by general law for the recall of county
87 officers and commissioners.

14-00638-23

20231066__

88 BE IT FURTHER RESOLVED that the following statement be
89 placed on the ballot:

90 CONSTITUTIONAL AMENDMENT

91 ARTICLE VIII, SECTION 1

92 RECALL OF COUNTY OFFICERS AND COMMISSIONERS.—Proposing an
93 amendment to the State Constitution to authorize the Legislature
94 to provide by general law for the recall of county officers and
95 commissioners.

The Florida Senate

APPEARANCE RECORD

2/5/2023

Meeting Date

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

1066

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Jasmine Burney-Clark

Phone

407-466-6468

Address

424 E Central Blvd Suite 650

Email

jasmine@equal-ground.com

Street

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

4/5/2023

Bill Number or Topic

SB 1066

Committee

Community Affairs

Amendment Barcode (if applicable)

Name

Jim Sutton

Phone

703-673-8529

Address

7467 Gulf Blvd

Email

jimsutton@duck.com

Street

Navarre

State

FL

Zip

32566

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

APPEARANCE RECORD

Deliver both copies of this form to
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Meeting Date

4-5-23

Community Affairs

Committee

Bill Number or Topic

SB 1066

Amendment Barcode (if applicable)

Name

Robert Barnett

Phone

678-523-3011

Address

2008 Pine Ranch DR

Email

R.BARNETT3011@gmail.com

Street

NAVARRE

City

FL

State

32566

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4-5-23

Meeting Date

SB 1066

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

Sherry Chapman

Phone

850 994-8494

Address

4462 Bell Lane

Email

famechap@bellsouth.net

Street

Pace

City

FL

State

32571

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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Bill Number or Topic

Amendment Barcode (if applicable)

4/5/23
Meeting Date
Community Affairs
Committee

Name Reni (Renee) Johnmeyer Phone 850 - 281 - 3627

Address 8709 S. Lynn Email arenijohnmeyer@yahoo.
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
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sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4-5-23

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
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SB 1066

Bill Number or Topic

Amendment Barcode (if applicable)

Name Denise Beckham

Phone 850-543-5626

Address 4680 Blue Ribbon DR

Email denise.beckham@icloud.com

Street

Milton

City

FL

State

32583

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

APPEARANCE RECORD

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

SB 1066

Bill Number or Topic

Amendment Barcode (if applicable)

4-5-23

Meeting Date

Community Affairs

Committee

Name JERRY COUEY

Phone 850-501-6652

Address 6049 ARNIES WAY

Street

Email NONETAXES@BELSOUTH.NET

MILTON

City

FL

State

32570

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
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I am a registered lobbyist,
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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

04/05/23

Meeting Date

SB 1066

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 CHUCK POHLMANN

Phone 850-803-7780

Address 2956 PGA Blvd.

Email CPHLMANN@Bellsouth.net

Street

NAVARRE FLORIDA 32566

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
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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 1066

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

James Calkins

Phone

Address

5496 Heatherston Rd

Email

Street

Milton FL

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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representing:

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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4-5-23
Meeting Date
COMMUNITY AFFAIRS

SB 1066

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name GERALD V FOSTER

Phone 850-501-2244

Address 7860 LOLA CIRCLE

Email JERSEY FOSTER@ATT.NET

Street

NAVADDE FL 32566

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
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representing:

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1072

INTRODUCER: Community Affairs Committee, Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Dredging and Beach Restoration Projects

DATE: April 6, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1072 provides that, as a condition of a permit issued for beach restoration projects or maintenance dredging of deepwater ports, the Department of Environmental Protection (DEP) must require that any analysis to determine the adverse impacts of the activity on the natural habitat be conducted by an independent contractor selected by the local government in a manner prescribed by DEP.

The bill provides that the independent contractor for the analysis may not be associated with any project of the contractor performing the activity for the local government for a period of 5 years before or after commencement or completion of the analysis. The bill directs the local government to provide written notice of its intent to conduct an analysis to adjacent local governments that may be impacted by the activity. The bill provides an exception for deepwater port maintenance dredging.

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

II. Present Situation:

Florida's Deepwater Ports

Florida is a top maritime trade state and is home to the world's leading cruise ports.¹ There are 16 deepwater ports, or seaports, in Florida: Port Canaveral, Port Citrus, Port Everglades, the Port of Fernandina, The Port of Fort Pierce, Jaxport, the Port of Key West, Port Manatee, Port Miami, the Port of Palm Beach, Port Putnam, Port Panama City, the Port of Pensacola, the Port of Port St. Joe, the Port of St. Petersburg, and the Port of Tampa Bay.² In 2022, 10 of these deepwater ports handled cargo, and eight handled passenger movements by cruise ship, ferry, and/or day-cruise vessel.³ In total, the ports handled a record 112.5 million tons of cargo.⁴ According to the Florida Seaport Transportation and Economic Development council, the ports contribute approximately \$117.6 billion to the state's economy, or 13.3 percent of Florida's gross domestic product, and directly or indirectly support approximately 900,000 jobs in the state.⁵

Dredging

Dredging is the removal of material from the bottom of lakes, rivers, harbors and other water bodies. Most dredging is done to maintain or deepen navigation channels, anchorages or berthing areas for the safe passage of boats and ships. The disposal of dredged sediment is regulated under the Clean Water Act (CWA),⁶ the Marine Protection, Research, and Sanctuaries Act (MPRSA or Ocean Dumping Act),⁷ and Florida Environmental Resource Permit (ERP) program.⁸

DEP's Beaches, Inlets, and Ports Program (BIPP) processes ERPs for navigational dredging of deepwater ports.⁹ The ERP review ensures that such construction activities do not degrade water quality (such as through the loss of wetlands, improper in-water construction techniques, or discharge of inadequately treated water from dredged material disposal sites) or damage marine resources (including corals, seagrasses, mangroves, or habitat for manatees or marine turtles).¹⁰ According to DEP, maintenance dredging is generally authorized as part of the original ERP. A separate maintenance permit is rarely required.

¹ Florida Seaport Transportation and Economic Development Council (FSTED Council), *2022-2023 Seaport Mission Plan*, 2 (2022), available at https://flaports.org/wp-content/uploads/Florida-Seaports-Mission-Plan-2023_FINAL-2-27_web.pdf (last visited Mar. 31, 2023).

² Section 311.09(1), F.S.; The Florida Department of Economic Opportunity (DEO), *Deepwater Ports*, available at <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/deepwater-ports> (last visited Mar. 31, 2023).

³ FSTED Council, *2022-2023 Seaport Mission Plan* at 5.

⁴ *Id.* at 25.

⁵ *Id.* at 4.

⁶ 33 U.S.C. §1251 et seq.

⁷ 16 USC § 1431 et seq. and 33 USC §1401 et seq.

⁸ See ss. 403.021(9), 403.061(27) and 403.816, F.S.

⁹ DEP, *Beaches, Inlets and Ports Program*, <https://floridadep.gov/rcp/beaches-inlets-ports> (last visited Mar. 31, 2023).

¹⁰ *Id.*

Beach Restoration

Florida has 825 miles of sandy coastline fronting the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida.¹¹ Beaches are one of Florida's most valuable natural resources and are vital to maintaining the health of the state's economy and environment. The Florida Beach and Shore Preservation Act provides three interrelated programs that DEP administers to protect the state's sandy beaches: the Coastal Construction Control Line Program, the Beach Management Funding Assistance Program, and BIPP.¹²

Beach erosion is a statewide problem and beach restoration/nourishment projects are used to restore affected coastal habitat.¹³ Beach restoration projects require a joint coastal permit through the BIPP. A joint coastal permit is a consolidation of coastal construction permits, ERPs, and sovereign submerged lands authorizations.¹⁴ Projects that require a joint coastal permit include:

- Construction of erosion control structures;
- Public fishing piers;
- Maintenance of inlets and inlet-related structures; and
- Dredging navigation channels when dredged material will be disposed of onto the beach or in the nearshore area.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 403.816, F.S., to provide that, as a condition of a permit issued for beach restoration projects or maintenance dredging of deepwater ports, the Department of Environmental Protection (DEP) must require that any analysis to determine the adverse impacts of the activity on the natural habitat be conducted by an independent contractor selected by the local government in a manner prescribed by DEP.

The bill provides that the independent contractor may not be associated with any project of the contractor performing the activity for the local government for a period of 5 years before and after commencement or completion of the analysis. The bill directs the local government to provide written notice of its intent to conduct an analysis to adjacent local governments that may be impacted by the activity.

The bill provisions do not apply to any deepwater port maintenance dredging.

Section 2 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹¹ DEP, *Beaches*, available at <https://floridadep.gov/rcp/beaches> (last visited Mar. 31, 2023).

¹² *Id.*; Sections 161.011-161.45, F.S.

¹³ DEP, *Beaches*.

¹⁴ DEP, *Beaches, Inlets and Ports Program*.

¹⁵ DEP, *Beaches*.

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:

According to DEP, the bill provisions may be more appropriately placed in s. 373.414, F.S., which regulates the permitting for port dredging and beach restoration projects.

VIII. Statutes Affected:

This bill substantially amends section 403.816 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 April 5, 2023:

- Specifies that the independent contractor conducting an analysis may not be associated with any project of the contractor performing the activity for a local government within 5 years before the commencement of the analysis and for 5 years after the completion of the analysis.
- Excludes deepwater port maintenance dredging from the bill provisions.
- Removes the provision stating that the bill does not apply to permits issued before July 1, 2024.

CS by Environment and Natural Resources on March 14, 2023:

- Broadens the scope of the permit condition so that it applies to permits for maintenance dredging of deepwater ports and beach restoration projects.
- Directs the Department of Environmental Protection to require that any analysis to determine the adverse impacts of the permitted activity on the natural habitat be conducted by an independent contractor.
- Provides that this permit condition will not apply to permits issued before July 1, 2024.

B. Amendments:

None.



226912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (3) of section 403.816,
Florida Statutes, is redesignated as subsection (4), and a new
subsection (3) is added to that section, to read:

403.816 Permits for maintenance dredging of deepwater ports
and beach restoration projects.—

(3) As a condition of a permit issued for a project



226912

pursuant to this section, the department shall require that any analysis to determine the adverse impacts of the activity on the natural habitat be conducted by an independent contractor selected by the local government and in a manner prescribed by the department. The independent contractor conducting the analysis may not be associated with any project of the contractor performing the activity for the local government for a period of 5 years before the commencement of the analysis or for a period of 5 years after the completion of the analysis. The local government shall provide written notice of its intent to have an analysis conducted to adjacent local governments that may be impacted by the activity. However, this subsection does not apply to any deepwater port maintenance dredging.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to dredging and beach restoration projects; amending s. 403.816, F.S.; directing the Department of Environmental Protection to require, as a condition of permits issued for certain dredging and beach restoration projects, that any adverse impact analysis conducted for the activity meet certain requirements; requiring a local government to provide notice of its intent to conduct an analysis to certain adjacent local governments; providing applicability;



226912

40

providing an effective date.



293890

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (226912)

Delete line 18
and insert:
a period of 5 years before the commencement of the analysis and

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-02545-23

20231072c1

A bill to be entitled
An act relating to dredging and beach restoration
projects; amending s. 403.816, F.S.; directing the
Department of Environmental Protection to require, as
a condition of permits issued for certain dredging and
beach restoration projects, that any adverse impact
analysis conducted for the activity meet certain
requirements; requiring a local government to provide
notice of its intent to conduct an analysis to certain
adjacent local governments; providing applicability;
providing an effective date.

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

Section 1. Subsection (3) of section 403.816, Florida
Statutes, is redesignated as subsection (4), and a new
subsection (3) is added to that section, to read:

403.816 Permits for maintenance dredging of deepwater ports
and beach restoration projects.—

(3) As a condition of a permit issued for a project
pursuant to this section, the department shall require that any
analysis to determine the adverse impacts of the activity on the
natural habitat be conducted by an independent contractor
selected by the local government in a manner prescribed by the
department. The independent contractor for the analysis may not
be associated with any project of the contractor performing the
activity for the local government. The local government shall
provide written notice of its intent to conduct an analysis to
adjacent local governments that may be impacted by the activity.

592-02545-23

20231072c1

30 This subsection does not apply to permits issued before July 1,
31 2024.

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

The Florida Senate

APPEARANCE RECORD

SB 1072

4/5/23

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

226912

Amendment Barcode (if applicable)

Name Mike Rubin

Phone 850-443-0722

Address 502 E JEFFERSON ST

Email

Street

Tall

FL

32301

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

FLORIDA PANTS COUNCIL

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

1072

Meeting Date

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Bill Number or Topic

226912

Committee

Amendment Barcode (if applicable)

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

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

Street

Miami

City

FL

State

33128

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Miami-Dade County

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

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

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The Florida Senate

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4/5/23

Meeting Date

Comm Affairs

Committee

1072

Bill Number or Topic

226912

Amendment Barcode (if applicable)

Name

Richard Pinsky

Phone

Address

201 E Park Ave. #300

Email

Street

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:

Port of Palm Beach



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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

4/5/23

Meeting Date

CA

Committee

1072

Bill Number or Topic

226912

Amendment Barcode (if applicable)

Name

Pepper Uchino

Phone

(850) 906-9227

Address

P.O. Box 13146

Email

pepper@fsbpa.com

Street

Tallahassee

City

FL

State

32317

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 Shore & Beach Preservation 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)

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 1096

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Martin

SUBJECT: Monuments and Memorials

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1096 creates the “Historical Monuments and Memorials Protection Act.” The bill defines the term “memorial” to mean a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that is constructed, placed or located with the intent of being permanently displayed or perpetually maintained, that is dedicated to a historical person, entity, event, or series of events, and that honors or recounts the military service of any past or present military personnel or the past or present public service of a resident of the geographical area comprising this state or the United States of America. The bill defines the term “monument” to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, places in remembrance or recognition of a significant person or event in Florida History.

The bill provides that any person or entity that damages, defaces, destroys, or removes a monument or memorial located on publicly owned property may be subject to civil liability, and for which they may be required to pay treble damages and punitive damages. A person or entity authorized to alter, move, repair, or replace the monument or memorial is exempt from punitive liability.

Any public entity that owns a monument or memorial, any legal resident of this state, or any entity whose purpose is historic preservation is granted standing to bring a civil action for its damages relating to the damage, defacement, destruction, or removal of a monument or

memorial, or for the willful and malicious destruction or demolition of a memorial or historic property.

The bill does not prevent an agency from relocating a monument or memorial when relocation is necessary for the construction, expansion, or alternation of any publicly owned building, roads, streets, highways, or other transportation projects. However, if a monument or memorial is relocated, it must be relocated to a site of similar prominence, honor, visibility, and access within the same county or municipality in which it was originally.

The bill requires any plaque, sign, picture, notice or any other object used to convey information to have written approval by the Secretary of State before being placed on or near a monument or memorial in existence on or before January 1, 2022.

The bill takes effect July 1, 2023.

II. Present Situation:

Memorials

The Florida Arts and Culture Act¹ (Act) recognizes the vast cultural resources available in the state and is intended to provide state support for, and gain national and international recognition of, efforts, works, and performances of Florida artists, agencies, museums, and nonprofits.² The Act designates the Secretary of State as chief cultural officer of the state, and creates the division of state arts administrative agency (Division) to administer federal arts funding, award grants, and consult with and advise individuals, groups, organizations, and agencies and officials concerning the acquisition of fine arts.³ The Division also sponsors and promotes performances and exhibits, conducts cultural programs and exchanges, and accepts funding and support for its purposes.⁴

Criminal Penalty for Destruction of a Memorial

Section 806.135, F.S., provides that it is a second degree felony⁵ for any person to willfully and maliciously destroy or demolish any memorial or historic property, or willfully and maliciously pull down a memorial or historic property, unless authorized by the owner of the memorial or the historic property.

The term “historic property” is defined as any building, structure, site, or object that has been officially designated as a historic building, historic structure, historic site, or historic object through a federal, state, or local designation program. A “memorial” is defined as a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that is constructed and located with the intent of being permanently displayed or perpetually maintained; is dedicated to a historical person, an entity, an event, or a series of

¹ Sections 265.281-265.703, F.S., comprise the Florida Arts and Culture Act. *See*, s. 265.281, F.S.

² Section 265.282, F.S.

³ Section 265.284, F.S.

⁴ *Id.*

⁵ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082(9)(a)3.c. and 775.083(1)(b), F.S.

events; and honors or recounts the military service of any past or present United States Armed Forces military personnel, or the past or present public service of a resident of the geographical area comprising the state or the United States. The term includes, but is not limited to, the following memorials established under ch. 265, F.S.:

- Florida Women's Hall of Fame;
- Florida Medal of Honor Wall;
- Florida Veterans' Hall of Fame;
- POW-MIA Chair of Honor Memorial;
- Florida Veterans' Walk of Honor and Florida Veterans' Memorial Garden;
- Florida Law Enforcement Officers' Hall of Fame;
- Florida Holocaust Memorial;
- Florida Slavery Memorial; and
- Any other memorial located within the Capitol Complex, including, but not limited to, Waller Park.

Section 806.135, F.S., also requires the payment of restitution, which includes the full cost of repair or replacement of such memorial or historic property.

Monuments

Section 265.111, F.S., defines "monument" to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, placed in remembrance or recognition of a significant person or event in Florida history.

Standing in Litigation

For standing, Florida courts require the party prosecuting the claim to be the real party in interest or be expressly authorized by statute to bring the claim on behalf of the real party in interest.

Rule 1.210 of the Florida Rules of Civil Procedure provides, in pertinent part, as follows:

(a) Parties Generally. Every action may be prosecuted in the name of the real party in interest, but . . . a party expressly authorized by statute may sue in that person's own name without joining the party for whose benefit the action is brought. All persons having an interest in the subject of the action and in obtaining the relief demanded may join as plaintiffs and any person may be made a defendant who has or claims an interest adverse to the plaintiff. Any person may at any time be made a party if that person's presence is necessary or proper to a complete determination of the cause. Persons having a united interest may be joined on the same side as plaintiffs or defendants, and anyone who refuses to join may for such reason be made a defendant.

Civil Liability and Damages

The State Constitution provides that “the courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.”⁶ In most instances, the aggrieved party is limited to sue for the actual damages incurred.⁷

Treble damages

A statute may subject a person to civil liability for damages caused by the person’s criminal behavior. “Civil liability” is defined in Black’s Law Dictionary as the “debt or legal obligation from a private wrong amounting to the damage done.”⁸ “Treble damages” are damages provided by statute in certain cases found by a jury, where the damages to be paid are triple the amount of damage actually caused.⁹

Punitive damages

In any civil action, no claim for punitive damages is permitted unless there is a reasonable showing by evidence in the record, or proffered by the claimant, which would provide a reasonable basis for recovery of such damages.¹⁰ A defendant may only be held liable for punitive damages if the trier of fact finds the defendant was personally guilty of intentional misconduct¹¹ or gross negligence.^{12,13} Punitive damages may not exceed the greater of:

- Three times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of the section; or
- The sum of \$500,000.¹⁴

If the fact finder determines that the wrongful conduct proven under this section was motivated solely by unreasonable financial gain the court may award an amount of punitive damages not to exceed the greater of:

- Four times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of the section; or
- The sum of \$2 million.¹⁵

If the fact finder determines that, at the time of injury, the defendant had a specific intent to harm the claimant and the defendant’s conduct did in fact harm the claimant, then there shall be no cap on punitive damages.¹⁶

⁶ FLA. CONST. art. I, s. 21.

⁷ See, e.g., *Public Defender, Eleventh Judicial Circuit of Fla. v. State*, 115 So.3d 261, 282 (Fla. 2013).

⁸ “Civil Liability,” Black’s Law Dictionary 435 (9th ed. 2009).

⁹ “Treble Damages,” Black’s Law Dictionary 435 (9th ed. 2009).

¹⁰ Section 768.72(1), F.S.

¹¹ “Intentional misconduct” means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage. Section 768.72(2)(a), F.S.

¹² “Gross negligence” means that the defendant’s conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct. Section 768.72(2)(b), F.S.

¹³ Section 768.72(2), F.S.

¹⁴ Section 768.72(1)(a), F.S.

¹⁵ Section 768.73(1)(b), F.S.

¹⁶ Section 768.73(1)(c), F.S.

III. Effect of Proposed Changes:

Section 1 creates the “Historical Monuments and Memorials Protection Act.”

Section 2 amends s. 265.283, F.S., to define the term “memorial” to mean a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that:

- Is constructed, placed or located with the intent of being permanently displayed or perpetually maintained;
- Is dedicated to a historical person, entity, event, or series of events; and
- Honors or recounts:
 - The military service of any past or present military personnel; or
 - The past or present public service of a resident of the geographical area comprising this state or the United States of America.

Section 2 also defines the term “monument” to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, places in remembrance or recognition of a significant person or event in Florida History.

Section 3 creates s. 265.710, F.S., to allow a civil action against a person or entity that damages, defaces, destroys, or removes a monument or memorial that is displayed on publically owned property or for willfully and maliciously destroying or demolishing a memorial or historic property. The person or entity who commits such act may be liable for three times the full cost to return, repair, or replace the monument or memorial, and may be subject to punitive damages; unless the person or entity was authorized to alter, move, repair, or replace the monument or memorial by the public entity that owns it. Although it is not specifically stated in the bill, the right to collect such damages is generally limited to a harmed party—such as the owner of the monument or memorial that is damaged or destroyed.

Section 3 also grants any public entity that owns a monument or memorial (not necessarily the monument or memorial damaged, defaced, destroyed, or removed), any legal resident of this state, or any entity whose purpose is historic preservation the right to bring a civil action for damages in the circuit court in the county in which the monument or memorial was damaged, defaced, destroyed, or removed or for any act prohibited by s. 806.135, F.S. But see VII. Related Issues below.

A person may be found guilty of a criminal and civil violation based on the same underlying facts. Therefore, a person or entity who damages, defaces, destroys, or removes a monument or memorial may be subject to both a criminal penalty and restitution pursuant to s. 806.135, F.S., and the civil penalties imposed pursuant to this bill.

Section 3 does not prevent an agency from relocating a monument or memorial when relocation is necessary for the construction, expansion, or alteration of any publicly owned building, roads, streets, highways, or other transportation projects. Section 3 requires that the monument or memorial that is relocated must be relocated to a site of similar prominence, honor, visibility, and access within the same county or municipality as its original placement.

Section 3 requires any plaque, sign, picture, notice or any other object used to convey information must have written approval by the Secretary of State before being placed on or near a monument or memorial in existence on or before January 1, 2022.

Section 4 provides the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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.

E. Other Constitutional Issues:

Lines 126 through 133 require a monument or memorial to be relocated to certain types of locations. If the memorial or monument is owned by a private party, this requirement may infringe upon the property owner's rights of possession. This may be deemed a "taking" by the government and be subject to "just compensation."

Lines 134 through 137 require express written approval by the Secretary of State prior to a plaque, sign, picture, notice, or any other object used to convey information being placed on or near a monument or memorial in existence on or before January 1, 2022. Not all monuments and memorials are owned by governmental entities or located on public property. Thus, this requirement may infringe upon the property rights of the owner of the monument or memorial or the owner of the property upon which the monument or memorial is located.

Moreover, monuments and memorials are typically located in parks and other public places. These parks and public areas may be deemed "public forums" for free speech considerations. Thus, the requirement of the Secretary of State's approval may infringe upon a citizen's free speech rights.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State may incur workload costs associated with any requests to place a plaque, sign, picture, notice, or any other object used to convey information on or near a monument or memorial in existence on or before January 1, 2022. This increased workload should be absorbed within current agency resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 113 through 125 address potential litigation against persons who damage, deface, destroy or remove a monument displayed on publicly owned property.

Subsection (1) (lines 113 through 119) increases the civil liability of the “bad actor” to treble damages (based on the full cost to return, repair, or replace the monument, and punitive damages). If the person is found liable for these damages, the damages appear to be payable to the owner of the monument or memorial.

Subsection (2) (lines 120 through 125) grants standing to parties other than the injured property owner. This language could be interpreted two ways. The first interpretation is that these parties are granted standing to sue on behalf of the injured property owner. This appears consistent with Rule 1.210 of the Florida Rules of Civil Procedure. If the party is successful in the suit, the damages would be payable to the injured property owner. The second interpretation is that these parties are granted standing to seek redress based on the damages to those particular parties (rather than the injured property owner). In this case, the treble and punitive damages may not apply. Given that (at least) two interpretations can be made, consideration should be given to clarifying the language so that the intended interpretation is understood.

Lines 113 through 117 make a person or entity liable for treble damages and punitive damages for any act that damages, defaces, destroys, or removes certain monuments or memorials. This liability does not distinguish between negligent acts and intentional acts. Typically, Florida law imposes treble or punitive damages when the act is criminal, gross negligence, or performed with knowledge or intention. This bill appears to subject a negligent act to treble damages.

Lines 117 through 119 provide an exception to a party's punitive liability if the public entity owning the monument or memorial authorized certain actions. This exception to punitive damages suggests that even a person or entity authorized to alter, move, repair, or replace the monument or memorial may be liable for treble damages (rather than actual damages) if the person or entity (regardless of intent) damages, defaces, destroys, or removes a monument or memorial. In most instances, such damages would be addressed in a contract between the parties.

VIII. Statutes Affected:

This bill substantially amends section 265.283 of the Florida Statutes.

This bill creates section 265.710 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 committee substitute defines the term “monument” to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, places in remembrance or recognition of a significant person or event in Florida History.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Martin

585-02613-23

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A bill to be entitled
An act relating to monuments and memorials; providing
a short title; amending s. 265.283, F.S.; defining the
terms "memorial" and "monument"; conforming a
provision to changes made by the act; creating s.
265.710, F.S.; providing that a person or an entity
that damages, defaces, destroys, or removes a monument
or memorial is liable for treble the costs to return,
repair, or replace the monument or memorial; providing
an exception; declaring that specified persons or
entities have standing to bring a civil action against
a person or entity that damages, defaces, destroys,
removes, or performs other specified actions toward a
monument or memorial; providing applicability;
prohibiting the placement of specified objects on or
near a memorial that existed before a specified date;
providing an effective date.

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

Section 1. This act may be cited as the "Historical
Monuments and Memorials Protection Act."

Section 2. Section 265.283, Florida Statutes, is amended to
read:

265.283 Definitions.—The following definitions ~~shall~~ apply
to ss. 265.281-265.710 ~~ss. 265.281-265.703~~:

(1) "Arts and cultural disciplines" include, but are not
limited to, music, dance, theatre, creative writing, literature,
architecture, painting, sculpture, folk arts, photography,

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crafts, media arts, visual arts, programs of museums, and other such allied, major art forms.

(2) "Arts in education grants" means grants used to cultivate the learning and artistic development of all students and teachers by promoting, encouraging, and supporting arts and culture as an integral part of education and lifelong learning for residents and visitors.

(3) "Council" means the Florida Council on Arts and Culture.

(4) "Cultural support grants" means grants that provide support for general programs and specific cultural projects.

(5) "Culture Builds Florida grants" means grants used for the purpose of connecting the arts to key areas of the division's long-term strategic plan.

(6) "Department" means the Department of State.

(7) "Director" means the Director of the Division of Arts and Culture of the Department of State.

(8) "Division" means the Division of Arts and Culture of the Department of State.

(9) "Folklife" means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

(10) "Historical museum" means a department or agency of

585-02613-23

20231096c1

59 state or local government or a public or private nonprofit
60 organization located in Florida and operating on a permanent
61 basis for the primary purpose of sponsoring, producing, and
62 exhibiting educational programs that are related to the
63 historical resources of Florida.

64 (11) "Local arts agency" means a public or private
65 nonprofit organization located in Florida and operating on a
66 permanent basis for the primary purpose of strengthening,
67 supporting, and stabilizing the activities of one or more county
68 art and cultural constituencies.

69 (12) "Memorial" means a plaque, statue, marker, flag,
70 banner, cenotaph, religious symbol, painting, seal, tombstone,
71 structure name, or display that is constructed, placed, or
72 located with the intent of being permanently displayed or
73 perpetually maintained, that is dedicated to a historical
74 person, entity, event, or series of events, and that honors or
75 recounts the military service of any past or present military
76 personnel or the past or present public service of a resident of
77 the geographical area comprising this state or the United States
78 of America.

79 (13) "Monument" means a permanent structure, such as a
80 marker, statue, sculpture, plaque, or other artifice, including
81 living plant material, placed in remembrance or recognition of a
82 significant person or event in Florida history.

83 (14) "Panel" means a grant review panel.

84 (15) ~~(13)~~ "Science museum" means a public or private
85 nonprofit organization located in Florida and operating on a
86 permanent basis for the primary purpose of sponsoring,
87 producing, and exhibiting programs for the observation and study

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of various types of natural science and science technology.

~~(16)(14)~~ "Secretary" means the Secretary of State.

~~(17)(15)~~ "State service organization" means a public or private nonprofit organization located in Florida operating on a permanent basis for the primary purpose of implementing programs that have cultural significance and that emphasize American creativity and the maintenance and encouragement of professional excellence.

~~(18)(16)~~ "State touring program grants" means grants used to provide performances, activities, and exhibitions by Florida artists to communities.

~~(19)(17)~~ "Underserved arts community assistance program grants" means grants used by qualified organizations under the Rural Economic Development Initiative, pursuant to ss. 288.0656 and 288.06561, for the purpose of economic and organizational development for underserved cultural organizations.

~~(20)(18)~~ "Youth and children's museum" means a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting multidisciplinary and participatory programs for visitors who are 6 months to 15 years old, and their families, teachers, and caregivers.

Section 3. Section 265.710, Florida Statutes, is created to read:

265.710 Civil liability.—

(1) Any person or entity that damages, defaces, destroys, or removes a monument or memorial displayed on publicly owned property is liable for treble the amount of the full cost to return, repair, or replace the monument or memorial and may be

585-02613-23

20231096c1

117 subject to punitive damages unless the person or entity was
118 authorized to alter, move, repair, or replace the monument or
119 memorial by the public entity that owns it.

120 (2) A public entity that owns a monument or memorial, any
121 legal resident of this state, or any entity whose purpose is
122 historic preservation has standing to bring a civil action for
123 damages in the circuit court in the county in which a monument
124 or memorial has been damaged, defaced, destroyed, or removed or
125 for any act prohibited by s. 806.135.

126 (3) This section does not prevent an agency from relocating
127 a monument or memorial when relocation is necessary for the
128 construction, expansion, or alteration of publicly owned
129 buildings, roads, streets, highways, or other transportation
130 projects. Any monument or memorial relocated for such purpose
131 must be relocated to a site of similar prominence, honor,
132 visibility, and access within the same county or municipality in
133 which the monument or memorial was originally placed or located.

134 (4) A plaque, sign, picture, notice, or any other object
135 used to convey information may not be placed on or near a
136 monument or memorial in existence on or before January 1, 2022,
137 without the express written approval of the secretary.

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

The Florida Senate

APPEARANCE RECORD

SB 1096

Meeting Date

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1096

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Gov Oversight

Name Jacqueline Moore

Phone 407 963 8574

Address 2750 Maureen Dr

Email myellowguy@aol.com

Street

Delfona

32725

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

Deliver both copies of this form to
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4/5/23

Meeting Date

SB 1096

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jewel Dickson

Phone 386-717-4344

Address 601 N Amelia Ave.

Street

Email jewel.dickson@mac.com

DeLand, FL

City

State

32724

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

SB 1096

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name James Calkins

Phone _____

Address 3498 Hensherton Rd

Email _____

Street

Milton RI 02570

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)

April 5, 2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB 1096- Memorials

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name JONATHAN webber

Phone 954-593-4449

Address 400 Washington Ave

Email JONATHAN.webber@splcactiunfla.org

Street

montgomery

City

AL

State

36104

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Meeting Date

4/5/23

Bill Number or Topic

1096

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

Committee

Community Affairs

Amendment Barcode (if applicable)

Name

JEFF KOTTKAMP

Phone

Address

Street

Tallahassee FL

Email

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:

GUARDIANS OF
AMERICAN HISTORY

☐

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

4/15/2023

Meeting Date

1096

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

Dr. Carolyn Zonia

Phone

~~850~~ 850-714-3793

Address

620 Flint Woods Forest Loop

Email

zoniacarolyn@jail.com

Street

Santa Rosa Beach FL 32459

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

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4-5-2023

Meeting Date

SB1096

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Will Pacetti

Phone

Address

116 N. Prairie Lakes Dr

Email

Street

ST. AUG FL 32084

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
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(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/CS/SB 1110

INTRODUCER: Community Affairs Committee, Ethics and Elections Committee and Senator Ingoglia

SUBJECT: Term Limits

DATE: April 6, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
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/CS/SB 1110 reduces the length of term limits for school board members to 8 years from 12 years, and creates a term limit of 8 years for county commissioners. The revised and new term limits will apply to terms of office beginning on or after November 8, 2022, except that more restrictive term limits already imposed by county charter are not extended.

The bill takes effect July 1, 2023.

II. Present Situation:

Term Limits in Florida's Constitution

Florida's Constitution establishes term limits for the following elected officials:

- Florida Governor;
- Florida representatives;
- Florida senators;
- Florida Lieutenant Governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.¹

¹ Article VI, s. 4(c), FLA. CONST. *See also* art. IV, s. 5(b), FLA. CONST.

Term limits imposed by states for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.²

The Florida Constitution states that none of the specified officials, except for the office of Governor, which is governed by a slightly different provision, may appear on a ballot for reelection if, by the end of the current term of office, the person will have served or, but for resignation, would have served in that office for eight consecutive years.³ These term limits became effective in 1992 and were prospective, so that officials reelected to a consecutive term in 1992 could serve another consecutive eight years before reaching the term limit.⁴

The Florida Constitution does not address the number of terms a school board member or county commissioner may serve.

District School Board Member Terms of Office

The Florida Constitution provides that “[i]n each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.”⁵ This provision has been interpreted to allow school board member qualifications to be established by statute.⁶

In 2022, the Legislature established a term limit of 12 years for district school board members.⁷ This term limit applies to those individuals elected on or after November 8, 2022.⁸ The term limit is prospective, so that school board members reelected to a consecutive term in 2022 could serve another 12 consecutive years before being term limited.⁹ Currently, Duval County is the only district to have established a more restrictive term limit for its school board members of two consecutive full terms of 4 years.¹⁰

² See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). See also *Ray v. Mortham*, 742 So. 2d 1276 (Fla. 1999) (holding that term limits imposed on elected state officials were severable from provisions imposing term limits on elected federal officials).

³ Article VI, s. 4(c), FLA. CONST.

⁴ See Art. VI, s. 4, FLA. CONST. (1992); Billy Buzzett and Steven J. Uhlfelder, *Constitution Revision Commission: A Retrospective and Prospective Sketch*, The Florida Bar Journal (April 1997), <https://www.floridabar.org/the-florida-bar-journal/constitution-revision-commission-a-retrospective-and-prospective-sketch> (last visited March 17, 2023).

⁵ Article IX, s. 4(a), FLA. CONST.

⁶ In *Askew v. Thomas*, 293 So.2d 40, 42 (Fla. 1974), the court interpreted section 4(a) of article IX and refused to invoke the constitutional principle that “statutes imposing additional qualifications for office are unconstitutional where the basic document of the constitution itself has already undertaken to set forth those requirement” because that section does not address school board member qualifications. Similarly, in *Telli v. Broward County*, 94 So. 3d 504 (Fla. 2012), the court receded from prior opinions which held that article VI, section 4(b), Florida Constitution, listing the state elected offices with mandatory term limits, prohibited the imposition of term limits on other officials. The court held that “[i]nterpreting Florida’s Constitution to find implied restrictions on powers otherwise authorized is unsound in principle” and that “express restrictions must be found not implied.” *Id.* at 513.

⁷ Section 1001.35, F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ Charter of the City of Jacksonville, Florida, art. 13, s. 13.15, available at https://library.municode.com/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA_PTACHLACHJAFI_ART13DU_COSCOB (last visited March 31, 2023).

County Commissioner Terms of Office

The Florida Constitution provides that each board of county commissioner shall consist of five or seven members serving staggered terms of four years. After each decennial census, the board of county commissioners divides the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner in each district must be elected as provided by law.¹¹

The statutes implementing the constitutional provisions specify:

- County commissioners may be elected at-large in some counties and from single-member districts in other counties.¹²
- For single-member districts, each commissioner from an odd-numbered district is elected at the general election in each year the number of which is a multiplier of four. Each commissioner from an even-numbered district is elected at the general election in each even-numbered year the number of which is not a multiple of four.¹³

Neither the Florida Constitution nor the Florida Statutes currently provide term limits for county commissioners. Currently, 20 Florida counties have adopted charters,¹⁴ some of which specify term limits for their county commissioners.¹⁵

III. Effect of Proposed Changes:

The bill revises term limits for school board members to prohibit a school board member from appearing on a ballot for reelection if, by the end of his or her current term of office, the member will have served, or would have served if not for resignation, in that office for 8 consecutive years. The bill maintains for school board members that service of a term of office which began before November 8, 2022 is not counted towards the amended term limits.

The bill also creates term limits for county commissioners, providing that a county commissioner may not appear on a ballot for reelection if, by the end of his or her current term of office, the commissioner will have served, or would have served if not for resignation, in that office for 8 consecutive years. In a county without imposed term limits, service of a term of office which began before November 8, 2022 is not counted towards the new term limits. The bill specifies that the statutory term limits for county commissioners does not supersede any more restrictive term limits imposed by a county charter.

The bill takes effect July 1, 2023.

¹¹ Art. VIII, s. 1(e), FLA. CONST.

¹² Section 124.011, F.S.

¹³ Section 100.041(2)(a), F.S.

¹⁴ See Florida Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/about-floridas-counties/charter-county-information/> (last visited March 17, 2023). A county with a charter has all powers of self-government not inconsistent with general law or special law approved by the county voters (Art. VIII, s. 1(g), Fla. Const.).

¹⁵ The charter for the consolidated City of Jacksonville/Duval County, for example, limits the consecutive service of its county commissioners to three terms (charter available at https://www.fl-counties.com/themes/bootstrap_subtheme/sitefinity/documents/duval.pdf (last visited March 31, 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 the following sections of the Florida Statutes: 124.012 and 1001.35.

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 April 5, 2023:

The CS provides that the term limits imposed do not supersede more restrictive term limits imposed by county charters.

CS by Ethics and Elections on March 21, 2023:

The CS specifies that the creation of prospective eight-year term limits for county commissioners does not extend term limits already applicable to a sitting county commissioner.

- B. **Amendments:**

None.

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



705842

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 13 - 25
and insert:

(1) Notwithstanding the terms of any county charter to the contrary, a person may not appear on the ballot for reelection to the office of county commissioner if, by the end of his or her current term of office, the person will have served, or but for resignation would have served, in that office for 8 consecutive years. In any county in which term limits are not



705842

imposed by county charter as of the effective date of this act,
service of a term of office which commenced before November 8,
2022, may not be counted toward the limitation imposed by this
subsection.

(2) This section does not supersede any term limit imposed
by a county charter which is more restrictive than the term
limit imposed in this section.

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

And the title is amended as follows:

Delete line 4

and insert:

commissioners; providing construction; amending s.

By the Committee on Ethics and Elections; and Senator Ingoglia

582-02875-23

20231110c1

A bill to be entitled
An act relating to term limits; creating s. 124.012,
F.S.; establishing term limits for county
commissioners; providing for construction; amending s.
1001.35, F.S.; revising term limits for district
school board members; providing an effective date.

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

Section 1. Section 124.012, Florida Statutes, is created to
read:

124.012 Term limits of county commissioners.—

(1) A person may not appear on the ballot for reelection to
the office of county commissioner if, by the end of his or her
current term of office, the person will have served, or but for
resignation would have served, in that office for 8 consecutive
years. Service of a term of office which commenced before
November 8, 2022, will not be counted toward the limitation
imposed by this section in any county that has not adopted term
limits as of July 1, 2023.

(2) This section supersedes any term limits imposed by a
county charter; however, this section may not be construed to
extend term limits already applicable to a county commissioner
as of July 1, 2023, under an applicable provision of a county
charter adopted before July 1, 2023.

Section 2. Section 1001.35, Florida Statutes, is amended to
read:

1001.35 Term of office.—District school board members shall
be elected at the general election in November for terms of 4

582-02875-23

20231110c1

years, except that a person may not appear on the ballot for reelection to the office of school board member if, by the end of his or her current term of office, the person will have served, or but for resignation would have served, in that office for 8 ~~12~~ consecutive years. Service of a term of office which commenced before November 8, 2022, will not be counted toward the limitation imposed by this section.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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4/5/23

Meeting Date

SB 1110

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Bretchen Robinson

Phone

820-576-6706

Address

520 Ramona Ln

Email

pellos77gr@gmail.com

Street

Orlando

FL

32865

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

Deliver both copies of this form to
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4/5/2023

Meeting Date

Community Affairs

Committee

1110

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jasmine Burney-Clark

Phone

407-466-6468

Address

474 E. Central Blvd Suite 650

Street

Email

jasmine@equal-grand.com

Orlando

City

FL

State

32801

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,
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☐

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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4/5/23

Meeting Date

Comm Affairs

Committee

SB 1110

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeremy Childress

Phone 386-233-4796

Address 488 Hickory St

Street

New Smyrna Beach FL 32168

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
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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 1110

Bill Number or Topic

Amendment Barcode (if applicable)

04/05/23

Meeting Date

Comm Affair

Committee

Name

Keith Ham RAH

Phone

407-973-2473

Address

2902 Kate Beth Ct

Email

Katebethmusic399@gmail.com

Street

Hissimmee FL 34744

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
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representing:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1110

4/5/23

Meeting Date

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

Bill Number or Topic

Comm Affair

Committee

Amendment Barcode (if applicable)

Name

Gabriel Thomas

Phone

443 764 5335

Address

263 North Fort Christmas Rd

Email

AFGREGabe@gmail.com

Street

Christmas FL

32709

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)

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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

SB 110

Bill Number or Topic

Comm Affairs

Committee

Amendment Barcode (if applicable)

Name

Joseph Groover

Phone

407-625-9288

Address

2428 Pershing Ave

Email

Joseph1990Groover@msn.com

Street

Orlando

City

FL

State

32806

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)

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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

SB110

Bill Number or Topic

Term Limits

Amendment Barcode (if applicable)

Name Lorraine Boone

Phone 954-326-6086

Address 2650 SW 114th Terr Apt 108

Email lboone2007@yahoo.com

Street

Miramar, FL 33025

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

4/5/23
Meeting Date

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

SB 1110
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Donna Pixley Phone 754 235 9466

Address 2226 SE PEAR LN Email PixPuster@outlook.com
Street

Port St Lucie FL 34952
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

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

4/15/23
Meeting Date
Community Affairs
Committee

SB110
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tatishka Thomas Phone 727 688 0269

Address 1130 Beckett St Email _____
Street

Clw FL 33755
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

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

4-5-2023

Meeting Date

Comm. Affairs

Committee

SB 1110

Bill Number or Topic

Name Pamela Burrell-Tomlinson

Amendment Barcode (if applicable)
Phone 727-692-1467

Address 5488 30th Ave N

Email bentley5550@yahoo.com

St. Petersburg, FL 33710

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/2023

Meeting Date

1110

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 Nancy Luna

Phone (407) 219-1787

Address 2934 Tanzanite Terrace

Street

Email nancy162002@gmail.com

Kissimmee FL

City

State

34758

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

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

4/5/2023

Meeting Date

Comm. AFFAIRS

Committee

SB 1110

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Causace HARVEY

Phone 407 460 6514

Address 301 DAKOTA AVE

Street

Email yowcet@hotmail.com

ST Cloud FL 34769

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

4-5-2023

Meeting Date

Community Affairs
Committee

SB 110

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Rick Myers

Phone 904 610-5609

Address 940 17th Ave N
Street

Email myersr48@hotmail.com

SAX
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

415123

Meeting Date

SB 116

Bill Number or Topic

community affairs

Committee

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

Term Limits

Amendment Barcode (if applicable)

Name

Charles Tribble

Phone

561-298-8998

Address

1510 W 13th Street

Street

Email

Riviera Beach FL

City

State

33404

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

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

SB 1110
Bill Number or Topic

4/5/23
Meeting Date
Community Affairs
Committee

Amendment Barcode (if applicable)

Name Tatiana Finlay Phone 407-967-8077

Address 2454 Baxley Dr Email tfinlayafge@gmail.com
Tavares FL 32778
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

04/05/23

Meeting Date

SB 1110

Bill Number or Topic

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

Common affairs

Committee

Amendment Barcode (if applicable)

Name

Kim Katz

Phone

215 2007162

Address

4695 Ellis Cir

Email

Street

Titusville FL 32780

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)

04/05/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 110

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

Juan Rodriguez

Phone

321 442 2161

Address

2841 Spring Breeze Way

Email

jrodriguez.affs@gmail.com

Street

Lissimue FL

34744

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

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

415123

Meeting Date

SB1110

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Sheryl Posey

Phone

815-404-8601

Address

3104 Lake Jean Drive

Email

saposey818@gmail.com

Street

Orlando

City

FL

State

32817

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

4/5

Meeting Date

1110

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

BRIAN ANTONE

Phone

504 296 9730

Address

13737 Meadowbrook Ave

Email

Street

Orlando

FL

32826

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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S-001 (08/10/2021)

APPEARANCE RECORD

SB 1110

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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

1110

Bill Number or Topic

Amendment Barcode (if applicable)

3-5-23

Meeting Date

Comm. All.

Committee

Name

Chris Doolin

Phone

850-508-5492

Address

1018 THOMASVILLE Rd. 102 B

Email

cdoolin@doolinandassoc.com

Street

Tallah. Fla. 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:

SMALL COUNTY COALITION / SMALL SCHOOL DISTRICTS

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

4/5/2023

Meeting Date

Community Affairs

Committee

1110

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bob McKee

Phone

(850) 766-1952

Address

100 S Monroe

Email

b.mckee@fl-counties.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:

Florida Association
of Counties

☐

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/2023

Meeting Date

Community Affairs

Committee

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

1110

Bill Number or Topic

Amendment Barcode (if applicable)

Name Senator Lee Constantine

Phone

Address

Street

Email

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:

President, Florida Assoc of
Countries

☐ 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

4/5/23

Meeting Date

SB 1110

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone 850-224-6826

Address 135 S. Monroe
Street

Email

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 AFL-CIO

☐ 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: CS/CS/SB 1126

INTRODUCER: Community Affairs Committee, Criminal Justice Committee and Senator Avila

SUBJECT: Impeding, Provoking, or Harassing First Responders

DATE: April 6, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1126 provides that it is a first degree misdemeanor for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 14 feet of the first responder with the intent to:

- Interrupt, disrupt, hinder, impede, or interfere with the first responder's ability to perform such duty;
- Threaten the first responder with physical harm; or
- Harass the first responder or make so much noise that a first responder is prevented from performing their official duties or providing medical aid.

A "first responder" means a law enforcement officer, correctional probation officer, firefighter, or emergency medical care provider. "Harass" means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in the first responder and serves no legitimate purpose.

The bill does not have an impact on the state prison system but may have an indeterminate impact on county jails. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

Currently, depending upon the facts of the case, interfering with a law enforcement officer in the performance of his or her official duties can be punished as resisting an officer without violence (s. 843.02, F.S.) or resisting an officer with violence (s. 843.01, F.S.).

Section 843.02, F.S., provides that it is a first degree misdemeanor¹ to resist, obstruct, or oppose any of the following persons in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to that person:

- A law enforcement officer;
- A correctional officer;
- A correctional probation officer;
- A part-time law enforcement officer;
- A part-time correctional officer;
- An auxiliary law enforcement officer;
- An auxiliary correctional officer;
- A member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- A parole and probation supervisor;
- A county probation officer;
- Personnel or representative of the Department of Law Enforcement; or
- Other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty.

The Florida Supreme Court has found that to support a conviction of s. 843.02, F.S., the state must prove:

- The officer was engaged in the lawful execution of a legal duty; and
- The defendant's action, by his words, conduct, or combination thereof, constituted obstruction or resistance of that lawful duty.²

Additionally, in the context of obstruction of an officer without violence, it has been held that “a person's exercise of free speech, without more, in an open public place while an officer is engaged in the execution of a legal duty must do more than merely irritate, annoy, or distract the officer to constitute a crime.”³ Reviewing Florida cases on obstruction of an officer, one court opined that these cases

seem to support the following general proposition: If a police officer is not engaged in executing process on a person, is not legally detaining that person, or has not asked the person for assistance with an ongoing emergency that presents a serious threat of imminent harm to person or property, the person's words alone can rarely,

¹ A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

² *C.E.L. v. State*, 24 So. 3d 1181 (Fla. 2009) (citations omitted).

³ *D.A.W v. State*, 945 So.2d 624, 627 (Fla. 2d DCA 2006).

if ever, rise to the level of an obstruction. This obstructive conduct rather than offensive words are normally required to support a conviction under this statute.⁴

Section 843.01, F.S., provides that it is a third degree felony⁵ to knowingly and willfully resist, obstruct, or oppose any of the persons previously described in the lawful execution of any legal duty, by offering or doing violence to that person.

III. Effect of Proposed Changes:

The bill creates s. 843.31, F.S., which provides that it is a first degree misdemeanor for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 14 feet, “roughly the length of an average midsize sedan vehicle” according to the bill, of the first responder with the intent to:

- Interrupt, disrupt, hinder, impede, or interfere with the first responder’s ability to perform such duty;
- Threaten the first responder with physical harm; or
- Harass the first responder or make so much noise that a first responder is prevented from performing their official duties or providing medical aid.

A “first responder” means a law enforcement officer, correctional probation officer, firefighter, or emergency medical care provider.⁶ “Harass” means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in the first responder and serves no legitimate purpose.⁷

The criminal offense does not appear to be violated if the person to whom the warning is issued is within the 14-foot zone but the person does not have the required intent (e.g. impeding the first responder’s ability to perform his or legal duty).

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ *D.G. v. State*, 661 So.2d 75, 76 (Fla. 2d DCA 1995).

⁵ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

⁶ An “emergency medical care provider” is an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term also includes physicians, employees, agents, or volunteers of hospitals as defined in ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital’s emergency department or the security thereof. Section 784.07(1)(a), F.S.

⁷ This definition is similar to the definition of “harass” in s. 843.20, F.S., which prohibits harassment of a participant in a neighborhood crime watch program.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:**Due Process**

Due process requires that a penal statute use “language sufficiently definite to apprise those to whom it applies what conduct on their part is prohibited. It is constitutionally impermissible for the Legislature to use such vague and broad language that a person of common intelligence must speculate about its meaning and be subjected to arrest and punishment if the guess is wrong.”⁸

A vague statute, “because of its imprecision, may also invite arbitrary and discriminatory enforcement.”⁹

Questions may arise when determining how the warning requirement and 14-foot requirement are to be applied, including, but not limited to, whether the distance is to be measured from the first responders position when he or she issued the warning, or whether such “halo” around the officer moves with the officer who issued the warning.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a first degree misdemeanor. The bill does not have impact on the state prison system but may have an indeterminate impact on county jails.

⁸ *State v. Wershow*, 343 So.2d 605, 608 (Fla. 1977).

⁹ *Southeastern Fisheries Ass’n, Inc. v. Department of Natural Resources*, 453 So.2d 1351, 1353 (Fla. 1984).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 843.31 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 April 5, 2023:

The committee substitute includes correctional probation officers in the definition of "first responders," and reduces the protected radius around a first responder who has issued a warning from 20 to 14 feet.

CS by Criminal Justice on March 27, 2023:

The committee substitute reduces the distance requirement in the bill from 30 feet to 20 feet, changes terminology used in regard to intent, and defines the term "harass."

B. Amendments:

None.



694266

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 20 - 29
and insert:
defined in s. 943.10(1), a correctional probation officer as
defined in s. 943.10(3), a firefighter as defined in s. 784.07,
and an emergency medical care provider as defined in s. 784.07.
(b) "Harass" means to engage in a course of conduct
directed at a first responder which causes substantial emotional
distress in that first responder and serves no legitimate



694266

purpose.

(2)(a) It is unlawful for a person, after receiving a
warning not to approach from a first responder who is engaged in
the lawful performance of a legal duty, to violate such warning
and approach or remain within 14 feet, roughly the length of an
average midsize sedan vehicle, of the first responder

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

And the title is amended as follows:

Delete line 8

and insert:

and approach or remain within a specified distance of
the first

By the Committee on Criminal Justice; and Senator Avila

591-03146-23

20231126c1

A bill to be entitled

An act relating to impeding, threatening, or harassing first responders; creating s. 843.31, F.S.; defining the terms "first responder" and "harass"; prohibiting a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with specified intent; providing criminal penalties; providing an effective date.

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

Section 1. Section 843.31, Florida Statutes, is created to read:

843.31 Approaching a first responder after a warning with intent to impede, provoke, or harass.—

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

(a) "First responder" includes a law enforcement officer as defined in s. 943.10(1), a firefighter as defined in s. 784.07, and an emergency medical care provider as defined in s. 784.07.

(b) "Harass" means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in that first responder and serves no legitimate purpose.

(2)(a) It is unlawful for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder

591-03146-23

20231126c1

30 with the intent to:

31 1. Interrupt, disrupt, hinder, impede, or interfere with
32 the first responder's ability to perform such duty;

33 2. Threaten the first responder with physical harm; or

34 3. Harass the first responder or make so much noise that a
35 first responder is prevented from performing their official
36 duties or providing medical aid.

37 (b) A person who violates this subsection commits a
38 misdemeanor of the first degree, punishable as provided in s.
39 775.082 or s. 775.083.

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

The Florida Senate
APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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)

April 5, 2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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

SB1126 Impeding/First Responders

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

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

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

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

4/5/2023

Meeting Date

Community Affairs

Committee

H266 1126

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jasmine Burney-Clark

Phone

215 466-6468

Address

424 E. Central Blvd Suite 650

Street

Email

jasmine@equal-ground.com

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Meeting Date

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

1124
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Lisa Henning

Phone

850-746-8808

Address

242 Office Plaza Dr.

Email

legislative@police

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:

Fraternal Order of Police

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

4/5/23

Meeting Date

1126

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

NR Hines

Phone

786 363-1104

Address

Street

Email

nhines@aclufl.org

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:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/23

Meeting Date

1126

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 William B. Smith

Phone 305-333-4344

Address 300 E. BREVARD ST.
Street

Email WSMITH@FLSBA.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:

FL P.B.A.

☐ 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
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4/5/23
Meeting Date
Comm. Affairs
Committee

SB 1126
Bill Number or Topic
694266
Amendment Barcode (if applicable)

Name NR Hines Phone 286-363-1104

Address _____ Email _____
Street

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Meeting Date

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

1126
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

Fraternal Order of Police

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 1256

INTRODUCER: Community Affairs Committee and Senator Collins

SUBJECT: Preemption Over Utility Service Restrictions

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.			RI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1256 preempts local governments from restricting or prohibiting the use of any appliance which uses any type of fuel source, except as necessary to enforce the Florida Building Code or Florida Fire Prevention Code. “Appliance” is defined as any device or apparatus, manufactured and designed to use energy, for which the building or fire codes provides specific requirements.

The bill takes effect July 1, 2023.

II. Present Situation:

Local Government Authority Over Matters Related to Utility and Energy Services

Many of the powers granted to local governments by general law relate, directly or indirectly, to the provision of utility or other energy services to property owners or utility customers in general or to the authority of local governments to provide these services themselves. These powers include the authority to:

- Enforce the Florida Building Code and adopt and enforce local technical amendments thereto.¹
- Enter into contracts with utility companies or others for the supply of water, electricity, or telephone service to or in connection with any project.²

¹ Section 125.01(1)(bb), F.S.

² Section 125.012(19), F.S.

- Construct, operate, and maintain gas plants and distribution systems for domestic, municipal, and industrial uses,³ construct such other buildings and facilities as may be required to properly and economically operate and maintain such works,⁴ and make all necessary rules or regulations governing the use, control and operation of such works;⁵
- License the use of gas and power lines in rights-of-way.⁶
- Adopt, revise, and amend, from time to time, appropriate ordinances, rules, and regulations reasonably necessary to maintain air quality standards established pursuant to state and federal law, including the federal Clean Air Act.⁷

Further, general law provides a role for local governments in state proceedings related to the siting of certain new electrical power plants, transmission lines, and natural gas pipelines. Specifically, part II of ch. 403, F.S., requires local governments to provide a report to the Department of Environmental Protection (DEP) as to the consistency of proposed electrical power plants, transmission lines, and natural gas pipelines with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed facility, including local comprehensive plans, zoning regulations, land development regulations, and any applicable local environmental regulations.⁸

Municipalities are authorized to levy a public service tax on the purchase of electricity, natural gas liquefied petroleum gas, and manufactured gas.⁹ Many municipalities own and operate electric utilities and natural gas utilities, and govern the operation of those utilities through ordinance, code, or policies. Some special districts provide these services under policies adopted by each special district.

Preemption Over Utility Service Restrictions

Section 366.032, F.S., expressly preempts the area of restricting utility services, prohibiting a municipality, county, special district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy, or take any other action that restricts or prohibits, or has the effect of restricting or prohibiting, the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and

³ Section 180.06(8), F.S.

⁴ Section 180.06(9), F.S.

⁵ Section 180.13, F.S.

⁶ Section 125.42, F.S.

⁷ Section 125.275, F.S.

⁸ Sections 403.507(2)(a)3., 403.526(2)(a)5., and 403.941, F.S.

⁹ Section 166.231, F.S.

- Certain propane dealers, dispensers, and gas cylinder exchange operators.¹⁰

An electric utility is one which owns, maintains, or operates an electric generation, transmission or distribution system. An electric utility can be investor-owned, municipally-owned, or a rural electric cooperative.¹¹ There are four investor-owned electric utilities in Florida: Florida Power & Light Company,¹² Duke Energy Florida, Tampa Electric Company, and Florida Public Utilities Corporation.¹³ Additionally, there are thirty-four municipal electric utilities and seventeen rural electric cooperatives.¹⁴ Further, the Florida Municipal Power Agency was created through a series of interlocal agreements under s. 163.01, F.S., to provide wholesale power supply to municipal electric utilities.¹⁵ Fuels that electric utilities currently use to generate electric power include, but are not limited to: natural gas, nuclear, coal, and renewables like solar and biomass.¹⁶

A natural gas utility is a utility that supplies natural or manufactured gas, or liquefied gas with air admixture, or a similar gaseous substance by pipeline, to or for the public. A natural gas utility can be a gas public utility, gas district, or natural gas utility or municipality.¹⁷ Currently, there are eight investor-owned natural gas utilities, twenty-seven municipally owned natural gas utilities, and four special gas districts.¹⁸

Gas Stove Bans

Multiple cities around the country have placed restrictions on the use of natural gas, propane, and related appliances. Nearly 100 cities and counties in the U.S. have adopted policies, rules, or ordinances that restrict the use of gas-fueled stoves and heaters.¹⁹ In California, 73 cities and counties have adopted building codes that require new residential and commercial buildings to be all-electric.²⁰ Additionally, 26 cities and three states (Maryland, Colorado, and Washington) have building codes in effect, or that are scheduled to go into effect, that will require new construction to be all-electric.²¹

¹⁰ Section 366.032, F.S.

¹¹ Section 366.02, F.S.

¹² FPL acquired Gulf Power Company in 2019 and merged as of January 3, 2022.

¹³ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry* (2022), p. 4, available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202022.pdf> (last visited Mar. 31, 2023).

¹⁴ *Id.* at 11-12.

¹⁵ Currently, FMPA serves the following municipalities: Alachua, Bartow, Blountstown, Bushnell, Chattahoochee, Clewiston, Fort Meade, Fort Pierce, Gainesville, Green Cove Springs, Havana, Homestead, Jacksonville Beach, Key West, Kissimmee, Lake Worth, Lakeland, Leesburg, Moore Haven, Mount Dora, New Smyrna Beach, Newberry, Ocala, Orlando, Quincy, St. Cloud, Starke, Vero Beach, Wauchula, Williston, and Winter Park. Florida Municipal Power Agency, *Members*, <http://fmpa.com/about/members/> (last visited Mar. 11, 2023).

¹⁶ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry*, *supra* at n. 13, p. 3.

¹⁷ Section 366.04(3)(c), F.S.

¹⁸ Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry*, *supra* at n. 13, p. 13.

¹⁹ Deppisch, Breanne, *Gas stove bans are advancing around the country — here's the rundown*, Washington Examiner (Jan. 12, 2023), available at <https://www.washingtonexaminer.com/policy/energy-environment/gas-stove-bans-rundown> (last visited Mar. 31, 2023).

²⁰ Elizabeth Weise, *Gas stove bans explained: Are natural gas stoves actually a 'hazard'? Why are they suddenly controversial?* USA Today (Feb. 1, 2023), <https://www.usatoday.com/story/news/2023/02/01/gas-stove-bans-explained-controversy-over-health-climate/11126667002/> (last visited Mar. 31, 2023).

²¹ *Id.*

Local Government Authority

The State Constitution grants local county and municipal governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.²² Those counties operating under a county charter have all powers of self-government not inconsistent with general or with special law approved by the vote of the electors.²³ Likewise, municipalities²⁴ have those governmental, corporate, and proprietary powers enabling them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.²⁵

There are two ways that a local enactment can be inconsistent with state law and therefore unconstitutional. First, a local government cannot legislate in a field if the subject area has been preempted to the state. Second, in a field where both the state and local government can legislate concurrently, a local government cannot enact an ordinance that directly conflicts with the state statute.²⁶

State law recognizes two types of state preemption: express and implied. Express preemption requires a specific legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.²⁷ In contrast, implied preemption exists if the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.²⁸ Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.²⁹

III. Effect of Proposed Changes:

The bill amends s. 366.032, F.S., to provide that a municipality, county, special district, or other political subdivision of the state, except to the extent necessary to enforce the Florida Building Code or Florida Fire Prevention Code, may not enact or enforce a resolution, ordinance, rule,

²² FLA. CONST. art. VIII, s. 1(f).

²³ FLA. CONST. art. VIII, s. 1(g).

²⁴ A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term “municipality” may be used interchangeably with the terms “town,” “city,” and “village.”

²⁵ FLA. CONST. art. VIII, s. 2(b); section 166.021(1), F.S.

²⁶ *Orange County v. Singh*, 268 So. 3d 668, 673 (Fla. 2019) (citing *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309, 314 (Fla. 2008)); see also James Wolf & Sarah Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 FLA. BAR J. 92 (2009), available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Mar. 31, 2023).

²⁷ *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Brevard, Inc.*, 3 So. 3d at 1018.

²⁸ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

²⁹ See, e.g., *National Rifle Association of America, Inc. v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (concluding that a City of South Miami local government ordinance, which purported to provide safety standards for firearms, was null and void because the Legislature expressly preempted the entire field of firearm and ammunition regulation when it enacted section 790.33, F.S.).

code, or policy, or take any action, having the effect of restricting or prohibiting the use of any appliances, to include a stove or grill, which utilize any fuel source of energy production.³⁰

“Appliance” is defined as any device or apparatus, manufactured and designed to use energy, for which the building or fire codes provides specific requirements.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

³⁰ The bill refers to “the types of fuel sources of energy production which may be used, delivered, converted, or supplied by” public, private, or natural gas utilities or petroleum gas dealers, as provided by section 366.032(1), F.S. As the referenced statute preempts local governments from limiting the types of fuel that may be utilized by utilities, any fuel source may be included including natural gas, coal, nuclear, wind, solar, and water.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.032, Florida Statutes.

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

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

CS by Community Affairs on April 5, 2023:

The CS provides an exception for enforcement of the Florida Building or Fire Prevention Codes, and amends “major appliance” to “appliance,” which is defined as a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

B. Amendments:

None.



303542

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (2) through (4) of section 366.032, Florida Statutes, are redesignated as subsections (3) through (5), respectively, a new subsection (2) is added to that section, and present subsection (2) of that section is amended, to read:

366.032 Preemption over utility service restrictions.—



303542

(2) Except to the extent necessary to enforce the Florida Building Code adopted pursuant to s. 553.73 or the Florida Fire Prevention Code adopted pursuant to s. 633.202, a municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, an ordinance, a rule, a code, or a policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the use of an appliance, including a stove or grill, which uses the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the entities listed in subsection (1). As used in this subsection, the term "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

~~(3)(2)~~ Notwithstanding the restrictions of this section, this section does not prevent the board of a municipality or governmental entity which owns or operates and directly controls an electric or natural gas utility, from passing rules, regulations, or policies governing the utility.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to preemption over utility service
restrictions; amending. s. 366.032, F.S.; prohibiting
certain local governmental entities, subject to



303542

40 specified exceptions, from enacting or enforcing a
41 resolution, an ordinance, a rule, a code, or a policy
42 or from taking any action that restricts or prohibits
43 or has the effect of restricting or prohibiting the
44 use of appliances; revising an exception to
45 preemption; defining the term "appliance"; providing
46 an effective date.

By Senator Collins

14-01579A-23

20231256__

A bill to be entitled

An act relating to preemption over utility service restrictions; amending s. 366.032, F.S.; preventing certain local governmental entities from enacting or enforcing a resolution, ordinance, rule, code, or policy or from taking any action that restricts or prohibits or has the effect of restricting or prohibiting the use of certain major appliances; providing an effective date.

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

Section 1. Present subsections (2), (3), and (4) of section 366.032, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, and a new subsection (2) is added to that section, to read:

366.032 Preemption over utility service restrictions.—

(2) A municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the use of any major appliances, including a stove or grill, which use the types of fuel sources of energy production which may be used, delivered, converted, or supplied by the entities listed in subsection (1).

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

4/5/23

Meeting Date

Community Affairs

Committee

1256

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Kyle Langan

Phone

Address

Street

Email

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:

Chesapeake Utilities

☐

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

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April 5, 2023

Meeting Date

1256

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

Address

579 E. Call St.

Email

fcsep@yahoo.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:

Earth Justice

☐

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)

4/5/23

Meeting Date

Community Affairs

Committee

Name Kevin Doyle

Phone 904-806-1714

Address 118 N Monroe St # 319

Street

Tallahassee

FL

32301

City

State

Zip

Email kdoyle@consumerenergyalliance.org

The Florida Senate
APPEARANCE RECORD

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SB 1256

Bill Number or Topic

Amendment Barcode (if applicable)

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:

Consumer Energy Alliance - Florida

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

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

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

S-001 (08/10/2021)

April 5, 2023

Meeting Date

Community Affairs

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1256

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Dale Calhoun** Phone **(850) 681-0496**

Address **201 S Monroe St Unit A** Email **dale.calhoun@floridagas.org**

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:

Florida Propane 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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 5, 2023

Meeting Date

Community Affairs

Committee

The Florida Senate
APPEARANCE RECORD

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

1256

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Dale Calhoun** Phone **(850) 681-0496**

Address **201 S Monroe St Unit A** Email **dale.calhoun@floridagas.org**

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:

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/5/23

Meeting Date

CA

Committee

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1256

Bill Number or Topic

Amendment Barcode (if applicable)

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1400

INTRODUCER: Senator Martin

SUBJECT: County Constitutional Offices

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			AHS	
3.			FP	

I. Summary:

SB 1400 raises by \$5,000 the statutory base salary rates for the following elected county constitutional officers: clerks of circuit court, county comptrollers, supervisors of elections, property appraisers, and tax collectors. The bill also:

- Provides that county constitutional officer employees who adopt children from the child welfare system are eligible for a one-time, lump-sum monetary benefit;
- Provide that a clerk of the circuit court, a county comptroller, a county supervisor of elections, a county property appraiser, and a county tax collector may budget for and pay a hiring or retention bonus if such expenditure is approved; and
- Provides that a district school board may contract with the county tax collector for a tax collector employee to administer road tests for driver licensure on school grounds at one or more schools within the district.

The bill takes effect July 1, 2023.

II. Present Situation:

Compensation of County Officials

Article II, s. 5(c), of the Florida Constitution provides that “the powers, duties, compensation and method of payment of state and county officers shall be fixed by law.”¹ Chapter 145, F.S., articulates legislative intent to provide uniform compensation of county officials that have substantially equal duties and responsibilities.² Chapter 145, F.S., outlines the salary schedules for specified county officials “based on a classification of counties according to each county’s population.”³

¹ FLA. CONST. art. II, s. 5(c).

² Section 145.011(3), F.S.

³ Section 145.011(4), F.S.

The salary schedules for the following county officers are provided respectively in ss. 145.031-145.11, F.S.: board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, and tax collector (see below). Each county officer receives a salary of the amount indicated in the schedule, based on the population of the officer's county. Additional compensation is made "for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate."⁴

The statutory salary provisions apply to all designated officers in all counties, except those officials whose salaries are not subject to being set by the Legislature due to the provisions of a county home rule charter, as well as those officials of counties that have a chartered consolidated form of government as provided in ch. 67-1320, L.O.F., (i.e., Duval County).⁵ The adoption of a charter provides the county's electors with a mechanism to fundamentally alter the form of county government and the status of constitutional officers.

Salary Computation Methodology and Formula

Computation of a county official's salary begins by determining the following figures provided in the statutory salary schedules for county officials, outlined in ss.145.031-145.11, F.S.:

- The relevant population group number for the elected officer, based on the county's population range;
- The official's relevant base salary and group rate according to his or her prescribed salary schedule; and
- The difference between the county's population estimate and the minimum group rate.⁶

After determining these figures, the following computation formula is then used to calculate the county official's salary:⁷

$$\text{Salary} = [\text{Base Salary} + (\text{Population above Group Minimum} \times \text{Group Rate})] \times \text{Initial Factor} \times \text{Certified Annual Factor} \times \text{Certified Cumulative Annual Factor}$$

Section 145.19(1), F.S., defines the terms "annual factor," "cumulative annual factor," and "initial factor," as follows:

- *Annual Factor* means 1 plus the lesser of either: 1) the average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the Department of Management Services or as provided in the General Appropriations Act; or 2) 7 percent.

⁴ Sections 145.031, 145.051, 145.071, 145.09, 145.10 and 145.11, F.S.

⁵ Section 145.011, F.S.

⁶ Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2022-23*, at 4. (Sept. 2022) available at <http://edr.state.fl.us/Content/local-government/reports/finsal22.pdf> (last visited Apr. 2, 2023).

⁷ *Id.*

- *Cumulative Annual Factor* means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.
- *Initial Factor* means a factor of 1.292, which is the product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by Chapter 73-173, Laws of Florida, and intended by the Legislature to be preserved in adjustments to salaries made prior to the enactment of Chapter 76-80, Laws of Florida, multiplied by the annual increase factor authorized by Chapter 79-327, Laws of Florida.

In 2022, the Office of Economic and Demographic Research provided the following sample computation:

Sample Computation of Salary ⁸	
<u>Officer:</u>	Alachua County Clerk of Court, Property Appraiser, Supervisor of Elections, and Tax Collector
<u>2021 Population Estimate:</u>	284,607
<u>Group Number Minimum (IV):</u>	200,000
<u>Corresponding Base Salary (Group IV):</u>	\$30,175
<u>Corresponding Group Rate (Group IV):</u>	\$0.01575
<u>Initial Factor:</u>	1.292
<u>Certified Annual Factor:</u>	1.0700
<u>Certified Cumulative Annual Factor:</u>	3.6524

$$\text{Salary} = [\$30,175 + [(284,607 - 200,000) \times 0.01575]] \times 1.292 \times 1.0700 \times 3.6524 = \$159,089$$

Salary Schedules for County Officials ⁹

Elected County Constitutional Officers	Population Group Numbers	County Population Range		Base Salary	Group Rate
		Minimum	Maximum		
-Clerk of Circuit Court -Supervisor of Elections -County Comptroller -Property Appraiser -Tax Collector <i>ss. 145.051, 145.09, 145.10, and 145.11, F.S.</i>	I	-0-	49,999	\$21,250	\$0.07875
	II	50,000	99,999	\$24,400	\$0.06300
	III	100,000	199,999	\$27,550	\$0.02625
	IV	200,000	399,999	\$30,175	\$0.01575
	V	400,000	999,999	\$33,325	\$0.00525
	VI	1,000,000		\$36,475	\$0.00400
-Sheriff ¹⁰ <i>s.145.071, F.S</i>	I	-0-	49,999	\$28,350	\$0.07875
	II	50,000	99,999	\$31,500	\$0.06300
	III	100,000	199,999	\$34,650	\$0.02625
	IV	200,000	399,999	\$37,275	\$0.01575
	V	400,000	999,999	\$40,425	\$0.00525
	VI	1,000,000		\$43,575	\$0.00400

⁸ *Id.*

⁹ Sections 145.031(1), 145.051(1), 145.071(1), 145.09(1), 145.10(1) and 145.11(1), F.S.

¹⁰ Sheriff salary base rates were raised by \$5,000 by the Legislature in 2022. See ch. 2022-23, Laws of Fla.

Bonuses and Severance Pay Prohibited

Section 215.425, F.S., prohibits state employers from paying extra compensation after a service has been rendered or a contract made unless such compensation is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature.

Florida Law Enforcement Recruitment Bonus Payment Program

In 2022, the Legislature established the Law Enforcement Recruitment Bonus Payment Program, which administers one-time bonus payments of up to \$5,000 to newly employed officers in Florida, subject to legislative appropriation.¹¹ This program expires on July 1, 2025.

Adoption Benefits

Section 409.1664, F.S., provides a one-time, lump-sum monetary benefit to a qualifying adoptive employee,¹² veteran, or servicemember who adopts a child within Florida's child welfare system¹³ of \$10,000 for adopting a child who has special needs¹⁴ or \$5,000 for adopting a child who does not have special needs. A Florida law enforcement officer may receive a similar benefit, of \$25,000 for adopting a child who has special needs and \$10,000 for adopting a child who does not have special needs.

Adoption benefits are awarded on a first-come, first-served basis and subject to appropriation.¹⁵ To obtain the adoption benefit, a qualifying adoptive employee must apply to his or her agency head or to his or her school director. A veteran or servicemember must apply directly to the Department of Children and Families to receive the benefit, while a law enforcement officer must apply to the Florida Department of Law Enforcement.¹⁶

III. Effect of Proposed Changes:

The bill raises each salary base rate for the following elected county constitutional officers by \$5,000:

- Clerk of Circuit Court (**Section 1**, amending s. 145.051, F.S.);
- Comptroller (**Section 1**, amending s. 145.051, F.S.);
- Supervisor of Elections (**Section 2**, amending s. 145.09, F.S.);
- Property Appraiser (**Section 3**, amending s. 145.10, F.S.); and
- Tax Collector (**Section 4**, amending s. 145.11, F.S.).

¹¹ Section 445.08, F.S.

¹² "Qualifying adoptive employee" means a full-time or part-time employee of a state agency, a charter school, or the Florida Virtual School, who is not an independent contractor and who adopts a child within the child welfare system pursuant to ch 63, F.S. Section 409.1664(1)(b), F.S.

¹³ "Child within the child welfare system" means a special needs child and any other child who was removed from the child's caregiver due to abuse or neglect and whose permanent custody has been awarded to the department or to a licensed child-placing agency. Section 409.166(2)(c), F.S.

¹⁴ For purposes of the adoption benefit program, a child who has special needs is a child whose permanent custody has been awarded to the Department of Children and Families or to a licensed child-placing agency and who has established significant emotional ties with his or her foster parents or is not likely to be adopted. Section 409.166(2), F.S.

¹⁵ Section 409.1664(2)(c) and (3), F.S.

¹⁶ Section 409.1664(3), F.S.

The table below reflects salary adjustments made by the bill:

Elected County Constitutional Officers	Population Group #	County Population Range		Current Law Base Salary	Base Salary Under Bill
		Minimum	Maximum		
-Clerk of Circuit Court -Supervisor of Elections -County Comptroller -Property Appraiser -Tax Collector	I	-0-	49,999	\$21,250	\$26,250
	II	50,000	99,999	\$24,400	\$29,400
	III	100,000	199,999	\$27,550	\$32,550
	IV	200,000	399,999	\$30,175	\$35,175
	V	400,000	999,999	\$33,325	\$38,325
	VI	1,000,000		\$36,475	\$41,475

Section 5 amends s. 409.1664, F.S., to add county constitutional officer employees who are domiciled in Florida and who adopt children on or after July 1, 2023, as eligible for the one-time, lump-sum monetary benefit. “County constitutional officer employee” is defined as an employee of an office of a clerk of the circuit court, a county comptroller, a county property appraiser, a county supervisor of elections, or a county tax collector.

The benefit is \$25,000 for adopting a child who has special needs and \$10,000 for adopting a child who does not have special needs. The bill requires a law enforcement officer to apply to the Florida Department of Children and Families to obtain the adoption benefit.

Section 6 creates s. 445.09, F.S., to provide that, notwithstanding any other law, a clerk of the circuit court, a county comptroller, a county supervisor of elections, a county property appraiser, and a county tax collector may budget for and pay a hiring or retention bonus if such expenditure is approved by:

- The board of county commissioners in the respective budgets of the clerk of the circuit court, the comptroller, and the supervisor of elections, and the property appraiser; or
- The department of Revenue in the respective budgets of the property appraiser and the tax collector.

Section 7 amends s. 1003.48, F.S., to provide that a district school board may contract with the county tax collector for a tax collector employee to administer road tests for driver licensure on school grounds at one or more schools within the district.

Section 8 provides the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Under the bill salaries for constitutional

officers will rise. The mandate requirement does not apply to laws having an insignificant impact,¹⁷ which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.¹⁸

Fiscal impact on local governments from this bill are indeterminate at this time. If costs imposed by the bill exceed \$2.22 million, the mandates provisions may apply. If the bill does qualify as a mandate, in order to be binding upon counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

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:

Elected county constitutional officers will have higher salaries under the bill. While the base rate increases by \$5,000, actual salaries will increase by a larger amount due to calculations involved in setting those salaries. Given the example of Alachua County's officers, their current salary of \$159,089 would rise to \$184,334. As the effect of base statutory salaries vary per county based on population and chartered status, the cumulative fiscal impact of the bill is indeterminate at this time.

¹⁷ FLA. CONST. art. VII, s. 18(d).

¹⁸ 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).

Constitutional officer employees will benefit from adoption benefits and hiring or retention bonuses to the extent those programs are funded.

VI. Technical Deficiencies:

Section 6 refers to both the board of county commissioners and the Department of Revenue as approving a property appraiser's budget. Property appraisers submit budgets for approval to the Department of Revenue, but not a board of county commissioners.¹⁹

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 145.051, 145.09, 145.10, 145.11, 409.1664, 445.09, and 1003.48 of the Florida Statutes.

This bill creates section 445.09, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁹ Section 195.087, F.S.

By Senator Martin

33-01344C-23

20231400__

A bill to be entitled

An act relating to county constitutional offices; amending ss. 145.051, 145.09, 145.10, and 145.11, F.S.; revising the base salary used to calculate the compensation of a clerk of the circuit court and county comptroller, a supervisor of elections, a property appraiser, and a tax collector, respectively; amending s. 409.1664, F.S.; defining the term "county constitutional officer employee"; providing that county constitutional officer employees are eligible to receive certain adoption benefits from the state; authorizing county constitutional officer employees to apply for the monetary benefit if certain conditions exist; requiring such employees to apply to the Department of Children and Families to obtain the benefit; authorizing the department to adopt specified rules; creating s. 445.09, F.S.; authorizing specified county constitutional officers to budget for and pay specified bonuses to employees, pending a specified approval; amending s. 1003.48, F.S.; authorizing a district school board to contract with a county tax collector's office to administer road tests on school grounds at one or more schools within the district; providing an effective date.

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

Section 1. Subsection (1) of section 145.051, Florida Statutes, is amended to read:

33-01344C-23

20231400__

145.051 Clerk of circuit court; county comptroller.—

(1) Each clerk of the circuit court and each county comptroller shall receive as salary the amount indicated, based on the population of his or her county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I			<u>\$26,250</u>	
	-0-	49,999	\$21,250	\$0.07875
II			<u>29,400</u>	
	50,000	99,999	24,400	0.06300
III			<u>32,550</u>	
	100,000	199,999	27,550	0.02625
IV			<u>35,175</u>	
	200,000	399,999	30,175	0.01575
V			<u>38,325</u>	
	400,000	999,999	33,325	0.00525

33-01344C-23

20231400__

VI

41,475

1,000,000

~~36,475~~

0.00400

Section 2. Subsection (1) of section 145.09, Florida Statutes, is amended to read:

145.09 Supervisor of elections.—

(1) Each supervisor of elections shall receive as salary the amount indicated, based on the population of his or her county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I			<u>\$26,250</u>	
	-0-	49,999	\$21,250	\$0.07875
II			<u>29,400</u>	
	50,000	99,999	24,400	0.06300
III			<u>32,550</u>	
	100,000	199,999	27,550	0.02625
IV			<u>35,175</u>	
	200,000	399,999	30,175	0.01575

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V			<u>38,325</u>	
	400,000	999,999	33,325	0.00525
VI			<u>41,475</u>	
	1,000,000		36,475	0.00400

Section 3. Subsection (1) of section 145.10, Florida Statutes, is amended to read:

145.10 Property appraiser.—

(1) Each property appraiser shall receive as salary the amount indicated, based on the population of his or her county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I			<u>\$26,250</u>	
	-0-	49,999	\$21,250	\$0.07875
II			<u>29,400</u>	
	50,000	99,999	24,400	0.06300
III	100,000	199,999	<u>32,550</u>	0.02625

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~~27,550~~

IV

35,175

200,000

399,999

~~30,175~~

0.01575

V

38,325

400,000

999,999

~~33,325~~

0.00525

VI

41,475

1,000,000

~~36,475~~

0.00400

Section 4. Subsection (1) of section 145.11, Florida Statutes, is amended to read:

145.11 Tax collector.—

(1) Each tax collector shall receive as salary the amount indicated, based on the population of his or her county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range	Base Salary	Group Rate
	Minimum Maximum		
I		<u>\$26,250</u>	
	-0- 49,999	\$21,250	\$0.07875

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II			<u>29,400</u>	
	50,000	99,999	24,400	0.06300
III			<u>32,550</u>	
	100,000	199,999	27,550	0.02625
IV			<u>35,175</u>	
	200,000	399,999	30,175	0.01575
V			<u>38,325</u>	
	400,000	999,999	33,325	0.00525
VI			<u>41,475</u>	
	1,000,000		36,475	0.00400

Section 5. Section 409.1664, Florida Statutes, is amended, to read:

409.1664 Adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, ~~and~~ law enforcement officers, and county constitutional officer employees.—

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

(a) "Child within the child welfare system" has the same meaning as provided in s. 409.166(2).

(b) "County constitutional officer employee" means an employee of an office of a clerk of the circuit court, a county comptroller, a county property appraiser, a county supervisor of elections, or a county tax collector in this state.

(c) "Law enforcement officer" has the same meaning as

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provided in s. 943.10(1).

(d)~~(e)~~ "Qualifying adoptive employee" means a full-time or part-time employee of a state agency, a charter school established under s. 1002.33, or the Florida Virtual School established under s. 1002.37, who is not an independent contractor and who adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. The term includes instructional personnel, as defined in s. 1012.01, who are employed by the Florida School for the Deaf and the Blind, and includes other-personal-services employees who have been continuously employed full time or part time by a state agency for at least 1 year.

(e)~~(d)~~ "Servicemember" has the same meaning as in s. 250.01(19).

(f)~~(e)~~ "State agency" means a branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions, a state university or Florida College System institution as defined in s. 1000.21, a school district unit as defined in s. 1001.30, or a water management district as defined in s. 373.019.

(g)~~(f)~~ "Veteran" has the same meaning as in s. 1.01(14).

(2) A qualifying adoptive employee, veteran, or servicemember who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 per such child, subject to applicable taxes. A law enforcement officer or a county constitutional officer employee who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is

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144 eligible to receive a lump-sum monetary benefit in the amount of
145 \$25,000 per such child, subject to applicable taxes. A
146 qualifying adoptive employee, veteran, or servicemember who
147 adopts a child within the child welfare system who is not
148 difficult to place as described in s. 409.166(2)(d)2. is
149 eligible to receive a lump-sum monetary benefit in the amount of
150 \$5,000 per such child, subject to applicable taxes. A law
151 enforcement officer or a county constitutional officer employee
152 who adopts a child within the child welfare system who is not
153 difficult to place as described in s. 409.166(2)(d)2. is
154 eligible to receive a lump-sum monetary benefit in the amount of
155 \$10,000 per each such child, subject to applicable taxes. A
156 qualifying adoptive employee of a charter school or the Florida
157 Virtual School may retroactively apply for the monetary benefit
158 provided in this subsection if such employee was employed by a
159 charter school or the Florida Virtual School when he or she
160 adopted a child within the child welfare system pursuant to
161 chapter 63 on or after July 1, 2015. A veteran or servicemember
162 may apply for the monetary benefit provided in this subsection
163 if he or she is domiciled in this state and adopts a child
164 within the child welfare system pursuant to chapter 63 on or
165 after July 1, 2020. A law enforcement officer may apply for the
166 monetary benefit provided in this subsection if he or she is
167 domiciled in this state and adopts a child within the child
168 welfare system pursuant to chapter 63 on or after July 1, 2022.
169 A county constitutional officer employee may apply for the
170 monetary benefit provided in this subsection if he or she is
171 domiciled in this state and adopts a child within the child
172 welfare system under chapter 63 on or after July 1, 2023.

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(a) Benefits paid to a qualifying adoptive employee who is a part-time employee must be prorated based on the qualifying adoptive employee's full-time equivalency at the time of applying for the benefits.

(b) Monetary benefits awarded under this subsection are limited to one award per adopted child within the child welfare system.

(c) The payment of a lump-sum monetary benefit for adopting a child within the child welfare system under this section is subject to a specific appropriation to the department for such purpose.

(3) A qualifying adoptive employee must apply to his or her agency head, or to his or her school director in the case of a qualifying adoptive employee of a charter school or the Florida Virtual School, to obtain the monetary benefit provided in subsection (2). A veteran, ~~or~~ servicemember, or county constitutional officer employee must apply to the department to obtain the benefit. A law enforcement officer must apply to the Department of Law Enforcement to obtain the benefit. Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent. Monetary benefits shall be approved on a first-come, first-served basis based upon the date that each fully completed application is received by the department.

(4) This section does not preclude a qualifying adoptive employee, veteran, servicemember, ~~or~~ law enforcement officer, or county constitutional officer employee from receiving adoption assistance for which he or she may qualify under s. 409.166 or

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any other statute that provides financial incentives for the adoption of children.

(5) Parental leave for a qualifying adoptive employee must be provided in accordance with the personnel policies and procedures of his or her employer.

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees, veterans, servicemembers, ~~or~~ law enforcement officers, or county constitutional officer employees may apply for monetary benefits under this section.

Section 6. Section 445.09, Florida Statutes, is created to read:

445.09 Bonuses for employees of county constitutional officers.—Notwithstanding any other law, a clerk of the circuit court, a county comptroller, a county supervisor of elections, a county property appraiser, and a county tax collector may budget for and pay a hiring or retention bonus to an employee if such expenditure is approved by:

(1) The board of county commissioners in the respective budgets of the clerk of the circuit court, the comptroller, and the supervisor of elections, and the property appraiser.

(2) The Department of Revenue in the respective budgets of the property appraiser and the tax collector.

Section 7. Section 1003.48, Florida Statutes, is amended to read:

1003.48 Instruction in operation of motor vehicles; road tests.—

(1) A course of study and instruction in the safe and

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lawful operation of a motor vehicle shall be made available by each district school board to students in the secondary schools in the state. The secondary school shall provide preferential enrollment to a student who is in the custody of the Department of Children and Families if the student maintains appropriate progress as required by the school. As used in this section, the term "motor vehicle" has the same meaning as in s. 320.01(1)(a) and includes motorcycles and mopeds. Instruction in motorcycle or moped operation may be limited to classroom instruction. The course may not be made a part of, or a substitute for, any of the minimum requirements for graduation.

(2) In order to make such a course available to any secondary school student, the district school board may use any one of the following procedures or any combination thereof:

(a) Use instructional personnel employed by the district school board.

(b) Contract with a commercial driving school licensed under chapter 488.

(c) Contract with an instructor certified under chapter 488.

(3) District school boards shall earn funds on full-time equivalent students at the appropriate basic program cost factor, regardless of the method by which such courses are offered.

(4) For the purpose of financing the driver education program in the secondary schools, there shall be levied an additional 50 cents per year to the driver license fee required by s. 322.21. The additional fee shall be promptly remitted to the Department of Highway Safety and Motor Vehicles, which shall

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transmit the fee to the Chief Financial Officer to be deposited
in the General Revenue Fund.

(5) The district school board shall prescribe standards for
the course required by this section and for instructional
personnel directly employed by the district school board. A
certified instructor or licensed commercial driving school is
sufficiently qualified and is not required to meet any standards
in lieu of or in addition to those prescribed under chapter 488.

(6) The district school board may contract with the county
tax collector for a tax collector employee to administer road
tests on school grounds at one or more schools within the
district.

Section 8. This act shall take effect July 1, 2023.

5 April 2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1400 County Constitutional Offices

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jason Harrell**

Phone **850-577-4516**

Address **215. South Monroe Street**

Email **jasonharrell@flclerks.com**

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:

**Florida Court Clerks and
Comptrollers**

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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4/5/23

Meeting Date

CA

Committee

SB1400

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tim Qualls

Phone

850-294-8216

Address

216 S. Monroe St

Email

TQUALLS@YULAV.NET

Street

Tally

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:

FL Tax Collectors
Association

☐

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

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

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

S-001 (08/10/2021)

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

1400

Bill Number or Topic

Community Affairs

Committee

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

Name

Crystal Stickle

Phone

850 445 4544

Address

Street

Email

crystal@maghola
advocacyllc.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:

Palm Beach
County Tax Collector

☐

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 1454

INTRODUCER: Regulated Industries Committee and Senator Gruters

SUBJECT: Homeowners' Right to Display and Store Items

DATE: April 3, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1454 expands the types of flags that a homeowner may display as a portable, removable flag display or on a flagpole, notwithstanding any covenant, restriction, bylaw, or requirement of a homeowners' association. Under the bill, a homeowner may display up to two of:

- The United States flag;
- The official flag of the State of Florida;
- A flag that represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard;
- A POW-MIA flag; or
- A first responder flag that may incorporate the design of any other flag permitted under this paragraph to form a combined flag.

The bill defines the term "first responder flag" to mean a flag that recognizes and honors the service of any of the following:

- Law enforcement officers;
- Firefighters;
- Paramedics or emergency medical technicians;
- Correctional officers;
- 911 public safety telecommunicators;
- Advanced practice registered nurses, licensed practical nurses, or registered nurses;

- Persons participating in a statewide urban search and rescue program developed by the Division of Emergency Management; or
- Federal law enforcement officers.

Regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, current law permits members of a homeowners' association to display one portable, removable United States flag or official flag of the State of Florida in a respectful manner. Under current law, homeowners may also display one portable, removable official flag, in a respectful manner, not larger than 4.5 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, or a POW-MIA flag.

The bill also provides that, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, and unless prohibited by general law or local ordinance, an association may not restrict parcel owners or their tenants from storing or displaying any items on a parcel which are not visible from the parcel's frontage or an adjacent parcel, including, but not limited to, artificial turf, boats, flags, and recreational vehicles.

The bill takes effect July 1, 2023.

II. Present Situation:

Homeowners' Associations

Chapter 720, F.S., provides statutory recognition to nonprofit corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.¹

A "homeowners' association" is defined as a "Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners² or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel."³ Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.⁴

Homeowners' associations are administered by a board of directors whose members are elected.⁵ The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to

¹ See s. 720.302(1), F.S.

² Section 720.301(12), F.S., defines the term "parcel owner" to mean the record owner of legal title to a parcel.

³ Section 720.301(9), F.S.

⁴ Section 720.302(5), F.S.

⁵ See ss. 720.303 and 720.307, F.S.

these documents.⁶ The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.⁷

Homeowners' associations mainly differ from condominiums in the type of property individually owned. Condominium unit owners essentially own airspace within a building, whereas homeowner association members own a parcel of real property or land.

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, F.S., the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 F.S., are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The Division of Florida Condominiums, Timeshares, and Mobile Homes in the Department of Business and Professional Regulation has some oversight, however, for homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.⁸

Display of Flags

Regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, members of a homeowners' association may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner. Homeowners may also display one portable, removable official flag, in a respectful manner, not larger than 4.5 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, or a POW-MIA flag.⁹

Additionally, homeowners may erect a freestanding flagpole that is no more than 20 feet high on any portion of the homeowner's real property, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, if the flagpole does not obstruct sightlines at

⁶ See ss. 720.301 and 720.303, F.S.

⁷ Section 720.303(1), F.S.

⁸ See s. 720.306(9)(c), F.S.

⁹ Section 720.304(2)(a), F.S.

intersections and is not erected within or upon an easement. From the flagpole, the homeowner may display in a respectful manner one official United States flag, not larger than 4.5 feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, Space Force, or Coast Guard, or a POW-MIA flag.¹⁰

The additional flag on the flagpole must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the county or municipality in which the flagpole is erected and all setback and locational criteria contained in the governing documents.¹¹

The right of homeowners in homeowners' associations to display the listed flags applies to all community development districts and homeowners' associations, regardless of whether such homeowners' associations are authorized to impose assessments that may become a lien on the parcel.¹²

Fines

Homeowners' associations may levy fines against an owner, and an owner's tenants, guests, or invitees must comply with ch. 718, F.S., the governing documents¹³ of the community, and the rules of the association.¹⁴ A homeowners' association may levy reasonable fines not exceeding \$100 per violation against any owner of a parcel or its occupant, licensee, or invitee. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate if the association's governing documents authorize the fine.¹⁵ A fine by a homeowners' association of less than \$1,000 may not become a lien against the parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.¹⁶

An association's board may not impose a fine or suspension unless it gives at least 14 days written notice of the fine or suspension, and an opportunity for a hearing. The hearing must be held before a committee of unit owners who are not board members or residing in a board member's household. The role of the committee is to determine whether to confirm or reject the fine or suspension.¹⁷

A fine approved by the committee is due five days after notice of an approved fine is sent to the unit or parcel owner and, if applicable, to any tenant, licensee, or invitee of the owner.¹⁸

¹⁰ Section 720.304(2)(b), F.S.

¹¹ *Id.*

¹² Section 720.304(2)(c), F.S.

¹³ Section 720.301(8), F.S., defines the term "governing documents" to mean the recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and the articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.

¹⁴ Section 720.305(1), F.S.

¹⁵ Section 720.305(2), F.S.

¹⁶ Sections 720.305(2), F.S.

¹⁷ Sections 720.305(2)(b), F.S.

¹⁸ *Id.*

III. Effect of Proposed Changes:

Display of Flags

The bill amends s. 720.304(2), F.S., to expand the types of flags that a homeowner may display as a portable, removable flag display or on a flagpole, notwithstanding any covenant, restriction, bylaw, or requirement of a homeowners' association. Under the bill, a homeowner may display up to two of:

- The United States flag;
- The official flag of the State of Florida;
- A flag that represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard;
- A POW-MIA flag; or
- A first responder flag that may incorporate the design of any other flag permitted under this paragraph to form a combined flag.

The bill defines the term “first responder flag” to mean a flag that recognizes and honors the service of any of the following:

- Law enforcement officers as defined in s. 943.10(1), F.S.¹⁹
- Firefighters as defined in s. 112.191(1), F.S.²⁰
- Paramedics or emergency medical technicians as those terms are defined in s. 112.1911(1), F.S.²¹
- Correctional officers as defined in s. 943.10(2), F.S.²²
- 911 public safety telecommunicators as defined in s. 401.465(1), F.S.²³

¹⁹ Section 943.10(1), F.S., defines the term “law enforcement officer” to mean, in part, “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.”

²⁰ Section 112.191(1)(b), F.S., defines the term “firefighter” to mean “any duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified pursuant to s. 633.408[, F.S.,] and who is a member of a duly constituted fire department of such employer or who is a volunteer firefighter.”

²¹ *Id.*

²² Section 943.10(2), F.S., defines the term “correctional officer” to mean “any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.”

²³ Section 401.465(1)(a), F.S., defines the term “911 public safety telecommunicator” to mean “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. However, the term does not include administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.”

- Advanced practice registered nurses, licensed practical nurses, or registered nurses as those terms are defined in s. 464.003, F.S.²⁴
- Persons participating in a statewide urban search and rescue program developed by the Division of Emergency Management under s. 252.35, F.S.
- Federal law enforcement officers as defined in 18 U.S.C. s. 115(c)(1).²⁵

Display and Storage of Items

The bill creates s. 720.3045, F.S., to provide that, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, and unless prohibited by general law or local ordinance, an association may not restrict parcel owners or their tenants from storing or displaying any items on a parcel which are not visible from the parcel's frontage or an adjacent parcel, including, but not limited to, artificial turf, boats, flags, and recreational vehicles.

The bill amends s. 720.3075, F.S., to prohibit a homeowners' association documents from preventing the respectful display of up to two of the authorized flags.

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.

²⁴ Section 464.003(2), F.S., defines the term "advanced or specialized nursing practice" to mean, in part, "in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse." Section 464.003(21), F.S., defines the term "licensed practical nurse" to mean "any person licensed in this state or holding an active multistate license under s. 464.0095[, F.S.,] to practice practical nursing." Section 464.003(21), [F.S.,] defines the term "registered nurse" to mean "any person licensed in this state or holding an active multistate license under s. 464.0095[, F.S.,] to practice professional nursing."

²⁵ 18 U.S.C. s. 115(c)(1) defines the term "federal law enforcement officer" to mean "any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law."

E. Other Constitutional Issues:

Impairment of Contract

The governing documents of a homeowners' association are a contract. To the extent this bill affects previously recorded governing documents by prohibiting the enforcement of restrictions in those documents related to the display of flags or the storage or display of items, the bill may unconstitutionally impair a 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.*,²⁶ 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 is it severe, permanent, immediate, and retroactive.²⁷

Free Speech Rights

CS/SB 1454 may implicate the free speech rights in the First Amendment of the United Constitution and section 4 of Article 1 of the State Constitution as a content-based restriction on expressive conduct by specifying and limiting the types of flags that a homeowner has the right to display notwithstanding any covenant, restriction, bylaw, or requirement of a homeowners' association.

Generally, the enforcement of covenant restrictions restricting speech, such as limiting the display of signs on a parcel, does not constitute sufficient state action to render the parties' purely private contracts relating to the ownership of real property unconstitutional.²⁸ However, laws regulating the display of signs, flags, and other means of graphic communication have been found to violate the constitutional guarantee of free speech. In *Dimmitt v. City of Clearwater*, 985 F.2d 1565 (1993), the city's comprehensive

²⁶ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

²⁷ *Id.* at 779.

²⁸ See *Quail Creek Property Owners Ass'n, Inc. v. Hunter*, 538 So.2d 1288 (Fla. 2nd DCA 1989).

land development code required a permit for the display of signs but exempted from the permit requirement a limited number of flags representing a government unit or body, e.g., the U.S. flag, a state flag, or a city flag.²⁹ The court held that, by exempting only government flags from the permit requirement, the city ordinance unconstitutionally restricted expressive conduct based upon content.³⁰

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 720.304 and 720.3075.

The bill creates section 720.3045 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 21, 2023:

The CS further limits the parcel owner's right to store or display items to limit the right to items that are not visible from an adjacent parcel. Under the bill, the right to store or display items is limited only to items that are not visible from the parcel's frontage. The CS also changes the title of the bill to "An act relating to Homeowners' Right to Display and Store Items."

²⁹ *Dimmitt v. City of Clearwater*, 985 F.2d 1565 (11th Cir. 1993).

³⁰ *Id.* at 1573.

B. Amendments:

None.

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

By the Committee on Regulated Industries; and Senator Gruters

580-02860-23

20231454c1

A bill to be entitled

An act relating to homeowners' right to display and store items; amending s. 720.304, F.S.; authorizing homeowners to display no more than a certain number of specified flags regardless of certain prohibitions in the governing documents of the homeowners' association; defining the term "first responder flag"; creating s. 720.3045, F.S.; prohibiting homeowners' associations from restricting parcel owners or tenants from displaying items on a parcel which are not visible from the parcel's frontage; amending s. 720.3075, F.S.; prohibiting certain homeowners' association documents from precluding property owners from displaying a certain number of specified flags; requiring that such flags be displayed in a specified manner; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (2) of section 720.304, Florida Statutes, are amended to read:

720.304 Right of owners to peaceably assemble; display of flags ~~flag~~; SLAPP suits prohibited.—

(2) (a) If any covenant, restriction, bylaw, rule, or requirement of an association prohibits a homeowner from displaying flags permitted under this paragraph, the ~~Any~~ homeowner may still display ~~one portable, removable United States flag or official flag of the State of Florida~~ in a respectful manner up to two of the following, ~~and one portable,~~

580-02860-23

20231454c1

removable flags ~~official flag, in a respectful manner,~~ not
larger than 4 1/2 feet by 6 feet; which represents

1. The United States flag.

2. The official flag of the State of Florida.

3. A flag that represents the United States Army, Navy, Air
Force, Marine Corps, Space Force, or Coast Guard.~~, or~~

4. A POW-MIA flag.

5. A first responder flag. A first responder flag may
incorporate the design of any other flag permitted under this
paragraph to form a combined flag. For purposes of this
subsection, the term "first responder flag" means a flag that
recognizes and honors the service of any of the following:

a. Law enforcement officers as defined in s. 943.10(1).

b. Firefighters as defined in s. 112.191(1).

c. Paramedics or emergency medical technicians as those
terms are defined in s. 112.191(1).

d. Correctional officers as defined in s. 943.10(2).

e. 911 public safety telecommunicators as defined in s.
401.465(1).

f. Advanced practice registered nurses, licensed practical
nurses, or registered nurses as those terms are defined in s.
464.003.

g. Persons participating in a statewide urban search and
rescue program developed by the Division of Emergency Management
under s. 252.35.

h. Federal law enforcement officers as defined in 18 U.S.C.
s. 115(c)(1), regardless of any covenants, restrictions, bylaws,
rules, or requirements of the association.

(b) Regardless of any covenants, restrictions, bylaws,

580-02860-23

20231454c1

59 rules, or requirements of the association, a ~~Any~~ homeowner may
60 erect a freestanding flagpole no more than 20 feet high on any
61 portion of the homeowner's real property as long as, ~~regardless~~
62 ~~of any covenants, restrictions, bylaws, rules, or requirements~~
63 ~~of the association,~~ if the flagpole does not obstruct sightlines
64 at intersections and is not erected within or upon an easement.
65 The homeowner may further display in a respectful manner from
66 that flagpole, ~~regardless of any covenants, restrictions,~~
67 ~~bylaws, rules, or requirements of the association,~~ one official
68 United States flag, not larger than 4 1/2 feet by 6 feet, and
69 may additionally display one other official ~~flag~~ permitted under
70 paragraph (a) of the State of Florida or the United States Army,
71 Navy, Air Force, Marines, Space Force, or Coast Guard, or a POW-
72 MIA flag. Such additional flag must be equal in size to or
73 smaller than the United States flag. The flagpole and display
74 are subject to all building codes, zoning setbacks, and other
75 applicable governmental regulations, including, but not limited
76 to, noise and lighting ordinances in the county or municipality
77 in which the flagpole is erected and all setback and locational
78 criteria contained in the governing documents.

79 Section 2. Section 720.3045, Florida Statutes, is created
80 to read:

81 720.3045 Display and storage of items.—Regardless of any
82 covenants, restrictions, bylaws, rules, or requirements of the
83 association, and unless prohibited by general law or local
84 ordinance, an association may not restrict parcel owners or
85 their tenants from storing or displaying any items on a parcel
86 which are not visible from the parcel's frontage or an adjacent
87 parcel, including, but not limited to, artificial turf, boats,

580-02860-23

20231454c1

88 flags, and recreational vehicles.

89 Section 3. Subsection (3) of section 720.3075, Florida
90 Statutes, is amended to read:

91 720.3075 Prohibited clauses in association documents.—

92 (3) Homeowners' association documents, including
93 declarations of covenants, articles of incorporation, or bylaws,
94 may not preclude the display of up to two ~~one~~ portable,
95 removable flags as described in s. 720.304(2)(a) United States
96 ~~flag~~ by property owners. However, all flags ~~the flag~~ must be
97 displayed in a respectful manner, consistent with the
98 requirements for the United States flag under Title 36 U.S.C.
99 chapter 10.

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

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

Community Affairs

Committee

1454
Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lisa Henning

Phone

850-746-8808

Address

242 Office Plaza Dr

Email

lphlegislative@aol.com

Street

Tallahassee

State

FL

Zip

32301

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:

Fraternal Order of Police

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 1490

INTRODUCER: Senator Garcia

SUBJECT: County Constitutional Officers

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1490 prohibits a county from creating or authorizing any office, special district, or governmental unit to exercise any power or authority allocated by the Florida Constitution or general law exclusively to a county officer. A county commissioner who votes in favor of a proposed ordinance for such a creation or expansion of powers commits misfeasance or malfeasance in office.

The bill provides that if a county adopts such an ordinance, the state may withhold all or part of any distribution under local government revenue sharing.

The bill allows a sheriff, tax collector, property appraiser, supervisor of elections, clerk of the court, or any resident of a county to bring an action in circuit court against a county for the adoption of such an ordinance. The bill provides that a court may award declaratory and injunctive relief, damages, and costs, including reasonable attorney fees to a prevailing party other than the county.

The bill also prohibits a county from including within their budget funding for any office, special district, or governmental unit exercising any power or authority allocated exclusively to a county officer by the Florida Constitution or general law.

The bill takes effect July 1, 2023.

II. Present Situation:

County Constitutional Officers

The Florida Constitution requires the Legislature to divide the state into counties.¹ Statutes divide the state into 67 counties, establishing their boundaries by providing the exact legal description of each county.² The Florida Constitution recognizes two types of county governments: those operating under a county charter and those without a charter.³ Non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁴ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.⁵

The electors of each county elect county constitutional officers (the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court) to a four-year term.⁶ Before 2018, a county charter could provide an alternative method of selecting county constitutional officers or abolish those offices, as long as the duties of the office prescribed by general law were transferred to another office.⁷ During the 2018 general election, voters approved Amendment 10, requiring all county constitutional officers to be elected to a four-term year and prohibiting the transfer of those duties to another office.⁸ Most counties were required to comply with this requirement by January 5, 2021, while Broward and Miami-Dade Counties were given until January 7, 2025.⁹

Local Government Revenue Sharing Eligibility

Each county and municipality must receive revenue sharing sufficient to meet its obligations as a result of pledges, assignments, or trusts entered into which obligated funds received from revenue sources or proceeds which by terms of the Revenue Sharing Act of 1972 are distributed out of revenue sharing trust funds.¹⁰ In any fiscal year a county or municipality may receive revenue sharing beyond the minimum entitlement amount, if the county or municipality does all of the following:

- Reports its finances for its most recently completed fiscal year to the Department of Financial Services;
- Makes provisions for annual post-audits of its financial accounts in accordance with law;
- Levies an ad valorem tax, exclusive of taxes levied for debt service or other voter-authorized special millages, or a mix of ad valorem taxes, occupational license tax, utility tax, and remittances from the county to produce revenue equivalent to a millage rate of 3 mills based on the taxable values certified by the property appraiser in the latter of 1973 or the year in which the municipality was incorporated;

¹ Art. VIII, s. 1(a), FLA. CONST.

² See ch. 7, F.S.

³ Art. VIII, ss. 1(f), (g), FLA. CONST.

⁴ Art. VIII, s. 1(f), FLA. CONST.

⁵ Art. VIII, s. 1(g), FLA. CONST.

⁶ Art. VIII, s. 1(d), FLA. CONST.

⁷ Art. VIII, s. 1(d), FLA. CONST. (2018).

⁸ See art. VIII, s. 1(d), FLA. CONST.

⁹ Art. VIII, s. 6(g), FLA. CONST.

¹⁰ Section 218.21(7), F.S. This amount is referred as the “minimum entitlement.”

- Certifies certain information relating to its law enforcement officers, firefighters, and dependent special districts.¹¹

County Budget System

The finances of each county in the state are subject to a budget system established by general law.¹² Each county is required to prepare, approve, adopt, and execute a budget for each fiscal year. At a minimum, the budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit which are least as detailed as the categories required for the county's annual financial report to the Department of Financial Services.¹³

Each county's budget must:

- Be prepared, summarized, and approved by the board of county commissioners;
- Be balanced, so that the total of the estimated receipts available from taxation and other sources, including balances brought forward from prior fiscal years, equals the total of appropriations for expenditures and reserves;¹⁴
- Contain a reserve for contingencies which does not exceed 10 percent of the total appropriations and for cash balances to be carried over for the purpose of paying expenses from October 1 of the next fiscal year until the revenues for that year are expected to be available;¹⁵
- Make an appropriation for outstanding indebtedness in order to provide for the payment of vouchers that have been incurred in and charged against the budget for the current year or a prior year, but that are expected to be unpaid at the beginning of the next fiscal year; and
- Provide that any surplus arising from an excess of the estimated cash balance over the estimated amount of unpaid obligations to be carried over in a fund at the end of the current fiscal year may be transferred to any of the other funds of the county, and the amount so transferred shall be budgeted as a receipt to such other funds.¹⁶

III. Effect of Proposed Changes:

Section 1 creates s. 125.691, F.S., to prohibit a county from creating or expanding the powers or authority of any office, special district, or governmental unit if the purpose of such creation or expansion is to exercise any power or authority allocated exclusively to a county officer by the Florida Constitution or general law. The bill provides that a county commissioner who votes in favor of a proposed ordinance for such a creation or expansion of powers commits misfeasance or malfeasance in office.¹⁷

¹¹ 218.23(1)(a)-(f), F.S.

¹² See chapter 129, F.S.

¹³ Section 129.01(1), F.S.

¹⁴ Budgeted receipts must include 95 percent of all receipts reasonably anticipated from all sources, including taxes to be levied and 100 percent of the amount of the balances estimated to be brought forward at the beginning of the fiscal year. Section 129.01 (2)(b), F.S.

¹⁵ The cash balance reserve may not exceed 20 percent of total appropriations. Section 129.01(2)(c)2., F.S.

¹⁶ Section 129.01(2), F.S.

¹⁷ The remedy for which is suspension by the Governor by executive order. Art. IV, s. 7, FLA. CONST.

The bill provides that if a county adopts such an ordinance, the state may withhold all or part of any distribution under local government revenue sharing.

The bill allows a sheriff, tax collector, property appraiser, supervisor of elections, clerk of the court, or any resident of a county to bring an action in circuit court against a county for the adoption of such an ordinance. The bill provides that a court may award declaratory and injunctive relief, damages, and costs. The bill allows courts to award reasonable attorney fees to prevailing party but may not make such an award if the county is the prevailing party.

Section 2 amends s. 129.01, F.S., to prohibit a county from including within their budget funding for any office, special district, or governmental unit exercising any power or authority allocated exclusively to a county officer by the Florida Constitution or general law.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or 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:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 129.01 and 129.021 of the Florida Statutes.
This bill creates section 125.691 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 Garcia

36-01784A-23

20231490__

A bill to be entitled
An act relating to county constitutional officers;
creating s. 125.691, F.S.; prohibiting a county from
creating any office, special district, or governmental
unit, or expanding the powers or authority of such
office, district, or unit, under certain conditions;
providing that a county commissioner commits
misfeasance or malfeasance in office under certain
conditions; authorizing the state to withhold certain
county funding under certain conditions; authorizing
certain county constitutional officers and residents
to bring an action in circuit court under certain
conditions; authorizing and prohibiting certain
remedies; amending s. 129.01, F.S.; prohibiting a
board of county commissioners' budget from providing
funding to such offices, districts, and units under
certain conditions; amending s. 129.021, F.S.;
conforming a cross-reference; providing an effective
date.

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

Section 1. Section 125.691, Florida Statutes, is created to
read:

125.691 Prohibition against duplicating county
constitutional office powers or authority; penalties; remedies.-

(1) A county may not create any office, special district,
or governmental unit, or expand the powers or authority of any
existing office, special district, or governmental unit, for the

36-01784A-23

20231490__

30 purpose of exercising any power or authority allocated
31 exclusively to a sheriff, tax collector, property appraiser,
32 supervisor of elections, or clerk of the court by the State
33 Constitution or general law.

34 (2) A county commissioner who votes in favor of a proposed
35 ordinance to create an office, special district, or governmental
36 unit, or expand the powers or authority of an existing office,
37 special district, or governmental unit, for the purpose of
38 exercising any power or authority allocated exclusively to a
39 sheriff, tax collector, property appraiser, supervisor of
40 elections, or clerk of the court by the State Constitution or
41 general law commits misfeasance or malfeasance in office.

42 (3) If a county adopts an ordinance pursuant to subsection
43 (2), the state may withhold all or part of any distribution
44 under part II of chapter 218 which is otherwise allocable to the
45 county, other than any distribution exclusively for school
46 purposes or as required for existing bond debt service, during
47 the period such ordinance is in force.

48 (4) A sheriff, tax collector, property appraiser,
49 supervisor of elections, clerk of the court, or any resident of
50 a county may bring an action in circuit court against a county
51 that violates this section. The court may enter a judgment
52 awarding declaratory and injunctive relief, damages, and costs.
53 The court may also award reasonable attorney fees to the
54 prevailing party; however, the court may not award reasonable
55 attorney fees to a county as the prevailing party.

56 Section 2. Present paragraphs (b) through (e) of subsection
57 (2) of section 129.01, Florida Statutes, are redesignated as
58 paragraphs (c) through (f), respectively, and a new paragraph

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20231490__

(b) is added to that subsection to read:

129.01 Budget system established.—A budget system for the control of the finances of the boards of county commissioners of the several counties of the state is established as follows:

(2) The budget must conform to the following general directions and requirements:

(b) The budget may not provide funding to any office, special district, or governmental unit exercising any power or authority allocated exclusively to a sheriff, tax collector, property appraiser, supervisor of elections, or clerk of the court by the State Constitution or general law.

Section 3. Section 129.021, Florida Statutes, is amended to read:

129.021 County officer budget information.—Notwithstanding other provisions of law, the budgets of all county officers, as submitted to the board of county commissioners, must be in sufficient detail and contain such information as the board of county commissioners may require in furtherance of their powers and responsibilities provided in ss. 125.01(1)(q), (r), and (v), and (6) and 129.01(2)(c) ~~129.01(2)(b)~~.

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

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

1490

Bill Number or Topic

Community Affairs

Committee

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

Name

Crystal Stickler

Phone

850 445 4344

Amendment Barcode (if applicable)

Address

Street

Email

crystal@magnolia
advocacy
llc.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:

Palm Beach County Tax
Collector

☐

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)

4/5/23

Meeting Date

CA

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 1490

~~SB 1490~~

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tim Qualls

Phone

850-222-7266

Address

216 S. Monroe St

Email

TQualls@YV100.net

Street

Tally

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:

FL Tax Collectors
Association

☐

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/5/2023

Meeting Date

Community Affairs

Committee

1490

Bill Number or Topic

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

Name

Jasmine Burrey-Clark

Phone

407-166-6468

Address

424 E. Central Blvd Suite 650

Street

Email

jasmine@aquatgrand.com

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

4/5/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

1490

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 Albert Balich

Phone 850 257 3440

Address 201 W Park Ave

Email _____

Street

Tam

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Florida Assoc. of Property Appraisers

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

1490

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

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

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

Street

Miami

FL

33128

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Miami-Dade County

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

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

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

S-001 (08/10/2021)

5 April 2023

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1490 County Constitutional Officers

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jason Harrell**

Phone **850-577-4516**

Address **215. South Monroe Street**
Street

Email **jasonharrell@flclerks.com**

Tallahassee

Florida

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Florida Court Clerks and
Comptrollers**

☐ 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

4/5/2023

Meeting Date

Community Affairs

Committee

1490

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Matt Dunagan**

Phone **850-877-2165**

Address **2617 Mahan Drive**

Email **mdunagan@flsheriffs.org**

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:

Florida Sheriffs Association

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1604

INTRODUCER: Committee on Community Affairs and Senator Ingoglia

SUBJECT: Land Use and Development Regulations

DATE: April 7, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1604 revises local comprehensive planning requirements by increasing the two required planning periods to a 10-year and 20-year period, from 5 and 10, and prohibiting local governments that fail to update their comprehensive plans in accordance with the 7-year evaluation and appraisal process from initiating or adopting any publicly-initiated plan amendments. Additionally, the bill prescribes certain procedures for the Department of Economic Opportunity to apply when local governments remain out of compliance with comprehensive planning updates.

The bill also prohibits local governments from requiring specified building design elements for residential dwellings in planned unit developments, master planned communities, and communities with a design review board or architectural review board created on or after January 1, 2020.

The bill takes effect 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.

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

At least once every 7 years, each local government must evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements since the last update of the comprehensive plan and must notify the state land planning agency as to its determination.⁶ If the local government determines amendments to its comprehensive plan are necessary, the local government must prepare and send to the state land planning agency within one year such plan amendment or amendments for review.⁷ Local governments are encouraged to evaluate and update their comprehensive plans to reflect changes in local conditions.⁸ If a local government fails to submit an evaluation of its comprehensive plan at least once in 7 years to the state land planning agency or update its plan as necessary in order to reflect changes in state requirements, the local government may not amend its comprehensive plan until such time that an evaluation is submitted.⁹

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3177(6), F.S.

⁵ *Id.*

⁶ Section 163.3191(1), F.S. The state land planning agency is the Department of Economic Opportunity pursuant to s. 163.3164(44), F.S.

⁷ Section 163.3191(2), F.S.

⁸ Section 163.3191(3), F.S.

⁹ Section 163.3191(4), F.S.

Comprehensive plans must include at least two planning periods, one covering the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period.¹⁰ Additional planning periods are permissible and accepted as part of the planning process.

Future Land Use Element

Comprehensive plans must contain an element regarding future land use that designates proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.¹¹ Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.¹² The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.¹³

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.¹⁴

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.¹⁵

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.¹⁶ Local governments are encouraged to use innovative land development regulations¹⁷ and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.¹⁸

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.¹⁹ Additionally, land

¹⁰ Section 163.3177(5)(a), F.S.

¹¹ Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. S. 163.3177(6)(a)10., F.S.

¹² Section 163.3177(6)(a)1., F.S.

¹³ Section 163.3177(6)(a)2., F.S.

¹⁴ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing Brevard Cty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).

¹⁵ *Id.*

¹⁶ Section 163.3202, F.S.

¹⁷ Section 163.3202(3), F.S.

¹⁸ Sections 125.01055 and 166.04151, F.S.

¹⁹ Sections 163.3174(4)(a) and 163.3184, F.S.

development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.²⁰

Amendments to comprehensive plans may be initiated by any interested party, including private land owners and public parties, including a local government's planning commission or governing board.²¹

Building Design Elements for Single-Family or Two-Family Dwellings

Local governments are generally prohibited from adopting land development regulations relating to building design elements for single-family or two-family dwellings.²² Building design elements include but are not limited to external building color, style or material of roofing, location or architectural styling of windows or doors, and number and type of rooms.²³

This prohibition does not apply to:²⁴

- Dwellings listed in, or located in a historic district listed in, the National Register of Historic Places;
- Dwellings listed as a historic property or located in a historic district as determined by a local preservation ordinance;
- Regulations adopted in order to implement the National Flood Insurance Program;
- Regulations adopted in accordance and compliance with procedures established for the adoption of local amendments to the Florida Building Code;
- Dwellings located in a community redevelopment area;
- Regulations that are required to ensure protection of coastal wildlife in compliance with the Dennis L. Jones Beach and Shore Preservation Act or the Florida Water Resources Act of 1972;
- Dwellings located in a planned unit development or a master planned community created by a local governing body²⁵; or
- Dwellings located within the jurisdiction of a local government that has a design review board or architectural review board.²⁶

III. Effect of Proposed Changes:

Section 1 amends s.163.3177, F.S., to revise the two required planning periods that must be included in a comprehensive plan to a 10-year period and a 20-year period. Local governments

²⁰ See Sections 163.3161(6) and 163.3194(1)(a), F.S.

²¹ See e.g., Osceola County, *Amending the Comprehensive Plan*, available at <https://www.osceola.org/agencies-departments/community-development/offices/planning-office/comprehensive-plan/amending-comprehensive-plan.stml> (last visited April 3, 2023).

²² Section 163.3202(5)(a), F.S.

²³ Section 163.3202(5)(b)

²⁴ Section 163.3202(5)(a)1.-7., F.S.

²⁵ “Planned unit development” or “master planned community” means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. Section 163.3202 F.S.

²⁶ See e.g., City of Wellington Architectural Review Board, available at <https://www.wellingtonfl.gov/303/Architectural-Review-Board> and City of St. Petersburg Design Review Board, available at https://www.stpete.org/government/boards_committees/development_review_commission.php (last visited April 3, 2023.)

may still adopt additional planning periods for specific components, elements, land use amendments, and projects.

Section 2 amends s.163.3191, F.S., to require the chair of the governing body of the county or mayor of the municipality to sign an affidavit attesting that all elements of the comprehensive plan complies with statutory requirements as part of the periodic review process. If a local government fails to submit such evaluation and affidavit to the DEO within 1 year, the local government may not initiate or adopt any publicly initiated plan amendment to its comprehensive plan until the local government complies with the submission requirements. This prohibition does not apply to privately initiated plan amendments.

If a local government fails to update its comprehensive plan, the bill provides that the DEO shall provide population projections to the local government that must be utilized in updating the comprehensive plan. A local government may provide alternative population projections based on professionally accepted methodologies, but only if those projections exceed the population projections provided by the DEO.

The bill requires local governments to evaluate and update their comprehensive plans to reflect changes in local conditions, with updates to required elements processed in the same plan amendment cycle.

Section 3 amends s. 163.3202, F.S., to remove the ability of local governments to require certain building design elements to single-family or two-family dwellings located in a planned unit development or master planned community. The bill also limits the application of those elements in communities with a design review board or architectural review board to those who had such a board before January 1, 2020.

Section 4 corrects a cross references in statute.

Section 5 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:

The prohibition on the application of building design standards to certain types of residential development may decrease the cost of constructing those developments.

C. Government Sector Impact:

Local governments will need to amend their comprehensive plans to account for the extended planning period provided in the bill. However, such amendments can occur concurrently with the local government's 7-year evaluation and appraisal, as provided in s. 163.3191, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3177, 163.3191, and 163.3202.

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 April 5, 2023:

The CS removes various provisions in the bill that:

- Change definitions of certain terms;
- Direct local governments to use certain data sources for comprehensive plans;
- Delete the list of primary urban sprawl indicators; and
- Require local governments to adopt residential infill development standards and minimum lot sizes for certain properties.

B. Amendments:

None.

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



590488

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 53 - 571
and insert:

Section 1. Paragraph (a) of subsection (5) of section
163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive
plan; studies and surveys.—

(5) (a) Each local government comprehensive plan must
include at least two planning periods, one covering at least the



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first 10-year ~~5-year~~ period occurring after the plan's adoption and one covering at least a 20-year ~~10-year~~ period. Additional planning periods for specific components, elements, land use amendments, or projects shall be permissible and accepted as part of the planning process.

Section 2. Section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) At least once every 7 years, each local government shall evaluate its comprehensive plan to determine if plan amendments are necessary to reflect a minimum planning period of at least 10 years as provided in s. 163.3177(5) or to reflect changes in state requirements in this part since the last update of the comprehensive plan, and notify the state land planning agency as to its determination. The notification must include a separate affidavit, signed by the chair of the governing body of the county and the mayor of the municipality, attesting that all elements of its comprehensive plan comply with this subsection. The affidavit must also include a certification that the adopted comprehensive plan contains the minimum planning period of 10 years, as provided in 163.3177(5), and must cite the source and date of the population projections used in establishing the 10-year planning period.

(2) If the local government determines amendments to its comprehensive plan are necessary to reflect changes in state requirements, the local government shall prepare and transmit within 1 year such plan amendment or amendments for review pursuant to s. 163.3184.

(3) Local governments shall ~~are encouraged to~~



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comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions. Plan amendments transmitted pursuant to this section must ~~shall~~ be reviewed pursuant to s. 163.3184(4). Updates to the required elements and optional elements of the comprehensive plan must be processed in the same plan amendment cycle.

(4) If a local government fails to submit the its letter and affidavit prescribed by subsection (1) or transmit the update to its plan pursuant to subsection (3) within 1 year after the date the letter was transmitted to the state land planning agency ~~(2)~~, it may not initiate or adopt any publicly initiated plan amendments to amend its comprehensive plan until such time as it complies with this section, unless otherwise required by general law. This prohibition on plan amendments does not apply to privately initiated plan amendments. The failure of the local government to timely update its plan may not be the basis for the denial of privately initiated comprehensive plan amendments.

(5) If it is determined that a local government has failed to update its comprehensive plan pursuant to this section, the state land planning agency must provide the required population projections that must be used by the local government to update the comprehensive plan. The local government shall initiate an update to its comprehensive plan within 3 months following the receipt of the population projections and must transmit the update within 12 months. If the state land planning agency finds the update is not in compliance, it must establish the timeline to address the deficiencies, not to exceed an additional 12-month period. If the update is challenged by a third party, the



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local government may seek approval from the state land planning agency to process publicly initiated plan amendments that are necessary to accommodate population growth during the pendency of the litigation. During the update process, the local government may provide alternative population projections based on professionally accepted methodologies, but only if those population projections exceed the population projections provided by the state land planning agency and only if the update is completed within the timeframe set forth in this subsection.

(6) The state land planning agency may not adopt rules to implement this section, other than procedural rules or a schedule indicating when local governments must comply with the requirements of this section.

Section 3. Paragraphs (a) and (b) of subsection (5) of section 163.3202, Florida Statutes, are amended to read:

163.3202 Land development regulations.—

(5)(a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling unless:

1. The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;

2. The regulations are adopted in order to implement the National Flood Insurance Program;

3. The regulations are adopted pursuant to and in compliance with chapter 553;



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4. The dwelling is located in a community redevelopment area, as defined in s. 163.340(10);

5. The regulations are required to ensure protection of coastal wildlife in compliance with s. 161.052, s. 161.053, s. 161.0531, s. 161.085, s. 161.163, or chapter 373;

~~6. The dwelling is located in a planned unit development or master planned community created pursuant to a local ordinance, resolution, or other final action approved by the local governing body; or~~

~~6.7.~~ The dwelling is located within the jurisdiction of a local government that has a design review board or an architectural review board created before January 1, 2020.

(b) For purposes of this subsection, the term~~+~~

~~1.~~ "building design elements" means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

~~2. "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the~~



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~~subdivision and zoning controls are applied to the project as a whole rather than to individual lots.~~

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

And the title is amended as follows:

Delete lines 3 - 46

and insert:

regulations; amending s. 163.3177, F.S.; revising the planning periods that must be included in a comprehensive plan; amending s. 163.3191, F.S.; requiring local governments to determine if plan amendments are necessary to reflect a certain minimum planning period; specifying requirements for a certain notification; requiring, rather than encouraging, a local government to comprehensively evaluate and update its comprehensive plan to reflect changes in local conditions; requiring updates to certain elements of the comprehensive plan to be processed in the same plan amendment cycle; prohibiting a local government from initiating or adopting any publicly initiated plan amendments to its comprehensive plan under certain circumstances; providing applicability; prohibiting a certain denial of plan amendments from being based on the failure of a local government to update its comprehensive plan; requiring the state land planning agency to provide population projections if a local government fails to update its comprehensive plan; requiring the local government to update its comprehensive plan within a specified



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timeframe after receiving the population projections
and transmit the update within a specified timeframe;
requiring the state land planning agency to establish
a certain timeline if such update is not in
compliance; authorizing the local government to seek
approval from the state land planning agency to
process publicly initiated plan amendments under
certain circumstances; authorizing the local
government to provide certain alternative population
projections under certain circumstances; amending s.
163.3202, F.S.; revising exceptions to applicability
of land development regulations relating to single-
family or two-family dwelling building design
elements; deleting the definition of the terms
"planned unit development" or "master planned
community"; amending s. 189.08,



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2023	.	
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The Committee on Community Affairs (Ingoglia) recommended the following:

Senate Amendment to Amendment (590488)

Delete line 27
and insert:
the county or the mayor of the municipality, attesting that all

By Senator Ingoglia

11-00357C-23

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1 A bill to be entitled
2 An act relating to land use and development
3 regulations; amending s. 163.3164, F.S.; revising
4 definitions; amending s. 163.3177, F.S.; revising the
5 types of data that comprehensive plans and plan
6 amendments must be based on; revising provisions
7 related to coordination of local comprehensive plan
8 elements; prohibiting optional elements of the
9 comprehensive plan from containing certain policies;
10 revising the planning periods that must be included in
11 a comprehensive plan; revising the elements that must
12 be included in a comprehensive plan; amending s.
13 163.3191, F.S.; requiring local governments to
14 determine if plan amendments are necessary to reflect
15 a certain minimum planning period; specifying
16 requirements for a certain notification; requiring,
17 rather than encouraging, a local government to
18 comprehensively evaluate and update its comprehensive
19 plan to reflect changes in local conditions;
20 specifying the requirements for updating the required
21 and optional elements of the comprehensive plan;
22 prohibiting a local government from initiating or
23 adopting publicly initiated plan amendments to its
24 comprehensive plan when it fails to meet certain
25 requirements; providing applicability; providing that
26 a failure of a local government to update its
27 comprehensive plan must not be the basis for a certain
28 denial of plan amendments; requiring the state land
29 planning agency to provide population projections when

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a local government fails to update its comprehensive plan; requiring the local government to update its comprehensive plan within a certain timeframe after receiving the population projections; authorizing the local government to provide certain alternative population projections under certain circumstances; amending s. 163.3202, F.S.; revising requirements for local land development regulations; prohibiting certain levels of service from being the basis for the denial of a development order or permit; revising exceptions to applicability of land development regulations relating to single-family or two-family dwelling building design elements; deleting the definition of "planned unit development" or "master planned community"; amending s. 163.3246, F.S.; revising criteria to evaluate the effectiveness of a certain certification process; amending s. 189.08, F.S.; conforming a cross-reference; amending s. 479.01, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (12), (22), (51), and (52) of section 163.3164, Florida Statutes, are amended to read:

163.3164 Community Planning Act; definitions.—As used in this act:

(12) "Density" means an objective measurement of the number of ~~people or~~ residential units allowed per unit of land, such as

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dwelling units ~~residents or employees~~ per acre.

(22) "Intensity" means an objective measurement of the extent to which land may be developed or used expressed in square feet per unit of land, such as a maximum floor ratio per acre, ~~including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.~~

(51) "Urban service area" means areas ~~identified in the comprehensive plan~~ where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or may be expanded through investment by the local government or the private sector; and all lands located in any county or municipality designated as a dense urban land area as described in s. 380.0651(3)(a) are ~~identified in the capital improvements element. The term includes any areas identified in the comprehensive plan as urban service areas, regardless of local government limitation.~~

(52) "Urban sprawl" means an unplanned and uncontrolled a development pattern ~~characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.~~

Section 2. Paragraph (f) of subsection (1), subsection (2), paragraph (a) of subsection (5), and paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive

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88 plan; studies and surveys.—

89 (1) The comprehensive plan shall provide the principles,
90 guidelines, standards, and strategies for the orderly and
91 balanced future economic, social, physical, environmental, and
92 fiscal development of the area that reflects community
93 commitments to implement the plan and its elements. These
94 principles and strategies shall guide future decisions in a
95 consistent manner and shall contain programs and activities to
96 ensure comprehensive plans are implemented. The sections of the
97 comprehensive plan containing the principles and strategies,
98 generally provided as goals, objectives, and policies, shall
99 describe how the local government's programs, activities, and
100 land development regulations will be initiated, modified, or
101 continued to implement the comprehensive plan in a consistent
102 manner. It is not the intent of this part to require the
103 inclusion of implementing regulations in the comprehensive plan
104 but rather to require identification of those programs,
105 activities, and land development regulations that will be part
106 of the strategy for implementing the comprehensive plan and the
107 principles that describe how the programs, activities, and land
108 development regulations will be carried out. The plan shall
109 establish meaningful and predictable standards for the use and
110 development of land and provide meaningful guidelines for the
111 content of more detailed land development and use regulations.

112 (f) All required ~~mandatory~~ and optional elements of the
113 comprehensive plan and plan amendments must ~~shall~~ be based upon
114 relevant ~~and appropriate~~ data and an analysis by the local
115 government that may include, but not be limited to, surveys,
116 studies, ~~community goals and vision~~, and other data available at

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the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it ~~in an appropriate way and~~ to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments must ~~shall~~ be made available for public inspection, and copies of such plans must ~~shall~~ be made available to the public upon payment of reasonable charges for reproduction. Support data or summaries shall be ~~are not~~ subject to the compliance review process, ~~but the comprehensive plan must be clearly based on appropriate data.~~ Support data or summaries may be used to aid in the determination of compliance and consistency.

2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. ~~However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.~~

3. The comprehensive plan must ~~shall~~ be based upon permanent and seasonal population estimates and projections, which must ~~shall~~ either be ~~those~~ published by the Office of Economic and Demographic Research or generated by the local

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government based upon a professionally acceptable methodology,
whichever is greater. The plan must be based on at least the
minimum amount of land required to accommodate the medium
projections as published by the Office of Economic and
Demographic Research for at least a 10-year planning period
unless otherwise limited under s. 380.05, including related
rules of the Administration Commission. Absent physical
limitations on population growth, population projections for
each municipality, and the unincorporated area within a county
must, at a minimum, be reflective of each area's proportional
share of the total county population and the total county
population growth.

(2) Coordination of the required and optional ~~several~~
elements of the local comprehensive plan must ~~shall~~ be a major
objective of the planning process. The required and optional
~~several~~ elements of the comprehensive plan must ~~shall~~ be
consistent. Optional elements of the comprehensive plan may not
contain policies that restrict the density or intensity
established in the future land use element. Where data is
relevant to required and optional ~~several~~ elements, consistent
data must ~~shall~~ be used, including population estimates and
projections ~~unless alternative data can be justified for a plan~~
~~amendment through new supporting data and analysis~~. Each map
depicting future conditions must reflect the principles,
guidelines, and standards within all elements, and each such map
must be contained within the comprehensive plan.

(5) (a) Each local government comprehensive plan must
include at least two planning periods, one covering at least the
first 10-year ~~5-year~~ period occurring after the plan's adoption

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and one covering at least a 20-year ~~10-year~~ period. Additional planning periods for specific components, elements, land use amendments, or projects shall be permissible and accepted as part of the planning process.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use must ~~shall~~ be provided for the gross land area included in each existing land use category. The element must ~~shall~~ establish the long-term end toward which land use programs and activities are ultimately directed.

1. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use must ~~shall~~ be shown on a land use map or map series which is ~~shall be~~ supplemented by goals, policies, and measurable objectives.

2. The future land use plan and plan amendments must ~~shall~~ be based upon surveys, studies, and data regarding the area, as applicable, including:

a. The amount of land required to accommodate anticipated growth.

b. The projected permanent and seasonal population of the

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area.

c. The character of undeveloped land.

d. The availability of water supplies, public facilities, and services.

e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.

f. The compatibility of uses on lands adjacent to or closely proximate to military installations.

g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

h. The discouragement of urban sprawl.

i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

j. The need to modify land uses and development patterns within antiquated subdivisions.

3. The future land use plan element must ~~shall~~ include criteria to be used to:

a. Achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5).

b. Achieve the compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

c. Encourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities.

d. Encourage the location of schools proximate to urban service ~~residential~~ areas, to the extent possible, and encourage

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the location of schools in all areas if necessary to provide
adequate school capacity to serve residential development.

e. Coordinate future land uses with the topography and soil
conditions, and the availability of facilities and services.

f. Ensure the protection of natural and historic resources.

g. Provide for the compatibility of adjacent land uses.

h. Provide guidelines for the implementation of mixed-use
development including the types of uses allowed, the percentage
distribution among the mix of uses, or other standards, and the
density and intensity of each use.

4. The amount of land designated for future planned uses
must ~~shall~~ provide a balance of uses that foster vibrant, viable
communities and economic development opportunities and address
outdated development patterns, such as antiquated subdivisions.
The amount of land designated for future land uses should allow
the operation of real estate markets to provide adequate choices
for permanent and seasonal residents and business and may not be
limited solely by the projected population. The element must
~~shall~~ accommodate at least the minimum amount of land required
to accommodate the medium projections as published by the Office
of Economic and Demographic Research for at least a 10-year
planning period unless otherwise limited under s. 380.05,
including related rules of the Administration Commission.

5. The future land use plan of a county may designate areas
for possible future municipal incorporation.

6. The land use maps or map series must ~~shall~~ generally
identify and depict historic district boundaries and must ~~shall~~
designate historically significant properties meriting
protection.

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7. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.

8. Future land use map amendments must ~~shall~~ be based upon the following analyses:

a. An analysis of the availability of facilities and services.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

9. The future land use element must ~~and any amendment to the future land use element shall~~ discourage the proliferation of urban sprawl by planning for future development as provided in this section.

~~a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the~~

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291 ~~context of features and characteristics unique to each locality~~
292 ~~in order to determine whether the plan or plan amendment:~~

293 ~~(I) Promotes, allows, or designates for development~~
294 ~~substantial areas of the jurisdiction to develop as low-~~
295 ~~intensity, low density, or single-use development or uses.~~

296 ~~(II) Promotes, allows, or designates significant amounts of~~
297 ~~urban development to occur in rural areas at substantial~~
298 ~~distances from existing urban areas while not using undeveloped~~
299 ~~lands that are available and suitable for development.~~

300 ~~(III) Promotes, allows, or designates urban development in~~
301 ~~radial, strip, isolated, or ribbon patterns generally emanating~~
302 ~~from existing urban developments.~~

303 ~~(IV) Fails to adequately protect and conserve natural~~
304 ~~resources, such as wetlands, floodplains, native vegetation,~~
305 ~~environmentally sensitive areas, natural groundwater aquifer~~
306 ~~recharge areas, lakes, rivers, shorelines, beaches, bays,~~
307 ~~estuarine systems, and other significant natural systems.~~

308 ~~(V) Fails to adequately protect adjacent agricultural areas~~
309 ~~and activities, including silviculture, active agricultural and~~
310 ~~silvicultural activities, passive agricultural activities, and~~
311 ~~dormant, unique, and prime farmlands and soils.~~

312 ~~(VI) Fails to maximize use of existing public facilities~~
313 ~~and services.~~

314 ~~(VII) Fails to maximize use of future public facilities and~~
315 ~~services.~~

316 ~~(VIII) Allows for land use patterns or timing which~~
317 ~~disproportionately increase the cost in time, money, and energy~~
318 ~~of providing and maintaining facilities and services, including~~
319 ~~roads, potable water, sanitary sewer, stormwater management, law~~

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enforcement, education, health care, fire and emergency
response, and general government.

~~(IX) Fails to provide a clear separation between rural and
urban uses.~~

~~(X) Discourages or inhibits infill development or the
redevelopment of existing neighborhoods and communities.~~

~~(XI) Fails to encourage a functional mix of uses.~~

~~(XII) Results in poor accessibility among linked or related
land uses.~~

~~(XIII) Results in the loss of significant amounts of
functional open space.~~

~~b. The future land use element or plan amendment shall be
determined to discourage the proliferation of urban sprawl if it
incorporates a development pattern or urban form that achieves
four or more of the following:~~

~~(I) Directs or locates economic growth and associated land
development to geographic areas of the community in a manner
that does not have an adverse impact on and protects natural
resources and ecosystems.~~

~~(II) Promotes the efficient and cost-effective provision or
extension of public infrastructure and services.~~

~~(III) Promotes walkable and connected communities and
provides for compact development and a mix of uses at densities
and intensities that will support a range of housing choices and
a multimodal transportation system, including pedestrian,
bicycle, and transit, if available.~~

~~(IV) Promotes conservation of water and energy.~~

~~(V) Preserves agricultural areas and activities, including
silviculture, and dormant, unique, and prime farmlands and~~

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soils.

~~(VI) Preserves open space and natural lands and provides for public open space and recreation needs.~~

~~(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.~~

~~(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.~~

10. The future land use element must ~~shall~~ include a future land use map or map series.

a. The proposed distribution, extent, and location of the following uses must ~~shall~~ be shown on the future land use map or map series:

(I) Residential.

(II) Commercial.

(III) Industrial.

(IV) Agricultural.

(V) Recreational.

(VI) Conservation.

(VII) Educational.

(VIII) Public.

b. The following areas must ~~shall~~ also be shown on the future land use map or map series, if applicable:

(I) Historic district boundaries and designated historically significant properties.

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(II) Transportation concurrency management area boundaries
or transportation concurrency exception area boundaries.

(III) Multimodal transportation district boundaries.

(IV) Mixed-use categories.

c. The following natural resources or conditions must ~~shall~~
be shown on the future land use map or map series, if
applicable:

(I) Existing and planned public potable waterwells, cones
of influence, and wellhead protection areas.

(II) Beaches and shores, including estuarine systems.

(III) Rivers, bays, lakes, floodplains, and harbors.

(IV) Wetlands.

(V) Minerals and soils.

(VI) Coastal high hazard areas.

Section 3. Section 163.3191, Florida Statutes, is amended
to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) At least once every 7 years, each local government
shall evaluate its comprehensive plan to determine if plan
amendments are necessary to reflect a minimum planning period of
at least 10 years as provided in s. 163.3177(5) or to reflect
changes in state requirements in this part since the last update
of the comprehensive plan, and notify the state land planning
agency as to its determination. The notification must include a
separate affidavit, signed by the executive officer, attesting
that all elements of its comprehensive plan comply with this
subsection. The affidavit must also include a certification that
the adopted comprehensive plan contains the minimum planning
period of 10 years as provided in 163.3177(5) and must cite the

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407 source and date of the population projections used in
408 establishing of the 10-year planning period.

409 (2) If the local government determines amendments to its
410 comprehensive plan are necessary to reflect changes in state
411 requirements, the local government shall prepare and transmit
412 within 1 year such plan amendment or amendments for review
413 pursuant to s. 163.3184.

414 (3) Local governments shall ~~are encouraged to~~
415 comprehensively evaluate and, as necessary, update comprehensive
416 plans to reflect changes in local conditions. Plan amendments
417 transmitted pursuant to this section must ~~shall~~ be reviewed
418 pursuant to s. 163.3184(4). Updates to the required elements of
419 the comprehensive plan must be processed in the same plan
420 amendment cycle. Optional elements of the comprehensive plan may
421 not be updated until the required elements have been updated,
422 unless otherwise required by general law.

423 (4) If a local government fails to submit the ~~its~~ letter
424 and affidavit prescribed by subsection (1) or update its plan
425 pursuant to this subsection within 1 year from the date the
426 letter was transmitted to the state land planning agency ~~(2)~~, it
427 may not initiate or adopt any publicly initiated plan amendments
428 to amend its comprehensive plan until such time as it complies
429 with this section, unless otherwise required by general law.
430 This prohibition on plan amendments does not apply to privately
431 initiated plan amendments. The failure of the local government
432 to timely update its plan shall not be the basis for the denial
433 of privately initiated comprehensive plan amendments.

434 (5) If it is determined that a local government has failed
435 to update its comprehensive plan pursuant to this section, the

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state land planning agency shall provide the required population projections that must be used by the local government to update the comprehensive plan. The local government shall initiate an update to its comprehensive plan within 3 months following the receipt of the population projections and must complete the update within 12 months. During the update process, the local government may provide alternative population projections based on professionally accepted methodologies, but only if those population projections exceed the population projections provided by the state land planning agency and only if the update is completed within the timeframe set forth in this subsection.

~~(6)~~~~(5)~~ The state land planning agency may not adopt rules to implement this section, other than procedural rules or a schedule indicating when local governments must comply with the requirements of this section.

Section 4. Present paragraphs (b) through (j) of subsection (2) of section 163.3202, Florida Statutes, are redesignated as paragraphs (d) through (l), respectively, new paragraphs (b) and (c) are added to that subsection, and present paragraph (g) of subsection (2) and paragraphs (a) and (b) of subsection (5) of that section are amended, to read:

163.3202 Land development regulations.—

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

(b) Establish minimum lot sizes within single-family, two-family, and fee simple, single-family townhouse zoning districts to accommodate the maximum density authorized in the

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comprehensive plan, net of the land area required to be set aside for subdivision roads, sidewalks, stormwater ponds, open space, landscape buffers and any other mandatory land development regulations that require land to be set aside that could otherwise be used for the development of single-family homes, two-family homes, and fee-simple, single-family townhouses.

(c) Establish infill development standards for single-family homes, two-family homes, and fee-simple townhouse dwelling units to allow for the administrative approval of development of infill single-family homes, two-family homes, and fee-simple, single-family townhouses.

~~(i)-(g)~~ Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the adopted level of services provided in the local government's comprehensive plan. Levels of service established in a comprehensive plan solely for planning purposes may not be the basis for the denial of a development order or permit.

(5) (a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling unless:

1. The dwelling is listed in the National Register of

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Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;

2. The regulations are adopted in order to implement the National Flood Insurance Program;

3. The regulations are adopted pursuant to and in compliance with chapter 553;

4. The dwelling is located in a community redevelopment area, as defined in s. 163.340(10);

5. The regulations are required to ensure protection of coastal wildlife in compliance with s. 161.052, s. 161.053, s. 161.0531, s. 161.085, s. 161.163, or chapter 373;

~~6. The dwelling is located in a planned unit development or master planned community created pursuant to a local ordinance, resolution, or other final action approved by the local governing body; or~~

~~6.7.~~ The dwelling is located within the jurisdiction of a local government that has a design review board or an architectural review board created before January 1, 2020.

(b) For purposes of this subsection, the term~~+~~

~~1.~~ "building design elements" means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or

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the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

~~2. "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.~~

Section 5. Paragraph (g) of subsection (5) of section 163.3246, Florida Statutes, is amended to read:

163.3246 Local government comprehensive planning certification program.—

(5) If the local government meets the eligibility criteria of subsection (2), the state land planning agency shall certify all or part of a local government by written agreement, which shall be considered final agency action subject to challenge under s. 120.569. The agreement must include the following components:

(g) Criteria to evaluate the effectiveness of the certification process in achieving the community-development goals for the certification area, including:

1. Measuring the compactness of growth, expressed as the ratio between population growth and land consumed;

2. Increasing residential density and intensity ~~intensities~~ of use;

3. Measuring and reducing vehicle miles traveled and increasing the interconnectedness of the street system,

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pedestrian access, and mass transit;

4. Measuring the balance between the location of jobs and housing;

5. Improving the housing mix within the certification area, including the provision of mixed-use neighborhoods, affordable housing, and the creation of an affordable housing program if such a program is not already in place;

6. Promoting mixed-use developments as an alternative to single-purpose centers;

7. Promoting clustered development having dedicated open space;

8. Linking commercial, educational, and recreational uses directly to residential growth;

9. Reducing per capita water and energy consumption;

10. Prioritizing environmental features to be protected and adopting measures or programs to protect identified features;

11. Reducing hurricane shelter deficits and evacuation times and implementing the adopted mitigation strategies; and

12. Improving coordination between the local government and school board.

Section 6. Paragraph (a) of subsection (2) of section 189.08, Florida Statutes, is amended to read:

189.08 Special district public facilities report.—

(2) Each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public facilities report shall specify the following information:

(a) A description of existing public facilities owned or

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operated by the special district, and each public facility that is operated by another entity, except a local general-purpose government, through a lease or other agreement with the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 7 years at least 12 months before the submission date of the evaluation and appraisal notification letter of the appropriate local government required by s. 163.3191. The department shall post a schedule on its website, based on the evaluation and appraisal notification schedule prepared pursuant to s. 163.3191(6) ~~s. 163.3191(5)~~, for use by a special district to determine when its public facilities report and updates to that report are due to the local general-purpose governments in which the special district is located.

Section 7. Subsection (29) of section 479.01, Florida Statutes, is amended to read:

479.01 Definitions.—As used in this chapter, the term:

(29) "Zoning category" means the designation under the land development regulations or other similar ordinance enacted to regulate the use of land as provided in s. 163.3202(2) ~~s. 163.3202(2)(b)~~, which designation sets forth the allowable uses, restrictions, and limitations on use applicable to properties within the category.

Section 8. This act shall take effect July 1, 2023.

The Florida Senate

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4/5/23

Meeting Date

Community Affairs

Committee

SB 1604

Bill Number or Topic

590488

Amendment Barcode (if applicable)

Name

Hailey Busch

Phone

850-264-4949

Address

308 N MONROE ST.

Email

HBUSCH@1000FOF.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:

1000 Friends of Florida

☐

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

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

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The Florida Senate

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Meeting Date

Community Affairs

Committee

1604

Bill Number or Topic

590488

Amendment Barcode (if applicable)

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Rusty Payton

Phone

850-567-1073

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Email

rpapton@fhba.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:

Florida Home Builders
Association



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

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

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S-001 (08/10/2021)

4/5/23

Meeting Date

CA

Committee

The Florida Senate

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1604

Bill Number or Topic

Amendment Barcode (if applicable)

Name

David Cullen

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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

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4/5/23

Meeting Date

Community Affairs

Committee

1604

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Edward Briggs**

Phone **8509335994**

Address **113 E. College Ave.**

Email **edward@teamrsa.com**

Street

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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:

Homes by WestBay

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

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

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The Florida Senate

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4/3/23

Meeting Date

Community Affairs

Committee

SB 1604

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Halcy Busch

Phone

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Address

308 N MONROE ST.

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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:

1000 FRIENDS
OF FLORIDA



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

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

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4/5/23

Meeting Date

Community Affairs

Committee

The Florida Senate

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SB 1604

Bill Number or Topic

Amendment Barcode (if applicable)

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Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

Florida Association of Counties

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

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S-001 (08/10/2021)



THE FLORIDA SENATE

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Chair

Appropriations

Appropriations
Committee on Criminal &
Civil Justice

Community Affairs

Criminal Justice

Finance & Tax

Military & Veterans
Affairs, Space, and
Domestic Security

Resiliency

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

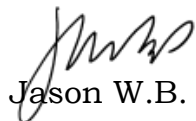
April 5, 2023

The Honorable Alexis Calatayud
Senate Committee on Community Affairs
324 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Calatayud:

Please excuse my absence from the Senate Committee on Community Affairs on April 5, 2023.

Sincerely,


Jason W.B. Pizzo

CourtSmart Tag Report

Room: SB 401
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 4/5/2023 8:31:35 AM

Ends: 4/5/2023 10:14:06 AM

Length: 01:42:32

8:31:40 AM Chair calls meeting to order
8:31:41 AM Roll Call
8:31:59 AM Quorum is present
8:32:11 AM Take up Tab 4 SB 522 Removal of Unknown Parties in Possession
8:33:10 AM Chair recognizes Senator Grall to explain bill
8:33:21 AM Chair recognizes Senator Grall to close
8:33:46 AM Roll Call SB 522
8:33:52 AM Vote recorded
8:33:57 AM Take up Tab 5 SB 760 Wrecker and Towing storage Operators
8:34:41 AM Chair recognizes Senator Perry to explain
8:34:51 AM Public Appearance by Marson Johnson
8:35:58 AM Public Appearance by Ramon Creso
8:36:37 AM Public Appearance by Harvey Spencer
8:36:42 AM Public Appearance by Anna Higgins of Self Storage Association
8:37:24 AM Public Appearance by Bob Cortes
8:37:32 AM Public Appearances, waiving speaking time
8:38:29 AM Question by Vice Chair Osgood
8:39:13 AM Chair recognizes Senator Perry to close
8:40:31 AM Roll Call SB 760
8:40:36 AM Vote recorded
8:40:40 AM Take up Tab 13 SB 1454 Homeowners' Right to Display and Store Items
8:41:17 AM Chair recognizes Senator Gruters to explain bill
8:41:34 AM Questions by Senator Berman
8:43:05 AM Public Appearance by Lisa Henning
8:44:04 AM Chair recognizes Senator Gruters to close
8:44:14 AM Roll Call SB 1454
8:44:50 AM Take up Tab 12 SB 1400 County Constitutional Offices
8:45:00 AM Chair recognizes Senator Martin to explain
8:45:56 AM Public Appearance by Tim Qualls of FL Tax Collection Assn
8:46:14 AM Public Appearance by Jason Harrell of Florida Court Clerks and Comptrollers
8:46:21 AM Chair recognizes Senator Martin to close
8:46:29 AM Roll Call SB 1400
8:46:32 AM Vote recorded
8:46:36 AM Take up Tab 2 SB 224 Special Risk Class Retirement Date
8:46:50 AM Chair recognizes Senator Hooper to explain
8:47:49 AM Public Appearance by William McCalister of Metro Dade Firefighters Local 1403
8:48:41 AM Public Appearance by Matt Coward of International Police Union Associations
8:49:00 AM Public Appearance by William Smith of FL PBA
8:49:16 AM Public Appearance by Wayne Bernsoka of FL Professional Firefighters
8:49:35 AM Public Appearance by Howard Fryer
8:49:44 AM Public Appearances, waiving speaking time
8:51:53 AM Comment by Senator Osgood
8:52:15 AM Chair recognizes Senator Hooper to close
8:52:28 AM Roll Call SB 224
8:52:54 AM Vote recorded
8:53:24 AM Take up Tab SB 512 Building Construction
8:53:34 AM Take up amendment barcode 343292
8:53:47 AM Chair recognizes Senator Hooper to explain
8:54:19 AM Chair recognizes Senator Hooper to close
8:54:30 AM Action on amendment recorded, back on bill
8:54:40 AM Public Appearances, waiving speaking time
8:54:50 AM Chair recognizes Senator Hooper to close

8:55:02 AM Roll Call SB 512
8:55:08 AM Vote recorded
8:55:22 AM Take up Tab 14 SB 1490 County Constitutional Officers
8:55:30 AM Chair recognizes Senator Garcia to explain bill
8:56:25 AM Public Appearances, waiving speaking time
8:57:04 AM Chair recognizes Senator Garcia to close
8:57:16 AM Roll Call SB 1490
8:57:29 AM Vote recorded
8:57:31 AM Take up Tab 8 SB 1096 Monuments and Memorials
8:57:44 AM Chair recognizes Senator Martin to explain
8:58:00 AM Questions by Senator Berman
9:00:28 AM Question by Vice Chair Osgood
9:01:48 AM Public Appearance by Jill Pacetti
9:02:33 AM Public Appearance by Dr. Carolyn Zonia
9:03:26 AM Public Appearance by Jeff Kottkamp of Guardians of American History
9:04:07 AM Public Appearance by Jonathan Harper of SPLC Action Fund
9:04:52 AM Public Appearance by James Calkins
9:05:32 AM Public Appearances, waiving speaking time
9:05:46 AM Comment by Vice Chair Osgood
9:07:00 AM Comment by Senator Baxley
9:11:34 AM Chair recognizes Senator Martin to close on bill
9:16:18 AM Comment by Vice Chair Osgood
9:17:17 AM Roll Call SB 1096
9:17:26 AM Vote recorded
9:17:42 AM Take up Tab 1 SB 6 Relief of the Estate of Jason Sanchez by Miami-Dade County
9:17:52 AM Chair recognizes Senator Rodriguez to explain bill
9:18:02 AM Chair recognizes Senator Rodriguez to close
9:18:38 AM Roll Call SB 6
9:18:46 AM Vote recorded
9:18:58 AM Take up Tab 7 SB 1072 Dredging and Beach Restoration Projects
9:19:05 AM Take up amendment barcode 226912
9:19:20 AM Chair recognizes Senator Rodriguez to explain
9:19:31 AM Take up amendment barcode 293890
9:19:49 AM Chair recognizes Senator Rodriguez to explain
9:20:11 AM Chair recognizes Senator Rodriguez to close
9:20:14 AM Action on amendment to amendment recorded
9:20:29 AM Public Appearance by Pepper Uchino of FL Shore & Beach Preservation Association
9:21:26 AM Public Appearances, waiving speaking time
9:21:51 AM Chair recognizes Senator Rodriguez to close
9:22:01 AM Action on amendment recorded, back on bill
9:22:08 AM Chair recognizes Senator Rodriguez to close
9:22:47 AM Roll Call SB 1072
9:22:54 AM Vote recorded
9:22:58 AM Take up Tab 6 SJR 1066 Recall of County Officers and Commissioners
9:23:13 AM Chair recognizes Senator Collins to explain resolution
9:24:16 AM Public Appearance by Gerald Foster
9:25:25 AM Public Appearance by James Calkins
9:26:33 AM Public Appearance by Chuck Pohlmann
9:26:52 AM Public Appearance by Jerry Couey
9:27:19 AM Public Appearance by Reni Johnmeyer
9:28:33 AM Public Appearance by Sherry Chapman
9:29:21 AM Public Appearances, waiving speaking time
9:29:28 AM Comment by Senator Baxley
9:30:32 AM Chair recognizes Senator Collins to close on bill
9:30:59 AM Roll Call SJR 1066
9:31:14 AM Vote recorded
9:31:19 AM Take up Tab 11 SB 1256 Preemption Over Utility Service Restrictions
9:31:33 AM Take up amendment barcode 303542
9:31:45 AM Chair recognizes Senator Collins to explain
9:33:03 AM Chair recognizes Senator Collins to close
9:34:02 AM Action on amendment recorded, back on bill
9:34:10 AM Public Appearance by David Cullen of Sierra Club

9:35:39 AM Public Appearances, waiving speaking time
9:35:46 AM Chair recognizes Senator Collins to close
9:36:20 AM Roll Call SB 1256
9:36:25 AM Vote recorded
9:36:46 AM Take up Tab 10 SB 1126 Impeding, Threatening, or Harassing First Responders
9:37:00 AM Chair recognizes Senator Avila to explain bill
9:38:11 AM Take up amendment barcode 694266
9:38:28 AM Chair recognizes Senator Avila to explain
9:39:17 AM Public Appearance by NR Hines of ACLU FL
9:40:14 AM Chair recognizes Senator Avila to close
9:40:24 AM Action on amendment recorded, back on bill
9:41:00 AM Public Appearance by William Smith of FL PBA
9:41:17 AM Public Appearance by NR Hines of ACLU FL
9:42:56 AM Public Appearance by Lisa Henning of Fraternal Order of Police
9:44:07 AM Public Appearances, waiving speaking time
9:44:24 AM Comment by Senator Martin
9:46:04 AM Comment by Vice Chair Osgood
9:47:14 AM Chair recognizes Senator Avila to close
9:49:12 AM Roll Call SB 1126
9:49:25 AM Vote recorded
9:49:30 AM Take up Tab 15 SB 1604 Land Use and Development Regulations
9:49:54 AM Take up amendment barcode 590488
9:50:11 AM Chair recognizes Senator Ingoglia to explain
9:51:00 AM Take up amendment barcode 708940
9:51:09 AM Chair recognizes Senator Ingoglia to explain
9:51:20 AM Chair recognizes Senator Ingoglia to close
9:51:22 AM Action on amendment to amendment recorded
9:51:30 AM Public Appearances, waiving speaking time
9:51:57 AM Chair recognizes Senator Ingoglia to close
9:52:24 AM Action on amendment recorded, back on bill
9:52:32 AM Public Appearance by Jeff Scala of Florida Association of Counties
9:52:55 AM Public Appearance by Haley Busch of 1000 Friends of Florida
9:53:58 AM Public Appearances, waiving speaking time
9:54:08 AM Comment by Senator Baxley
9:55:11 AM Comment by Vice Chair Osgood
9:55:17 AM Chair recognizes Senator Ingoglia to close
9:58:03 AM Roll Call SB 1604
9:58:11 AM Vote recorded
9:58:15 AM Take up Tab 9 SB 1110 Term Limits
9:58:48 AM Chair recognizes Senator Ingoglia to explain
9:59:01 AM Take up amendment barcode 705842
9:59:23 AM Chair recognizes Senator Ingoglia to explain
9:59:31 AM Chair recognizes Senator Ingoglia to close
9:59:57 AM Action on amendment recorded, back on bill
10:00:06 AM Public Appearance by Dr. Rich Templin of FL AFL-CIO
10:01:06 AM Public Appearance by Senator Lee Constantine
10:02:50 AM Public Appearance by Bob McKee of Florida Association of Counties
10:03:55 AM Public Appearance by Chris Doolin of Small County Coalition/ Small School Districts
10:05:22 AM Public Appearances, waiving speaking time
10:06:23 AM Comment by Senator Brodeur
10:06:46 AM Chair recognizes Senator Ingoglia to close
10:10:23 AM Roll Call SB 1110
10:11:23 AM Vote recorded
10:11:33 AM Comment by Senator Calatayud
10:11:57 AM Senators record votes
10:12:19 AM Comment by Vice Chair Osgood
10:13:01 AM Senator Martin moves, Meeting adjourned



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Vice Chair*
Agriculture
Community Affairs
Education Pre-K -12
Finance and Tax
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR LORI BERMAN

26th District

April 5, 2023

Senator Alexis Calatayud, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Calatayud:

Thank you for allowing me to leave early yesterday from our Community Affairs Committee meeting in order to fly back to my district to observe Passover.

The following is how I would like to be recorded in the official journal for voting on the bills I missed during the meeting:

SB 1066, SB 1110, SB 1126, SB 1256, SB 1604: No
SB 522, 1072: Yes

If you have any questions, please do not hesitate to let me know.

Sincerely,

A handwritten signature in cursive script that reads "Lori Berman" followed by a horizontal line.

Lori Berman
State Senator, District 26

cc: Elizabeth Ryon, Staff Director
Tatiana Warden, Committee Administrative Assistant

REPLY TO:

- 2300 High Ridge Road, Suite 161, Boynton Beach, Florida 33426 (561) 292-6014 FAX: (888) 284-6491
- 216 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore