

<b>Tab 1</b>	<b>SB 98</b> by <b>Albritton</b> ; (Compare to H 00791) Workforce Related Programs and Services
<b>Tab 2</b>	<b>CS/SB 148</b> by <b>RI, Bradley</b> ; (Compare to H 00329) Beverage Law
<b>Tab 3</b>	<b>SB 346</b> by <b>Rodriguez (CO-INTRODUCERS) Hutson</b> ; (Identical to H 00491) Florida Real Estate Appraisal Board
<b>Tab 4</b>	<b>CS/SB 352</b> by <b>HP, Rodriguez</b> ; (Similar to H 00245) Massage Therapy
<b>Tab 5</b>	<b>SB 806</b> by <b>Book (CO-INTRODUCERS) Stewart</b> ; Tax Exemption for Diapers and Incontinence Products
<b>Tab 6</b>	<b>SB 968</b> by <b>Gainer</b> ; (Identical to H 00379) Public Records/Economic Development Agency
<b>Tab 7</b>	<b>SB 1120</b> by <b>Gibson (CO-INTRODUCERS) Powell</b> ; (Identical to H 00857) Commercial Telephone Solicitation
<b>Tab 8</b>	<b>SB 586</b> by <b>Wright (CO-INTRODUCERS) Perry, Stewart, Farmer</b> ; (Identical to H 00435) Veterans Employment and Training
<b>Tab 9</b>	<b>SB 982</b> by <b>Gruters</b> ; (Identical to H 06071) Tax Refund Program for Qualified Target Industry Businesses

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Hooper, Chair**  
**Senator Wright, Vice Chair**

**MEETING DATE:** Tuesday, March 9, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Building*

**MEMBERS:** Senator Hooper, Chair; Senator Wright, Vice Chair; Senators Burgess, Diaz, Garcia, Gruters, Hutson, Pizzo, Powell, Taddeo, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>SB 98</b> Albritton (Compare H 791, H 1507, CS/S 366, S 1042)	Workforce Related Programs and Services; Renaming the Workforce Estimating Conference as the Labor Market Estimating Conference; removing authority for a local board to review a decision by the department to deny a contract; requiring certain standards and policies established by the Department of Education to include a specified requirement for training providers; requiring that middle grades career and professional academies and career-themed courses lead to careers in occupations aligned with the CAPE Industry Certification Funding List, etc.  CM 03/09/2021 Favorable ED AP	Favorable Yeas 10 Nays 0
2	<b>CS/SB 148</b> Regulated Industries / Bradley (Compare H 329, S 134)	Beverage Law; Authorizing certain food service establishments to sell or deliver certain alcoholic beverages for off-premises consumption under certain circumstances; providing requirements for such establishments to sell alcoholic beverages for off-premises consumption; requiring that such alcoholic beverages be transported in a specified manner; specifying that certain alcoholic beverages sold by such establishments are not open containers for the purposes of the prohibition on possessing open containers of alcoholic beverages in vehicles, etc.  RI 02/16/2021 Fav/CS CM 03/09/2021 Favorable RC	Favorable Yeas 11 Nays 0
3	<b>SB 346</b> Rodriguez (Identical H 491)	Florida Real Estate Appraisal Board; Revising the composition of the board, etc.  RI 03/01/2021 Favorable CM 03/09/2021 Favorable RC	Favorable Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Tuesday, March 9, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 352</b> Health Policy / Rodriguez (Similar H 245)	Massage Therapy; Revising a short title; revising and defining terms, etc.  HP 02/04/2021 Fav/CS CM 03/09/2021 Favorable AP	Favorable Yeas 11 Nays 0
5	<b>SB 806</b> Book	Tax Exemption for Diapers and Incontinence Products; Exempting the sale for human use of diapers, incontinence undergarments, incontinence pads, or incontinence liners from the sales and use tax, etc.  CM 03/09/2021 Favorable FT AP	Favorable Yeas 11 Nays 0
6	<b>SB 968</b> Gainer (Identical H 379)	Public Records/Economic Development Agency; Providing an exemption from public records requirements for certain information held by an economic development agency; providing that such information may be released in an aggregated and anonymized format; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CM 03/09/2021 Favorable GO RC	Favorable Yeas 11 Nays 0
7	<b>SB 1120</b> Gibson (Identical H 857)	Commercial Telephone Solicitation; Prohibiting a commercial telephone seller or salesperson from using automated dialing or recorded messages to make certain commercial telephone solicitation phone calls; prohibiting commercial telephone sellers or salespersons from making a specified number of commercial telephone solicitation phone calls to a person over a specified timeframe, etc.  CM 03/09/2021 Favorable RI RC	Favorable Yeas 11 Nays 0
8	<b>SB 586</b> Wright (Identical H 435)	Veterans Employment and Training; Directing Florida Is For Veterans, Inc., to serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program; prescribing duties of the corporation to facilitate the administration of the SkillBridge program, etc.  MS 03/01/2021 Favorable CM 03/09/2021 Favorable AP	Favorable Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Tuesday, March 9, 2021, 12:30—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 982</b> Gruters (Identical H 6071)	Tax Refund Program for Qualified Target Industry Businesses; Deleting a provision prohibiting the certification of applicants after a specified date, etc.  CM      03/09/2021 Favorable FT AP	Favorable Yeas 10 Nays 0

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Other Related Meeting Documents

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YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

**Reset Form**

March 9, 2021  
*Meeting Date*

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

98  
*Bill Number (if applicable)*

Topic Workforce Boards

*Amendment Barcode (if applicable)*

Name Robert Stuart

Job Title Government Consultant

Address 301 E. Pine Street, Suite 1400

Phone 407-843-8880

*Street*

Orlando

FL

32801

*City*

*State*

*Zip*

Email robert.stuart@gray-robinson.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Career Source Central Florida and Career Source Tampa Bay

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 9<sup>th</sup> 2011

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

SB 98

Bill Number (if applicable)

Topic

Workforce Programs Changed

Name

David Sardan

Job Title

Retired Citizen of FL

Address

Street

City

66 Wintergreen Dr 34731  
Fruitland Park FL 34731

Phone

Email

Amendment Barcode (if applicable)  
STATE OF FLORIDA  
SCHOOL BOARDS 3<sup>rd</sup> DISTRICT  
3528056573  
gotterdave@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing

Self & wife Sandi

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 98

INTRODUCER: Senator Albritton

SUBJECT: Workforce Related Programs and Services

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	<b>Favorable</b>
2.			ED	
3.			AP	

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**I. Summary:**

SB 98 modifies provisions related to Florida workforce development and education including:

- Reestablishing the Office of Economic and Demographic Research’s Workforce Estimating Conference as the Labor Market Estimating Conference, tasked with determining real-time supply and demand in Florida’s labor market;
- Adding “gross mismanagement” to the types of behavior for which the Governor may remove a member of the state workforce board or a local workforce development board;
- Requiring the state board to provide detailed information on the effectiveness of its activities, and requiring the state board to assign a letter grade to each local workforce development board;
- Requiring contracts for training services provided through Individual Training Accounts to condition final payment to a training provider, of at least 10 percent, upon a participant’s successful job placement;
- Requiring local workforce development boards to post information about the board’s finances and their board members’ financial and ethics disclosures;
- Imposing 6-year term limits on board members, and increasing oversight of contracts;
- Modifying the duties of the Department of Education to strengthen the accountability of apprenticeship and preapprenticeship programs, and target grants under the Florida Pathways to Career Opportunities Grant Program to programs that satisfy a regional or state demand and have successful completion and employment rates;
- Aligning educational offerings under the Career and Professional Education Act with the CAPE Industry Certification Funding List, and aligning the list with skills needed for future employment and projections from a new Labor Market Estimating Conference; and
- Requiring the Commissioner of Education to review the funding weights assigned to career courses and certifications included in the CAPE Industry Certification Funding List.

The bill takes effect July 1, 2021.

## II. Present Situation:

### **The Workforce Estimating Conference**

Current law directs the Workforce Estimating Conference to develop forecasts of employment demand for jobs by occupation and industry.<sup>1</sup> The Conference must also review local and regional occupational data generated through the Internet-based job-matching and labor-market information system and consider such data in developing its forecasts for statewide employment demand.<sup>2</sup> Additionally, the data is used to make recommendations to CareerSource on any changes to local target occupation lists.<sup>3</sup> The Workforce Estimating Conference is expected to meet at least twice a year;<sup>4</sup> however, the conference has not met since September 6, 2013.<sup>5</sup>

### **Florida's Workforce Development System**

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.<sup>6</sup> The WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.<sup>7</sup> The WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.<sup>8</sup> Some key principles of the WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.<sup>9</sup>

In response to the WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.<sup>10</sup> The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.<sup>11</sup>

### ***Federal Workforce Innovation and Opportunity Act of 2014***

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.<sup>12</sup> The WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.<sup>13</sup> In general, the WIOA maintains the one-stop framework of the WIA,

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<sup>1</sup> See s. 216.136(7), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Office of Economic & Demographic Research, Workforce Estimating Conference, <http://edr.state.fl.us/content/conferences/workforce/index.cfm> (last visited March 8, 2021).

<sup>6</sup> Workforce Investment Act of 1998, 29 U.S.C. § 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, H.R. 803, 113th Cong. (July 22, 2014)(codified at 29 U.S.C. § 3101, et seq.).

<sup>7</sup> See 29 U.S.C. § 2821 and 29 U.S.C. § 2832 (1998).

<sup>8</sup> See 29 U.S.C. § 2841 (1998).

<sup>9</sup> See 29 U.S.C. § 2811 (1998).

<sup>10</sup> Chapter 2000-165, Laws of Fla.

<sup>11</sup> See s. 445.003, F.S.

<sup>12</sup> Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 et seq. (2014).

<sup>13</sup> See 29 U.S.C. § 3112(a).



and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.<sup>14</sup> The WIOA officially became effective on July 1, 2015, the first full program year after enactment.

### ***Core Programs***

The WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.<sup>15</sup> The core programs are:

- Adult, Dislocated Worker, and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

### ***Performance Measures***

In an effort to promote transparency and accountability, the WIOA created a single set of common measures for the evaluation of core programs.<sup>16</sup> The WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:

- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;
- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.<sup>17</sup>

### ***State Workforce Development Plan***

Using the common performance measures for core programs, the WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.<sup>18</sup> The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.<sup>19</sup> The WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.<sup>20</sup>

The WIOA requires the Governor to establish a State Workforce Development Board<sup>21</sup> to assist the Governor in carrying out the duties and responsibilities required by the WIOA.<sup>22</sup> The membership of the state board must represent diverse geographic regions of the state, and the

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<sup>14</sup> See 29 U.S.C. § 3111.

<sup>15</sup> See 29 U.S.C. § 3102(13).

<sup>16</sup> See 29 U.S.C. § 3141.

<sup>17</sup> *Id.*

<sup>18</sup> See 29 U.S.C. § 3112(a).

<sup>19</sup> See 29 U.S.C. § 3112(b).

<sup>20</sup> See 29 U.S.C. § 3113.

<sup>21</sup> See 20 C.F.R. s. 679.110.

<sup>22</sup> See 20 C.F.R. s. 679.130.

membership must include the Governor, members of the state legislature, representatives of business, representatives of workforce within the state, and membership from state officials with primary responsibility for the core programs.<sup>23</sup> Among other duties, the state board is required to assist in the development, implementation and modification of a 4-year state plan, review statewide policies, programs, and recommendations on actions to align workforce development programs, and identification and dissemination on best practices.<sup>24</sup>

### ***Regional Planning and Local Workforce Development Boards***

The WIOA requires states to identify regional planning areas for workforce development strategies.<sup>25</sup> Within each area, a local workforce development board must be established.<sup>26</sup> Each local workforce development board is required to coordinate planning and service delivery strategies within their area.<sup>27</sup> Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.<sup>28</sup>

The WIOA requires each Governor to designate local workforce development areas in consultation with the state workforce development board, chief elected officials<sup>29</sup> and local workforce development boards, and after consideration of public comment.<sup>30</sup> In making such designations, the WIOA requires each Governor to consider, with limited exception,<sup>31</sup> the extent to which the areas: (1) are consistent with the labor market areas in the state; (2) are consistent with regional economic development areas in the state; and (3) have the federal and non-federal resources necessary to effectively administer workforce investment activities, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education (CTE) schools.<sup>32</sup>

### ***The Governor's Authority***

The WIOA grants the Governor broad oversight authority of both the state and local level workforce development programs. The Governor is responsible for designating the local

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<sup>23</sup> See 20 C.F.R. s. 679.110. See also U.S. Department of Labor, Employment and Training Administration Advisory System, Training and Employment Guidance Letter WIOA No. 27-14 (April 15, 2015), available at [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_27-14.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_27-14.pdf) (last visited March 8, 2021).

<sup>24</sup> See 20 C.F.R. s. 679.130.

<sup>25</sup> See 29 U.S.C. § 3121.

<sup>26</sup> *Id.*

<sup>27</sup> See 29 U.S.C. § 3122.

<sup>28</sup> See 29 U.S.C. § 3123.

<sup>29</sup> See Pub. L. 113-128, §. 3(9) (codified at 29 USC § 3102). The term, ‘chief elected official’ means “(a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units.”

<sup>30</sup> See Pub. L. 113-128, §. 106(a), (b) (codified at 29 U.S.C. § 3121).

<sup>31</sup> *Id.* WIOA lists two exceptions: (1) during the first two years after WIOA’s enactment, the Governor of each state was required to approve a request to designate a local workforce development area from any areas designated as such under the Workforce Innovation Act of 1998 for the two-year period immediately preceding WIOA’s enactment that performed successfully and sustained fiscal integrity; and (2) after the initial designation of such areas, the Governor of each state was further required to approve a subsequent request to designate such areas if, over the two most recent program years, they performed successfully, sustained fiscal integrity, and in the case of a local area planning region met additional requirements, including, but not limited to, the preparation of a regional plan.

<sup>32</sup> *Id.*

workforce areas,<sup>33</sup> certifying the local workforce development boards,<sup>34</sup> and negotiating the performance measures required by the WIOA.<sup>35</sup> The Governor also has the authority to decertify a local workforce development board, and require its reorganization, for fraud, abuse, or failure to carry out its statutory duties.<sup>36</sup> If a local workforce development board fails to meet its agreed upon performance measures in two consecutive program years, the Governor must decertify it and implement a reorganization plan.<sup>37</sup>

### ***One-Stop Delivery System***

The WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.<sup>38</sup> A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.<sup>39</sup> The WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.<sup>40</sup>

### ***Florida's Implementation of The WIOA***

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by the WIOA.<sup>41</sup> Under the current workforce development system, the DEO, CareerSource, the state board, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs. Florida submitted its first Unified State Plan in 2016, a Two-Year Modification in 2018, and most recently a plan for the period July 1, 2020-June 30, 2024.<sup>42</sup> Florida's plan includes the following required programs:

- Adult Program;
- Dislocated Worker Program;
- Youth Program;
- Adult Education and Family Literacy Act;
- Wagner-Peyser Act; and
- Vocational Rehabilitation Program, including Blind Services Program.<sup>43</sup>

The Unified Plan includes the required core partners of: CareerSource, the DEO, and the Department of Education's (DOE) Divisions of Career and Adult Education, Vocational Rehabilitation and Blind Services.<sup>44</sup>

<sup>33</sup> See 29 U.S.C. s. 3121(b).

<sup>34</sup> See 29 U.S.C. s. 3122(a).

<sup>35</sup> See 29 U.S.C. s. 3121(c).

<sup>36</sup> See 29 U.S.C. s. 3122(c).

<sup>37</sup> See 29 U.S.C. s. 3141(g).

<sup>38</sup> See 29 U.S.C. § 3151.

<sup>39</sup> Other mandatory partners may include programs under the Older Americans Act, Adult Education and Literacy, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, and the Community Service Block Grant Act. 29 U.S.C. § 3151(b).

<sup>40</sup> See 29 U.S.C. § 3151(2).

<sup>41</sup> Chapter 2016-216, Laws of Fla.

<sup>42</sup> Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 1, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021).

<sup>43</sup> *Id.* at 2.

<sup>44</sup> *Id.*

### ***The Department of Economic Opportunity***

The DEO serves as Florida's lead workforce agency.<sup>45</sup> The DEO is responsible for the fiscal and administrative affairs of the workforce development system.<sup>46</sup> The DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.<sup>47</sup> Additionally, the DEO must annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal law.<sup>48</sup>

### ***CareerSource Florida, Inc. and the State Board***

CareerSource Florida, Inc., a not-for-profit corporation, provides administrative support to Florida's *state-level* workforce development board.<sup>49</sup> CareerSource collaborates with the DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.<sup>50</sup> CareerSource also implements policy directives of the state board.<sup>51</sup>

The state board is the board of directors of CareerSource.<sup>52</sup> The board of directors includes the Governor, 16 business representatives, six workforce representatives, and eight government officials.<sup>53</sup> The state board conducts its work through its board of directors, two councils, and an Executive Committee.<sup>54</sup>

Additionally, the state board is responsible for the design and implementation of Florida's workforce development system and provides policy direction to ensure that the DEO is properly administering workforce development activities and programs.<sup>55</sup> The state board is also responsible for developing a 4-year plan that is consistent with the requirements of the WIOA.<sup>56</sup> In partnership with state and local workforce partners, the state board develops strategic planning elements for the state plan to address strategies to fulfill workforce system goals; aggregate, integrate, and leverage resources; coordinate the activities of federal, state, and local workforce system partners; address the needs of small businesses; and foster the participation of rural and distressed communities.<sup>57</sup> The state board submits an annual report by December 1 of each year to the Governor and the Legislature on the operations and accomplishments of the board, as well as, all audits.<sup>58</sup>

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<sup>45</sup> Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.

<sup>46</sup> Section 445.009(3)(c), F.S.

<sup>47</sup> *See* s. 445.003, F.S.

<sup>48</sup> *See* s. 445.007(3), F.S.

<sup>49</sup> Section 445.004(2), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

<sup>50</sup> *See* s. 445.004, F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *See* s. 445.004(3)(a)-(d), F.S. *See also* Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 89, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021). The membership roster is as of July 1, 2020.

<sup>54</sup> *Id.* at 59

<sup>55</sup> *See* s. 445.004, F.S.

<sup>56</sup> Section 445.003(2), F.S.

<sup>57</sup> *See* s. 445.006(2)(a), F.S.

<sup>58</sup> Section 445.004(7)(a)-(b), F.S.

### ***Local Workforce Development Boards***

Twenty-four local workforce development boards (local boards) deliver Florida's workforce development services through over 100 one-stop service providers.<sup>59</sup> The one-stop service providers give Floridians access to available workforce services; including job placement, career counseling, and skills training.<sup>60</sup> Each local board formulates a local budget and oversees the one-stop delivery system within its local area.<sup>61</sup>

Collectively, the local boards operate under a charter approved by CareerSource.<sup>62</sup> The local boards must submit a request for continued designation every two years, beginning July 1, 2017, to CareerSource and the DEO.<sup>63</sup> Continued designation is granted if the local board performed successfully and sustained fiscal integrity.<sup>64</sup> Each local board must develop their own local plans which are aligned with the vision and goals of the state plan.<sup>65</sup>

### ***Accountability***

For the period February 10, 2020 through August 7, 2020, the United States Department of Labor (USDOL) Employment Training Administration (ETA) conducted a compliance review of the DEO to determine their level of compliance with the programmatic, fiscal, and administrative requirements.<sup>66</sup> The review identified 50 compliance findings which must be addressed, with several findings having regulatory, statutory, and policy violations.<sup>67</sup>

The DEO has since provided corrective action responses to 46 of the 50 findings.<sup>68</sup> The DEO's response concluded that the state board has not delegated its policy making authority and

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<sup>59</sup> Florida Department of Economic Opportunity, *CareerSource Florida Network Directory*, <http://lcd.floridajobs.org/> (last visited March 8, 2021).

<sup>60</sup> *See* s. 445.009, F.S.

<sup>61</sup> Section 445.007(12), F.S.

<sup>62</sup> CareerSource Florida, Strategic Policy 2000.08.15.8D, *Chartering of Local Workforce Development Boards* (Aug. 15, 2020), available at <https://careersourceflorida.com/wp-content/uploads/2017/05/2000.08.15.1.8D-Chartering-of-LWDB.pdf> (last visited March 8, 2021).

<sup>63</sup> CareerSource Florida, Administrative Policy Number 94, *Local Workforce Development Area Designation* (March 20, 2017), at 3, available at [https://floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/guidance-papers/2017-guidance-papers/localareadesignatn-ap94.pdf?sfvrsn=2e3770b0\\_4](https://floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/guidance-papers/2017-guidance-papers/localareadesignatn-ap94.pdf?sfvrsn=2e3770b0_4) (last visited March 8, 2021).

<sup>64</sup> *Id.*

<sup>65</sup> Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 111, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf>. (last visited March 8, 2021); *See also* Florida Department of Economic Opportunity, *Local Workforce Development Area WIOA Plans*, <https://floridajobs.org/local-workforce-development-board-resources/programs-and-resources/local-workforce-development-area-wioa-plans> (last visited March 8, 2021).

<sup>66</sup> United States Department of Labor, Employment and Training Administration, *Compliance Review Florida Department of Economic Opportunity* (2020), available at <http://www.floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2020-usdol-eta-compliance-review.pdf> (last visited March 8, 2021).

<sup>67</sup> *Id.* at 1-2 (last visited March 8, 2021).

<sup>68</sup> Florida Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons- Regional Administrator Employment and Training Administration* (Feb. 18, 2021), available at [https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0\\_6](https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0_6) (last visited March 8, 2021).

provided the agreement<sup>69</sup> between the DEO and CareerSource.<sup>70</sup> Additionally, the DEO will incorporate an annual review of local board websites to ensure local plans and modifications are made publicly available. To address conducting business in an open manner, the DEO has updated the grantee-sub grantee agreement as well as a policy for local area governance and transparency.<sup>71</sup>

### **Apprenticeships and Preapprenticeships**

The Florida Legislature has established educational opportunities for young people in the state to be trained for trades, occupations, and professions suited to their abilities.<sup>72</sup>

The federal government works in cooperation with states to oversee the nation's apprenticeship programs. States have the authority to register apprenticeship programs through federally-recognized State Apprenticeship Agencies.<sup>73</sup> In Florida, the Department of Education (DOE) serves as the registering entity to ensure compliance with federal and state apprenticeship standards, provide technical assistance, and conduct quality assurance assessments.

An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:<sup>74</sup>

- It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training;
- It is commonly recognized throughout the industry;
- It involves manual, mechanical, or technical skills and knowledge requiring a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction; and
- It requires related instruction to supplement on-the-job training. Such instruction may be given in a classroom or through correspondence courses.

### ***Registered Apprenticeship***

Registered apprenticeship is an employer-driven, on-the-job workforce educational training program that connects job seekers looking to learn new skills and career opportunities with employers looking to create a pipeline of highly skilled individuals for their workforce.<sup>75</sup>

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<sup>69</sup> Agreement Between the Florida Department of Economic Opportunity and CareerSource Florida, Inc., *Agreement No: BCS02* (July 1, 2019-June 20, 2021), available at <https://careersourceflorida.com/wp-content/uploads/2020/01/DEO-CSF-Agreement.pdf> (last visited March 8, 2021).

<sup>70</sup> Florida Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons- Regional Administrator Employment and Training Administration* (Feb. 18, 2021), at 5, available at [https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0\\_6](https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0_6) (last visited March 8, 2021).

<sup>71</sup> *Id.* at 7-9.

<sup>72</sup> Chapter 446, F.S.

<sup>73</sup> 29 C.F.R. ss. 29.1 and 29.13.

<sup>74</sup> Section 446.092, F.S.

<sup>75</sup> Florida Department of Education, *Florida's Annual Apprenticeship and Preapprenticeship Report* (2019-2020), available at <http://www.fldoe.org/core/fileparse.php/5398/urlt/2020appr-rpt.pdf>, at 2 (last visited March 8, 2021).

The key components of a Florida registered apprenticeship program are business involvement, structured on-the-job training, related technical instruction, rewards for skill gains, and a nationally recognized credential.<sup>76</sup>

### *Apprenticeship Programs*

An “apprentice” is a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which should be combined with properly coordinated studies of technical and supplementary subjects. An apprentice must enter into an apprentice agreement with a sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.<sup>77</sup>

Potential candidates for apprenticeships may apply with a registered sponsor, who determines whether the candidate meets the required qualifications.<sup>78</sup> Sponsors may provide private classroom instruction or coordinate with a local educational agency<sup>79</sup> to provide related supplemental classroom instruction.<sup>80</sup> The apprentices are exempt from paying tuition and fees at a school district technical center, Florida College System (FCS) institution, or state university.<sup>81</sup>

The sponsor operates and registers an agreed-upon apprenticeship program.<sup>82</sup> An apprenticeship program is an organized course of instruction, registered and approved by the DOE that contains all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices.<sup>83</sup>

The administration and supervision of related and supplemental instruction for apprentices, coordination of such instruction with job experiences, and selection and training of teachers and coordinators for such instruction is the responsibility of the appropriate career education institution.<sup>84</sup> The career education institution is encouraged to provide facilities, equipment and supplies, and instructors’ salaries for the performance of related and supplemental instruction associated with the registered program.<sup>85</sup>

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<sup>76</sup> *Id.*

<sup>77</sup> Section 446.021(2), F.S.

<sup>78</sup> Florida Department of Education, *What is Registered Apprenticeship?*, <http://www.fldoe.org/academics/career-adult-edu/apprenticeship-programs/what-is-apprenticeship.stml>, (last visited March 8, 2021).

<sup>79</sup> Though not defined in the federal regulations governing the U.S. Department of Labor, the U.S. Department of Education regulations define a local educational agency as a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. 34 C.F.R. s. 400.4.

<sup>80</sup> Section 446.051(2), F.S.

<sup>81</sup> Section 1009.25(1)(b), F.S.

<sup>82</sup> Rule 65A-23.002(21), F.A.C.

<sup>83</sup> Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

<sup>84</sup> Section 446.051(1), F.S.

<sup>85</sup> Section 446.051(2), F.S.



### ***Preapprenticeship Programs***

A preapprentice is any person 16 years of age or over engaged in any course of instruction in the public school system or elsewhere, which course is registered as a preapprenticeship program with the DOE.<sup>86</sup> The program's purpose is to provide training that will enable students, upon completion, to obtain entrance into a registered apprenticeship program.<sup>87</sup> The program must be registered with the DOE and sponsored by a registered apprenticeship program.<sup>88</sup>

The DOE is authorized to administer the law<sup>89</sup> relating to preapprenticeship programs in cooperation with district school boards and FCS institution boards of trustees (BOT). District school boards, FCS institution BOT, and sponsors must cooperate in developing and establishing preapprenticeship programs that include career instruction and general education courses required to obtain a high school diploma.<sup>90</sup>

### ***Department of Education Responsibilities***

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs, including, but not limited to:<sup>91</sup>

- Developing and encouraging apprenticeship programs;
- Registering any apprenticeship or preapprenticeship program, regardless of affiliation,<sup>92</sup> which meets standards established by the DOE;
- Cooperating with and assisting sponsors to develop apprenticeship standards and training requirements;
- Monitoring registered apprenticeship programs;
- Leading and coordinating outreach efforts to educate veterans about apprenticeship and career opportunities;
- Investigating complaints regarding failure to meet the standards established by the DOE; and
- Canceling registration of programs that fail to comply with DOE standards and policies.

The DOE establishes uniform minimum standards and policies governing registered apprenticeship programs and agreements.<sup>93</sup> The standards and policies must govern the terms and conditions of the apprentice's employment and training, including the quality training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeymen, safety, related instruction, and on-the-job training. The DOE is also required to publish an annual report on apprenticeship and preapprenticeship programs, which must include:<sup>94</sup>

- A list of registered apprenticeship and preapprenticeship programs;
- A summary of each local educational agency's expenditure of funds for apprenticeship and preapprenticeship programs, per trade or occupation;

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<sup>86</sup> Section 446.021(1), F.S.

<sup>87</sup> Rule 6A-23.010(1), F.A.C.

<sup>88</sup> Section 446.021(5), F.S.

<sup>89</sup> Sections 446.011 to 446.092, F.S.

<sup>90</sup> Section 446.052(2), F.S.

<sup>91</sup> Section 446.041, F.S.

<sup>92</sup> Apprenticeship programs may be in both non-union and union workplaces; sponsors may include employers, labor organizations, and joint labor-management organizations.

<sup>93</sup> Section 446.032(1), F.S.

<sup>94</sup> Section 446.032(2), F.S.



- The number of apprentices and preapprentices per trade and occupation;
- The percentage of apprentices and preapprentices who complete their respective programs in the appropriate timeframe;
- Information and resources related to applications for new apprenticeship programs and technical assistance and requirements for potential applicants; and
- Documentation of activities conducted by the DOE to promote apprenticeship and preapprenticeship programs through public engagement, community-based partnerships, and other initiatives.

### ***State Apprenticeship Advisory Council***

The State Apprenticeship Advisory Council (council) advises the DOE on matters related to apprenticeship.<sup>95</sup> The council may not establish policy, adopt rules, or consider whether particular apprenticeship programs should be approved by DOE. The Commissioner of Education (commissioner) or the commissioner's designee must serve *ex officio* as chair of the council, but may not vote. The state director of the USDOL also serves *ex officio* as a nonvoting member of the council. The council is comprised of 10 voting members appointed by the Governor.<sup>96</sup> The council must meet at the call of the chair or at the request of a majority of its membership, but at least twice a year.<sup>97</sup>

### ***Florida Pathways to Career Opportunities Grant Program***

In 2019, the Governor issued an executive order directing the DOE to seek funding to seed high quality workforce apprenticeships and other industry specific learning opportunities for students.<sup>98</sup>

The Florida Pathways to Career Opportunities Grant Program (grant program) was established in 2019<sup>99</sup> in the DOE to provide grants on a competitive basis to high schools, career centers, charter technical career centers, FCS institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program to establish new apprenticeship or preapprenticeship programs, and expand existing apprenticeship or preapprenticeship programs. Grant funds may be used for instructional equipment, supplies, personnel, student services, and other expenses associated with the creation or expansion of an apprenticeship program. Grant funds may not be used for recurring instructional costs or for indirect costs.<sup>100</sup>

### **The Florida Career and Professional Education (CAPE) Act**

The CAPE Act was created to provide a statewide planning partnership between the business and education communities to attract, expand and retain targeted, high-value industry to sustain a strong, knowledge-based economy. The primary purpose of the CAPE Act is to:

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;

<sup>95</sup> Section 446.045(2)(a), F.S.

<sup>96</sup> Section 446.045(2)(b), F.S.

<sup>97</sup> Section 446.045(2)(c), F.S.

<sup>98</sup> Florida Office of the Governor, Executive Order 19-31, at 3.

<sup>99</sup> Section 33, ch. 2019-119, Laws of Fla.

<sup>100</sup> Section 1011.802, F.S.

- Provide rigorous and relevant career-themed courses that articulate to postsecondary-level coursework and lead to industry certification;
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.<sup>101</sup>

In order to fulfill the requirements of the CAPE Act the DOE incentivizes school districts and FCS institutions<sup>102</sup> through two statewide lists.<sup>103</sup>

The CAPE Industry Certification Funding List includes CAPE industry certifications, CAPE acceleration industry certifications, and CAPE digital tool certificates. Industry certifications on the final approved CAPE Industry Certification Funding list are eligible for additional weighted funding through the Florida Education Finance Program (FEFP).<sup>104</sup> The value is added to the total FTE in secondary career education programs for grades 9 through 12. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification to the program that generated the funds.<sup>105</sup>

### ***CAPE Industry Certification Funding List (K-12)***

Florida's current process for submitting, reviewing, and approving certifications starts with the submission of a certification application to CareerSource by local boards or public school principals. All submissions are then researched by CareerSource staff, the DOE, and the DEO to determine eligibility and to develop a list of recommended certifications for approval. The CareerSource Board of Directors is responsible for the final approval of certifications which the DOE may consider for funding eligibility and addition to the CAPE Industry Certification Funding List.<sup>106</sup>

Approved industry certifications are published by the DOE, CareerSource, and the Department of Agriculture and Consumer Services (DACCS).<sup>107</sup> The selection of industry certifications occurs in two phases. First, CareerSource must identify industry certifications and compile them into a Comprehensive Industry Certification List.<sup>108</sup> Second, the DOE must:

- Review CareerSource's Comprehensive Industry Certification List that includes 236 certifications;<sup>109</sup>
- Identify industry certifications that qualify for additional weighted funding;<sup>110</sup>

<sup>101</sup> Section 1003.491, F.S.

<sup>102</sup> Sections 1011.62(1)(o), 1008.44, 1011.80, and 1011.81(2), F.S.

<sup>103</sup> Sections 1011.62(1)(o), 1011.80(7)(b), and 1011.81(2)(c), F.S.

<sup>104</sup> Section 1011.62(1)(o), F.S.; Rule 6A-6.0573(12), F.A.C.

<sup>105</sup> Section 1011.62(1)(o), F.S.

<sup>106</sup> CareerSource Florida, *2021-2022 Submission Process and Guidelines for Career and Professional Education Act*, available at: [https://careersourceflorida.com/wp-content/uploads/2018/08/CAPE\\_Process\\_and\\_Guidelines.pdf](https://careersourceflorida.com/wp-content/uploads/2018/08/CAPE_Process_and_Guidelines.pdf) (last visited March 8, 2021).

<sup>107</sup> Section 1003.492(3), F.S.

<sup>108</sup> Section 1003.492(4), F.S.; rule 6A-6.0573(2)(d), F.A.C.

<sup>109</sup> Rule 6A-6.0573(3), F.A.C. See also, Florida Department of Education, Division of Career and Adult Education, *2020-21 Career Source Florida Recommendations*, available at <http://www.fldoe.org/core/fileparse.php/8904/urlt/2021-csfl-rec-all.pdf> (last visited March 8, 2021).

<sup>110</sup> Rule 6A-6.0573(4), F.A.C.

- Consider district requests that industry certifications be added to the approved list;<sup>111</sup> and
- Annually publish a final list.<sup>112</sup>

In order for an industry certification to be included on the CAPE Industry Certification Funding List, a certification must require a minimum of 150 hours of instruction and be achievable by secondary students.<sup>113</sup>

CAPE acceleration industry certifications which are annually approved by the commissioner, must articulate for 15 or more college credit hours and, if successfully completed, must be eligible for additional FTE funding.<sup>114</sup> In order for a CAPE acceleration industry certification to be included on the CAPE Industry Certification Funding List, it must meet the same requirements as an industry certification and also have a statewide articulation agreement that enables students to earn 15 hours or more of college credit.<sup>115</sup>

CAPE digital tool certificates recognize a student's attainment of digital skills. The DOE is required to identify, by June 15 of each year, digital tool certificates that indicate a student's digital skills. The DOE must notify each school district when a digital tool certificate is available. Digital tool certificates must be made available to all public elementary and middle grades students. By July 1, 2018, and on an annual basis thereafter, at least 75 percent of public middle grades students are expected to earn at least one digital tool certificate.<sup>116</sup> In order for a CAPE digital tool certificate to be included on the CAPE Industry Certification Funding List a certificate must:

- Be achievable by elementary school and middle grades students;
- Assess at least one of the following digital skills: word processing; development of spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations; and
- Be part of a career pathway leading to the attainment of a career and professional education industry certification on the career and professional education funding list.<sup>117</sup>

The commissioner may at any time recommend adding to the CAPE Industry Certification Funding List no more than 30 career and professional education digital tool certificates limited to the areas of word processing; development of spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations that do not articulate for college credit.<sup>118</sup>

The Chancellor of Career and Adult Education may identify certificates and certifications for students with disabilities, which must be included on the CAPE Industry Certification Funding

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<sup>111</sup> Rule 6A-6.0573(9), F.A.C.

<sup>112</sup> Section 1003.492(4), F.S.; rule 6A-6.0573(8), F.A.C.

<sup>113</sup> Rule 6A-6.0573(7)(a), F.A.C.

<sup>114</sup> Section 1003.4203(5)(b), F.S.

<sup>115</sup> Rule 6A-6.0573(7)(c), F.A.C.

<sup>116</sup> Section 1003.4203(3), F.S.

<sup>117</sup> Rule 6A-6.0573(7)(d), F.A.C.

<sup>118</sup> Section 1008.44(1)(b), F.S.

List, i.e., digital tool certifications, workplace industry certification, and occupation safety and health administration industry certifications.<sup>119</sup>

### ***CAPE Postsecondary Industry Certification Funding List***

The CAPE Postsecondary Industry Certification Funding List is developed by the Chancellor of the FCS<sup>120</sup> and the Chancellor of Career and Adult Education<sup>121</sup> and approved by the SBE.<sup>122</sup> These industry certifications are linked to occupational areas identified in the General Appropriations Act.<sup>123</sup>

## **III. Effect of Proposed Changes:**

### **Workforce Development**

**Section 1** amends s. 216.136, F.S., to change the name of the Workforce Estimating Conference to the Labor Market Estimating Conference.

The bill clarifies that the Labor Market Estimating Conference must meet at least twice a year to develop information regarding real-time supply and demand in Florida’s statewide, regional, and local labor markets.

The bill provides that the Labor Market Estimating Conference will provide information on labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, a ranking of critical areas of concern, and identification of in-demand, high-skill, and high-wage occupations.

The bill provides that all state agencies must provide the Office of Economic and Demographic Research with the necessary data to accomplish the goals of the Labor Market Estimating Conference.

**Section 2** amends s. 445.002, F.S., to include “gross mismanagement” in the definition of “for cause.” The “for cause” standard is used in ch. 445, F.S., as a standard by which the Governor may remove a member of the state board or a local board, and a chief elected official may remove a member of a local board.

**Section 3** amends s. 445.004, F.S., to revise provisions relating to the purpose, operation, and organizational structure of the state board.

- The state board must include one member representing each of the WIOA partners, including the Division of Vocational Rehabilitation and the Department of Children and Families.
- The state board must create a state employment, education, and training policy that ensures workforce-related programs are responsive to present and future business and industry needs.

<sup>119</sup> Section 1008.44(1)(c), F.S.

<sup>120</sup> Section 1011.81(2)(b), F.S.

<sup>121</sup> Section 1011.80(7)(b)2., F.S.

<sup>122</sup> Section 1011.81(2)(b), F.S. and s. 1011.80(7)(b)2., F.S.

<sup>123</sup> Sections 1011.80(7)(b) and 1011.81(2)(b), F.S.; ss. 124 and 130, ch. 2020-111, Laws of Fla.

- The state board must establish policy direction for a uniform funding system that prioritizes evidence-based, results-driven solutions by providing certain incentives to improve the outcomes of career education, registered apprenticeship, and work-based learning programs.
- The state board must establish a comprehensive policy related to the education and training of target populations, which should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance by combining two or more sources of funding to support workforce-related programs or activities for vulnerable populations when appropriate or authorized.
- The state board must identify barriers to coordination and alignment among workforce-related programs and activities, and develop solutions to remove such barriers.
- The state board, in consultation with the DEO must submit a complete and detailed annual report by December 1 of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.
- The state board's annual report must include all audits and investigations, the state board's operations and accomplishments, the number of mandatory partners located within one-stop centers, and the amount of progress made toward implementing solutions to address barriers to coordination and alignment among programs and activities.
- The state board, beginning July 1, 2022, must annually assign a letter grade for each local board.
- The state board must establish incentives for effective alignment of federal and state programs, outline rewards for achieving long-term self-sufficiency of participants, and institute collaborative approaches among local service providers.
- The state board must establish uniform performance accountability measures, and any local performance accountability measures established must be based on identified local area needs.

**Section 4** amends s. 445.007, F.S., to revise provisions relating to transparency and oversight of local boards.

The bill establishes term limits for a local board chair as no more than 2 years and establishes term limits for all members of a local board as no more than 6 consecutive years, unless the member is a representative of a government entity.

The bill requires local boards to make publicly available on the local board's website, or the DEO's website if the local board does not maintain a website, the following:

- Information for the public that a public disclosure of financial interest filed with the Commission on Ethics has been completed for each local board member and executive director and provide information on how each disclosure or statement may be reviewed;<sup>124</sup>
- The local board's budget within 10 days after approval by the DEO;<sup>125</sup> and

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<sup>124</sup> The notice to the public must remain on the website throughout the term of office or employment of the filer and until 1 year after the term ends.

<sup>125</sup> The budget must remain published on the website for the duration of the fiscal year for which it accounts for the expenditure of funds.

- Annual publication of its most recent Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax.<sup>126</sup>

The bill requires prior approval from the DEO for contracts between the local board and an organization or individual represented on the local board and states that such contracts may not be included on a consent agenda by the board. Additionally, a member whose organization may benefit from the contract must abstain from voting on the contract.

The bill reduces the threshold from \$25,000 to \$10,000 for contracts between local boards, a relative of a local board, or an employee of the board, which do not require prior approval from the DEO but do require a two-thirds board approval.

The bill requires the publication of contracts between a local board and a member of the local board, a relative of a local board member, an organization or individual represented on the local board, or an employee of the local board approved on or after July 1, 2021, to be published on the local board's website, or the DEO's website if the local board does not maintain a website within ten days after approval by the DEO and requires it to remain published for at least 1 year after termination of the contract.

The bill requires the DEO, in their review of required contracts to consider documentation provided by the local board, including the performance rating of the entity under consideration for contract and whether such entity is the only provider of the desired goods and services within the area served.

The bill removes a provision that requires a two-thirds vote of a local board if the local board enters into a contract with an organization or individual represented on the local board.

The bill requires each local board to annually, within 30 days after the end of the fiscal year, disclose to the DEO, the amount and nature of compensation paid to all executives, officers, directors, trustees, key employees, and the highest compensated employees, as defined for purposes of the Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax.<sup>127</sup>

**Section 5** amends s. 445.009, F.S., to provide that Individual Training Accounts<sup>128</sup> must be expended on programs that prepare people to enter occupations identified by the Labor Market Estimating Conference.

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<sup>126</sup> The form must be posted on the local board's website within 60 calendar days after it is filed with the Internal Revenue Service and remain posted for 3 years after it is filed.

<sup>127</sup> The bill provides that the reported compensation must include salary, bonuses, present value of vested benefits including but not limited to retirement, accrued leave and paid time off, cashed-in leave, cash equivalents, severance pay, pension plan accruals and contributions, deferred compensation, real property gifts, and any other liability owed to such persons. The disclosure must be accompanied by a written declaration from the chief financial officer, or his or her designee, that he or she has read the compensation disclosure and affirms it is true and accurate. The compensation disclosure information must also be published on the local board's website, or the DOE's website if the local board does not maintain a website, for a period of 3 years after it is first published.

<sup>128</sup> Individual Training Account expenditures include tuition, books, and fees of training providers and other training services authorized by the WIOA. *See* s. 445.003, F.S.

The bill requires training services provided through Individual Training Accounts to be performance-based, with successful job placement triggering final payment of at least 10 percent.

**Sections 6 and 18** amend ss. 445.038 and 445.011, F.S., respectively, to make conforming changes to provisions made by the bill.

### **Apprenticeship and Preapprenticeship**

**Section 7** amends s. 446.021, F.S., to change the term “Uniform minimum preapprenticeship standards” to “standards,” which means the minimum requirements established uniformly for each occupation under which an apprenticeship or preapprenticeship program is administered.<sup>129</sup>

**Section 8** amends s. 446.032, F.S., to clarify the role of the DOE in the administration of apprenticeship training programs.

The bill requires the DOE to establish uniform minimum standards and policies governing apprenticeship programs and agreements which must require training providers to submit data necessary to determine program performance consistent with state and federal law.

The bill requires the DOE to adopt rules necessary to administer the standards and policies governing apprenticeship programs and agreements.

The bill provides that the DOE must include the following in its annual report on apprenticeship and preapprenticeship programs:

- The total amount of funds allocated by training provider, program, and occupation;
- The total amount of funds expended for administrative costs by training provider, program, and occupation;
- The total amount of funds expended for instructional costs by training provider, program, and occupation;
- Documentation of activities conducted by the DOE to promote apprenticeship and preapprenticeship programs through public engagement, community-based partnerships, and other initiatives and the outcomes of such activities and their impact on establishing or expanding apprenticeship or preapprenticeship programs;
- Retention and completion rates of participants aggregated by training provider, program, and occupation; and
- Wage progression of participants as demonstrated by starting, exit, and postapprenticeship wages.

The bill requires the DOE to provide career planning resources to district school boards, Florida College System institution boards of trustees, program sponsors, and local workforce development boards.

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<sup>129</sup> The bill clarifies that the term includes standards of admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the apprenticeship or preapprenticeship program, and the percentage of credit which may be given to an apprentice or a preapprentice.

**Section 9** amends s. 446.045, F.S., to establish that the Governor must fill any vacancy on the State Apprenticeship Advisory Council for the remainder of an unexpired term.

**Section 17** amends s. 1011.802, F.S., to require the DOE to give priority to apprenticeship programs, such as health care programs, with demonstrated regional demand identified by the Labor Market Estimating Conference.

The bill authorizes the DOE to award grants, which only expand existing programs that exceed the median completion rate and employment rate one year after completion for similar programs in the region, or in the state if there are no similar programs in the region.

### **Career and Education Planning**

**Section 10** amends s. 1003.4156, F.S., to provide that the required course<sup>130</sup> in career and education planning must include information from the DEO's economic security report and other state career planning resources.

**Section 11** amends s. 1003.4203, F.S., to specify that the DOE must identify CAPE Digital Tool certificates under ss. 1003.492 and 1008.44, F.S.

The bill provides that CAPE Innovation courses, identified in the CAPE Industry Certification Funding List that are completed in accordance to applicable standards must articulate for college credit.

The bill provides that CAPE Acceleration certifications that articulate for 15 or more college credit hours are eligible for full-time equivalent membership under s. 1011.62(1)(o)1.d., F.S.

**Section 12** amends s. 1003.491, F.S., to require the CAPE strategic 3-year plan developed jointly by the local school district, local work force development boards, economic development agencies, and state-approved postsecondary institutions to be developed based on local and regional workforce needs for the ensuing 3 years, using labor projections as identified by the Labor Market Estimating Conference and strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Estimating Conference.

**Sections 13 and 14** amend ss. 1003.4935 and 1008.41, F.S., respectively, to make conforming changes to provisions made by the bill.

**Section 15** amends s. 1008.44, F.S., to require the Commissioner of Education to conduct a review of the methodology used to determine additional full-time equivalent membership weights assigned in s. 1011.62(1)(o), F.S., and if necessary, recommend revised weights. The results of the commissioner's recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 31, 2021.

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<sup>130</sup> The course is required before a student will be promoted to high school.



**Sections 16 and 19** amend ss. 1011.801 and 1011.80, F.S., respectively, to make conforming changes to provisions made by the bill.

**Effective Date**

**Section 20** provides that the bill takes effect July 1, 2021.

**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 the following sections of the Florida Statutes: 216.136, 445.002, 445.004, 445.007, 445.009, 445.038, 446.021, 446.032, 446.045, 1003.4156, 1003.4203, 1003.491, 1003.4935, 1008.41, 1008.44, 1011.801, 1011.802, 445.011, 1011.80.

**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 Albritton

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1 A bill to be entitled  
 2 An act relating to workforce related programs and  
 3 services; amending s. 216.136, F.S.; renaming the  
 4 Workforce Estimating Conference as the Labor Market  
 5 Estimating Conference; removing requirements for the  
 6 Workforce Estimating Conference; providing  
 7 requirements for the Labor Market Estimating  
 8 Conference; amending s. 445.002, F.S.; redefining the  
 9 term "for cause"; amending s. 445.004, F.S.; expanding  
 10 the membership of the state workforce development  
 11 board; specifying entities that can authorize certain  
 12 expenditures; providing and revising requirements for  
 13 the state board in order to achieve certain purposes;  
 14 requiring the state board, in consultation with the  
 15 department, to submit a report to the Governor and  
 16 Legislature; providing and revising reporting  
 17 requirements; requiring the state board to assign  
 18 letter grades to local workforce development boards;  
 19 requiring local performance accountability measures to  
 20 be based on identified local area needs; amending s.  
 21 445.007, F.S.; removing authority for a local board to  
 22 review a decision by the department to deny a  
 23 contract; requiring a local board to disclose certain  
 24 compensation information to the department; providing  
 25 term limits for local board members; providing an  
 26 exception; requiring actions of the local board to be  
 27 consistent with federal and state law; providing  
 28 requirements for certain contracts between a local  
 29 board and certain entities; providing an exception;

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30 requiring the department to review certain  
 31 documentation when considering whether to approve a  
 32 contract; removing authority for a local board to  
 33 review a decision by the department to deny a  
 34 contract; requiring a local board to disclose certain  
 35 compensation information to the department; requiring  
 36 local boards to publish specified information;  
 37 requiring the department to review certain information  
 38 provided by a local board in reviewing contracts;  
 39 amending s. 445.009, F.S.; requiring a certain final  
 40 payment amount to Individual Training Accounts;  
 41 conforming provisions to changes made by the act;  
 42 amending s. 445.038, F.S.; conforming provisions to  
 43 changes made by the act; amending s. 446.021, F.S.;  
 44 revising the definition of the term "uniform minimum  
 45 preapprenticeship standards"; expanding the definition  
 46 to include apprenticeship programs; amending s.  
 47 446.032, F.S.; requiring certain standards and  
 48 policies established by the Department of Education to  
 49 include a specified requirement for training  
 50 providers; requiring, rather than authorizing, the  
 51 department to adopt rules; providing requirements for  
 52 a certain annual report; requiring the department to  
 53 provide data from certain resources to specified  
 54 persons and entities; amending s. 446.045, F.S.;  
 55 specifying that the Governor shall fill vacancies on  
 56 the State Apprenticeship Advisory Council for the  
 57 remainder of a term; amending s. 1003.4156, F.S.;  
 58 requiring a career and education planning course to

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59 include certain resources; amending s. 1003.4203,  
 60 F.S.; specifying the sections under which the  
 61 Department of Education must identify certain CAPE  
 62 Digital Tool certificates; removing the deadline for  
 63 such identification; removing specified skills that  
 64 must be mastered; authorizing courses identified in  
 65 the CAPE Industry Certification Funding List to  
 66 articulate for college credit; removing the course  
 67 limit; amending s. 1003.491, F.S.; requiring certain  
 68 strategic plans to use labor projections identified by  
 69 the Labor Market Estimating Conference; amending s.  
 70 1003.4935, F.S.; requiring that middle grades career  
 71 and professional academies and career-themed courses  
 72 lead to careers in occupations aligned with the CAPE  
 73 Industry Certification Funding List; amending s.  
 74 1008.41, F.S.; adding the Labor Market Estimating  
 75 Conference as a source of workforce data; amending s.  
 76 1008.44, F.S.; requiring the Commissioner of Education  
 77 to conduct a review of the methodology used to  
 78 determine certain full-time equivalent membership  
 79 weights and, if necessary, recommend revised weights;  
 80 requiring that the recommendations be provided to the  
 81 Governor and the Legislature by a specified date;  
 82 amending s. 1011.801, F.S.; conforming a provision to  
 83 changes made by the act; amending s. 1011.802, F.S.;  
 84 requiring the department to prioritize programs  
 85 identified by the Labor Market Estimating Conference;  
 86 providing requirements for awards under the Florida  
 87 Pathways to Career Opportunities Grant Program;

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88 amending s. 445.011, F.S.; conforming a cross-  
 89 reference; amending s. 1011.80, F.S.; conforming a  
 90 provision to changes made by the act; providing an  
 91 effective date.  
 92

93 Be It Enacted by the Legislature of the State of Florida:  
 94

95 Section 1. Subsection (7) of section 216.136, Florida  
 96 Statutes, is amended to read:

97 216.136 Consensus estimating conferences; duties and  
 98 principals.—

99 (7) LABOR MARKET ~~WORKFORCE~~ ESTIMATING CONFERENCE.—

100 (a) The Labor Market ~~Workforce~~ Estimating Conference shall  
 101 develop such official information with respect to real-time  
 102 supply and demand in Florida's statewide, regional, and local  
 103 labor markets on the workforce development system planning  
 104 process as it relates to the personnel needs of current, new,  
 105 and emerging industries as the conference determines is needed  
 106 by the state planning and budgeting system. Such information  
 107 must include labor supply by education level, analyses of labor  
 108 demand by occupational groups and occupations compared to labor  
 109 supply, a ranking of critical areas of concern, and  
 110 identification of in-demand, high-skill, high-wage occupations.  
 111 The Office of Economic and Demographic Research is designated as  
 112 the official lead for the United States Census Bureau's State  
 113 Data Center Program or its successor. All state agencies must  
 114 provide the Office of Economic and Demographic Research with the  
 115 necessary data to accomplish the goals of the conference. In  
 116 accordance with s. 216.135, state agencies shall ensure that any

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117 work product regarding labor demand and supply is consistent  
 118 with the official information developed by the Labor Market  
 119 Estimating Conference, using quantitative and qualitative  
 120 research methods, must include at least: short-term and long-  
 121 term forecasts of employment demand for jobs by occupation and  
 122 industry; entry and average wage forecasts among those  
 123 occupations; and estimates of the supply of trained and  
 124 qualified individuals available or potentially available for  
 125 employment in those occupations, with special focus upon those  
 126 occupations and industries which require high skills and have  
 127 high entry wages and experienced wage levels. In the development  
 128 of workforce estimates, the conference shall use, to the fullest  
 129 extent possible, local occupational and workforce forecasts and  
 130 estimates.

131 (b) The Workforce Estimating Conference shall review data  
 132 concerning local and regional demands for short-term and long-  
 133 term employment in High-Skills/High-Wage Program jobs, as well  
 134 as other jobs, which data is generated through surveys conducted  
 135 as part of the state's Internet-based job matching and labor  
 136 market information system authorized under s. 445.011. The  
 137 conference shall consider this data in developing its forecasts  
 138 for statewide employment demand, including reviewing local and  
 139 regional data for common trends and conditions among localities  
 140 or regions which may warrant inclusion of a particular  
 141 occupation on the statewide occupational forecasting list  
 142 developed by the conference. Based upon its review of such  
 143 survey data, the conference shall also make recommendations  
 144 semiannually to CareerSource Florida, Inc., on additions or  
 145 deletions to lists of locally targeted occupations approved by

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146 ~~CareerSource Florida, Inc.~~  
 147 ~~(e) The Labor Market Workforce Estimating Conference, for~~  
 148 ~~the purposes described in paragraph (a), shall meet at least~~  
 149 ~~twice a year for the purposes described in paragraph (a) no less~~  
 150 ~~than 2 times in a calendar year. The first meeting shall be held~~  
 151 ~~in February, and the second meeting shall be held in August.~~  
 152 ~~Other meetings may be scheduled as needed.~~

153 Section 2. Subsection (2) of section 445.002, Florida  
 154 Statutes, is amended to read:

155 445.002 Definitions.—As used in this chapter, the term:

156 (2) "For cause" includes, but is not limited to, engaging  
 157 in fraud or other criminal acts, incapacity, unfitness, neglect  
 158 of duty, official incompetence and irresponsibility,  
 159 misfeasance, malfeasance, nonfeasance, gross mismanagement, or  
 160 lack of performance.

161 Section 3. Present subsections (8) through (13) of section  
 162 445.004, Florida Statutes, are redesignated as subsections (9)  
 163 through (14), respectively, a new subsection (8) is added to  
 164 that section, and paragraph (d) of subsection (3), subsections  
 165 (6) and (7), paragraph (b) of present subsection (9), and  
 166 present subsection (11) of that section are amended, to read:

167 445.004 CareerSource Florida, Inc., and the state board;  
 168 creation; purpose; membership; duties and powers.—

169 (3)

170 (d) The state board must include the vice chairperson of  
 171 the board of directors of Enterprise Florida, Inc., and one  
 172 member representing each of the Workforce Innovation and  
 173 Opportunity Act partners, including the Division of Career and  
 174 Adult Education, the Division of Vocational Rehabilitation, the

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175 Department of Children and Families, and other entities  
 176 representing programs identified in the Workforce Innovation and  
 177 Opportunity Act, as determined necessary.

178 (6) The state board ~~shall may take action that it deems~~  
 179 ~~necessary to~~ achieve the purposes of this section by, ~~including,~~  
 180 ~~but not limited to:~~

181 (a) Creating a state employment, education, and training  
 182 policy that ensures that workforce-related programs ~~to prepare~~  
 183 ~~workers~~ are responsive to present and future business and  
 184 industry needs and complement the initiatives of Enterprise  
 185 Florida, Inc.

186 (b) Establishing policy direction for a uniform funding  
 187 system that prioritizes evidence-based, results-driven solutions  
 188 by providing ~~provides~~ incentives to improve the outcomes of  
 189 career education, registered apprenticeship, and work-based  
 190 learning programs and that focuses resources on occupations  
 191 related to new or emerging industries that add greatly to the  
 192 value of the state's economy.

193 (c) Establishing a comprehensive policy related to the  
 194 education and training of target populations such as those who  
 195 have disabilities, are economically disadvantaged, receive  
 196 public assistance, are not proficient in English, or are  
 197 dislocated workers. This approach should ensure the effective  
 198 use of federal, state, local, and private resources in reducing  
 199 the need for public assistance by combining two or more sources  
 200 of funding to support workforce-related programs or activities  
 201 for vulnerable populations when appropriate or authorized.

202 (d) Identifying barriers to coordination and alignment  
 203 among workforce-related programs and activities and developing

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204 ~~solutions to remove such barriers~~ Designating Institutes of  
 205 ~~Applied Technology composed of public and private postsecondary~~  
 206 ~~institutions working together with business and industry to~~  
 207 ~~ensure that career education programs use the most advanced~~  
 208 ~~technology and instructional methods available and respond to~~  
 209 ~~the changing needs of business and industry.~~

210 (e) Providing policy direction for a system to project and  
 211 evaluate labor market supply and demand using the results of the  
 212 Labor Market Workforce Estimating Conference created in s.  
 213 216.136 and the career education performance standards  
 214 identified under s. 1008.43.

215 (f) Reviewing the performance of public programs that are  
 216 responsible for economic development, education, employment, and  
 217 training. The review must include an analysis of the return on  
 218 investment of these programs.

219 (g) Expanding the occupations identified by the Labor  
 220 Market Workforce Estimating Conference to meet needs created by  
 221 local emergencies or plant closings or to capture occupations  
 222 within emerging industries.

223 (7) By December 1 of each year, the state board, in  
 224 consultation with the department, shall submit to the Governor,  
 225 the President of the Senate, the Speaker of the House of  
 226 Representatives, the Senate Minority Leader, and the House  
 227 Minority Leader a complete and detailed annual report setting  
 228 forth:

229 (a) All audits and investigations, including any audit or  
 230 investigation conducted under subsection (9) ~~(8)~~.

231 (b) The operations and accomplishments of the state board,  
 232 including the programs or entities specified in subsection (6).

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233 (c) The number of mandatory partners located within one-  
 234 stop centers.

235 (d) The amount of progress made toward implementing  
 236 solutions to address barriers to coordination and alignment  
 237 among programs and activities identified under paragraph (6) (d).

238 (8) Beginning July 1, 2022, the state board shall annually  
 239 assign a letter grade for each local workforce development  
 240 board.

241 (10)(9) The state board, in collaboration with the local  
 242 workforce development boards and appropriate state agencies and  
 243 local public and private service providers, shall establish  
 244 uniform performance accountability measures that apply across  
 245 the core programs to gauge the performance of the state and  
 246 local workforce development boards in achieving the workforce  
 247 development strategy.

248 (b) The performance accountability measures for each local  
 249 area consist of the primary indicators of performance, any  
 250 additional indicators of performance, and a local level of  
 251 performance for each indicator pursuant to Pub. L. No. 113-128.  
 252 The local level of performance is determined by the local board,  
 253 the chief elected official, and the Governor pursuant to Pub. L.  
 254 No. 113-128, Title I, s. 116(c). Any local performance  
 255 accountability measures that are established must be based on  
 256 identified local area needs.

257 (12)(11) The workforce development system must use local  
 258 design and control of service delivery and targeted activities.  
 259 The state board, in consultation with the department, is  
 260 responsible for ensuring that local workforce development boards  
 261 have a membership consistent with the requirements of federal

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262 and state law and have developed a plan consistent with the  
 263 state's workforce development strategy. The plan must specify  
 264 methods for allocating the resources and programs in a manner  
 265 that eliminates unwarranted duplication, minimizes  
 266 administrative costs, meets the existing job market demands and  
 267 the job market demands resulting from successful economic  
 268 development activities, ensures access to quality workforce  
 269 development services for all Floridians, allows for pro rata or  
 270 partial distribution of benefits and services, prohibits the  
 271 creation of a waiting list or other indication of an unserved  
 272 population, serves as many individuals as possible within  
 273 available resources, and maximizes successful outcomes. The  
 274 state board shall establish incentives for effective alignment  
 275 ~~coordination~~ of federal and state programs, outline rewards for  
 276 achieving the long-term self-sufficiency of participants  
 277 ~~successful job placements~~, and institute collaborative  
 278 approaches among local service providers.

279 Section 4. Subsection (1), paragraph (a) of subsection (2),  
 280 and subsections (6), (11), and (12) of section 445.007, Florida  
 281 Statutes, are amended, and subsections (13) and (14) are added  
 282 to that section, to read:

283 445.007 Local workforce development boards.—

284 (1) One local workforce development board shall be  
 285 appointed in each designated service delivery area and shall  
 286 serve as the local workforce development board pursuant to Pub.  
 287 L. No. 113-128. The membership of the local board must be  
 288 consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a  
 289 public education or training provider is represented on the  
 290 local board, a representative of a private education provider

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291 must also be appointed to the local board. The state board may  
 292 waive this requirement if requested by a local workforce  
 293 development board if it is demonstrated that such  
 294 representatives do not exist in the region. The importance of  
 295 minority and gender representation shall be considered when  
 296 making appointments to the local board. The local board, its  
 297 committees, subcommittees, and subdivisions, and other units of  
 298 the workforce system, including units that may consist in whole  
 299 or in part of local governmental units, may use any method of  
 300 telecommunications to conduct meetings, including establishing a  
 301 quorum through telecommunications, provided that the public is  
 302 given proper notice of the telecommunications meeting and  
 303 reasonable access to observe and, when appropriate, participate.  
 304 Local workforce development boards are subject to chapters 119  
 305 and 286 and s. 24, Art. I of the State Constitution. ~~If the~~  
 306 ~~local workforce development board enters into a contract with an~~  
 307 ~~organization or individual represented on the local board, the~~  
 308 ~~contract must be approved by a two-thirds vote of the local~~  
 309 ~~board, a quorum having been established, and the local board~~  
 310 ~~member who could benefit financially from the transaction must~~  
 311 ~~abstain from voting on the contract. A local board member must~~  
 312 ~~disclose any such conflict in a manner that is consistent with~~  
 313 ~~the procedures outlined in s. 112.3143. Each member of a local~~  
 314 workforce development board who is not otherwise required to  
 315 file a full and public disclosure of financial interests under  
 316 s. 8, Art. II of the State Constitution or s. 112.3144 shall  
 317 file a statement of financial interests under s. 112.3145. The  
 318 executive director or designated person responsible for the  
 319 operational and administrative functions of the local workforce

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320 development board who is not otherwise required to file a full  
 321 and public disclosure of financial interests under s. 8, Art. II  
 322 of the State Constitution or s. 112.3144 shall file a statement  
 323 of financial interests under s. 112.3145. The local workforce  
 324 development board's website, or the department's website if the  
 325 local board does not maintain a website, must inform the public  
 326 that each disclosure or statement has been filed with the  
 327 Commission on Ethics and provide information as to how each  
 328 disclosure or statement may be reviewed. The notice to the  
 329 public must remain on the website throughout the term of office  
 330 or employment of the filer and until 1 year after his or her  
 331 term on the local board or employment, as applicable, ends.  
 332 (2) (a) The local workforce development board shall elect a  
 333 chair from among the representatives described in Pub. L. No.  
 334 113-128, Title I, s. 107(b)(2)(A) to serve for a term of no more  
 335 than 2 years and may not shall serve no more than two terms as  
 336 chair. A member of a local workforce development board may not  
 337 serve as a member of the board for more than 6 consecutive  
 338 years, unless such member is a representative of a governmental  
 339 entity.  
 340 (6) Consistent with federal and state law, the local  
 341 workforce development board shall designate all local service  
 342 providers and may not transfer this authority to a third party.  
 343 Consistent with the intent of the Workforce Innovation and  
 344 Opportunity Act, local workforce development boards should  
 345 provide the greatest possible choice of training providers to  
 346 those who qualify for training services. A local ~~workforce~~  
 347 ~~development~~ board may not restrict the choice of training  
 348 providers based upon cost, location, or historical training



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349 arrangements. However, a local board may restrict the amount of  
 350 training resources available to any one client. Such  
 351 restrictions may vary based upon the cost of training in the  
 352 client's chosen occupational area. The local workforce  
 353 development board may be designated as a one-stop operator and  
 354 direct provider of intake, assessment, eligibility  
 355 determinations, or other direct provider services except  
 356 training services. Such designation may occur only with the  
 357 agreement of the chief elected official and the Governor as  
 358 specified in 29 U.S.C. s. 2832(f)(2). The state board shall  
 359 establish procedures by which a local workforce development  
 360 board may request permission to operate under this section and  
 361 the criteria under which such permission may be granted. The  
 362 criteria shall include, but need not be limited to, a reduction  
 363 in the cost of providing the permitted services. Such permission  
 364 shall be granted for a period not to exceed 3 years for any  
 365 single request submitted by the local workforce development  
 366 board.

367 (11)(a) To increase transparency and accountability, a  
 368 local workforce development board must comply with the  
 369 requirements of this section before contracting with a member of  
 370 the local board; ~~or~~ a relative, as defined in s. 112.3143(1)(c),  
 371 of a local board member; an organization or individual  
 372 represented on the local board; or of an employee of the local  
 373 board. Such contracts may not be executed before or without the  
 374 prior approval of the department. Such contracts, as well as  
 375 documentation demonstrating adherence to this section as  
 376 specified by the department, must be submitted to the department  
 377 for review and approval. Such a contract must be approved by a

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378 two-thirds vote of the local board, a quorum having been  
 379 established; all conflicts of interest must be disclosed before  
 380 the vote in a manner that is consistent with the procedures  
 381 outlined in s. 112.3143(4); and any member who may benefit from  
 382 the contract, or whose organization or relative may benefit from  
 383 the contract, must abstain from the vote. A contract subject to  
 384 the requirements of this subsection may not be included on a  
 385 consent agenda.

386 (b) A contract under \$10,000 ~~\$25,000~~ between a local  
 387 workforce development board and ~~a member of that board or~~  
 388 ~~between~~ a relative, as defined in s. 112.3143(1)(c), of a local  
 389 board member or of an employee of the local board is not  
 390 required to have the prior approval of the department, but must  
 391 be approved by a two-thirds vote of the local board, a quorum  
 392 having been established, and must be reported to the department  
 393 and the state board within 30 days after approval.

394 (c) All contracts between a local board and a member of the  
 395 local board; a relative, as defined in s. 112.3143(1)(c), of a  
 396 local board member; an organization or individual represented on  
 397 the local board; or an employee of the local board, approved on  
 398 or after July 1, 2021, also must be published on the local  
 399 board's website, or on the department's website if the local  
 400 board does not maintain a website, within 10 days after approval  
 401 by the local board or department, whichever is later. Such  
 402 contracts must remain published on the website for at least 1  
 403 year after termination of the contract.

404 (d) In considering whether to approve a contract under this  
 405 subsection, the department shall review and consider all  
 406 documentation provided to the department by the local board,

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407 including the performance rating of the entity with which the  
 408 local board is proposing to contract, if applicable, and the  
 409 nature, size, and makeup of the business community served by the  
 410 local board, including whether the entity with which the local  
 411 board is proposing to contract is the only provider of the  
 412 desired goods or services within the area served by the local  
 413 board ~~If a contract cannot be approved by the department, a~~  
 414 ~~review of the decision to disapprove the contract may be~~  
 415 ~~requested by the local workforce development board or other~~  
 416 ~~parties to the disapproved contract.~~

417 (12) Each local workforce development board shall develop a  
 418 budget for the purpose of carrying out the duties of the local  
 419 board under this section, subject to the approval of the chief  
 420 elected official. Each local workforce development board shall  
 421 submit its annual budget for review to the department no later  
 422 than 2 weeks after the chair approves the budget. The local  
 423 board shall publish the budget on its website, or the  
 424 department's website if the local board does not maintain a  
 425 website, within 10 days after approval by the department. The  
 426 budget shall remain published on the website for the duration of  
 427 the fiscal year for which it accounts for the expenditure of  
 428 funds.

429 (13) Each local workforce development board annually,  
 430 within 30 days after the end of the fiscal year, shall disclose  
 431 to the department, in a manner determined by the department, the  
 432 amount and nature of compensation paid to all executives,  
 433 officers, directors, trustees, key employees, and highest  
 434 compensated employees, as defined for purposes of the Internal  
 435 Revenue Service Form 990, Return of Organization Exempt from

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436 Income Tax, including salary, bonuses, present value of vested  
 437 benefits, including, but not limited to, retirement, accrued  
 438 leave and paid time off, cashed-in leave, cash equivalents,  
 439 severance pay, pension plan accruals and contributions, deferred  
 440 compensation, real property gifts, and any other liability owed  
 441 to such persons. The disclosure must be accompanied by a written  
 442 declaration, as provided for under s. 92.525(2), from the Chief  
 443 Financial Officer, or his or her designee, stating that he or  
 444 she has read the foregoing document and the facts stated in it  
 445 are true. Such information also must be published on the local  
 446 board's website, or the department's website if the local board  
 447 does not maintain a website, for a period of 3 years after it is  
 448 first published.

449 (14) Each local workforce development board shall annually  
 450 publish its most recent Internal Revenue Service Form 990,  
 451 Return of Organization Exempt from Income Tax, on its website,  
 452 or the department's website if the local board does not maintain  
 453 a website. The form must be posted on the local board's website  
 454 within 60 calendar days after it is filed with the Internal  
 455 Revenue Service and remain posted for 3 years after it is filed.

456 Section 5. Paragraphs (a) and (e) of subsection (8) of  
 457 section 445.009, Florida Statutes, are amended to read:

458 445.009 One-stop delivery system.—

459 (8) (a) Individual Training Accounts must be expended on  
 460 programs that prepare people to enter ~~high-wage~~ occupations  
 461 identified by the Labor Market Workforce Estimating Conference  
 462 created by s. 216.136, and on other programs recommended and  
 463 approved by the state board following a review by the department  
 464 to determine the program's compliance with federal law.

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465 (e) Training services provided through Individual Training  
 466 Accounts must be performance-based, with successful job  
 467 placement triggering final full payment of at least 10 percent.

468 Section 6. Section 445.038, Florida Statutes, is amended to  
 469 read:

470 445.038 Digital media; job training.—CareerSource Florida,  
 471 Inc., through the Department of Economic Opportunity, may use  
 472 funds dedicated for incumbent worker training for the digital  
 473 media industry. Training may be provided by public or private  
 474 training providers for broadband digital media jobs listed on  
 475 the ~~targeted~~ occupations list developed by the Labor Market  
 476 ~~Workforce Estimating Conference or CareerSource Florida, Inc.~~  
 477 Programs that operate outside the normal semester time periods  
 478 and coordinate the use of industry and public resources should  
 479 be given priority status for funding.

480 Section 7. Subsection (8) of section 446.021, Florida  
 481 Statutes, is amended to read:

482 446.021 Definitions of terms used in ss. 446.011-446.092.—  
 483 As used in ss. 446.011-446.092, the term:

484 (8) "~~Uniform minimum preapprenticeship~~ Standards" means the  
 485 minimum requirements established uniformly for each occupation  
 486 ~~craft~~ under which an apprenticeship or a preapprenticeship  
 487 program is administered. ~~The term and~~ includes standards of  
 488 admission, training goals, training objectives, curriculum  
 489 outlines, objective standards to measure successful completion  
 490 of the apprenticeship or preapprenticeship program, and the  
 491 percentage of credit which may be given to an apprentice or a  
 492 preapprentice ~~preapprenticeship graduates upon acceptance into~~  
 493 ~~the apprenticeship program.~~

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494 Section 8. Subsections (1), (2), and (3) of section  
 495 446.032, Florida Statutes, are amended to read:

496 446.032 General duties of the department for apprenticeship  
 497 training.—The department shall:

498 (1) Establish uniform minimum standards and policies  
 499 governing apprenticeship ~~apprentice~~ programs and agreements  
 500 which must require training providers to submit data necessary  
 501 to determine program performance consistent with state and  
 502 federal law. The standards and policies shall govern the terms  
 503 and conditions of the apprentice's employment and training,  
 504 including the quality training of the apprentice for, but not  
 505 limited to, such matters as ratios of apprentices to  
 506 journeyworkers, safety, related instruction, and on-the-job  
 507 training; but these standards and policies may not include  
 508 rules, standards, or guidelines that require the use of  
 509 apprentices and job trainees on state, county, or municipal  
 510 contracts. The department shall ~~may~~ adopt rules necessary to  
 511 administer the standards and policies.

512 (2) By September 1 of each year, publish an annual report  
 513 on apprenticeship and preapprenticeship programs. The report  
 514 must be published on the department's website and, at a minimum,  
 515 include all of the following:

516 (a) A list of registered apprenticeship and  
 517 preapprenticeship programs, sorted by local educational agency,  
 518 as defined in s. 1004.02(18), and apprenticeship sponsor, under  
 519 s. 446.071.

520 (b) A detailed summary of each local educational agency's  
 521 expenditure of funds for apprenticeship and preapprenticeship  
 522 programs, including:

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- 523 1. The total amount of funds received for apprenticeship  
524 and preapprenticeship programs;
- 525 2. The total amount of funds allocated by training  
526 provider, program, and to each trade or occupation;
- 527 3. The total amount of funds expended for administrative  
528 costs by training provider, program, and per trade or  
529 occupation; and
- 530 4. The total amount of funds expended for instructional  
531 costs by training provider, program, per trade and occupation.
- 532 (c) The number of apprentices and preapprentices per trade  
533 and occupation.
- 534 (d) The percentage of apprentices and preapprentices who  
535 complete their respective programs in the appropriate timeframe.
- 536 (e) Information and resources related to applications for  
537 new apprenticeship programs and technical assistance and  
538 requirements for potential applicants.
- 539 (f) Documentation of activities conducted by the department  
540 to promote apprenticeship and preapprenticeship programs through  
541 public engagement, community-based partnerships, and other  
542 initiatives and the outcomes of such activities and their impact  
543 on establishing or expanding apprenticeship and  
544 preapprenticeship programs.
- 545 (g) Retention and completion rates of participants  
546 aggregated by training provider, program, and occupation.
- 547 (h) Wage progression of participants as demonstrated by  
548 starting, exit, and postapprenticeship wages.
- 549 (3) Provide assistance to district school boards, Florida  
550 College System institution boards of trustees, program sponsors,  
551 and local workforce development boards in notifying students,

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- 552 parents, and members of the community of the availability of  
553 apprenticeship and preapprenticeship opportunities, including  
554 data provided in the economic security report ~~under pursuant to~~  
555 s. 445.07 and other state career planning resources.
- 556 Section 9. Paragraph (b) of subsection (2) of section  
557 446.045, Florida Statutes, is amended to read:  
558 446.045 State Apprenticeship Advisory Council.—  
559 (2)  
560 (b) The Commissioner of Education or the commissioner's  
561 designee shall serve ex officio as chair of the State  
562 Apprenticeship Advisory Council, but may not vote. The state  
563 director of the Office of Apprenticeship of the United States  
564 Department of Labor shall serve ex officio as a nonvoting member  
565 of the council. The Governor shall appoint to the council four  
566 members representing employee organizations and four members  
567 representing employer organizations. Each of these eight members  
568 shall represent industries that have registered apprenticeship  
569 programs. The Governor shall also appoint two public members who  
570 are knowledgeable about registered apprenticeship and  
571 apprenticeable occupations and who are independent of any joint  
572 or nonjoint organization. Members shall be appointed for 4-year  
573 staggered terms. The Governor A vacancy shall fill any vacancy  
574 ~~be filled~~ for the remainder of the unexpired term.
- 575 Section 10. Paragraph (e) of subsection (1) of section  
576 1003.4156, Florida Statutes, is amended to read:  
577 1003.4156 General requirements for middle grades  
578 promotion.—  
579 (1) In order for a student to be promoted to high school  
580 from a school that includes middle grades 6, 7, and 8, the

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581 student must successfully complete the following courses:  
 582 (e) One course in career and education planning to be  
 583 completed in grades 6, 7, or 8, which may be taught by any  
 584 member of the instructional staff. The course must be Internet-  
 585 based, customizable to each student, and include research-based  
 586 assessments to assist students in determining educational and  
 587 career options and goals. In addition, the course must result in  
 588 a completed personalized academic and career plan for the  
 589 student that may be revised as the student progresses through  
 590 middle school and high school; must emphasize the importance of  
 591 entrepreneurship and employability skills; and must include  
 592 information from the Department of Economic Opportunity's  
 593 economic security report under s. 445.07 and other state career  
 594 planning resources. The required personalized academic and  
 595 career plan must inform students of high school graduation  
 596 requirements, including a detailed explanation of the  
 597 requirements for earning a high school diploma designation under  
 598 s. 1003.4285; the requirements for each scholarship in the  
 599 Florida Bright Futures Scholarship Program; state university and  
 600 Florida College System institution admission requirements;  
 601 available opportunities to earn college credit in high school,  
 602 including Advanced Placement courses; the International  
 603 Baccalaureate Program; the Advanced International Certificate of  
 604 Education Program; dual enrollment, including career dual  
 605 enrollment; and career education courses, including career-  
 606 themed courses, preapprenticeship and apprenticeship programs,  
 607 and course sequences that lead to industry certification  
 608 pursuant to s. 1003.492 or s. 1008.44. The course may be  
 609 implemented as a stand-alone course or integrated into another

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610 course or courses.  
 611 Section 11. Subsections (3) and (5) of section 1003.4203,  
 612 Florida Statutes, are amended to read:  
 613 1003.4203 Digital materials, CAPE Digital Tool  
 614 certificates, and technical assistance.—  
 615 (3) CAPE DIGITAL TOOL CERTIFICATES.—The department shall  
 616 identify, in the CAPE Industry Certification Funding List under  
 617 ss. 1003.492 and 1008.44 by June 15 of each year, CAPE Digital  
 618 Tool certificates that indicate a student's digital skills. The  
 619 department shall notify each school district when the  
 620 certificates are available. The certificates shall be made  
 621 available to all public elementary and middle grades students.  
 622 (a) Targeted skills to be mastered for the certificate  
 623 include digital skills that are necessary to the student's  
 624 academic work and skills the student may need in future  
 625 employment. ~~The skills must include, but are not limited to,~~  
 626 ~~word processing; spreadsheets; presentations, including sound,~~  
 627 ~~motion, and color presentations; digital arts; cybersecurity;~~  
 628 ~~and coding consistent with CAPE industry certifications that are~~  
 629 ~~listed on the CAPE Industry Certification Funding List, pursuant~~  
 630 ~~to ss. 1003.492 and 1008.44.~~ CAPE Digital Tool certificates  
 631 earned by students are eligible for additional full-time  
 632 equivalent membership under pursuant to s. 1011.62(1)(o)1.a.  
 633 (b) The school district shall notify each middle school  
 634 advisory council of the methods of delivery of the open-access  
 635 content and assessments for the certificates. If there is no  
 636 middle school advisory council, notification must be provided to  
 637 the district advisory council.  
 638 (c) The Legislature intends that by July 1, 2018, on an

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639 annual basis, at least 75 percent of public middle grades  
640 students earn at least one CAPE Digital Tool certificate.

641 (5) CAPE INNOVATION AND CAPE ACCELERATION.—

642 (a) ~~CAPE Innovation.—Up to five Courses, identified in the~~  
643 ~~CAPE Industry Certification Funding List, which annually~~  
644 ~~approved by the commissioner that~~ combine academic and career  
645 content, and performance outcome expectations that, if achieved  
646 by a student, must shall articulate for college credit and be  
647 eligible for additional full-time equivalent membership under  
648 ~~pursuant to~~ s. 1011.62(1)(o)1.c. Such approved courses must  
649 incorporate at least two third-party assessments that, if  
650 successfully completed by a student, must shall articulate for  
651 college credit. At least one of the two third-party assessments  
652 must be associated with an industry certification that is  
653 identified on the CAPE Industry Certification Funding List. Each  
654 course that is approved by the commissioner must be specifically  
655 identified in the Course Code Directory as a CAPE Innovation  
656 Course.

657 (b) ~~CAPE Acceleration.—Industry certifications, annually~~  
658 ~~approved by the commissioner,~~ that articulate for 15 or more  
659 college credit hours ~~and~~, if successfully completed, are shall  
660 ~~be~~ eligible for additional full-time equivalent membership under  
661 ~~pursuant to~~ s. 1011.62(1)(o)1.d. Each approved industry  
662 certification must be specifically identified in the CAPE  
663 Industry Certification Funding List as a CAPE Acceleration  
664 Industry Certification.

665 Section 12. Subsection (3) and paragraph (b) of subsection  
666 (5) of section 1003.491, Florida Statutes, are amended to read:  
667 1003.491 Florida Career and Professional Education Act.—The

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668 Florida Career and Professional Education Act is created to  
669 provide a statewide planning partnership between the business  
670 and education communities in order to attract, expand, and  
671 retain targeted, high-value industry and to sustain a strong,  
672 knowledge-based economy.

673 (3) The strategic 3-year plan developed jointly by the  
674 local school district, local workforce development boards,  
675 economic development agencies, and state-approved postsecondary  
676 institutions shall be constructed and based on:

677 (a) Research conducted to objectively determine local and  
678 regional workforce needs for the ensuing 3 years, using labor  
679 projections as identified by the Labor Market Estimating  
680 Conference created in s. 216.136 of the United States Department  
681 of Labor and the Department of Economic Opportunity;

682 (b) Strategies to develop and implement career academies or  
683 career-themed courses based on occupations identified by the  
684 Labor Market Estimating Conference created in s. 216.136 ~~those~~  
685 ~~careers determined to be high-wage, high-skill, and high-demand;~~

686 (c) Strategies to provide shared, maximum use of private  
687 sector facilities and personnel;

688 (d) Strategies that ensure instruction by industry-  
689 certified faculty and standards and strategies to maintain  
690 current industry credentials and for recruiting and retaining  
691 faculty to meet those standards;

692 (e) Strategies to provide personalized student advisement,  
693 including a parent-participation component, and coordination  
694 with middle grades to promote and support career-themed courses  
695 and education planning;

696 (f) Alignment of requirements for middle school career

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697 planning, middle and high school career and professional  
698 academies or career-themed courses leading to industry  
699 certification or postsecondary credit, and high school  
700 graduation requirements;

701 (g) Provisions to ensure that career-themed courses and  
702 courses offered through career and professional academies are  
703 academically rigorous, meet or exceed appropriate state-adopted  
704 subject area standards, result in attainment of industry  
705 certification, and, when appropriate, result in postsecondary  
706 credit;

707 (h) Plans to sustain and improve career-themed courses and  
708 career and professional academies;

709 (i) Strategies to improve the passage rate for industry  
710 certification examinations if the rate falls below 50 percent;

711 (j) Strategies to recruit students into career-themed  
712 courses and career and professional academies which include  
713 opportunities for students who have been unsuccessful in  
714 traditional classrooms but who are interested in enrolling in  
715 career-themed courses or a career and professional academy.  
716 School boards shall provide opportunities for students who may  
717 be deemed as potential dropouts or whose cumulative grade point  
718 average drops below a 2.0 to enroll in career-themed courses or  
719 participate in career and professional academies. Such students  
720 must be provided in-person academic advising that includes  
721 information on career education programs by a certified school  
722 counselor or the school principal or his or her designee during  
723 any semester the students are at risk of dropping out or have a  
724 cumulative grade point average below a 2.0;

725 (k) Strategies to provide sufficient space within academies

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726 to meet workforce needs and to provide access to all interested  
727 and qualified students;

728 (l) Strategies to implement career-themed courses or career  
729 and professional academy training that lead to industry  
730 certification in juvenile justice education programs;

731 (m) Opportunities for high school students to earn weighted  
732 or dual enrollment credit for higher-level career and technical  
733 courses;

734 (n) Promotion of the benefits of the Gold Seal Bright  
735 Futures Scholarship;

736 (o) Strategies to ensure the review of district pupil-  
737 progression plans and to amend such plans to include career-  
738 themed courses and career and professional academy courses and  
739 to include courses that may qualify as substitute courses for  
740 core graduation requirements and those that may be counted as  
741 elective courses;

742 (p) Strategies to provide professional development for  
743 secondary certified school counselors on the benefits of career  
744 and professional academies and career-themed courses that lead  
745 to industry certification; and

746 (q) Strategies to redirect appropriated career funding in  
747 secondary and postsecondary institutions to support career  
748 academies and career-themed courses that lead to industry  
749 certification.

750 (5) (b) Using the findings from the annual review required  
751 in paragraph (a), the commissioner shall phase out career and  
752 technical education offerings that are not aligned with the  
753 needs of the state employers or do not provide program  
754 ~~completers with a middle-wage or high-wage occupation and~~

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755 encourage school districts and Florida College System  
 756 institutions to offer programs that are not ~~offered~~ currently  
 757 offered.

758 Section 13. Subsections (2) and (3) of section 1003.4935,  
 759 Florida Statutes, are amended to read:

760 1003.4935 Middle grades career and professional academy  
 761 courses and career-themed courses.—

762 (2) Each middle grades career and professional academy or  
 763 career-themed course must be aligned with at least one high  
 764 school career and professional academy or career-themed course  
 765 offered in the district and maintain partnerships with local  
 766 business and industry and economic development boards. Middle  
 767 grades career and professional academies and career-themed  
 768 courses must:

769 (a) Lead to careers in occupations aligned with designated  
 770 ~~as high-skill, high-wage, and high-demand~~ in the CAPE Industry  
 771 Certification Funding List approved under rules adopted by the  
 772 State Board of Education;

773 (b) Integrate content from core subject areas;

774 (c) Integrate career and professional academy or career-  
 775 themed course content with intensive reading, English Language  
 776 Arts, and mathematics pursuant to s. 1003.4282;

777 (d) Coordinate with high schools to maximize opportunities  
 778 for middle grades students to earn high school credit;

779 (e) Provide access to virtual instruction courses provided  
 780 by virtual education providers legislatively authorized to  
 781 provide part-time instruction to middle grades students. The  
 782 virtual instruction courses must be aligned to state curriculum  
 783 standards for middle grades career and professional academy

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784 courses or career-themed courses, with priority given to  
 785 students who have required course deficits;

786 (f) Provide instruction from highly skilled professionals  
 787 who hold industry certificates in the career area in which they  
 788 teach;

789 (g) Offer externships; and

790 (h) Provide personalized student advisement that includes a  
 791 parent-participation component.

792 (3) Beginning with the 2012-2013 school year, if a school  
 793 district implements a middle school career and professional  
 794 academy or a career-themed course, the Department of Education  
 795 shall collect and report student achievement data pursuant to  
 796 performance factors identified under s. 1003.492(3) ~~or~~  
 797 ~~1003.492(5)~~ for students enrolled in an academy or a career-  
 798 themed course.

799 Section 14. Subsection (3) of section 1008.41, Florida  
 800 Statutes, is amended to read:

801 1008.41 Workforce education; management information  
 802 system.—

803 (3) Planning and evaluation of job-preparatory programs  
 804 shall be based on standard sources of data and use standard  
 805 occupational definitions and coding structures, including, but  
 806 not limited to:

807 (a) The Florida Occupational Information System ;  
 808 (b) The Florida Education and Training Placement  
 809 Information Program ;

810 (c) The Department of Economic Opportunity ;  
 811 (d) The United States Department of Labor ; ~~and~~  
 812 (e) The Labor Market Estimating Conference created under s.



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813 216.136.

814 (f) Other sources of data developed using statistically  
815 valid procedures.

816 Section 15. Paragraph (f) is added to subsection (1) of  
817 section 1008.44, Florida Statutes, to read:

818 1008.44 CAPE Industry Certification Funding List and CAPE  
819 Postsecondary Industry Certification Funding List.—

820 (1) Pursuant to ss. 1003.4203 and 1003.492, the Department  
821 of Education shall, at least annually, identify, under rules  
822 adopted by the State Board of Education, and the Commissioner of  
823 Education may at any time recommend adding the following  
824 certificates, certifications, and courses:

825 (f) The Commissioner of Education shall conduct a review of  
826 the methodology used to determine additional full-time  
827 equivalent membership weights assigned in s. 1011.62(1)(o) and,  
828 if necessary, recommend revised weights. The results of the  
829 review and the commissioner's recommendations must be submitted  
830 to the Governor, the President of the Senate, and the Speaker of  
831 the House of Representatives no later than December 31, 2021.

832 Section 16. Subsection (3) of section 1011.801, Florida  
833 Statutes, is amended to read:

834 1011.801 Workforce Development Capitalization Incentive  
835 Grant Program.—The Legislature recognizes that the need for  
836 school districts and Florida College System institutions to be  
837 able to respond to emerging local or statewide economic  
838 development needs is critical to the workforce development  
839 system. The Workforce Development Capitalization Incentive Grant  
840 Program is created to provide grants to school districts and  
841 Florida College System institutions on a competitive basis to

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842 fund some or all of the costs associated with the creation or  
843 expansion of workforce development programs that serve specific  
844 employment workforce needs.

845 (3) The State Board of Education shall give highest  
846 priority to programs that train people to enter high-skill,  
847 high-wage occupations identified by the Labor Market Workforce  
848 Estimating Conference and other programs approved by the state  
849 board as defined in s. 445.002, programs that train people to  
850 enter occupations under the welfare transition program, or  
851 programs that train for the workforce adults who are eligible  
852 for public assistance, economically disadvantaged, disabled, not  
853 proficient in English, or dislocated workers. The State Board of  
854 Education shall consider the statewide geographic dispersion of  
855 grant funds in ranking the applications and shall give priority  
856 to applications from education agencies that are making maximum  
857 use of their workforce development funding by offering high-  
858 performing, high-demand programs.

859 Section 17. Subsection (3) of section 1011.802, Florida  
860 Statutes, is amended to read:

861 1011.802 Florida Pathways to Career Opportunities Grant  
862 Program.—

863 (3) The department shall give priority to apprenticeship  
864 programs with demonstrated regional demand identified by the  
865 Labor Market Estimating Conference, such as health care  
866 programs. Grant funds may be used for instructional equipment,  
867 supplies, personnel, student services, and other expenses  
868 associated with the creation or expansion of an apprenticeship  
869 program. The department may award grants to expand only those  
870 existing programs that exceed the median completion rate and

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871 employment rate 1 year after completion for similar programs in  
 872 the region, or in the state if there are no similar programs in  
 873 the region. Grant funds may not be used for recurring  
 874 instructional costs or for indirect costs. Grant recipients must  
 875 submit quarterly reports in a format prescribed by the  
 876 department.

877 Section 18. Paragraph (a) of subsection (1) of section  
 878 445.011, Florida Statutes, is amended to read:

879 445.011 Workforce information systems.—

880 (1) The department, in consultation with the state board,  
 881 shall implement, subject to legislative appropriation, automated  
 882 information systems that are necessary for the efficient and  
 883 effective operation and management of the workforce development  
 884 system. These information systems shall include, but need not be  
 885 limited to, the following:

886 (a) An integrated management system for the one-stop  
 887 service delivery system, which includes, at a minimum, common  
 888 registration and intake, screening for needs and benefits, case  
 889 planning and tracking, training benefits management, service and  
 890 training provider management, performance reporting, executive  
 891 information and reporting, and customer-satisfaction tracking  
 892 and reporting.

893 1. The system should report current budgeting, expenditure,  
 894 and performance information for assessing performance related to  
 895 outcomes, service delivery, and financial administration for  
 896 workforce programs pursuant to s. 445.004(5) and (10) ~~(9)~~.

897 2. The information system should include auditable systems  
 898 and controls to ensure financial integrity and valid and  
 899 reliable performance information.

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900 3. The system should support service integration and case  
 901 management by providing for case tracking for participants in  
 902 welfare transition programs.

903 Section 19. Paragraph (a) of subsection (9) of section  
 904 1011.80, Florida Statutes, is amended to read:

905 1011.80 Funds for operation of workforce education  
 906 programs.—

907 (9) The State Board of Education and the state board as  
 908 defined in s. 445.002 shall provide the Legislature with  
 909 recommended formulas, criteria, timeframes, and mechanisms for  
 910 distributing performance funds. The commissioner shall  
 911 consolidate the recommendations and develop a consensus proposal  
 912 for funding. The Legislature shall adopt a formula and  
 913 distribute the performance funds to the State Board of Education  
 914 for Florida College System institutions and school districts  
 915 through the General Appropriations Act. These recommendations  
 916 shall be based on formulas that would discourage low-performing  
 917 or low-demand programs and encourage through performance-funding  
 918 awards:

919 (a) Programs that prepare people to enter high-wage  
 920 occupations identified by the Labor Market Workforce Estimating  
 921 Conference created by s. 216.136 and other programs as approved  
 922 by the state board as defined in s. 445.002. At a minimum,  
 923 performance incentives shall be calculated for adults who reach  
 924 completion points or complete programs that lead to specified  
 925 high-wage employment and to their placement in that employment.

926 Section 20. This act shall take effect July 1, 2021.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/9/21  
Meeting Date

SB 148  
Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe St.  
Street

Phone 850-681-0024

Tallahassee FL 32301  
City State Zip

Email jorge@flapartners.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Uber Technologies

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/9/2021

*Meeting Date*

148

*Bill Number (if applicable)*

Topic Beverage Law

*Amendment Barcode (if applicable)*

Name Jake Farmer

Job Title Director of Government Affairs

Address 227 S Adams Street

Phone 352-359-6835

*Street*

Tallahassee

Florida

32301

Email jake@frf.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Retail Federation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3-9-21

*Meeting Date*

148

*Bill Number (if applicable)*

Topic Beverage Law

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

*Street*

Tallahassee

FL

32308

Email Greg@WaypointStrat.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing R Street Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 9, 2021

*Meeting Date*

148

*Bill Number (if applicable)*

Topic Beverage Law

*Amendment Barcode (if applicable)*

Name Samantha Padgett

Job Title General Counsel

Address 230 South Adams Street

Phone 224-2250

*Street*

Tallahassee

FL

32311

Email spadgett@frla.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 09 2021  
Meeting Date

SB 148  
-Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI "Dee-yay-GOH Etch-UH-Very"

Job Title Legislative Liaison

Address 200 West College  
Street

Phone \_\_\_\_\_

TLH FL  
City State

Email \_\_\_\_\_

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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*Commerce 12:30*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/9/21

*Meeting Date*

148

*Bill Number (if applicable)*

Topic Beverage Law

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior Vice President

Address 513 N Adams St

Phone 224-7173

*Street*

Tallahassee

FL

32301

Email bbevis@aif.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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



THE FLORIDA SENATE

APPEARANCE RECORD

3/9/21

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1218

Bill Number (if applicable)

Topic BEVERAGE LAW

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Job Title

Address PO Box 122

Phone 305 608 4300

Street

TALLAHASSEE FL 32302

City

State

Zip

Email CHRISTIAN@CAMARA CONSULTING.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing INSTITUTE FOR JUSTICE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/9/21  
Meeting Date

SB 148  
Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Director, State Government Affairs

Address 204 S. Monroe St.

Phone (850) 570-0043

Tallahassee FL 32301  
City State Zip

Email Jonathan.Rees@anheuser-busch.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Anheuser-Busch

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE

APPEARANCE RECORD

3/9/21

Meeting Date

SB 148

Bill Number (if applicable)

Topic ~~BEVERAGE~~ Beverage Law

Amendment Barcode (if applicable)

Name Jeffrey Sharkey

Job Title

Address 106 E College Ave Suite 1110

Phone (850) 224-1660

Street

Tallahassee FL 32301

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing GOLF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 148

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Beverage Law

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
2.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 148 permits food service establishments with a “special restaurant license,” or an “SRX license,” to sell and deliver alcoholic beverage drinks prepared and sealed by the licensee as well as manufacture-sealed beer, wine, and liquor for off-premises consumption under certain conditions. Alcoholic beverages sold for off-premises consumption must be accompanied by the sale of food within the same order.

Current law requires SRX licensees to derive at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages, in addition to meeting other requirements. Such establishments may not sell manufacturer-sealed containers of distilled spirits for off-premises consumption.

The bill requires alcoholic beverage drinks to be sealed by the licensee with an unbroken seal that prevents the beverage from being consumed, and placed in a bag or other container secured in such a manner that it is visibly apparent if the container has been opened or tampered with. A dated receipt of the beverage and meal must be provided and attached to the container. Containers for alcoholic beverages sold or delivered for off-premises consumption may not exceed 32 ounces. Alcoholic beverages prepared and sealed by the licensee that are delivered or transported by motor vehicle must be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor.<sup>2</sup> The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

### Quota Licenses

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses may also be issued when a county initially changes its status from a county that does not permit the sale of intoxicating liquor to one that permits such sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation.

### Special Restaurant License

The limitation on the number of quota licenses per county does not apply to a food service establishment that has at least 2,500 square feet of service area, is equipped to serve 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, during the first 60-day operating period and each 12-month operating period thereafter.<sup>3</sup> This type of license is known as a “special restaurant license” or an “SRX license.”<sup>4</sup>

A food service establishment holding an SRX license issued after January 1, 1958, may not operate a package store under the license and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed. Failure by a licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverages results in revocation of the special license. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.<sup>5</sup>

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<sup>1</sup> Section 561.02, F.S.

<sup>2</sup> Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>3</sup> Section 561.20(2)(a)4., F.S. The required square footage and number of persons the restaurant must be equipped to serve may be different for county or municipality jurisdiction due to special acts enacted by the Legislature that affect these requirements for the county or municipality. For a list of the special act requirements for counties and municipalities, including the applicable act in the Laws of Florida, *see*: Division of Alcoholic Beverages and Tobacco, *General Laws of Local Application and Special Acts*, available at [www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf](http://www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf) (last visited Mar. 8, 2021).

<sup>4</sup> The division has re-designated the “SRX” license to an “SFS” license or “Special Food Service Establishment” license. However, these licenses are still commonly known as “SRX” licenses.

<sup>5</sup> Section 561.20(2)(a)4., F.S.

The annual fee for an SRX license varies from \$624 to \$1,820, depending upon the population of the county in which the food service establishment is located.<sup>6</sup>

### **Deliveries by Licensees**

Section 561.57(1), F.S., permits an alcoholic beverages vendor to make deliveries away from its place of business for sales made at the licensed place of business. Telephone, electronic, or mail orders received at a vendor's licensed place of business are construed as a sale actually made at the vendor's licensed place of business.<sup>7</sup>

Deliveries made by a manufacturer, distributor, or a vendor away from its place of business may only be made in vehicles owned or leased by the vendor, or in a third-party vehicle pursuant to a contract with a third party, including, but not limited to, common carriers.

By acceptance of an alcoholic beverage license and the use of vehicles owned by or leased by the vendor, the vendor agrees the vehicle is subject to be inspected and searched without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.<sup>8</sup>

Common carriers<sup>9</sup> may transport alcoholic beverages.<sup>10</sup> The recipient's age and identity must be verified at the time of delivery. All deliveries by a licensee or a third-party must comply with s. 562.11, F.S., which prohibits selling, giving, serving, or permitting to be served alcoholic beverages to a person under 21 years of age.<sup>11</sup>

### **COVID-19-Related Executive Orders by the Governor**

On March 9, 2020, the Governor issued Executive Order 20-52 to declare a state of emergency for the State of Florida in response to the COVID-19 pandemic.<sup>12</sup>

On March 17, 2020, the Governor issued Executive Order 20-68 to order all restaurants to immediately limit occupancy to 50 percent of the building's current occupancy, to comply with social distancing requirements, and to implement a health screening protocol for employees.<sup>13</sup>

On March 20, 2020, the Governor issued Executive Order 20-71 to suspend all sales of food for consumption on premises, and all sales of alcoholic beverages by the drink or in sealed

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<sup>6</sup> Section 565.02(1)(b)-(f), F.S.

<sup>7</sup> Section 561.57(1), F.S.

<sup>8</sup> Section 561.57(2), F.S.

<sup>9</sup> Section 561.01(19), F.S., defines a "common carrier" as "any person, firm, or corporation that undertakes for hire, as a regular business, the transportation of persons or commodities from place to place, offering its services to all who choose to employ it and pay its charges."

<sup>10</sup> Section 561.57(5), F.S.

<sup>11</sup> Section 561.57(6), F.S.

<sup>12</sup> The Governor's executive orders were issued pursuant to his authority under Article IV, s. (1)(a) of the State Constitution and the State Emergency Management Act found in ss. 252.31 and 252.60, F.S.

<sup>13</sup> Fla. Exec. Order No. 20-68 (Mar. 17, 2020).

containers for consumption on the premises. The order allowed vendors to continue to sell food and alcoholic beverages in sealed containers for off-premises consumption.<sup>14</sup>

Executive Order 20-71 also suspended the restriction in s. 561.20(2)(a)4., F.S., prohibiting an SRX restaurant licensee from making package sales of alcoholic beverages, provided the SRX licensee complied with the restrictions in Executive Order 20-68.<sup>15</sup> The executive order required that:

- Any sale of an alcoholic beverage in a sealed container for consumption off-premises must be accompanied by the sale of food within the same order; and
- Any delivery of an alcoholic beverage must comply with the delivery requirements in s. 561.57, F.S.

Under the executive order, the suspension of the package sale restriction for SRX licenses was effective through the expiration of the state of emergency declared in Executive Order 20-52, including any extensions thereof. Executive order 20-52 has been extended six times since its issuance, most recently on December 29, 2020.<sup>16</sup>

The Governor's suspension of the package sale prohibition in s. 561.20(2)(a)4., F.S., permitted SRX licensees to sell, for off-premises consumption, alcoholic beverages in sealed containers, i.e., in containers sealed by the manufacturer. The executive order did not authorize alcoholic beverage vendors to sell liquor-based or wine-based mixed drinks for consumption off-premises. As noted by the DBPR, "unless otherwise permitted by law, the sale of alcoholic beverages in sealed containers requires the containers to be sealed by the manufacturer."<sup>17</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 561.20(2)(a)4., F.S., to permit food service establishments, i.e., restaurants, with SRX licenses to sell and deliver alcoholic beverages for off-premises consumption under certain conditions.

**Section 2** creates s. 561.575, F.S., to provide requirements for deliveries of alcoholic beverages by SRX licensees. Under the bill, SRX licensees may sell and deliver manufacturer-sealed containers of beer and wine for off-premises consumption. The bill also allows SRX licensees to sell and deliver any alcoholic beverage drink that is prepared and sealed by the licensee or its employee, including wine-based and liquor-based beverages, for off-premises consumption. Alcoholic beverages sold for off-premises consumption must be accompanied by the sale of food within the same order.

---

<sup>14</sup> Fla. Exec. Order No. 20-71 (Mar. 20, 2020).

<sup>15</sup> *Id.*

<sup>16</sup> Fla. Exec. Order No. 20-316 (Dec. 29, 2020). Section 252.36(2), F.S., provides that states of emergency may not continue for more than 60 days unless renewed by the Governor.

<sup>17</sup> See Division of Business and Professional Regulation, *Frequently Asked Questions Related to Executive Order 20-71*, available at [www.myfloridalicense.com/DBPR/os/documents/DBPR%20FAQs%20re%20EO%2020-71.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DBPR%20FAQs%20re%20EO%2020-71.pdf) (last visited Mar. 8, 2021).

Containers for alcoholic beverages sold or delivered for off-premises consumption may not exceed 32 ounces. Malt beverage containers must comply with the container size, labeling, and filling requirements of s. 563.03, F.S., except that such containers may not exceed 32 ounces.<sup>18</sup>

The bill requires alcoholic beverage drinks prepared and sold or delivered for off-premises consumption to be securely sealed by the licensee with an unbroken seal that prevents the beverage from being immediately consumed before removal from the premises. Alcoholic beverage drinks prepared and sealed by the licensee must be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt of the beverage and meal must be provided and attached to the container.

Alcoholic beverages that are prepared and sealed by the licensee and delivered or transported by motor vehicle must be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.<sup>19</sup>

SRX licensees must comply with the delivery requirements for alcoholic beverage vendors in s. 561.57, F.S.

The bill expressly prohibits an SRX licensee from selling manufacturer-sealed containers of distilled spirits for off-premises consumption.

**Section 3** amends s. 316.1936(9), F.S., to provide that an alcoholic beverage that has been sealed by a licensee or employee is not an open container under the prohibition against open containers of alcoholic beverages in a motor vehicle.

**Section 4** provides an effective date of July 1, 2021.

#### **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.

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<sup>18</sup> Section 563.06(7), F.S., permits a malt beverage growler to hold 32, 64, or 128 ounces of malt beverage.

<sup>19</sup> The sealing and transportation requirements in the bill are comparable to the requirements found in s. 564.09, F.S., for the sealing and transportation of a bottle of wine partially consumed at a restaurant.



E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may enable qualifying food service establishments to increase their sales revenue through the sale of alcoholic beverages with food delivery orders.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 561.20 and 316.1936 of the Florida Statutes.  
This bill creates section 561.575 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

**CS by Regulated Industries on February 17, 2021:**

The committee substitute:

- Clarifies that wine-based and liquor-based beverages prepared and sealed by the licensee may be sold or delivered for off-premises consumption.
- Limits the amount of alcoholic beverages that may be sold or delivered for off-premises consumption to 32 ounces.
- Requires alcoholic beverages prepared and sealed by the licensee to be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and that a dated receipt of the beverage and meal must be provided and attached to the container.
- Requires alcoholic beverages prepared and sealed by the licensee and transported by motor vehicle to be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.
- Requires malt beverage containers to comply with the size, labeling, and filling requirements of s. 563.06, F.S., except that such containers may not exceed 32 ounces.
- Requires SRX license to comply with the delivery requirements for alcoholic beverage vendors in s. 561.57, F.S.
- Prohibits the sale of manufacturer-sealed containers of distilled spirits.
- Provides that an alcoholic beverage that is sealed by a licensee or employee is not an open container under the prohibition against an open container of alcoholic beverages in a motor vehicle under s. 316.1936, F.S.

**B. Amendments:**

None.

By the Committee on Regulated Industries; and Senator Bradley

580-02162-21

2021148c1

A bill to be entitled

An act relating to the Beverage Law; amending s. 561.20, F.S.; authorizing certain food service establishments to sell or deliver certain alcoholic beverages for off-premises consumption under certain circumstances; creating s. 561.575, F.S.; providing requirements for such establishments to sell alcoholic beverages for off-premises consumption; requiring that such alcoholic beverages be transported in a specified manner; providing construction; amending s. 316.1936, F.S.; specifying that certain alcoholic beverages sold by such establishments are not open containers for the purposes of the prohibition on possessing open containers of alcoholic beverages in vehicles; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure,

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580-02162-21

2021148c1

as defined in s. 561.01(21), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(21), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under chapter 509, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the State

Page 2 of 10

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580-02162-21

2021148c1

59 Constitution of 1885, as amended, and incorporated by reference  
60 in s. 6(e), Art. VIII of the State Constitution, except that the  
61 license shall be issued only to the person or corporation that  
62 operates the hotel or motel operation and not to the association  
63 of condominium owners;

64 4. A food service establishment that has 2,500 square feet  
65 of service area, is equipped to serve meals to 150 persons at  
66 one time, and derives at least 51 percent of its gross food and  
67 beverage revenue from the sale of food and nonalcoholic  
68 beverages during the first 60-day operating period and each 12-  
69 month operating period thereafter. A licensee under this  
70 subparagraph may sell or deliver alcoholic beverages for off-  
71 premises consumption pursuant to s. 561.575. A food service  
72 establishment granted a special license on or after January 1,  
73 1958, pursuant to general or special law may not operate as a  
74 package store except as provided in s. 561.575 and may not sell  
75 intoxicating beverages under such license after the hours of  
76 serving or consumption of food have elapsed. Failure by a  
77 licensee to meet the required percentage of food and  
78 nonalcoholic beverage gross revenues during the covered  
79 operating period shall result in revocation of the license or  
80 denial of the pending license application. A licensee whose  
81 license is revoked or an applicant whose pending application is  
82 denied, or any person required to qualify on the special license  
83 application, is ineligible to have any interest in a subsequent  
84 application for such a license for a period of 120 days after  
85 the date of the final denial or revocation;

86 5. Any caterer, deriving at least 51 percent of its gross  
87 food and beverage revenue from the sale of food and nonalcoholic

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580-02162-21

2021148c1

88 beverages at each catered event, licensed by the Division of  
89 Hotels and Restaurants under chapter 509. This subparagraph does  
90 not apply to a culinary education program, as defined in s.  
91 381.0072(2), which is licensed as a public food service  
92 establishment by the Division of Hotels and Restaurants and  
93 provides catering services. Notwithstanding any law to the  
94 contrary, a licensee under this subparagraph shall sell or serve  
95 alcoholic beverages only for consumption on the premises of a  
96 catered event at which the licensee is also providing prepared  
97 food, and shall prominently display its license at any catered  
98 event at which the caterer is selling or serving alcoholic  
99 beverages. A licensee under this subparagraph shall purchase all  
100 alcoholic beverages it sells or serves at a catered event from a  
101 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed  
102 under s. 565.02(1) subject to the limitation imposed in  
103 subsection (1), as appropriate. A licensee under this  
104 subparagraph may not store any alcoholic beverages to be sold or  
105 served at a catered event. Any alcoholic beverages purchased by  
106 a licensee under this subparagraph for a catered event that are  
107 not used at that event must remain with the customer; provided  
108 that if the vendor accepts unopened alcoholic beverages, the  
109 licensee may return such alcoholic beverages to the vendor for a  
110 credit or reimbursement. Regardless of the county or counties in  
111 which the licensee operates, a licensee under this subparagraph  
112 shall pay the annual state license tax set forth in s.  
113 565.02(1)(b). A licensee under this subparagraph must maintain  
114 for a period of 3 years all records and receipts for each  
115 catered event, including all contracts, customers' names, event  
116 locations, event dates, food purchases and sales, alcoholic

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580-02162-21

2021148c1

117 beverage purchases and sales, nonalcoholic beverage purchases  
 118 and sales, and any other records required by the department by  
 119 rule to demonstrate compliance with the requirements of this  
 120 subparagraph. Notwithstanding any law to the contrary, any  
 121 vendor licensed under s. 565.02(1) subject to the limitation  
 122 imposed in subsection (1), may, without any additional licensure  
 123 under this subparagraph, serve or sell alcoholic beverages for  
 124 consumption on the premises of a catered event at which prepared  
 125 food is provided by a caterer licensed under chapter 509. If a  
 126 licensee under this subparagraph also possesses any other  
 127 license under the Beverage Law, the license issued under this  
 128 subparagraph shall not authorize the holder to conduct  
 129 activities on the premises to which the other license or  
 130 licenses apply that would otherwise be prohibited by the terms  
 131 of that license or the Beverage Law. Nothing in this section  
 132 shall permit the licensee to conduct activities that are  
 133 otherwise prohibited by the Beverage Law or local law. The  
 134 Division of Alcoholic Beverages and Tobacco is hereby authorized  
 135 to adopt rules to administer the license created in this  
 136 subparagraph, to include rules governing licensure,  
 137 recordkeeping, and enforcement. The first \$300,000 in fees  
 138 collected by the division each fiscal year pursuant to this  
 139 subparagraph shall be deposited in the Department of Children  
 140 and Families' Operations and Maintenance Trust Fund to be used  
 141 only for alcohol and drug abuse education, treatment, and  
 142 prevention programs. The remainder of the fees collected shall  
 143 be deposited into the Hotel and Restaurant Trust Fund created  
 144 pursuant to s. 509.072; or  
 145 6. A culinary education program as defined in s.

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146 381.0072(2) which is licensed as a public food service  
 147 establishment by the Division of Hotels and Restaurants.  
 148 a. This special license shall allow the sale and  
 149 consumption of alcoholic beverages on the licensed premises of  
 150 the culinary education program. The culinary education program  
 151 shall specify designated areas in the facility where the  
 152 alcoholic beverages may be consumed at the time of application.  
 153 Alcoholic beverages sold for consumption on the premises may be  
 154 consumed only in areas designated pursuant to s. 561.01(11) and  
 155 may not be removed from the designated area. Such license shall  
 156 be applicable only in and for designated areas used by the  
 157 culinary education program.  
 158 b. If the culinary education program provides catering  
 159 services, this special license shall also allow the sale and  
 160 consumption of alcoholic beverages on the premises of a catered  
 161 event at which the licensee is also providing prepared food. A  
 162 culinary education program that provides catering services is  
 163 not required to derive at least 51 percent of its gross revenue  
 164 from the sale of food and nonalcoholic beverages.  
 165 Notwithstanding any law to the contrary, a licensee that  
 166 provides catering services under this sub-subparagraph shall  
 167 prominently display its beverage license at any catered event at  
 168 which the caterer is selling or serving alcoholic beverages.  
 169 Regardless of the county or counties in which the licensee  
 170 operates, a licensee under this sub-subparagraph shall pay the  
 171 annual state license tax set forth in s. 565.02(1)(b). A  
 172 licensee under this sub-subparagraph must maintain for a period  
 173 of 3 years all records required by the department by rule to  
 174 demonstrate compliance with the requirements of this sub-

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175 subparagraph.

176 c. If a licensee under this subparagraph also possesses any  
 177 other license under the Beverage Law, the license issued under  
 178 this subparagraph does not authorize the holder to conduct  
 179 activities on the premises to which the other license or  
 180 licenses apply that would otherwise be prohibited by the terms  
 181 of that license or the Beverage Law. Nothing in this  
 182 subparagraph shall permit the licensee to conduct activities  
 183 that are otherwise prohibited by the Beverage Law or local law.  
 184 Any culinary education program that holds a license to sell  
 185 alcoholic beverages shall comply with the age requirements set  
 186 forth in ss. 562.11(4), 562.111(2), and 562.13.

187 d. The Division of Alcoholic Beverages and Tobacco may  
 188 adopt rules to administer the license created in this  
 189 subparagraph, to include rules governing licensure,  
 190 recordkeeping, and enforcement.

191 e. A license issued pursuant to this subparagraph does not  
 192 permit the licensee to sell alcoholic beverages by the package  
 193 for off-premises consumption.

194  
 195 However, any license heretofore issued to any such hotel, motel,  
 196 motor court, or restaurant or hereafter issued to any such  
 197 hotel, motel, or motor court, including a condominium  
 198 accommodation, under the general law shall not be moved to a new  
 199 location, such license being valid only on the premises of such  
 200 hotel, motel, motor court, or restaurant. Licenses issued to  
 201 hotels, motels, motor courts, or restaurants under the general  
 202 law and held by such hotels, motels, motor courts, or  
 203 restaurants on May 24, 1947, shall be counted in the quota

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204 limitation contained in subsection (1). Any license issued for  
 205 any hotel, motel, or motor court under this law shall be issued  
 206 only to the owner of the hotel, motel, or motor court or, in the  
 207 event the hotel, motel, or motor court is leased, to the lessee  
 208 of the hotel, motel, or motor court; and the license shall  
 209 remain in the name of the owner or lessee so long as the license  
 210 is in existence. Any special license now in existence heretofore  
 211 issued under this law cannot be renewed except in the name of  
 212 the owner of the hotel, motel, motor court, or restaurant or, in  
 213 the event the hotel, motel, motor court, or restaurant is  
 214 leased, in the name of the lessee of the hotel, motel, motor  
 215 court, or restaurant in which the license is located and must  
 216 remain in the name of the owner or lessee so long as the license  
 217 is in existence. Any license issued under this section shall be  
 218 marked "Special," and nothing herein provided shall limit,  
 219 restrict, or prevent the issuance of a special license for any  
 220 restaurant or motel which shall hereafter meet the requirements  
 221 of the law existing immediately prior to the effective date of  
 222 this act, if construction of such restaurant has commenced prior  
 223 to the effective date of this act and is completed within 30  
 224 days thereafter, or if an application is on file for such  
 225 special license at the time this act takes effect; and any such  
 226 licenses issued under this proviso may be annually renewed as  
 227 now provided by law. Nothing herein prevents an application for  
 228 transfer of a license to a bona fide purchaser of any hotel,  
 229 motel, motor court, or restaurant by the purchaser of such  
 230 facility or the transfer of such license pursuant to law.

231 Section 2. Section 561.575, Florida Statutes, is created to  
 232 read:

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233 561.575 Food service establishments; off-premises  
 234 consumption of alcoholic beverages.-  
 235 (1) Notwithstanding any other law, a public food service  
 236 establishment licensed under s. 561.20(2)(a)4. may sell  
 237 manufacturer-sealed containers of wine, containers of malt  
 238 beverages, or any alcoholic beverage drink prepared by the  
 239 vendor, including any wine-based and liquor-based drinks, sold  
 240 in containers sealed by the licensee or its employees for  
 241 consumption off of the licensed premises if accompanied by the  
 242 sale of food within the same order. The container for any  
 243 alcoholic beverage sold or delivered for consumption off the  
 244 premises pursuant to this section may not exceed 32 ounces. An  
 245 alcoholic beverage drink prepared by the vendor and sold or  
 246 delivered for consumption off the premises must be securely  
 247 sealed by the licensee or its employees with an unbroken seal  
 248 that prevents the beverage from being immediately consumed  
 249 before removal from the premises. Such alcoholic beverage also  
 250 must be placed in a bag or other container that is secured in  
 251 such a manner that it is visibly apparent if the container has  
 252 been subsequently opened or tampered with, and a dated receipt  
 253 for the alcoholic beverage and meal must be provided by the  
 254 licensee and attached to the sealed container. If transported in  
 255 a motor vehicle, an alcoholic beverage that is not in a  
 256 container sealed by the manufacturer must be placed in a locked  
 257 compartment, a locked trunk, or the area behind the last upright  
 258 seat of a motor vehicle.  
 259 (2) Any sale or delivery of a malt beverage under this  
 260 section must comply with the container size, labeling, and  
 261 filling requirements under s. 563.06, except that such container

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

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262 may not exceed 32 ounces.  
 263 (3) Any delivery of an alcoholic beverage under this  
 264 section must comply with s. 561.57.  
 265 (4) This section may not be construed to authorize public  
 266 food service establishments licensed under s. 561.20(2)(a)4. to  
 267 sell as package manufacturer-sealed containers of distilled  
 268 spirits.  
 269 Section 3. Subsection (9) of section 316.1936, Florida  
 270 Statutes, is amended to read:  
 271 316.1936 Possession of open containers of alcoholic  
 272 beverages in vehicles prohibited; penalties.-  
 273 (9) A bottle of wine that has been resealed and is  
 274 transported pursuant to s. 564.09 or an alcoholic beverage that  
 275 has been sealed by a licensee or the employee of a licensee and  
 276 is transported pursuant to s. 561.575 is not an open container  
 277 under ~~the provisions of~~ this section.  
 278 Section 4. This act shall take effect July 1, 2021.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/9/21

Meeting Date

346

Bill Number (if applicable)

Topic Florida Real Estate Appraisal Board

Amendment Barcode (if applicable)

Name Andy Gonzalez

Job Title Public Policy Representative

Address 200 S. Monroe St

Phone 850-224-1400

Tallahassee FL 32301

Email andyg@floridarealtors.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Realtors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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



THE FLORIDA SENATE

APPEARANCE RECORD

3/9/2021

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

346

Meeting Date

Bill Number (if applicable)

Topic Florida Real Estate Appraisal Board

Commerce  
w  
Tourism

Amendment Barcode (if applicable)

Name Will McRea

Job Title Associate - Sun City Strategier

Address 7625 W 14th Ct

Phone (786) 651-7653

Street

City Hialeah, FL State FL Zip 33014

Email will@suncitystrategie.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Appraisal Institute - Region X

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

BILL: SB 346

INTRODUCER: Senators Rodriguez and Hutson

SUBJECT: Florida Real Estate Appraisal Board

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Favorable</b>
2.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 346 reduces the number of board members sitting on the Florida Real Estate Appraisal Board (board) from nine to seven members. The bill removes from the board one of the two current members representing the appraisal management industry, and one of the two current members who represents the general public and is not connected in any way with the practice of real estate appraisal.

The effective date of the bill is November 1, 2021.

**II. Present Situation:**

The Florida Real Estate Appraisal Board (board) within the Department of Business and Professional Regulation (DBPR) regulates real estate appraisers under part II of ch. 475, F.S. The board, through its rules, is authorized to:

- Regulate the issuance of licenses, certifications, registrations, and permits;
- Discipline appraisers;
- Establish qualifications for licenses, certifications, registrations, and permits;
- Regulate approved courses;
- Establish standards for real estate appraisals; and
- Establish standards for and regulate supervisory appraisers.

The board consists of nine members.<sup>1</sup> The members of the board are all appointed by the Governor, subject to confirmation by the Senate. The Governor may remove any member for cause.<sup>2</sup> The membership of the board must consist of:

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<sup>1</sup> Section 475.613(1), F.S.

<sup>2</sup> Section 475.613(1)(a), F.S.

- Four members who are real estate appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment;
- Two members who represent the appraisal management industry;
- One member who represents organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance; and
- Two members who represent the general public and are not connected in any way with the practice of real estate appraisal.<sup>3</sup>

Members of the board are appointed for 4-year terms, and may not be appointed for more than two consecutive terms.<sup>4</sup> The headquarters of the board is in Orlando, Florida.<sup>5</sup> The board must meet at least once each calendar quarter to conduct its business.<sup>6</sup> Members must elect a chairperson at the first meeting each year.<sup>7</sup>

Each member of the board is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the board.<sup>8</sup>

Currently there are 6,891 active certified real estate appraisers.<sup>9</sup> In comparison, the seven-member Real Estate Commission, which regulates real estate agents, associates, and schools, has 305,298 active licensees.<sup>10</sup>

In 2010, the membership of the board was increased from seven members to nine members with the addition of two members representing the appraisal management industry.<sup>11</sup>

There is currently one vacancy on the board.<sup>12</sup> There are two members with current appointments expiring October 31, 2021 and six continue to hold office through the expiration of their term, including both public members and both appraisal management industry representatives.<sup>13</sup>

### III. Effect of Proposed Changes:

The bill amends s. 475.613, F.S., to reduce the number of board members sitting on the board from nine members to seven members. The bill removes from the board one of the two current members representing the appraisal management industry, and one of the two current members

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<sup>3</sup> *Id.*

<sup>4</sup> Section 475.613(1)(a), F.S.

<sup>5</sup> Section 475.613(1)(b), F.S.

<sup>6</sup> Section 475.613(1)(c), F.S.

<sup>7</sup> Section 475.613(1)(d), F.S.

<sup>8</sup> Section 475.613(1)(e), F.S.

<sup>9</sup> See Department of Business and Professional Regulation, *Annual Report, Divisions of Professions, Division Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2019-2020*, at [http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport\\_FY1920.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1920.pdf), at page 20 (last visited March 8, 2021).

<sup>10</sup> *Id.*

<sup>11</sup> Chapter 2010-84, s. 2, Laws of Fla.

<sup>12</sup> It is an appointment of a certified real estate appraiser. [Real Estate Appraisal – Board Information – MyFloridaLicense.com](#) (last visited March 8, 2021).

<sup>13</sup> *Id.*

who represents the general public and is not connected in any way with the practice of real estate appraisal.

**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:

The DBPR estimates that the bill will reduce travel expenses for the board by \$5,200 per year.<sup>14</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>14</sup> See Department of Business and Professional Regulation, *SB 346 Bill Analysis*, p. 3 (Jan. 26, 2021) (on file with the Senate Committee on Regulated Industries).

**VIII. Statutes Affected:**

This bill substantially amends the following section 475.613 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.

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

---

By Senator Rodriguez

39-00677-21

2021346\_\_

A bill to be entitled

An act relating to the Florida Real Estate Appraisal Board; amending s. 475.613, F.S.; revising the composition of the board; providing an effective date.

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

Section 1. Subsection (1) of section 475.613, Florida Statutes, is amended to read:

475.613 Florida Real Estate Appraisal Board.—

(1) There is created the Florida Real Estate Appraisal Board, which shall consist of seven ~~nine~~ members appointed by the Governor, subject to confirmation by the Senate. Four members of the board must be real estate appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment. In appointing real estate appraisers to the board, while not excluding other appraisers, the Governor shall give preference to real estate appraisers who are not primarily engaged in real estate brokerage or mortgage lending activities. One member ~~Two members~~ of the board must represent the appraisal management industry. One member of the board must represent organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance. One member ~~Two members~~ of the board must be a representative ~~shall be representatives~~ of the general public and ~~may shall~~ not be connected in any way with the practice of real estate appraisal. The appraiser members shall be as representative of the entire industry as possible, and

Page 1 of 2

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

39-00677-21

2021346\_\_

membership in a nationally recognized or state-recognized appraisal organization ~~may shall~~ not be a prerequisite to membership on the board. To the extent possible, no more than two members of the board shall be primarily affiliated with any one particular national or state appraisal association. Two of the members must be licensed or certified residential real estate appraisers and two of the members must be certified general real estate appraisers at the time of their appointment.

(a) Members of the board shall be appointed for 4-year terms. Any vacancy occurring in the membership of the board shall be filled by appointment by the Governor for the unexpired term. Upon expiration of her or his term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

(b) The headquarters for the board shall be in Orlando.

(c) The board shall meet at least once each calendar quarter to conduct its business.

(d) The members of the board shall elect a chairperson at the first meeting each year.

(e) Each member of the board is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the board.

Section 2. This act shall take effect November 1, 2021.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** February 11, 2021

---

I respectfully request that **Senate Bill #352**, relating to Massage Therapy, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 39

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 9, 2021

*Meeting Date*

SB 352

*Bill Number (if applicable)*

Topic SB 352 - Massage Therapy

*Amendment Barcode (if applicable)*

Name Anita Berry

Job Title Associate

Address 21748 State Road 54, Suite 101

Phone 301-524-0172

*Street*

Lutz

FL

33549

Email anita@johnstonstewart.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida State Massage Therapy Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)





# 2021 AGENCY LEGISLATIVE BILL ANALYSIS

## AGENCY: Florida Department of Health

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	352
<b>BILL TITLE:</b>	Massage Therapy
<b>BILL SPONSOR:</b>	Rodriguez (A)
<b>EFFECTIVE DATE:</b>	7/1/2021

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Health Policy
2) Committee on Tourism
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<b><u>CURRENT COMMITTEE</u></b>
Committee on Tourism

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	245
<b>SPONSOR:</b>	Chaney

<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

<b>Is this bill part of an agency package?</b>
No

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	January 2021
<b>LEAD AGENCY ANALYST:</b>	Kama Monroe
<b>ADDITIONAL ANALYST(S):</b>	Lola Pouncey
<b>LEGAL ANALYST:</b>	Louise St. Laurent
<b>FISCAL ANALYST:</b>	Jonathan Sackett

## **POLICY ANALYSIS**



If yes, explain:	The bill directs the Board of Massage Therapy to develop rules regarding the administration of prescription topical medications. In addition, the majority of Rules in Chapter 64B7, F.A.C., will need to be revised to replace the term "Massage" with the term "Massage Therapy."
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Chapter 64B-7, F.A.C.

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

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

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

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

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

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

**FISCAL ANALYSIS****1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y  N 

Revenues:	N/A
Expenditures:	N/A

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

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

**Y  N**

Revenues:	None
Expenditures:	<div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;">                 DOH/MQA will incur non-recurring cost associated with rulemaking, yet current budget authority is adequate to absorb.             </div>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**

**Y  N**

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

**Y  N**

If yes, explain impact.	N/A
Bill Section Number:	N/A

**TECHNOLOGY IMPACT**

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

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

**FEDERAL IMPACT**

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

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

**ADDITIONAL COMMENTS**

None

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:	
---------------------------	--

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 352

INTRODUCER: Health Policy Committee and Senator Rodriguez

SUBJECT: Massage Therapy

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van-Winkle	Brown	HP	<b>Fav/CS</b>
2.	Harmsen	McKay	CM	<b>Favorable</b>
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 352 makes multiple changes to the regulation of the practice of massage. The bill:

- Replaces the term “massage” with “massage therapy” throughout ch. 480, F.S., and revises the chapter title from “Massage Practice” to “Massage Therapy Practice;”
- Specifies that massage therapy is a therapeutic health care practice;
- Amends the definitions of “massage” and “massage therapist” to expand the scope of practice of massage therapists; and
- Defines “massage therapy assessment” and includes the performance of such assessment, for compensation, in the scope of practice of massage therapy.

The bill provides an effective date of July 1, 2021.

**II. Present Situation:**

**The Department of Health**

The Legislature created the Department of Health (DOH) to protect and promote the health of all residents and visitors in the state.<sup>1</sup> The DOH is charged with the regulation of health care practitioners for the preservation of the health, safety, and welfare of the public. The Division of

---

<sup>1</sup> Section 20.43, F.S.

Medical Quality Assurance (MQA) is responsible for the boards<sup>2</sup> and professions within the DOH.<sup>3</sup>

Section 480.035, F.S., establishes the Board of Massage Therapy (BMT) within the DOH to license and regulate the practice of massage. The BMT also specifies the licensing procedures for practitioners who desire to practice in Florida.<sup>4</sup>

### **Massage**

“Massage” is the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not the manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.<sup>5</sup>

Chapter 480, F.S., the “Massage Practice Act,” governs the practice of massage in Florida. A massage therapist is a health care practitioner licensed under ch. 480, F.S.<sup>6</sup> According to the DOH, there are 176 approved, licensed massage schools in Florida. In Fiscal Year 2019-2020, there were 32,435 in-state, active licensed massage therapists and 96 licensed massage apprentices licensed under the Florida apprenticeship program.<sup>7</sup>

### **Massage Licensure**

An individual who seeks licensure to practice massage in Florida must:<sup>8</sup>

- Submit an application and fee to the DOH;
- Be at least 18 years of age or have a high school diploma or high school equivalency diploma;
- Submit to background screening, and be found to not have been convicted or found guilty of, or to have pled nolo contendere to specific crimes and felonies; and
- Meet specific training and education requirements, as discussed below.

### **Education and Training Requirements**

Individuals may meet their education and training requirements to earn their Florida massage license in one of three manners:

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<sup>2</sup> Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.

<sup>3</sup> Section 20.43, F.S.

<sup>4</sup> Section 480.041(5)(c), F.S.

<sup>5</sup> Section 480.033, F.S.

<sup>6</sup> Section 456.001(4), F.S.

<sup>7</sup> Florida Department of Health, Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2019-2020*, pg. 14 available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/2019-2020-annual-report.pdf> (last visited Mar. 8, 2021).

<sup>8</sup> Section 480.041, F.S. *See also*, Rule 64B7-25, F.A.C

- Attend a BMT-approved massage school and pass a BMT-approved examination;<sup>9</sup>
- Complete a BMT-approved massage apprenticeship program by July 1, 2023, and pass a BMT-approved examination.<sup>10</sup> This option is only available to those who had a massage apprentice license before July 1, 2020;<sup>11</sup> or
- Obtain a license by endorsement, if the applicant is currently licensed in a different state and meets additional requirements.<sup>12</sup>

### *Massage Therapy Schools*

The BMT requires applicants for licensure to practice massage therapy to complete at least 500 classroom hours, which the student must complete at a rate of no more than six hours per day and no more than 30 classroom hours per calendar week.<sup>13</sup> Classroom education must include:<sup>14</sup>

- 150 hours of anatomy and physiology;
- 100 hours of basic massage theory and history;
- 125 hours of clinical practicum;
- 76 hours of allied modalities;
- 15 hours of business;
- 15 hours of theory and practice of hydrotherapy;
- 10 hours of Florida laws and rules;
- 4 hours of professional ethics;
- 3 hours of HIV/AIDS education; and
- 2 hours on reducing medical errors.

### *Apprenticeships*

Previously, individuals could complete a massage apprenticeship in lieu of attending and graduating from a BMT-approved massage therapy school.<sup>15</sup> In 2020, however, the Legislature removed this path to licensure by redefining the term “apprentice” in the Massage Practice Act.<sup>16,17</sup> Only individuals who were issued a license as a massage apprentice before July 1, 2020, are permitted to continue under their apprenticeship until it expires. If the individual chooses to

<sup>9</sup> Rule 64B7-25.001, F.A.C. *See also*, Florida Board of Massage Therapy, Requirements for all Applicants, *Additional Requirements for Examination Applicants*, available at <https://floridasmassagetherapy.gov/licensing/licensed-massage-therapist-lmt/> (last visited Mar. 8, 2021).

<sup>10</sup> Rule 64B7-29.003, F.A.C. (2020). During the apprenticeship, the sponsor is required to file quarterly reports and the apprentice must complete the following courses of study: 300 hours of physiology, 300 hours of anatomy, 20 hours of theory and history of massage, 50 hours of theory and practice of hydro-therapy, 25 hours of statutes and rules of massage practice, 50 hours of introduction to allied modalities, 700 hours of practical massage, and three hours of BMP-approved HIV/AIDS instruction.

<sup>11</sup> *See* ss. 480.033(5) and 480.041(8), F.S., (2020). After June 30, 2020, the DOH no longer issues massage apprentice licenses.

<sup>12</sup> Section 480.041(5)(c), F.S.

<sup>13</sup> Rule 64B7-32.003, F.A.C.

<sup>14</sup> *Id.*

<sup>15</sup> Section 480.041(1)(b), F.S. (2019).

<sup>16</sup> Section 480.033(5), F.S.

<sup>17</sup> Chapter 2020-133, s. 38, Laws of Fla., CS/CS/CS/HB 713 (2020) was signed into law on June 29, 2020, and took effect on July 1, 2020.



apply for licensure to practice massage in Florida, he or she may do so before July 1, 2023, and be granted a license, if he or she meets all other licensing requirements, e.g., exam passage.<sup>18</sup>

Apprenticeship training must be conducted by a fully-licensed sponsor at a qualified massage establishment. The apprentice must complete his or her training within a 12-month period, and the training must include:<sup>19</sup>

- 300 hours of anatomy;
- 300 hours of physiology;
- 20 hours of basic massage theory and history;
- 50 hours of theory and practice of hydrotherapy;
- 25 hours of Florida laws and rules regulating the practice of massage therapy;
- 50 hours of allied modalities;
- 700 hours of clinical practicum; and
- 3 hours of HIV/AIDS instruction.

Apprentices are also required to successfully complete an approved exam, and meet the other general licensure requirements found in s. 480.041, F.S. (2019), to become fully licensed massage practitioners.

### ***Licensure by Endorsement***

Individuals who hold an active license in another state that has licensing requirements that are equivalent to, or that exceed, Florida's licensing requirements are eligible to receive a Florida massage practitioner license if he or she has also completed 10 hours of Florida Laws and Rules as part of their BMT-approved massage education program or with an approved continuing education (CE) provider.<sup>20</sup>

### **Health Coverage and Billing for Massage Services**

The Florida Insurance Code<sup>21</sup> requires any health insurance policy or health maintenance organization (HMO) contract that provides coverage for massage to also cover the services of a licensed massage therapist in cases where an allopathic, osteopathic, chiropractic, or podiatric physician has prescribed massage as medically necessary, and the prescription specifies the number of treatments.<sup>22</sup> Medical benefits under personal injury protection coverage, however, specifically exclude massage.<sup>23</sup>

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<sup>18</sup> Section 480.041(8), F.S.

<sup>19</sup> Rule 64B7-29.003, F.A.C.

<sup>20</sup> Rule 64B7-25.004, F.A.C. Florida-approved Massage Therapy programs are required to have 10 hours of Florida laws and rules as a part of their curriculum. Graduates from out of state programs must show that they have met the same course requirements as students who attend Florida schools. Out-of-state programs do not typically teach Florida laws and rules. By including a course as a separate requirement in the board's checklist, the board has reduced confusion among out-of-state applicants and given them notice that if they did not take this class during their schooling they will need to take it before they are licensed. *See* e-mail of Kama Monroe, Executive Director, Department of Health, Division of Medical Quality Assurance, Bureau of Health Care Practitioner Regulation, Board of Massage Therapy (Jan. 27, 2021) (on file with the Senate Health Policy Committee).

<sup>21</sup> *See* s. 624.01, F.S.

<sup>22</sup> Sections 627.6407, 627.6619, and 641.31(37), F.S.

<sup>23</sup> Section 627.736(1)(a)5., F.S.

All medical billing by health care practitioners in the United States is done using standardized diagnosis ICD-10 codes<sup>24</sup> and standardized procedure CPT codes<sup>25</sup> or HCPCS codes,<sup>26</sup> with or without modifiers.” The CPT codes are generally preferred for office and outpatient setting, as well as for Medicare, Medicaid, and by private insurers.<sup>27</sup> The CPT codes are evidence-based codes that have been created by the American Medical Association (AMA) and designated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) as the national coding set for physicians and other health care professional services. The 2021 CPT codes were released September 1, 2020.<sup>28</sup>

Massage therapists, like other health care practitioners, bill Medicare, Medicaid, private insurers or private-pay patients for the procedures and services they provide. At the AMA's invitation, the American Massage Therapy Association (AMTA) is part of the Physical Medicine and Rehabilitation workgroup that was tasked to develop language that appropriately describes the services of massage therapists across the country.<sup>29</sup> Massage therapists may not use any CPT codes from any area of the CPT code manual outside of the physical medicine and rehabilitation pages.<sup>30</sup> According to the AMTA, the following are some of the more common CPT codes currently billed by massage therapists that are paid by Medicare, Medicaid, and private insurers:<sup>31</sup>

- CPT Code 97124 Massage Therapy;
- CPT Code 97140 Manual Therapy;
- CPT Code 97112 Neuromuscular Re-education;
- CPT Code 97010 Hot/Cold Packs; and
- CPT Code 97110 Therapeutic Exercise.

Typically, health care providers who provide medical evaluations and management (E/M) services also bill Medicare, Medicaid, and private insurers for the initial office visit using CPT codes 99201 through 99215 depending on whether the patient is a new or established patient and

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<sup>24</sup> ICD-10 codes refers to the 77,000 diagnosis codes listed in the 10th edition of the International Statistical Classification of Diseases and Related Health Problems, a medical classification list produced by the World Health Organization. World Health Organization, International Statistical Classification of Diseases and Related Health Problems (ICD), *ICD-11*, available at <https://www.who.int/standards/classifications/classification-of-diseases> (last visited Mar. 8, 2021). (Note: ICD-11 was adopted by the 72 World Health Assembly, May, 2019, and comes into effect on January 1, 2022.)

<sup>25</sup> CPT codes refer to the Current Procedural Terminology (CPT) codes, and are produced by the American Medical Association (AMA), Board of Trustees, CPT® Editorial Panel. American Medical Association, *CPT® overview and code approval*, <https://www.ama-assn.org/practice-management/cpt/cpt-overview-and-code-approval> (last visited Mar. 8, 2021).

<sup>26</sup> HCPCS codes refer to Healthcare Common Procedure Coding System (HCPCS) codes, developed by Centers for Medicare and Medicaid Services and maintained by the AMA. Both CPT and HCPCS codes are the primary medical language used by health care providers to bill for the procedures and services they provide. Center for Medicare and Medicaid Services, Medicare, Coding, HCPCS Coding Questions, *Do You Have A Coding Question?*

[https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS\\_Coding\\_Questions](https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS_Coding_Questions) (last visited Mar. 8, 2021).

<sup>27</sup>*Id.*

<sup>28</sup> *Supra*, note 25.

<sup>29</sup> American Massage Therapy Association, *Insurance Reimbursement: What Are CPT Codes and Who Develops Them?*, <https://www.amtamassage.org/resources/business-financial-tools/insurance-reimbursement/> (last visited Mar. 8, 2021).

<sup>30</sup> Ed Denning, *CPT Codes*, MassageToday.com (Sept. 2, 2020), <https://www.massagetoday.com/articles/12049/CPT-Codes> (last visited Mar. 8, 2021).

<sup>31</sup> American Massage Therapy Association, *Insurance Reimbursement*, <https://www.amtamassage.org/resources/business-financial-tools/insurance-reimbursement/> (last visited Mar. 8, 2021).

the complexity of the visit. The practitioner would follow the E/M documentation guidelines in the CPT manual for all E/M services. The E/M CPT code requirements and average reimbursement rates for a new patient office visit are as follows:<sup>32</sup>

<b>CPT Code</b>	<b>Description</b>	<b>Services Provided</b>	<b>Average Fee</b>
99201	10 Minute - Problem Focused Exam & Plan	Requires Problem Focused: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Straightforward Decision Making.</li> </ul>	\$30-\$40
99202	20 Minute - Expanded Problem Focused Exam & Plan	Requires Expanded Problem Focused: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Straightforward Decision Making.</li> </ul>	\$70-\$80
99203	30 Minute - Detailed Exam & Plan	Requires Detailed: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Decision Making of Low Complexity.</li> </ul>	\$80-\$110
99204	45 Minute - Exam of Moderate Complexity & Plan	Requires Comprehensive: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Decision Making of Moderate Complexity.</li> </ul>	\$130-\$170
99205	60 Minutes - Exam of High Complexity & Plan	Requires Comprehensive: <ul style="list-style-type: none"> <li>•History;</li> <li>•Examination; and</li> <li>•Decision Making of High Complexity.</li> </ul>	\$180-\$210

Currently the scope of practice of a massage therapist in Florida does not include the patient evaluation and management required for the utilization of the CPT codes 99201 through 99215, and massage therapists are not currently reimbursed by Medicare, Medicaid, or private insurers for those services.<sup>33</sup>

The CPT code modifiers (also called Level I modifiers) are two-digit numeric codes used to supplement information and adjust care descriptions to provide extra details concerning a

<sup>32</sup> Medical Billing, *CPT Code 99201, 99202, 99203, 99204, 99205 - Which code to USE*, <http://www.whatismedicalinsurancebilling.org/p/cpt-99201-99202-99203-99204-99205-which.html> (last visited Mar. 8, 2021).

<sup>33</sup> Centers for Medicare and Medicaid Services *National Correct Coding Initiative Policy Manual for Medicare Services, Current Procedural Terminology (CPT) Codes, Descriptions and Other Data: Ch. 11- CPT Codes 90000-99999*, (Rev'd Jan. 1, 2021), available at <https://www.cms.gov/Medicare/Coding/NationalCorrectCodInitEd> (last visited Mar. 8, 2021). E/M services for specific non-physician practitioners, i.e. nurse practitioner (NP), clinical nurse specialist (CNS) and certified nurse midwife (CNM) whose Medicare benefit permits them to bill these services. A physician assistant (PA) may also provide a physician service; however, the physician collaboration and general supervision rules as well as all billing rules, apply to all the above non-physician practitioners. The service provided must be medically necessary and the service must be within the scope of practice for a non-physician practitioner in the state in which he or she practices. Medicare, Medicaid, and most private insurers will not pay for CPT evaluation and management codes billed by massage therapists, physical therapists, or occupational therapists in independent practice.

procedure or service provided by a health care provider.<sup>34</sup> Some are informational and some can enhance the amount of reimbursement as much as 110 percent to 150 percent. The federal Centers for Medicare & Medicaid Services lists the following as some common billing modifiers:

- Modifier 25 = The medical provider performs a significant, separately identifiable evaluation and management service on the same day of a procedure or other service;
- Modifier 51 = Multiple procedures by the same provider at the same session; and
- Modifier 59 = Linked services by the medical provider; providing two wholly-separate and distinct services during the same treatment period.<sup>35</sup>

Under the current definition of massage practice in Florida, the use of CPT code modifiers in billing Medicare, Medicaid, or private insurers for massage therapy is seldom necessary or appropriate.<sup>36</sup>

### III. Effect of Proposed Changes:

#### Massage Practice

CS/SB 352 makes multiple changes to statutes governing the practice of massage in Florida. The bill:

- Replaces the term “massage” with “massage therapy” throughout ch. 480, F.S.;
- Specifies that massage therapy is a therapeutic health care practice;
- Revises the legislative purpose for the necessity of regulating massage practice under ch. 480, F.S. Under current law, the Legislature recognizes the practice of massage as being potentially dangerous to the public. Under the bill, the Legislature recognizes that unregulated massage therapy poses a danger to the public;
- Expands the scope of practice of massage therapy to include:
  - Manipulation of the soft tissues of the human body with the knee; and
  - “Massage therapy assessments,” defined as the massage therapist’s determination of the course of a patient’s massage therapy treatment, for compensation; and
- Makes technical and conforming changes.

#### Insurance and Health Maintenance Coverage of Massage Therapy

The bill replaces the term “massage” with “massage therapy” in the Florida Insurance Code. Additionally, the bill provides an avenue for a massage therapist to bill health insurers and HMOs for massage-related services that are not applicable under current law.

The bill’s expansion of a massage therapist’s scope of practice to include massage therapy assessment, for compensation, for the determination of the course of a patient’s massage therapy treatment, could have the effect of increasing costs borne by health insurers and HMOs that cover massage therapy. Under the bill, massage therapists may seek payment from insurers and HMOs using CPT billing codes 99201 through 99215 for initial assessment of a new patient and for periodic reevaluation of preexisting patents.

<sup>34</sup> *Id.* at Ch. I-E.

<sup>35</sup> *Id.* See also, Center for Medicare and Medicaid Services, *HCPCS Coding Questions: Do You Have A Coding Question?* [https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS\\_Coding\\_Questions](https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS_Coding_Questions) (last visited Mar. 8, 2021).

<sup>36</sup> Ed Denning, *supra* note 30.

The bill provides an effective date of July 1, 2021.

**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 might result in increased costs borne by private health insurers and HMOs that cover massage therapy services.

C. Government Sector Impact:

The bill might result in increased costs for massage therapy services under state group health insurance, Medicaid,<sup>37</sup> and the Children's Health Insurance Program, to the extent

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<sup>37</sup> Massage therapy is not specified in the Florida Statutes as a benefit that Medicaid managed care plans must cover. *See* s. 409.973(1), F.S. However, the Agency for Health Care Administration (AHCA) requires such plans to provide medical massage therapy services to enrollees diagnosed with AIDS, and who have had a history of an AIDS-related opportunistic infection, for the treatment of peripheral neuropathy or severe neuromuscular pain and lymphedema. *See*, Agency for Health Care Administration, *2018-2023 Model Health Plan Contract*, p. 21 (Oct. 1, 2020) available at [https://ahca.myflorida.com/medicaid/statewide\\_mc/pdf/Contracts/2020-10-01/Exhibit\\_II\\_A\\_MMA-2020-10-01.pdf](https://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2020-10-01/Exhibit_II_A_MMA-2020-10-01.pdf) (last visited Mar. 8, 2021). Medicaid managed care plans are also allowed to customize their benefit packages and offer additional services beyond the minimum they are required to cover. *See* s. 409.973(2), F.S., Massage therapy has been approved by the AHCA as an additional service that plans may offer, and, according to the AHCA, 14 Medicaid managed care plans are currently covering massage therapy. *See also*, Agency for Health Care Administration, *Florida Medicaid Health Plan*

massage therapy is covered and provided under those respective benefit packages. The fiscal impact is indeterminate at this time.

The Department of Health cites a need to amend a majority of the rules in ch. 64B7 of the Florida Administrative Code to update the term “massage” to “massage therapy,” in accordance with the term’s replacement by this bill. The Department states that it will be able to absorb any non-recurring cost associated with this rulemaking.<sup>38</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 480.031, 480.032, 480.033, 477.013, 477.0135, 477.0265, 480.034, 480.035, 480.041, 480.043, 480.046, 480.0465, 480.047, 480.052, 480.0535, 627.6407, 627.6619, 627.736, 641.31, and 823.05.

**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 Health Policy on February 4, 2021:**

The CS removes from the underlying bill the authorization for a massage therapist to apply over-the-counter topical agents, or prescription topical agents prescribed by a third-party health care practitioner, to the body of a massage client. The CS reverts to current law regarding which substances may be applied to the human body by a massage therapist.

- B. **Amendments:**

None.

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

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*Expanded Benefits, available at*  
[https://ahca.myflorida.com/Medicaid/statewide\\_mc/pdf/mma/EB\\_by\\_Plan\\_October\\_2019.pdf](https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/EB_by_Plan_October_2019.pdf) (last visited Mar. 8, 2021).

<sup>38</sup> Florida Department of Health, *SB 352 Agency Analysis* (Jan. 2021) (on file with the Senate Committee on Commerce and Tourism).

By the Committee on Health Policy; and Senator Rodriguez

588-01986-21

2021352c1

A bill to be entitled

An act relating to massage therapy; renaming ch. 480, F.S., as "Massage Therapy Practice"; amending s. 480.031, F.S.; revising a short title; amending s. 480.032, F.S.; revising the purpose of ch. 480, F.S.; reordering and amending s. 480.033, F.S.; revising and defining terms; amending ss. 477.013, 477.0135, 477.0265, 480.034, 480.035, 480.041, 480.043, 480.046, 480.0465, 480.047, 480.052, 480.0535, 627.6407, 627.6619, 627.736, 641.31, and 823.05, F.S.; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Chapter 480, Florida Statutes, entitled "Massage Practice," is renamed "Massage Therapy Practice."

Section 2. Section 480.031, Florida Statutes, is amended to read:

480.031 Short title.—This act ~~shall be known and~~ may be cited as the "Massage Therapy Practice Act."

Section 3. Section 480.032, Florida Statutes, is amended to read:

480.032 Purpose.—The Legislature recognizes that the unregulated practice of massage therapy poses a danger is ~~potentially dangerous~~ to the public in that massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of

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the body. Massage therapy is a therapeutic health care practice, and regulations are necessary to protect the public from unqualified practitioners. It is therefore deemed necessary in the interest of public health, safety, and welfare to regulate the practice of massage therapy in this state ~~and, therefore,~~ ~~however,~~ ~~restrictions must shall~~ be imposed to the extent necessary to protect the public from significant and discernible danger to health ~~and yet not~~ in ~~such~~ a manner that does not ~~which will~~ unreasonably affect the competitive market. Further, consumer protection for both health and economic matters must ~~shall~~ be afforded the public through legal remedies provided for in this act.

Section 4. Section 480.033, Florida Statutes, is reordered and amended to read:

480.033 Definitions.—As used in this act:

(2) ~~(1)~~ "Board" means the Board of Massage Therapy.

(5) ~~(2)~~ "Department" means the Department of Health.

(11) ~~(3)~~ "Massage therapy" means the manipulation of the soft tissues of the human body with the hand, foot, knee, arm, or elbow, regardless of whether ~~or not~~ such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

(10) ~~(4)~~ "Massage therapist" means a person licensed as required by this act, who performs administers ~~administers~~ massage therapy, including massage therapy assessment, for compensation.

(1) ~~(5)~~ "Apprentice" means a person approved by the board to study colonic irrigation under the instruction of a licensed massage therapist practicing colonic irrigation.

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59       ~~(4)(6)~~ "Colonic irrigation" means a method of hydrotherapy  
60 used to cleanse the colon with the aid of a mechanical device  
61 and water.

62       (7) "Establishment" or "massage establishment" means a site  
63 or premises, or portion thereof, wherein a massage therapist  
64 practices massage therapy.

65       ~~(9)(8)~~ "Licensure" means the procedure by which a person,  
66 hereinafter referred to as a "practitioner," applies to the  
67 board for approval to practice massage therapy or to operate an  
68 establishment.

69       ~~(3)(9)~~ "Board-approved massage therapy school" means a  
70 facility that meets minimum standards for training and  
71 curriculum as determined by rule of the board and that is  
72 licensed by the Department of Education pursuant to chapter 1005  
73 or the equivalent licensing authority of another state or is  
74 within the public school system of this state or a college or  
75 university that is eligible to participate in the William L.  
76 Boyd, IV, Effective Access to Student Education Grant Program.

77       ~~(8)(10)~~ "Establishment owner" means a person who has  
78 ownership interest in a massage establishment. The term includes  
79 an individual who holds a massage establishment license, a  
80 general partner of a partnership, an owner or officer of a  
81 corporation, and a member of a limited liability company and its  
82 subsidiaries who holds a massage establishment license.

83       ~~(6)(11)~~ "Designated establishment manager" means a massage  
84 therapist who holds a clear and active license without  
85 restriction, who is responsible for the operation of a massage  
86 establishment in accordance with the provisions of this chapter,  
87 and who is designated the manager by the rules or practices at

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88 the establishment.

89       ~~(12)~~ "Massage therapy assessment" means the determination  
90 of the course of massage therapy treatment.

91       Section 5. Subsection (13) of section 477.013, Florida  
92 Statutes, is amended to read:

93       477.013 Definitions.—As used in this chapter:

94       (13) "Skin care services" means the treatment of the skin  
95 of the body, other than the head, face, and scalp, by the use of  
96 a sponge, brush, cloth, or similar device to apply or remove a  
97 chemical preparation or other substance, except that chemical  
98 peels may be removed by peeling an applied preparation from the  
99 skin by hand. Skin care services must be performed by a licensed  
100 cosmetologist or facial specialist within a licensed cosmetology  
101 or specialty salon, and such services may not involve massage  
102 therapy, as defined in s. 480.033 ~~s. 480.033(3)~~, through  
103 manipulation of the superficial tissue.

104       Section 6. Paragraph (a) of subsection (1) of section  
105 477.0135, Florida Statutes, is amended to read:

106       477.0135 Exemptions.—

107       (1) This chapter does not apply to the following persons  
108 when practicing pursuant to their professional or occupational  
109 responsibilities and duties:

110       (a) Persons authorized under the laws of this state to  
111 practice medicine, surgery, osteopathic medicine, chiropractic  
112 medicine, massage therapy, naturopathy, or podiatric medicine.

113       Section 7. Paragraph (f) of subsection (1) of section  
114 477.0265, Florida Statutes, is amended to read:

115       477.0265 Prohibited acts.—

116       (1) It is unlawful for any person to:

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117 (f) Advertise or imply that skin care services, as  
 118 performed under this chapter, have any relationship to the  
 119 practice of massage therapy as defined in s. 480.033 ~~or~~  
 120 ~~480.033(3)~~, except those practices or activities defined in s.  
 121 477.013.

122 Section 8. Subsection (4) of section 480.034, Florida  
 123 Statutes, is amended to read:

124 480.034 Exemptions.—

125 (4) An exemption granted is effective to the extent that an  
 126 exempted person's practice or profession overlaps with the  
 127 practice of massage therapy.

128 Section 9. Subsection (2) of section 480.035, Florida  
 129 Statutes, is amended to read:

130 480.035 Board of Massage Therapy.—

131 (2) Five members of the board shall be licensed massage  
 132 therapists and shall have been engaged in the practice of  
 133 massage therapy for not less than 5 consecutive years prior to  
 134 the date of appointment to the board. The Governor shall appoint  
 135 each member for a term of 4 years. Two members of the board  
 136 shall be laypersons. Each board member shall be a high school  
 137 graduate or shall have received a high school equivalency  
 138 diploma. Each board member shall be a citizen of the United  
 139 States and a resident of this state for not less than 5 years.  
 140 The appointments are ~~will be~~ subject to confirmation by the  
 141 Senate.

142 Section 10. Subsections (1) and (4) and paragraph (b) of  
 143 subsection (5) of section 480.041, Florida Statutes, are amended  
 144 to read:

145 480.041 Massage therapists; qualifications; licensure;

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146 endorsement.—

147 (1) Any person is qualified for licensure as a massage  
 148 therapist under this act who meets all of the following  
 149 requirements:

150 (a) Is at least 18 years of age or has received a high  
 151 school diploma or high school equivalency diploma. ~~+~~

152 (b) Has completed a course of study at a board-approved  
 153 massage therapy school that meets standards adopted by the  
 154 board. ~~+~~ ~~and~~

155 (c) Has received a passing grade on a national examination  
 156 designated by the board.

157 (4) Upon an applicant's passing the examination and paying  
 158 the initial licensure fee, the department shall issue to the  
 159 applicant a license, valid until the next scheduled renewal  
 160 date, to practice massage therapy.

161 (5) The board shall adopt rules:

162 (b) Providing for educational standards, examination, and  
 163 certification for the practice of colonic irrigation, as defined  
 164 in s. 480.033 ~~or~~ ~~480.033(6)~~, by massage therapists.

165 Section 11. Subsection (14) of section 480.043, Florida  
 166 Statutes, is amended to read:

167 480.043 Massage establishments; requisites; licensure;  
 168 inspection; human trafficking awareness training and policies.—

169 (14) Except for the requirements of subsection (13), this  
 170 section does not apply to a physician licensed under chapter  
 171 457, chapter 458, chapter 459, or chapter 460 who employs a  
 172 licensed massage therapist to perform massage therapy on the  
 173 physician's patients at the physician's place of practice. This  
 174 subsection does not restrict investigations by the department

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175 for violations of chapter 456 or this chapter.

176 Section 12. Paragraphs (a), (b), (c), (f) through (i), and  
177 (o) of subsection (1) of section 480.046, Florida Statutes, are  
178 amended to read:

179 480.046 Grounds for disciplinary action by the board.—

180 (1) The following acts constitute grounds for denial of a  
181 license or disciplinary action, as specified in s. 456.072(2):

182 (a) Attempting to procure a license to practice massage  
183 therapy by bribery or fraudulent misrepresentation.

184 (b) Having a license to practice massage therapy revoked,  
185 suspended, or otherwise acted against, including the denial of  
186 licensure, by the licensing authority of another state,  
187 territory, or country.

188 (c) Being convicted or found guilty, regardless of  
189 adjudication, of a crime in any jurisdiction which directly  
190 relates to the practice of massage therapy or to the ability to  
191 practice massage therapy. Any plea of nolo contendere shall be  
192 considered a conviction for purposes of this chapter.

193 (f) Aiding, assisting, procuring, or advising any  
194 unlicensed person to practice massage therapy contrary to ~~the~~  
195 ~~provisions of~~ this chapter or to department or board a rule of  
196 ~~the department or the board~~.

197 (g) Making deceptive, untrue, or fraudulent representations  
198 in the practice of massage therapy.

199 (h) Being unable to practice massage therapy with  
200 reasonable skill and safety by reason of illness or use of  
201 alcohol, drugs, narcotics, chemicals, or any other type of  
202 material or as a result of any mental or physical condition. In  
203 enforcing this paragraph, the department ~~shall have~~, upon

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204 probable cause, ~~may authority to~~ compel a massage therapist to  
205 submit to a mental or physical examination by physicians  
206 designated by the department. Failure of a massage therapist to  
207 submit to such examination when so directed, unless the failure  
208 was due to circumstances beyond her or his control, constitutes  
209 ~~shall constitute~~ an admission of the allegations against her or  
210 him, consequent upon which a default and final order may be  
211 entered without the taking of testimony or presentation of  
212 evidence. A massage therapist affected under this paragraph  
213 shall at reasonable intervals be afforded an opportunity to  
214 demonstrate that she or he can resume the competent practice of  
215 massage therapy with reasonable skill and safety to clients.

216 (i) Gross or repeated malpractice or the failure to  
217 practice massage therapy with that level of care, skill, and  
218 treatment which is recognized by a reasonably prudent massage  
219 therapist as being acceptable under similar conditions and  
220 circumstances.

221 (o) Practicing massage therapy at a site, location, or  
222 place which is not duly licensed as a massage establishment,  
223 except that a massage therapist, as provided by ~~rules adopted by~~  
224 ~~the board rule~~, may provide massage therapy services, excluding  
225 colonic irrigation, at the residence of a client, at the office  
226 of the client, at a sports event, at a convention, or at a trade  
227 show.

228 Section 13. Section 480.0465, Florida Statutes, is amended  
229 to read:

230 480.0465 Advertisement.—Each massage therapist or massage  
231 establishment licensed under ~~the provisions of~~ this act shall  
232 include the number of the license in any advertisement of

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233 message therapy services appearing in a newspaper, airwave  
 234 transmission, telephone directory, or other advertising medium.  
 235 Pending licensure of a new massage establishment pursuant to ~~the~~  
 236 ~~provisions of~~ s. 480.043(7), the license number of a licensed  
 237 massage therapist who is an owner or principal officer of the  
 238 establishment may be used in lieu of the license number for the  
 239 establishment.

240 Section 14. Paragraphs (a), (b), and (c) of subsection (1)  
 241 of section 480.047, Florida Statutes, are amended to read:

242 480.047 Penalties.—

243 (1) It is unlawful for any person to:

244 (a) Hold himself or herself out as a massage therapist or  
 245 to practice massage therapy unless duly licensed under this  
 246 chapter or unless otherwise specifically exempted from licensure  
 247 under this chapter.

248 (b) Operate any massage establishment unless it has been  
 249 duly licensed as provided herein, except that nothing herein  
 250 shall be construed to prevent the teaching of massage therapy in  
 251 this state at a board-approved massage therapy school.

252 (c) Permit an employed person to practice massage therapy  
 253 unless duly licensed as provided herein.

254 Section 15. Section 480.052, Florida Statutes, is amended  
 255 to read:

256 480.052 Power of county or municipality to regulate massage  
 257 therapy.—A county or municipality, within its jurisdiction, may  
 258 regulate persons and establishments licensed under this chapter.  
 259 Such regulation may shall not exceed the powers of the state  
 260 under this act or be inconsistent with this act. This section  
 261 may shall not be construed to prohibit a county or municipality

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262 from enacting any regulation of persons or establishments not  
 263 licensed pursuant to this act.

264 Section 16. Subsections (1) and (2) of section 480.0535,  
 265 Florida Statutes, are amended to read:

266 480.0535 Documents required while working in a massage  
 267 establishment.—

268 (1) In order to provide the department and law enforcement  
 269 agencies the means to more effectively identify, investigate,  
 270 and arrest persons engaging in human trafficking, a person  
 271 employed by a massage establishment and any person performing  
 272 massage therapy therein must immediately present, upon the  
 273 request of an investigator of the department or a law  
 274 enforcement officer, valid government identification while in  
 275 the establishment. Any of the following is a valid government  
 276 identification for the purposes of this section ~~is~~:

277 (a) A valid, unexpired driver license issued by any state,  
 278 territory, or district of the United States. ~~†~~

279 (b) A valid, unexpired identification card issued by any  
 280 state, territory, or district of the United States. ~~†~~

281 (c) A valid, unexpired United States passport. ~~†~~

282 (d) A naturalization certificate issued by the United  
 283 States Department of Homeland Security. ~~†~~

284 (e) A valid, unexpired alien registration receipt card  
 285 (green card). ~~†~~ ~~or~~

286 (f) A valid, unexpired employment authorization card issued  
 287 by the United States Department of Homeland Security.

288 (2) A person operating a massage establishment must:

289 (a) Immediately present, upon the request of an  
 290 investigator of the department or a law enforcement officer:

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291 1. Valid government identification while in the  
292 establishment.

293 2. A copy of the documentation specified in paragraph  
294 (1) (a) for each employee and any person performing massage  
295 therapy in the establishment.

296 (b) Ensure that each employee and any person performing  
297 massage therapy in the massage establishment is able to  
298 immediately present, upon the request of an investigator of the  
299 department or a law enforcement officer, valid government  
300 identification while in the establishment.

301 Section 17. Section 627.6407, Florida Statutes, is amended  
302 to read:

303 627.6407 Massage.—Any policy of health insurance that  
304 provides coverage for massage shall also cover the services of  
305 persons licensed to practice massage therapy pursuant to chapter  
306 480, where the massage therapy, as defined in chapter 480, has  
307 been prescribed by a physician licensed under chapter 458,  
308 chapter 459, chapter 460, or chapter 461, as being medically  
309 necessary and the prescription specifies the number of  
310 treatments.

311 Section 18. Section 627.6619, Florida Statutes, is amended  
312 to read:

313 627.6619 Massage.—Any policy of health insurance that  
314 provides coverage for massage shall also cover the services of  
315 persons licensed to practice massage therapy pursuant to chapter  
316 480, where the massage therapy, as defined in chapter 480, has  
317 been prescribed by a physician licensed under chapter 458,  
318 chapter 459, chapter 460, or chapter 461, as being medically  
319 necessary and the prescription specifies the number of

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320 treatments.

321 Section 19. Paragraph (a) of subsection (1) of section  
322 627.736, Florida Statutes, is amended to read:

323 627.736 Required personal injury protection benefits;  
324 exclusions; priority; claims.—

325 (1) REQUIRED BENEFITS.—An insurance policy complying with  
326 the security requirements of s. 627.733 must provide personal  
327 injury protection to the named insured, relatives residing in  
328 the same household, persons operating the insured motor vehicle,  
329 passengers in the motor vehicle, and other persons struck by the  
330 motor vehicle and suffering bodily injury while not an occupant  
331 of a self-propelled vehicle, subject to subsection (2) and  
332 paragraph (4) (e), to a limit of \$10,000 in medical and  
333 disability benefits and \$5,000 in death benefits resulting from  
334 bodily injury, sickness, disease, or death arising out of the  
335 ownership, maintenance, or use of a motor vehicle as follows:

336 (a) *Medical benefits*.—Eighty percent of all reasonable  
337 expenses for medically necessary medical, surgical, X-ray,  
338 dental, and rehabilitative services, including prosthetic  
339 devices and medically necessary ambulance, hospital, and nursing  
340 services if the individual receives initial services and care  
341 pursuant to subparagraph 1. within 14 days after the motor  
342 vehicle accident. The medical benefits provide reimbursement  
343 only for:

344 1. Initial services and care that are lawfully provided,  
345 supervised, ordered, or prescribed by a physician licensed under  
346 chapter 458 or chapter 459, a dentist licensed under chapter  
347 466, a chiropractic physician licensed under chapter 460, or an  
348 advanced practice registered nurse registered under s. 464.0123

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349 or that are provided in a hospital or in a facility that owns,  
 350 or is wholly owned by, a hospital. Initial services and care may  
 351 also be provided by a person or entity licensed under part III  
 352 of chapter 401 which provides emergency transportation and  
 353 treatment.

354 2. Upon referral by a provider described in subparagraph  
 355 1., followup services and care consistent with the underlying  
 356 medical diagnosis rendered pursuant to subparagraph 1. which may  
 357 be provided, supervised, ordered, or prescribed only by a  
 358 physician licensed under chapter 458 or chapter 459, a  
 359 chiropractic physician licensed under chapter 460, a dentist  
 360 licensed under chapter 466, or an advanced practice registered  
 361 nurse registered under s. 464.0123, or, to the extent permitted  
 362 by applicable law and under the supervision of such physician,  
 363 osteopathic physician, chiropractic physician, or dentist, by a  
 364 physician assistant licensed under chapter 458 or chapter 459 or  
 365 an advanced practice registered nurse licensed under chapter  
 366 464. Followup services and care may also be provided by the  
 367 following persons or entities:

368 a. A hospital or ambulatory surgical center licensed under  
 369 chapter 395.

370 b. An entity wholly owned by one or more physicians  
 371 licensed under chapter 458 or chapter 459, chiropractic  
 372 physicians licensed under chapter 460, advanced practice  
 373 registered nurses registered under s. 464.0123, or dentists  
 374 licensed under chapter 466 or by such practitioners and the  
 375 spouse, parent, child, or sibling of such practitioners.

376 c. An entity that owns or is wholly owned, directly or  
 377 indirectly, by a hospital or hospitals.

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378 d. A physical therapist licensed under chapter 486, based  
 379 upon a referral by a provider described in this subparagraph.

380 e. A health care clinic licensed under part X of chapter  
 381 400 which is accredited by an accrediting organization whose  
 382 standards incorporate comparable regulations required by this  
 383 state, or

384 (I) Has a medical director licensed under chapter 458,  
 385 chapter 459, or chapter 460;

386 (II) Has been continuously licensed for more than 3 years  
 387 or is a publicly traded corporation that issues securities  
 388 traded on an exchange registered with the United States  
 389 Securities and Exchange Commission as a national securities  
 390 exchange; and

391 (III) Provides at least four of the following medical  
 392 specialties:

393 (A) General medicine.

394 (B) Radiography.

395 (C) Orthopedic medicine.

396 (D) Physical medicine.

397 (E) Physical therapy.

398 (F) Physical rehabilitation.

399 (G) Prescribing or dispensing outpatient prescription  
 400 medication.

401 (H) Laboratory services.

402 3. Reimbursement for services and care provided in  
 403 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
 404 licensed under chapter 458 or chapter 459, a dentist licensed  
 405 under chapter 466, a physician assistant licensed under chapter  
 406 458 or chapter 459, or an advanced practice registered nurse

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407 licensed under chapter 464 has determined that the injured  
408 person had an emergency medical condition.

409 4. Reimbursement for services and care provided in  
410 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a  
411 provider listed in subparagraph 1. or subparagraph 2. determines  
412 that the injured person did not have an emergency medical  
413 condition.

414 5. Medical benefits do not include massage therapy as  
415 defined in s. 480.033 or acupuncture as defined in s. 457.102,  
416 regardless of the person, entity, or licensee providing massage  
417 therapy or acupuncture, and a licensed massage therapist or  
418 licensed acupuncturist may not be reimbursed for medical  
419 benefits under this section.

420 6. The Financial Services Commission shall adopt by rule  
421 the form that must be used by an insurer and a health care  
422 provider specified in sub-subparagraph 2.b., sub-subparagraph  
423 2.c., or sub-subparagraph 2.e. to document that the health care  
424 provider meets the criteria of this paragraph. Such rule must  
425 include a requirement for a sworn statement or affidavit.

426  
427 Only insurers writing motor vehicle liability insurance in this  
428 state may provide the required benefits of this section, and  
429 such insurer may not require the purchase of any other motor  
430 vehicle coverage other than the purchase of property damage  
431 liability coverage as required by s. 627.7275 as a condition for  
432 providing such benefits. Insurers may not require that property  
433 damage liability insurance in an amount greater than \$10,000 be  
434 purchased in conjunction with personal injury protection. Such  
435 insurers shall make benefits and required property damage

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436 liability insurance coverage available through normal marketing  
437 channels. An insurer writing motor vehicle liability insurance  
438 in this state who fails to comply with such availability  
439 requirement as a general business practice violates part IX of  
440 chapter 626, and such violation constitutes an unfair method of  
441 competition or an unfair or deceptive act or practice involving  
442 the business of insurance. An insurer committing such violation  
443 is subject to the penalties provided under that part, as well as  
444 those provided elsewhere in the insurance code.

445 Section 20. Subsection (37) of section 641.31, Florida  
446 Statutes, is amended to read:

447 641.31 Health maintenance contracts.—

448 (37) All health maintenance contracts that provide coverage  
449 for massage must also cover the services of persons licensed to  
450 practice massage therapy pursuant to chapter 480 if the massage  
451 is prescribed by a contracted physician licensed under chapter  
452 458, chapter 459, chapter 460, or chapter 461 as medically  
453 necessary and the prescription specifies the number of  
454 treatments. Such massage services are subject to the same terms,  
455 conditions, and limitations as those of other covered services.

456 Section 21. Subsection (3) of section 823.05, Florida  
457 Statutes, is amended to read:

458 823.05 Places and groups engaged in certain activities  
459 declared a nuisance; abatement and enjoinder.—

460 (3) A massage establishment as defined in s. 480.033 ~~or~~  
461 ~~480.033(7)~~ which operates in violation of s. 480.0475 or s.  
462 480.0535(2) is declared a nuisance and may be abated or enjoined  
463 as provided in ss. 60.05 and 60.06.

464 Section 22. This act shall take effect July 1, 2021.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** February 4, 2021

---

I respectfully request that **Senate Bill 806**, relating to Tax Exemption for Diapers and Incontinence Products, be placed on the:

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

Thank you for your consideration.

A handwritten signature in cursive script that reads "Lauren Book".

---

Senator Lauren Book  
Florida Senate, District 32

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/21

Meeting Date

SB 806

Bill Number (if applicable)

Topic Diaper Tax Exemption

Amendment Barcode (if applicable)

Name Kaitlin Guidry

Job Title \_\_\_\_\_

Address 3600 Oak Knoll Ct

Phone 904 699 0480

Street

Panama City

City

FL

State

32408

Zip

Email kam08d@my.fsu.edu

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Junior League of Panama City Diaper Bank

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/9

Meeting Date

806

Bill Number (if applicable)

Topic Tax Exemption

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 201 E. Park Ave

Phone 251-2672

Street

Tallahassee FL 32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Consumer Health Care Products Assoc (CHPA)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/9/2021  
Meeting Date

SB806  
Bill Number (if applicable)

Topic Diaper tax + Feminine Hygiene tax

Amendment Barcode (if applicable)

Name Gabriela Rojas

Job Title Executive Director

Address 4770 Biscayne Blvd. suite 980 Phone 305-926-3815  
Street

Miami FL 33137 Email info@miamidiaperbank.com  
City State Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Miami Diaper Bank

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/09/21  
Meeting Date

SB 806  
Bill Number (if applicable)

Topic Diaper Tax Exemption

Amendment Barcode (if applicable)

Name Christy Rogers

Job Title Junior League of Panama City Diaper Bank Founder

Address 736 Jenks Avenue

Phone 850 380 4155

Panama City FL 32401  
City State Zip

Email christyrogers@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Junior League of Panama City Diaper Bank

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/9/2022

Meeting Date

SB 806

Bill Number (if applicable)

Topic DIAPER TAX EXEMPTION

Amendment Barcode (if applicable)

Name ERIC ADELSON

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 718-792-6483

Street

Email ericadelson@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA ESSENTIAL NEEDS COALITION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 806
<b>BILL TITLE:</b>	Tax Exemption for Diapers and Incontinence Products
<b>BILL SPONSOR:</b>	Senator Book
<b>EFFECTIVE DATE:</b>	01/01/2022

### COMMITTEES OF REFERENCE

1) Commerce and Tourism
2) Finance and Tax
3) Appropriations
4)
5)

### CURRENT COMMITTEE

Commerce and Tourism
----------------------

### SIMILAR BILLS

<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

### PREVIOUS LEGISLATION

<b>YEAR/BILL NUMBER/SPONSOR/LAST ACTION:</b> 2020 SB 54/ Senator Book/ Died in Finance and Tax 2020 HB 87/ Representative Mercado/ Died in Ways and Means Committee 2019 SB 60/ Senator Book/ Died in Appropriations
---

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	02/12/2021
<b>LEAD AGENCY ANALYST:</b>	Debbie Longman (850) 617-8324

POLICY ANALYSIS

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

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

**PRESENT SITUATION**

Tangible personal property is subject to sales and use tax, unless specifically exempt. Diapers and incontinence products are currently taxable.

**EFFECT OF THE BILL**

The bill would exempt the sale for human use of diapers, incontinence undergarments, incontinence pads, and incontinence liners from sales and use tax.

Section 2. (p. 2): Provides for an effective date of January 1, 2022.

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

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

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

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

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

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

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

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FISCAL ANALYSIS

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

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

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

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

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

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TECHNOLOGY IMPACT

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If any, see attached Fiscal Impact Analysis.

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FEDERAL IMPACT

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If any, see Additional Comments section below.

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ADDITIONAL COMMENTS

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

**11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION?**  YES    NO

If no, go to #12. If yes:

**A. Identify bill number or source.**

**B. Were issues/problems identified?**  YES    NO

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

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

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

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

**13. OTHER:** None



**2021  
DEPARTMENT OF REVENUE  
FISCAL IMPACT ANALYSIS**

**Bill number** SB 806  
**Short title** Tax Exemption for Diapers and Incontinence Products  
**Bill sponsor** Senator Book

**Date of Analysis:** February 15, 2021  
**Agency Contact:** Debbie Longman

**Telephone:** (850) 617-8324

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

<b>I. FISCAL IMPACT ON STATE AGENCY:</b>	<b>(FY 20-21) \$ / FTE</b>	<b>(FY 21-22) \$ / FTE</b>	<b>(FY 22-23) \$ / FTE</b>	<b>(FY 23-22) \$ / FTE</b>
<b>A. REVENUES: All revenue estimates will be provided by the Revenue Estimating Conference.</b>				
<b>B. EXPENDITURES:</b>				
<b>1. Recurring</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
FTE				
Salaries				
OPS				
Expense				
HR Contract				
Contracted Services				
<b>2. Non-Recurring</b>	<b>\$0</b>	<b>\$54,000</b>	<b>\$0</b>	<b>\$0</b>
OPS				
Expense		<b>\$54,000</b>		
OCO				
Contracted Services				
<b>C. TOTAL:</b>	<b>\$0</b>	<b>\$54,000</b>	<b>\$0</b>	<b>\$0</b>
GR				
TF				

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

The proposed bill provides an exemption from sales and use tax on the sale of diapers, incontinence undergarments, incontinence pads, and incontinence liners for human use. Provides for an effective date of January 1, 2022.

**Tax Information Publication (TIP): FY 21/22 - \$54,000 (Non-Recurring)**

A Tax Information Publication (TIP) will be sent to approximately 153,000 businesses advising of the new sales tax exemption effective January 1, 2022. The estimated cost to print and mail the TIP is \$54,000. The TIP will also be posted to the Department's TIP website.

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

**IV. COMMENTS:**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 806

INTRODUCER: Senators Book and Stewart

SUBJECT: Tax Exemption for Diapers and Incontinence Products

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 806 exempts the sale of diapers, incontinence undergarments, incontinence pads, and incontinence liners from state sales and use tax.

The bill takes effect January 1, 2022.

**II. Present Situation:**

**Florida Sales Tax**

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,<sup>1</sup> admissions,<sup>2</sup> transient rentals,<sup>3</sup> and a limited number of services. In addition to the 6 percent sales tax, Florida law authorizes counties to levy discretionary sales surtaxes.<sup>4</sup> Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale. Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.<sup>5</sup>

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

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<sup>1</sup> Section 212.05(1)(a)1.a, F.S.

<sup>2</sup> Section 212.04(b), F.S.

<sup>3</sup> Section 212.03(1)(a), F.S.

<sup>4</sup> Section 212.055, F.S.

<sup>5</sup> Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 8, 2021).

<sup>6</sup> *Id.* at 166-171.

Medical products and supplies considered necessary to human health are among the items exempt from sales and use tax.<sup>7</sup> Such products and supplies include ostomy pouches, catheters, and mastectomy pads. Common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease, such as alcohol wipes, bandages, and gauze, are also exempt from sales and use tax. Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.<sup>8</sup>

Diapers are not currently exempt from sales and use tax in Florida. However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays, most recently in 2020.<sup>9</sup>

### *Other States*

Of the 45 states that impose a sales tax,<sup>10</sup> California, Connecticut, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia do not subject the sale of diapers to state sales tax.<sup>11</sup> Maryland and North Dakota exempt diapers used for incontinence, but not baby diapers.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 212.08(7)(ppp), F.S., to exempt diapers, incontinence undergarments, incontinence pads, and incontinence liners from state sales and use tax.

The bill takes effect January 1, 2022.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

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

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the

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<sup>7</sup> Section 212.08(2)(a), F.S.

<sup>8</sup> The Department of Business and Professional Regulation is responsible for prescribing and approving a list of common household remedies, which is then certified by the Department of Revenue. See Department of Revenue, *Nontaxable Medical Items and Grocery List*, available at [https://floridarevenue.com/Forms\\_library/current/dr46nt.pdf](https://floridarevenue.com/Forms_library/current/dr46nt.pdf) (last visited Mar. 8, 2021).

<sup>9</sup> Department of Revenue, *2020 Back-to-School Sales Tax Holiday Tax Information Publication*, available at [https://revenue.law.floridarevenue.com/LawLibraryDocuments/2020/06/TIP-123084\\_TIP\\_20A01-04\\_FINAL\\_RLL.pdf](https://revenue.law.floridarevenue.com/LawLibraryDocuments/2020/06/TIP-123084_TIP_20A01-04_FINAL_RLL.pdf) (last visited Mar. 8, 2021).

<sup>10</sup> Alaska, Delaware, Montana, New Hampshire, and Oregon do not levy a state sales tax. See Tax Foundation, *State and Local Sales Tax Rates (2020)*, available at <https://files.taxfoundation.org/20200115132659/State-and-Local-Sales-Tax-Rates-2020.pdf> (last visited Mar. 8, 2021).

<sup>11</sup> National Diaper Bank Network, *Sales Tax on Diaper Purchases by State*, available at <https://nationaldiaperbanknetwork.org/state-issues/> (last visited Mar. 8, 2021).

<sup>12</sup> *Id.*

legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,<sup>13, 14</sup> which is \$2.1 million or less for Fiscal Year 2020-2021.<sup>15</sup>

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill, but determined that a previous year's bill with identical language would reduce local option surtax revenue by \$3.7 million in the first fiscal year after adoption, with an \$8.8 million recurring reduction.<sup>16</sup> Therefore, the bill may have a significant impact on local governments and the mandate provisions may apply.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet estimated the fiscal impact of the bill, but determined that a previous year's bill with identical language would reduce General Revenue Fund receipts by \$20 million in the first fiscal year after adoption, with a \$48.2 million recurring reduction.<sup>17</sup>

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<sup>13</sup> FLA. CONST. art. VII, s. 18(d).

<sup>14</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 8, 2021).

<sup>15</sup> Based on the Demographic Estimating Conference's population adopted on November 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 8, 2021).

<sup>16</sup> Office of Economic and Demographic Research, *Revenue Estimating Conference Report: Sales Tax Exemption for Diapers and Incontinence Products* (2019), available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/page11-13.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/page11-13.pdf) (last visited Mar. 8, 2021).

<sup>17</sup> *Id.*

**B. Private Sector Impact:**

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

**C. Government Sector Impact:**

The Department of Revenue estimates that they will incur a cost associated with printing and mailing a Tax Information Publication (TIP) to businesses advising of the new sales tax exemption. The estimated cost to print and mail the TIP is \$54,000.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.08 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

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

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<sup>18</sup> Department of Revenue, *SB 806, 2021 Agency Legislative Bill Analysis* (on file with the Committee on Commerce and Tourism).

By Senator Book

32-00537-21

2021806\_\_

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

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

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

12 212.08 Sales, rental, use, consumption, distribution, and  
13 storage tax; specified exemptions.—The sale at retail, the  
14 rental, the use, the consumption, the distribution, and the  
15 storage to be used or consumed in this state of the following  
16 are hereby specifically exempt from the tax imposed by this  
17 chapter.  
18

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

Page 1 of 2

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

32-00537-21

2021806\_\_

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

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

41 Section 2. This act shall take effect January 1, 2022.

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development, *Chair*  
Appropriations  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Criminal Justice  
Ethics and Elections  
Transportation

### SENATOR GEORGE B. GAINER

2nd District

February 13, 2021

Re: SB 968

Dear Chair Hooper,

I am respectfully requesting Senate Bill 968, related to Public Records/Economic Development Agency, be placed on the agenda for the next meeting of the Committee on Commerce and Tourism

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer  
District 2

Cc: Todd McKay, Kathryn Vigrass, Brian Flaherty, Mari Riba, Charles Smith

#### REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/09/2021

*Meeting Date*

SB 968

*Bill Number (if applicable)*

Topic SB 968 - Public Records/ Economic Development Agency

*Amendment Barcode (if applicable)*

Name John Schrader

Job Title Director of Legislative and Cabinet Affairs, DEO

Address 107 E. Madison Street, Caldwell Building

Phone (850) 245-7116

*Street*

Tallahassee

FL

32399

Email John.Schrader@deo.myflorida.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Economic Opportunity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 968

INTRODUCER: Senator Gainer

SUBJECT: Public Records/Economic Development Agency

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Favorable</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 968 creates a public records exemption for certain identifying information held by an economic development agency, including the Department of Economic Opportunity, pursuant to the administration of a state or federally funded small business loan program.

The bill provides for the automatic repeal of the public records exemption on October 2, 2026, unless reenacted by the Legislature under the Open Government Sunset Review Act.

The bill takes effect July 1, 2021.

**II. Present Situation:**

**Access to Public Records - Generally**

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

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

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

### **Executive Agency Records – The Public Records Act**

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

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

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

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

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

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

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

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

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

<sup>8</sup> Section 119.07(1)(a), F.S.

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

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

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

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

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

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act<sup>16</sup> (the Act) prescribes a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

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

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

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

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

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

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

<sup>16</sup> Section 119.15, F.S.

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

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

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

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

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

### **Economic Development Agencies**

Section 288.075, F.S., defines an “economic development agency” as:

- The Department of Economic Opportunity;
- Any industrial development authority created in accordance with part III of chapter 159 of the Florida Statutes, or by special law;
- Space Florida;
- The public economic development agency of a county or municipality;
- Any research and development authority created in accordance of part v of chapter 159 of the Florida Statutes; or
- Any private agency, person, partnership, corporation, or business entity authorized by the state, a municipality, or a county to promote the general business or industrial interests of the state or that municipality or county (e.g. Enterprise Florida, Inc.<sup>27</sup>).

### ***Small Business Loan Programs***

The Department of Economic Opportunity administers a number of state and federally funded small business loan programs, including:<sup>28</sup>

- Small Business Emergency Bridge Loan Program;
- Rebuild Florida Business Loan Fund;
- Rural Community Development Revolving Loan Program;
- Small Business Loan Program;
- Microfinance Guarantee Program; and
- Black Business Loan Program.

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

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

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> See s. 288.901, F.S.

<sup>28</sup> Department of Economic Opportunity, *Small and Minority Business Programs*, available at <https://floridajobs.org/community-planning-and-development/Small-and-Minority-Business-Development-Resources/Small-and-Minority-Business-Programs> (last visited Mar. 8, 2021).

### **Existing Public Records Exemptions for Economic Development Agencies**

Section 288.075, F.S., provides for a number of temporary public records exemptions for information held by an economic development agency, including:

- Information concerning a corporation's plans to relocate or expand any of its business activities in the state, for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed;
- Proprietary confidential business information, until the information becomes publicly available or is no longer treated by the proprietor as confidential; and
- Specific sales, employee wage, and tax information the administration of an economic incentive program for qualified businesses, for the duration of the incentive agreement or upon termination of the agreement.

Trade secrets, federal employer identification numbers, reemployment assistance account numbers, and Florida sales tax registration numbers are permanently exempt from public records.<sup>29</sup>

An employee of an economic development agency who violates the provisions of s. 288.075, F.S., commits a second degree misdemeanor, punishable by a maximum penalty of 60 days in jail or a \$500 fine.<sup>30</sup>

### **III. Effect of Proposed Changes:**

**Section 1** exempts certain information held by an economic development agency pursuant to its administration of a state or federally funded small business loan program from inspection by the public. Specifically, the bill exempts:

- The home address, telephone number, and e-mail address of a person who submits an application for a loan on behalf of a business;
- Tax returns;
- Bank and financial statements; and
- Credit history information, credit reports, and credit scores.

The bill does not prohibit the disclosure of such exempt information in an aggregated and anonymized format.

The public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

**Section 2** provides a public necessity statement. Economic development agencies may obtain sensitive locating and identifying information about borrowers that, if released, could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the borrower. The statement specifies that the public records exemption is necessary to ensure borrowers are not harassed, intimidated, or potentially defrauded.

---

<sup>29</sup> Sections 288.075(3) and (5), F.S.

<sup>30</sup> Section 288.075(7), F.S.

**Section 3** provides an effective date of July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

***Vote Requirement***

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

***Public Necessity Statement***

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

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. This bill creates a public records exemption for certain information held by an economic development agency pursuant to its administration of a state or federally funded small business loan program. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 288.075 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 Gainer

2-00919-21

2021968\_\_

1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 288.075, F.S.; providing an exemption from public  
 4 records requirements for certain information held by  
 5 an economic development agency; providing that such  
 6 information may be released in an aggregated and  
 7 anonymized format; providing for future legislative  
 8 review and repeal of the exemption; providing a  
 9 statement of public necessity; providing an effective  
 10 date.

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

13  
 14 Section 1. Present subsection (7) of section 288.075,  
 15 Florida Statutes, is redesignated as subsection (8), and a new  
 16 subsection (7) is added to that section, to read:

17 288.075 Confidentiality of records.—

18 (7) LOAN PROGRAMS.—

19 (a) The following information held by an economic  
 20 development agency pursuant to its administration of a state or  
 21 federally funded small business loan program is exempt from s.  
 22 119.07(1) and s. 24(a), Art. I of the State Constitution:

23 1. The home address, telephone number, and e-mail address  
 24 of a person who submits an application for a loan on behalf of a  
 25 business.

26 2. Tax returns.

27 3. Bank and financial statements.

28 4. Credit history information, credit reports, and credit  
 29 scores.

Page 1 of 3

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

2-00919-21

2021968\_\_

30 (b) This section does not prohibit the disclosure of  
 31 information held by an economic development agency pursuant to  
 32 its administration of a small business loan program in an  
 33 aggregated and anonymized format.

34 (c) This subsection is subject to the Open Government  
 35 Sunset Review Act in accordance with s. 119.15 and shall stand  
 36 repealed on October 2, 2026, unless reviewed and saved from  
 37 repeal through reenactment by the Legislature.

38 Section 2. The Legislature finds that it is a public  
 39 necessity that the home address, telephone number, and e-mail  
 40 address of a person who submits an application for a loan on  
 41 behalf of a business; tax returns; bank and financial  
 42 statements; and credit history information, credit reports, and  
 43 credit scores held by an economic development agency pursuant to  
 44 its administration of any state or federally funded small  
 45 business loan program be made exempt from s. 119.07(1), Florida  
 46 Statutes, and s. 24(a), Article I of the State Constitution. In  
 47 order to process and disburse loan funds, an economic  
 48 development agency may obtain sensitive information needed to  
 49 assess viability of loans. This information may be used to  
 50 locate and identify and contact the borrower. If released,  
 51 locating and identifying information could be used by fraudulent  
 52 contractors, predatory lenders, thieves, or individuals seeking  
 53 to impose on the borrower. Therefore, it is necessary that  
 54 certain information held by an economic development agency  
 55 pursuant to its administration of any state or federally funded  
 56 small business loan program be protected to ensure that  
 57 borrowers are not harassed, intimidated, or potentially  
 58 defrauded.

Page 2 of 3

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

2-00919-21

2021968\_\_

59

Section 3. This act shall take effect July 1, 2021.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Judiciary, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development  
Military and Veterans Affairs, Space,  
and Domestic Security  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

**SENATOR AUDREY GIBSON**  
6th District

February 23, 2021

Senator Ed Hooper, Chair  
Committee on Commerce and Tourism  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chair Hooper:

I respectfully request that SB 1120, be placed on the next committee agenda.

SB 1120, will limit telemarketing calls to the same recipient over a 24-hour period, on the same subject matter or issue and regardless of phone number used to make the call. Currently, a commercial telephone seller or salesperson can contact an individual via direct call, automated calls or recorded messages continuously, with no restrictions. Solicitation numbers are often altered persuading the recipient to answer.

Thank you for your kind and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson".

Audrey Gibson  
State Senator  
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553  
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



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

---

February 24, 2021

**Agency Affected:** Dept. of Agriculture and Consumer Services

**Telephone:** 850-617-7000

**Agency Contact:** Emily Buckley, Legislative Affairs Director

**Telephone:** 850-617-7700

---

**Senate Bill Number:** 1120

**Senate Bill Sponsor:** Senator Gibson

**Bill Title:** Commercial Telephone Solicitation

**Effective Date:** July 1, 2021

**Similar Bill(s):** Yes  No

**Similar Bill(s):**

**Identical Bill:** Yes  No

**Identical Bill:** HB 857: Commercial Telephone Solicitation by Rep. Morales

---

**1. SUMMARY**

SB 1120 would amend s. 501.616(6), F.S., to prohibit commercial telephone sellers and salespersons from making calls before 8 a.m. or after 8 p.m. in the call recipient's time zone. It would also prohibit making more than three commercial telephone solicitation calls to the same person regarding the same subject matter within any 24-hour period. In addition, the law would be revised to clarify that both of the aforementioned prohibitions apply to calls made using automated dialers or recorded messages. Section 501.604, F.S., would be reenacted (without revision) to incorporate those amendments.

**2. PRESENT SITUATION**

Under existing law, commercial telephone solicitation calls may be made from 8 a.m. to 9 p.m., and there is no limit to the number of calls that may be lawfully placed by the same caller to the same phone number regarding the same subject in a single day.

Currently, the introductory language of s. 501.616(6), F.S., does not explicitly include reference to the use of automated dialers or recorded messages when establishing specific prohibitions.

**3. EFFECT OF PROPOSED CHANGES**

The number of hours during which commercial telephone solicitation calls may be made will be reduced from thirteen (8 a.m. to 9 p.m.) to twelve (8 a.m. to 8 p.m.). A commercial telephone seller or salesperson will be limited to three calls related to the same subject matter to any given person during a 24-hour period; using different phone numbers to make the calls will not affect this limitation.

The law will explicitly state that these limitations apply to calls made using automated dialers or recorded messages.

**4. FISCAL IMPACT ON FDACS**

Currently, the Florida Department of Agriculture and Consumer Services is unable to estimate a fiscal impact, if any, the proposed bill may have on the Department.

However, with the addition of another prohibited act, there may be an increase in the number of complaints filed with and cases worked by the Department.

	(FY 21-22) Amount/ FTE	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE
<b>A. Revenues</b>			
Recurring			
Non-Recurring			
TOTAL REVENUES	N/A	N/A	N/A
<b>B. Expenditures</b>			
Recurring			
Non-Recurring			
TOTAL EXPENDITURES	N/A	N/A	N/A
<b>C. NET TOTAL</b>	N/A	N/A	N/A

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

No.

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

Potentially. The number of hours during which calls may be lawfully made will be reduced by one.

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

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

A new violation will be created, and an existing violation will be expanded. Both violations are punishable through the imposition of existing fines.

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

No.

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

a. Yes:  No:

b. If yes please explain:

The Department's rulemaking authority would be expanded to the extent necessary to allow for the implementation of these statutory changes.

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

a. Yes:  No:

b. If yes please explain:

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

a. Yes:  No:

b. If yes please explain:

**LEGAL ISSUES**

**10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?**

No.

**11. Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department?**

No.

**12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?**

Unknown.

**COMMENTS:**

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 1120

INTRODUCER: Senator Gibson

SUBJECT: Commercial Telephone Solicitation

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	<b>Favorable</b>
2.			RI	
3.			RC	

---

**I. Summary:**

SB 1120 amends the Florida Telemarketing Act to prohibit a telephone seller or salesperson from calling consumers outside of the hours between 8 a.m. and 8 p.m. of the consumer’s time zone and prohibits telephone sellers and salespersons from contacting consumers on the same subject matter more than three times in a 24-hour period. The bill also clarifies that calls made through an automated dialer or recorded message are subject to the same prohibitions.

The bill takes effects on July 1, 2021.

**II. Present Situation:**

**Unsolicited Phone Calls**

Consumers are often inundated with unwanted calls. In fiscal year 2020, the Federal Trade Commission (FTC) received 293,071 complaints from Florida consumers about unwanted telephone calls.<sup>1</sup> The Federal Communications Commission (FCC) reports that unwanted calls constitute their top consumer complaint.<sup>2</sup> Unwanted calls can come in many forms, including robocalls, which use an autodialer<sup>3</sup> and play a recorded message upon connection with the consumer; spoofed calls, which transmit falsified information to a consumer’s caller ID to disguise the solicitor’s identity; and unwanted telemarketing calls.

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<sup>1</sup> Federal Trade Commission, *Do Not Call Data Book 2020*, (Oct. 2020), available at [https://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2020/dnc\\_data\\_book\\_2020.pdf](https://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2020/dnc_data_book_2020.pdf) (last visited Mar. 8, 2020).

<sup>2</sup> Federal Communications Commission, *Stop Unwanted Calls and Texts*, (Mar. 2, 2021) <https://www.fcc.gov/consumers/guides/stop-unwanted-calls-and-texts> (last visited Mar. 8, 2021).

<sup>3</sup> An autodialer is equipment that has the capacity to produce or store phone numbers using a random or sequential number generator, and to call those phone numbers. 47 U.S.C. § 227(a)(1).



State and federal action is limited to combat these issues because there are legitimate and legal uses of this technology. For example, a doctor's office may legally use a robocall to remind one of an upcoming appointment.<sup>4</sup> Additionally, some solicitors act outside the scope of federal or state enforcement authority.

## **Federal Law**

### ***Telephone Consumer Protection Act***<sup>5</sup>

The Telephone Consumer Protection Act of 1991 (TCPA) protects U.S. consumers from unwanted communications by restricting the use of autodialers, prerecorded sales messages, and unsolicited sales calls, text messages, or faxes.

The TCPA prohibits telephone solicitations that:

- Are made to residences before 8 am, and after 9 pm;
- Fail to provide the consumer with the solicitor's identity, including his or her true phone number via caller identification service,<sup>6</sup> and an opportunity to opt out of the current call, and all future calls made by that solicitor;
- Send artificial or pre-recorded messages to a residential line; and
- Use an autodialer, artificial message, or pre-recorded messages to a cellular, emergency, or hospital room line.

The TCPA grants a private right of action to pursue actual monetary damages or up to \$500 per violation.<sup>7</sup> State attorneys general and the FCC also have jurisdiction to investigate and file civil claims based on violations of the TCPA.<sup>8</sup>

The TCPA's protections extend to text messaging in the same manner that they apply to telephone calls.<sup>9</sup>

### ***Federal Do Not Call Program***<sup>10</sup>

The FTC, in concert with the FCC, administers the National Do Not Call Program.<sup>11</sup> Telephone solicitors may not contact a consumer who participates in the National Do Not Call Program, unless the calls are:<sup>12</sup>

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<sup>4</sup> Federal Communication Commission, Consumer and Governmental Affairs Bureau, *Report on Robocalls* (Feb. 2019), CG Docket No. 17-59, available at <https://www.fcc.gov/document/fcc-issues-report-illegal-robocalls> (last visited Mar. 8, 2021). See also, Federal Communications Commission, *Stop Unwanted Calls and Texts--Spoofing*, (Mar. 2, 2021) <https://www.fcc.gov/consumers/guides/stop-unwanted-calls-and-texts> (last visited Mar. 8, 2021).

<sup>5</sup> 47 U.S.C. § 227. See also, 47 CFR § 64.1200 (2012).

<sup>6</sup> 47 C.F.R. § 64.1601(e). See also, Federal Communications Commission, *Public Notice: FCC's Caller ID Rules for Telemarketers Become Effective* (Jan. 29, 2004) [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-04-206A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-04-206A1.pdf) (last visited Mar. 8, 2021).

<sup>7</sup> 47 U.S.C. § 227 (c)(5).

<sup>8</sup> 47 U.S.C. § 227 (f).

<sup>9</sup> Federal Communications Commission, *FCC Strengthens Consumer Protections Against Unwanted Calls and Texts* (Jun. 18, 2015) [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-333993A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-333993A1.pdf) (last visited Mar. 8, 2021).

<sup>10</sup> See, 15 U.S.C. § 6101.

<sup>11</sup> Federal Communications Commission, *Stop Unwanted Calls and Texts—The National Do Not Call List*, (Mar. 2, 2021) <https://www.fcc.gov/consumers/guides/stop-unwanted-calls-and-texts> (last visited Mar. 8, 2021).

<sup>12</sup> 47 U.S.C. § 227(a)(4); See also, 47 C.F.R. § 64.1200 (2012).

- Made with a consumer’s prior, express permission;
- Informational in nature, such as those made to convey a utility outage, school closing, or flight information; or
- Made by a tax-exempt organization.

### ***Truth in Caller ID Act***<sup>13</sup>

The Truth in Caller ID Act of 2009 protects consumers by making it unlawful for any person to transmit misleading or inaccurate caller ID information with the intent to defraud, cause harm, or wrongfully obtain anything of value. The FCC investigates and prosecutes violations of the act under its rules.<sup>14</sup> The FCC has taken enforcement actions totaling \$450 million in recent years against telemarketers for call spoofing violations—of note, the FCC imposed its largest fine ever against a Florida-based timeshare marketing operation.<sup>15</sup>

To protect individual privacy concerns, an individual caller may still request to hide his or her phone number when making a call.<sup>16</sup>

## **Florida Law**

### ***Florida Telemarketing Act***

The Florida Telemarketing Act (Telemarketing Act), part IV of ch. 501, F.S., requires commercial telephone sellers (usually a business entity) and their individual salespersons to obtain a license from the Department of Agriculture and Consumer Services (Department). An applicant for licensure as a commercial telephone seller must submit, among other information:<sup>17</sup>

- Its criminal, civil, and administrative disciplinary background;
- All phone numbers from which the applicant will solicit business and the physical address at which the phones will be located;
- The script it will use during a solicitation, or any informational literature it will provide to a consumer; and
- A bond, letter of credit, or certificate of deposit to serve as security in any future case of fraud, breach of contract, financial failure, or violation by the licensee.

As part of their licensure, individual salespersons (who are hired by commercial telephone sellers to act as their salespersons) undergo a similar review of their criminal, civil, administrative or regulatory disciplinary history, but they are not required to post a bond, letter of credit, or certificate of deposit.<sup>18</sup>

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<sup>13</sup> 47 U.S.C. § 227 (e).

<sup>14</sup> See, 47 CFR § 64.

<sup>15</sup> Federal Communications Commission, *The FCC’s Push to Combat Robocalls & Spoofing: Major Fines Against Spoofers* <https://www.fcc.gov/spoofed-robocalls> (last visited Mar. 8, 2021). See also, Federal Communications Commission, *FCC Fines Massive Neighbor Spoofing Robocall Operation \$120 Million* (May 10, 2018) <https://www.fcc.gov/document/fcc-fines-massive-neighbor-spoofing-robocall-operation-120-million> (last visited Mar. 8, 2021).

<sup>16</sup> 47 CFR § 64.1601

<sup>17</sup> Section 501.605, F.S.

<sup>18</sup> Section 501.607, F.S.

Many solicitors are exempt from licensure under the Telemarketing Act, including religious, charitable, political, or educational organizations that have a s. 501(c)(3) or (6) exemption from the Internal Revenue Code; licensed securities, commodities, or investment brokers and dealers; and newspaper or cable television sellers, among others.<sup>19</sup>

Licensed telephone sellers and solicitors must identify themselves to the consumer within 30 seconds of the beginning of the phone call.<sup>20</sup> To ensure that the Department can conduct thorough investigations, when needed, a licensed telephone seller must also maintain copies of their business records for at least 2 years—including all of the names and telephone numbers that they contacted.<sup>21</sup>

All telephone sellers and solicitors, whether exempt or not, are prohibited from calling consumers outside of the hours of 8:00 a.m. and 9:00 p.m. of the called person's local time.<sup>22</sup> Additionally, all solicitors must allow their name or telephone number to be transmitted to the consumer if the equipment they use is capable. This prevents solicitors from 'spoofing' a different number or otherwise blocking their caller identification to induce a consumer to answer the phone.<sup>23</sup>

### ***Florida Do Not Call Act***

The Department also administers the Florida Do Not Call Act (also called the "Do Not Call List"), which prohibits unsolicited phone calls and text messages.<sup>24</sup> Residents who do not wish to receive sales calls may request to have their residential, mobile, or paging device telephone number included on the Department's list.<sup>25</sup>

A communication is unsolicited, and therefore prohibited under the Do Not Call List, unless the contact is made:

- At the consumer's request;
- By a charitable or political organization that is seeking donations;
- As part of a survey, or for the purpose of research seeking an opinion;
- In connection with an existing debt or contract for which payment is due; or
- By a newspaper publisher, or his or her agent or employee, in connection with the publisher's business.

Section 501.059, F.S., further prohibits a telephone solicitor<sup>26</sup> from calling, text messaging, sending a direct voicemail transmission, or using automated telephone equipment to contact any consumer who has previously communicated to the solicitor that he or she does not wish to

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<sup>19</sup> See, s. 501.604, F.S.

<sup>20</sup> Section 501.613, F.S.

<sup>21</sup> Section 501.6175, F.S.

<sup>22</sup> Section 501.616(6); see also, s. 501.604, F.S., which provides a general exemption from the Telemarketing Act, "except ss. 501.608 and 501.616(6) and (7)."

<sup>23</sup> Section 501.616(7), F.S.

<sup>24</sup> See, s. 501.059, F.S. Florida Department of Agriculture and Consumer Services, *Florida Do Not Call*, <https://www.fdacs.gov/Consumer-Resources/Florida-Do-Not-Call> (last visited Mar. 8, 2021).

<sup>25</sup> Section 501.059(3)-(4), F.S.

<sup>26</sup> Section 501.059(1)(f), defines a 'telephone solicitor' as a natural person or business that does business in this state by making or causing to be made a telephone sales call.

receive a telephone call, whether or not he or she is part of the Do Not Call List. However, this prohibition applies only to calls made by or on behalf of a seller who offers goods or services or a charity that solicits a charitable contribution.

A telephone solicitor who violates this provision is subject to a civil penalty with a maximum fine of \$10,000 per violation, or an administrative fine with a maximum of \$1,000 per violation, in addition to attorney's fees and costs.<sup>27</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 501.616(6), F.S., to limit the activities of telephone sellers and salespersons by reducing the number of hours during which they may call consumers by one hour. Currently, telephone sellers and salespersons may solicit between 8 a.m. and 9 p.m. local time in the consumer's location. The bill permits solicitations during 8 a.m. and 8 p.m. in the consumer's time zone.

The bill further prohibits telephone sellers and salespersons from calling a consumer more than three times over a 24-hour period about the same subject matter. This prohibition applies, regardless of the phone number a telephone seller or salesperson uses to call the consumer.

The bill also applies these prohibitions to a commercial telephone seller or salesperson's use of an automated dialer or recorded message.

These changes will apply to licensed telephone sellers and salespersons, and those entities who solicit under the s. 501.604, F.S., licensure exemptions of the Telemarketing Act.

**Sections 2 and 3** reenact ss. 501.604 and 648.44(1)(c), F.S., respectively, to incorporate the changes made to s. 501.616, F.S.

**Section 4** provides that the bill takes effect July 1, 2021.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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<sup>27</sup> Section 501.059(9), F.S.

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:

The bill adds prohibited acts to the Florida Telemarketing Act. The department, as enforcing authority of the Act, estimates that it may see an increase in consumer complaints and prosecutions as a result; it also states that it will be required to expand its rulemaking to allow for implementation of these changes. The Department states that this may result in an indeterminate costs to the Department.<sup>28</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 501.616, F.S., and reenacts ss. 501.604 and 648.44, F.S.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

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<sup>28</sup> Department of Agriculture and Consumer Services, *SB 1120 Agency Analysis* (Feb. 24, 2021) (on file with the Senate Committee on Commerce and Tourism).

B. Amendments:

None.

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

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By Senator Gibson

6-00624A-21

20211120\_\_

1 A bill to be entitled  
 2 An act relating to commercial telephone solicitation;  
 3 amending s. 501.616, F.S.; prohibiting a commercial  
 4 telephone seller or salesperson from using automated  
 5 dialing or recorded messages to make certain  
 6 commercial telephone solicitation phone calls;  
 7 revising the timeframe during which a commercial  
 8 telephone seller or salesperson may make commercial  
 9 solicitation phone calls; prohibiting commercial  
 10 telephone sellers or salespersons from making a  
 11 specified number of commercial telephone solicitation  
 12 phone calls to a person over a specified timeframe;  
 13 reenacting s. 501.604, F.S., relating to exemptions to  
 14 the Florida Telemarketing Act, to incorporate the  
 15 amendment made to s. 501.616, F.S., in a reference  
 16 thereto; reenacting s. 648.44(1)(c), F.S., relating to  
 17 prohibitions regarding bail bond agent telephone  
 18 solicitations, to incorporate the amendment made to s.  
 19 501.616, F.S., in a reference thereto; providing an  
 20 effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24 Section 1. Subsection (6) of section 501.616, Florida  
 25 Statutes, is amended to read:

26 501.616 Unlawful acts and practices.—

27 (6) A commercial telephone seller or salesperson may not  
 28 make any of the following types of phone calls, including calls  
 29 made through automated dialing or recorded messages:

Page 1 of 9

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

6-00624A-21

20211120\_\_

30 (a) A commercial telephone solicitation phone call before 8  
 31 a.m. or after 8 9 p.m. local time in at the called person's time  
 32 zone location.

33 (b) More than three commercial telephone solicitation phone  
 34 calls from any number to a person over a 24-hour period on the  
 35 same subject matter or issue, regardless of the phone number  
 36 used to make the call.

37 Section 2. For the purpose of incorporating the amendment  
 38 made by this act to section 501.616, Florida Statutes, in a  
 39 reference thereto, section 501.604, Florida Statutes, is  
 40 reenacted to read:

41 501.604 Exemptions.—The provisions of this part, except ss.  
 42 501.608 and 501.616(6) and (7), do not apply to:

43 (1) A person engaging in commercial telephone solicitation  
 44 where the solicitation is an isolated transaction and not done  
 45 in the course of a pattern of repeated transactions of like  
 46 nature.

47 (2) A person soliciting for religious, charitable,  
 48 political, or educational purposes. A person soliciting for  
 49 other noncommercial purposes is exempt only if that person is  
 50 soliciting for a nonprofit corporation and if that corporation  
 51 is properly registered as such with the Secretary of State and  
 52 is included within the exemption of s. 501(c)(3) or (6) of the  
 53 Internal Revenue Code.

54 (3) A person who does not make the major sales presentation  
 55 during the telephone solicitation and who does not intend to,  
 56 and does not actually, complete or obtain provisional acceptance  
 57 of a sale during the telephone solicitation, but who makes the  
 58 major sales presentation and completes the sale at a later face-

Page 2 of 9

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

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59 to-face meeting between the seller and the prospective purchaser  
60 in accordance with the home solicitation provisions in this  
61 chapter. However, if a seller, directly following a telephone  
62 solicitation, causes an individual whose primary purpose it is  
63 to go to the prospective purchaser to collect the payment or  
64 deliver any item purchased, this exemption does not apply.

65 (4) A licensed securities, commodities, or investment  
66 broker, dealer, or investment adviser, when soliciting within  
67 the scope of his or her license, or a licensed associated person  
68 of a securities, commodities, or investment broker, dealer, or  
69 investment adviser, when soliciting within the scope of his or  
70 her license. As used in this section, "licensed securities,  
71 commodities, or investment broker, dealer, or investment  
72 adviser" means a person subject to license or registration as  
73 such by the Securities and Exchange Commission, by the Financial  
74 Industry Regulatory Authority or other self-regulatory  
75 organization as defined by the Securities Exchange Act of 1934,  
76 15 U.S.C. s. 781, or by an official or agency of this state or  
77 of any state of the United States. As used in this section,  
78 "licensed associated person of a securities, commodities, or  
79 investment broker, dealer, or investment adviser" means an  
80 associated person registered or licensed by the Financial  
81 Industry Regulatory Authority or other self-regulatory  
82 organization as defined by the Securities Exchange Act of 1934,  
83 15 U.S.C. s. 781, or by an official or agency of this state or  
84 of any state of the United States.

85 (5) A person primarily soliciting the sale of a newspaper  
86 of general circulation.

87 (6) A book, video, or record club or contractual plan or

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88 arrangement:

89 (a) Under which the seller provides the consumer with a  
90 form which the consumer may use to instruct the seller not to  
91 ship the offered merchandise.

92 (b) Which is regulated by the Federal Trade Commission  
93 trade regulation concerning "use of negative option plans by  
94 sellers in commerce."

95 (c) Which provides for the sale of books, records, or  
96 videos which are not covered under paragraph (a) or paragraph  
97 (b), including continuity plans, subscription arrangements,  
98 standing order arrangements, supplements, and series  
99 arrangements under which the seller periodically ships  
100 merchandise to a consumer who has consented in advance to  
101 receive such merchandise on a periodic basis.

102 (7) A supervised financial institution or parent,  
103 subsidiary, or affiliate thereof operating within the scope of  
104 supervised activity. As used in this section, "supervised  
105 financial institution" means a commercial bank, trust company,  
106 savings and loan association, mutual savings bank, credit union,  
107 industrial loan company, consumer finance lender, commercial  
108 finance lender, or insurer, provided that the institution is  
109 subject to supervision by an official or agency of this state,  
110 of any state, or of the United States. For the purposes of this  
111 exemption, "affiliate" means a person who directly, or  
112 indirectly through one or more intermediaries, controls or is  
113 controlled by, or is under common control with, a supervised  
114 financial institution.

115 (8) Any licensed insurance broker, agent, customer  
116 representative, or solicitor when soliciting within the scope of



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117 his or her license. As used in this section, "licensed insurance  
118 broker, agent, customer representative, or solicitor" means any  
119 insurance broker, agent, customer representative, or solicitor  
120 licensed by an official or agency of this state or of any state  
121 of the United States.

122 (9) A person soliciting the sale of services provided by a  
123 cable television system operating under authority of a franchise  
124 or permit.

125 (10) A business-to-business sale where:

126 (a) The commercial telephone seller has been lawfully  
127 operating continuously for at least 3 years under the same  
128 business name and has at least 50 percent of its dollar volume  
129 consisting of repeat sales to existing businesses;

130 (b) The purchaser business intends to resell or offer for  
131 purposes of advertisement or as a promotional item the property  
132 or goods purchased; or

133 (c) The purchaser business intends to use the property or  
134 goods purchased in a recycling, reuse, remanufacturing, or  
135 manufacturing process.

136 (11) A person who solicits sales by periodically publishing  
137 and delivering a catalog of the seller's merchandise to  
138 prospective purchasers, if the catalog:

139 (a) Contains a written description or illustration of each  
140 item offered for sale.

141 (b) Includes the business address or home office address of  
142 the seller.

143 (c) Includes at least 20 pages of written material and  
144 illustrations and is distributed in more than one state.

145 (d) Has an annual circulation by mailing of not less than

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146 150,000.

147 (12) A person who solicits contracts for the maintenance or  
148 repair of goods previously purchased from the person making the  
149 solicitation or on whose behalf the solicitation is made.

150 (13) A commercial telephone seller licensed pursuant to  
151 chapter 516 or part III of chapter 520. For purposes of this  
152 exemption, the seller must solicit to sell a consumer good or  
153 service within the scope of his or her license and the completed  
154 transaction must be subject to the provisions of chapter 516 or  
155 part III of chapter 520.

156 (14) A telephone company subject to chapter 364, or  
157 affiliate thereof or its agents, or a telecommunications  
158 business that is regulated by the Florida Public Service  
159 Commission, or a Federal Communications Commission licensed  
160 cellular telephone company or other bona fide radio  
161 telecommunication services provider. For the purposes of this  
162 exemption, "affiliate" means a person who directly, or  
163 indirectly through one or more intermediaries, controls or is  
164 controlled by, or is under common control with, a telephone  
165 company subject to chapter 364.

166 (15) A person who is licensed pursuant to chapter 497 and  
167 who is soliciting within the scope of the license.

168 (16) An issuer or a subsidiary of an issuer that has a  
169 class of securities which is subject to s. 12 of the Securities  
170 Exchange Act of 1934, 15 U.S.C. s. 781, and which is either  
171 registered or exempt from registration under paragraph (A),  
172 paragraph (B), paragraph (C), paragraph (E), paragraph (F),  
173 paragraph (G), or paragraph (H) of subsection (g) (2) of that  
174 section.

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175 (17) A business soliciting exclusively the sale of  
 176 telephone answering services provided that the telephone  
 177 answering services will be supplied by the solicitor.

178 (18) A person soliciting a transaction regulated by the  
 179 Commodity Futures Trading Commission if the person is registered  
 180 or temporarily licensed for this activity with the Commodity  
 181 Futures Trading Commission under the Commodity Exchange Act, 7  
 182 U.S.C. ss. 1 et seq., and the registration or license has not  
 183 expired or been suspended or revoked.

184 (19) A person soliciting the sale of food or produce as  
 185 defined in chapter 500 or chapter 504 if the solicitation  
 186 neither intends to result in, or actually results in, a sale  
 187 which costs the purchaser in excess of \$500.

188 (20) A person who is registered pursuant to part XI of  
 189 chapter 559 and who is soliciting within the scope of the  
 190 registration.

191 (21) A person soliciting business from prospective  
 192 consumers who have an existing business relationship with or who  
 193 have previously purchased from the business enterprise for which  
 194 the solicitor is calling, if the solicitor is operating under  
 195 the same exact business name.

196 (22) A person who has been operating, for at least 1 year,  
 197 a retail business establishment under the same name as that used  
 198 in connection with telemarketing, and both of the following  
 199 occur on a continuing basis:

200 (a) Either products are displayed and offered for sale or  
 201 services are offered for sale and provided at the business  
 202 establishment.

203 (b) A majority of the seller's business involves the buyer

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204 obtaining such products or services at the seller's location.

205 (23) A person who is a registered developer or exchange  
 206 company pursuant to chapter 721 and who is soliciting within the  
 207 scope of the chapter.

208 (24) Any person who has been lawfully providing  
 209 telemarketing sales services continuously for at least 5 years  
 210 under the same ownership and control and who derives 75 percent  
 211 of its gross telemarketing sales revenues from contracts with  
 212 persons exempted in this section.

213 (25) A person licensed pursuant to chapter 475 and who is  
 214 soliciting within the scope of the chapter.

215 (26) A publisher, or an agent of a publisher by written  
 216 agreement, who solicits the sale of his or her periodical or  
 217 magazine of general, paid circulation. The term "paid  
 218 circulation" shall not include magazines that are only  
 219 circulated as part of a membership package or that are given as  
 220 a free gift or prize from the publisher or agent of the  
 221 publisher by written agreement.

222 (27) A person who is a licensed operator or an  
 223 identification cardholder as defined in chapter 482, and who is  
 224 soliciting within the scope of the chapter.

225 (28) A licensee, or an affiliate of a licensee, regulated  
 226 under chapter 560, the Money Transmitters' Code, for foreign  
 227 currency exchange services.

228 Section 3. For the purpose of incorporating the amendment  
 229 made by this act to section 501.616, Florida Statutes, in a  
 230 reference thereto, paragraph (c) of subsection (1) of section  
 231 648.44, Florida Statutes, is reenacted to read:

232 648.44 Prohibitions; penalty.—

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233 (1) A bail bond agent or temporary bail bond agent may not:  
234 (c) Initiate in-person or telephone solicitation after 9:00  
235 p.m. or before 8:00 a.m., in the case of domestic violence  
236 cases, at the residence of the detainee or the detainee's  
237 family. Any solicitation not prohibited by this chapter must  
238 comply with the telephone solicitation requirements in ss.  
239 501.059(2) and (4), 501.613, and 501.616(6).  
240 Section 4. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

3/9/21

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 586

Bill Number (if applicable)

Topic Veterans Employment

Amendment Barcode (if applicable)

Name Joe Marino

Job Title Exec Director

Address 930 Thomasville Rd #100

Phone 850 322 2093

Street

Tall

FL

32303

Email marino@veteransflorida.org

City

State

Zip

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Veterans Florida

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

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THE FLORIDA SENATE

APPEARANCE RECORD

9 MARCH 2021

Meeting Date

SB 586

Bill Number (if applicable)

Topic Veterans Employment and Training

Amendment Barcode (if applicable)

Name Christian Cochran

Job Title Public Information and Research Specialist

Address 400 S. Monroe Street STE 2105

Phone 850-487-1500

Street

Tallahassee

Florida

32399

Email CochranC@FDVA.STATE.FL.US

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Department of Veterans Affairs

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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1230  
A1,CC

THE FLORIDA SENATE

APPEARANCE RECORD

3/9/2021

Meeting Date

586

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Bob Asztalos

Job Title Chairman

Address 400 S Monroe St

Phone 8502841166

Street

Tallahassee

FL

32399

Email chairman@helpflvets.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Veterans Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

12:30

THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 9, 2021

Meeting Date

586

Bill Number (if applicable)

Topic VETERANS EMPLOYMENT & TRAINING

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title president, Tallahassee Veterans Legal Collaborative

Address 319 E Park Ave

Phone 850/570-1967

Street

TALLAHASSEE

FL

32301

Email danbhendrickson@comcast.net

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

9 Mar 21  
*Meeting Date*

586  
*Bill Number (if applicable)*

Topic Veterans Apprenticeship Programs

*Amendment Barcode (if applicable)*

Name James Mosteller

Job Title Advocacy Associate

Address 215 South Monroe Street

Phone 850-727-3712

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email James@afloridapromise.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing The Foundation for Florida's Future

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)



YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3-9-2021

Meeting Date

586

Bill Number (if applicable)

Topic Veterans Employment and Training

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Director

Address 136 South Bronough St

Phone 5613863451

Street

Tallahassee

FL

32301

Email mchoy@flchamber.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 586

INTRODUCER: Senator Wright and others

SUBJECT: Veterans Employment and Training

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 586 designates Florida is for Veterans as the state’s principal assistance organization under the United States Department of Defense’s (department) SkillBridge program for employers and transitioning servicemembers.

In its role under the program, Florida is for Veterans is required to:

- Establish and maintain its certification for either the SkillBridge program or a similar workforce training and transition program established by the department;
- Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on opportunities available to transitioning servicemembers through the program;
- Assist businesses in obtaining approval for skilled workforce training curricula under the program, including apprenticeships, internships, or fellowships; and
- Match transitioning servicemembers who are deemed eligible for program participation by their military command with training opportunities offered by Florida is for Veterans or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in the state upon completion of their training.

The bill takes effect July 1, 2021.

## Present Situation:

### Transitioning Servicemembers

Each year, about 200,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.<sup>1</sup> Nationally, Florida has the third largest veteran population, with more than 1.5 million veterans. A significant number of these veterans are recently transitioned servicemembers.<sup>2</sup>

For example, for Fiscal Year 2019, the number of servicemembers transitioning into the workforce by duty location in the state was as follows:<sup>3</sup>

Duty Location	Servicemembers Transitioning
Pensacola NAS	768
NAS Whiting Field Milton	84
Hurlburt Field ABS FL	1,096
Eglin AFB	852
Tyndall AFB	488
NS Mayport	141
NAS Jacksonville	1,341
Patrick AFB	259
Macdill AFB	546
Miami	71
NAS Key West	176

### Florida Is For Veterans

The Florida Legislature created Florida is for Veterans, also known as Veterans Florida, in 2014.<sup>4</sup> Florida is for Veterans is a nonprofit that promotes the state as veteran-friendly by helping veterans adjust to civilian life through workplace and entrepreneurial assistance.<sup>5</sup> Florida is for Veterans operates a variety of training and employment assistance programs, including an Entrepreneurship Program, a Veteran Agriculture Program, and training during military service by industry partners through the United States Department of Defense SkillBridge program.

#### *Entrepreneurship Program*

Almost one in four active duty servicemembers wants to open their own business.<sup>6</sup> The Entrepreneurship Program offers veterans online and on-site instruction, facilitation, and

<sup>1</sup> Department of Defense SkillBridge, *Industry Partners and Employers*, available at <https://dodskillbridge.usalearning.gov/industry-employers.htm> (last visited March 8, 2021).

<sup>2</sup> Department of Veterans Affairs, *2021 Legislative Bill Analysis (SB 586)* (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>3</sup> *Id.*

<sup>4</sup> Section 12, ch. 2014-1, Laws of Fla.

<sup>5</sup> Section 295.21(2), F.S.

<sup>6</sup> Veterans Florida, *Annual Report 2020*, pg. 13; available at <https://www.veteransflorida.org/about/> (last visited March 8, 2021).

mentorship. Since the program began in early 2016, more than 3,200 veterans have applied, and 1,704 have been served.<sup>7</sup>

### ***The Veterans Florida Agriculture Program***

The Veterans Florida Agriculture Program is an intensive nine-month internship that educates veterans about modern agriculture production practice.<sup>8</sup> For the first six months, participants intern at the University of Florida/Institute of Agricultural Sciences Research and Education Centers. After the first internship, participants receive a three month paid internship with local agribusinesses or farms. At the end of the program, Florida is for Veterans help the veterans receive a permanent placement.<sup>9</sup>

### ***SkillBridge***

Florida is for Veterans, in partnership with the University of Florida, has started to expand SkillBridge fellowship offerings with employers to serve transitioning active-duty servicemembers.<sup>10</sup> On Feb. 10, 2021, the Florida Chamber of Commerce announced a partnership with Florida is for Veterans to launch a new coalition that will help servicemembers prepare to transition back into the workforce.<sup>11</sup> The coalition's mission will be to promote SkillBridge to employers and transitioning servicemembers, and to assist businesses with obtaining SkillBridge approval for skilled workforce training.<sup>12</sup> Another focus of the coalition will be on high-tech opportunities.<sup>13</sup>

## **Federal Programs for Transitioning Servicemembers**

### ***Transition Assistance Program***

The Transition Assistance Program (program) provides transitioning servicemembers employment information, tools, and training through a cooperative effort among the Department of Labor, and the Departments of Defense, Education, Homeland Security, Veterans Affairs, the Small Business Administration, and the Office of Personnel Management.<sup>14</sup> Workshop offerings include a mandatory one-day employment preparation workshop for transitioning servicemembers, and optional two-day workshops in career exploration and technical career preparation or general employment preparation.<sup>15</sup> The program also initiated the Department of Labor VETS Apprenticeship Pilot to provide counseling, apprenticeship, and placement services

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 15-16.

<sup>9</sup> *Id.*

<sup>10</sup> Florida Department of Veterans' Affairs, *Quarterly Report for the First Quarter of the 2020-2021 Fiscal Year*, pg. 16 (Nov. 20, 2020), available at <https://floridavets.org/leadership/quarterly-report/> (last visited March 8, 2021).

<sup>11</sup> Jordan Kirkland, The Capitolist, *Industry leaders form coalition to help servicemembers transition to civilian life* (Feb. 10, 2021) available at <https://thecapitolist.com/industry-leaders-form-coalition-to-help-servicemembers-transition-to-civilian-life/> (last visited March 8, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> U.S. Dep't of Labor, *Veterans' Employment and Training Service, Transition Assistance Program*, available at <https://www.dol.gov/agencies/vets/programs/tap> (last visited March 8, 2021).

<sup>15</sup> *Id.*

to transitioning servicemembers and their spouses who are interested in apprenticeship after separating from employment.<sup>16</sup>

### ***SkillBridge***

The Department of Defense SkillBridge program connects servicemembers with participating companies that provide training, apprenticeships, and internships. A servicemember is eligible to participate during his or her last 180 days of military service. Once approved, a unit commander authorizes the servicemember up to 180 days of permissive leave for the servicemember to gain civilian experience with an industry participant.<sup>17</sup> Companies benefit at no cost, and the servicemember continues to receive military compensation.

For servicemembers, SkillBridge provides a chance to work and learn in civilian career areas, and can help bridge the gap between the end of service and the beginning of civilian careers.<sup>18</sup>

Guard and Reserve members are also eligible to participate in SkillBridge, and if space is available, a veteran or a military spouse may seek a position in SkillBridge.<sup>19</sup>

To view opportunities, SkillBridge maintains an online platform of listings submitted by industry partners.<sup>20</sup> As of January 14, 2021, 52 SkillBridge programs operate in Florida.<sup>21</sup> An additional listing is provided of organizations that have been authorized by the Department of Defense through a “Memorandum of Understanding” to work with each of the branches of the military and installation commanders to develop SkillBridge training programs for their personnel. Florida is for Veterans is one of the 5 approved organizations in Florida.<sup>22</sup>

## **II. Effect of Proposed Changes:**

The bill designates Florida is for Veterans as the state’s principal assistance organization under the United States Department of Defense’s (department) SkillBridge program for employers and transitioning servicemembers.

In its role under the program, Florida is for Veterans is required to:

- Establish and maintain its certification for either the Skillbridge program or a similar workforce training and transition program established by the department;

<sup>16</sup> *Id.* The Pilot launched April 2020.

<sup>17</sup> Department of Defense SkillBridge, *What is SkillBridge? Program Overview*, available at <https://dodskillbridge.usalearning.gov/program-overview.htm> (last visited March 8, 2021).

<sup>18</sup> *Id.*

<sup>19</sup> Department of Defense, *SkillBridge, Frequently Asked Questions*; available at <https://dodskillbridge.usalearning.gov/faq.htm> (last visited March 8, 2021).

<sup>20</sup> Department of Defense, *SkillBridge Locations*, available at <https://dodskillbridge.usalearning.gov/locations.htm> (last visited March 8, 2021).

<sup>21</sup> Department of Veterans Affairs, *2021 Legislative Bill Analysis (SB 586)* (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>22</sup> Department of Defense, *Authorized SkillBridge Organizations*, available at <https://dodskillbridge.usalearning.gov/organizations.htm> (last visited March 8, 2021). The other approved organizations are Florida Homes Realty & Mortgage, JDog Junk Removal and Hauling - MVP Florida East, Northeast Florida Builders Association (NEFBA) Apprenticeship Training Program, and State College Florida Manatee - Sarasota - 26 West Business Incubator.

- Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on opportunities available to transitioning servicemembers through the program;
- Assist businesses in obtaining approval for skilled workforce training curricula under the program, including apprenticeships, internships, or fellowships; and
- Match transitioning servicemembers who are deemed eligible for program participation by their military command with training opportunities offered by Florida is for Veterans or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in the state upon completion of their training.

The bill takes effect July 1, 2021.

### **III. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None.

### **IV. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

Designating Florida is for Veterans as the principal assistance organization for SkillBridge may make it easier for both industry partners and servicemembers to access a single point of entry, thereby increasing the likelihood of participation.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 295.21 and 295.22.

VIII. 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 Wright

14-00495-21

2021586\_\_

A bill to be entitled

An act relating to veterans employment and training; amending s. 295.21, F.S.; directing Florida Is For Veterans, Inc., to serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program; amending s. 295.22, F.S.; prescribing duties of the corporation to facilitate the administration of the SkillBridge program; providing an effective date.

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

Section 1. Paragraph (g) is added to subsection (3) of section 295.21, Florida Statutes, to read:

295.21 Florida Is For Veterans, Inc.—

(3) DUTIES.—The corporation shall:

(g) Serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program for employers and transitioning servicemembers.

Section 2. Paragraph (f) is added to subsection (3) of section 295.22, Florida Statutes, to read:

295.22 Veterans Employment and Training Services Program.—

(3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall administer the Veterans Employment and Training Services Program and perform all of the following functions:

(f) As the state's principal assistance organization under the United States Department of Defense's SkillBridge program for qualified businesses in this state and for transitioning servicemembers who reside in, or who wish to reside in, this

Page 1 of 2

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

14-00495-21

2021586\_\_

state, the corporation shall:

1. Establish and maintain, as applicable, its certification for the SkillBridge program or any other similar workforce training and transition programs established by the United States Department of Defense;

2. Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on the opportunities available to transitioning servicemembers through the SkillBridge program;

3. Assist businesses in obtaining approval for skilled workforce training curricula under the SkillBridge program, including, but not limited to, apprenticeships, internships, or fellowships; and

4. Match transitioning servicemembers who are deemed eligible for SkillBridge participation by their military command with training opportunities offered by the corporation or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in this state upon completion of their SkillBridge training.

Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

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





The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** February 17, 2021

---

I respectfully request that **Senate Bill #982**, relating to Tax Refund Program for Qualified Target Industry Businesses, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: Todd McKay, Staff Director  
Kathryn Vigrass, Committee Administrative Assistant

THE FLORIDA SENATE

APPEARANCE RECORD

March 9<sup>th</sup>

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 902

Meeting Date

Bill Number (if applicable)

Topic

Tax Refund

Amendment Barcode (if applicable)

Name

David Sordani

Job Title

Retired Citizen of Fl. Corp.

one time

Address

166 Wintergreen Dr

Bus. Owner & Candidate

Street

Frontland Park Fl 3072

Phone

352 605 6597

City

State

Zip

Email

dsordani@att.net

Speaking:

For

Against

Information

Waive Speaking

In Support

Against

(The Chair will read this information into the record.)

Representing

Self & wife also a separate bussing retirement corp owner

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/09/2021

*Meeting Date*

SB 982

*Bill Number (if applicable)*

Topic SB 982 - Tax Refund Program for Qualified Target Industry Businesses

*Amendment Barcode (if applicable)*

Name Jake Felder

Job Title Director of Legislative Affairs, EFI

Address 101 North Monroe Street, Suite 1000

Phone (813) 220-0832

*Street*

Tallahassee

FL

32301

Email JFelder@enterpriseflorida.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Enterprise Florida, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/09/2021

*Meeting Date*

SB 982

*Bill Number (if applicable)*

Topic SB 982 - Tax Refund Program for Qualified Target Industry Businesses

*Amendment Barcode (if applicable)*

Name John Schrader

Job Title Director of Legislative and Cabinet Affairs, DEO

Address 107 E. Madison Street, Caldwell Building

Phone (850) 245-7116

*Street*

Tallahassee

FL

32399

Email John.Schrader@deo.myflorida.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Economic Opportunity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/9/21  
Meeting Date

982  
Bill Number (if applicable)

Topic QTI

Amendment Barcode (if applicable)

Name JERRY SANSON

Job Title \_\_\_\_\_

Address PO Box 98  
Street

Phone 321 698-4480

COCOA FL 32923  
City State Zip

Email FISHAWAY @ AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing NORTHROP GRUMMAN Corp

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

*Commerce  
12:30*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/9/21

*Meeting Date*

982

*Bill Number (if applicable)*

Topic Tax Refund Program for Qualified Target Industry Businesses

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior Vice President

Address 513 N Adams St

Phone 224-7173

*Street*

Tallahassee

FL

32301

Email bbevis@aif.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/21  
Meeting Date

982  
Bill Number (if applicable)

Topic Tax Relief Program for Qualified Target Industries

Amendment Barcode (if applicable)

Name Jim Taylor

Job Title \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_  
Street

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Hillsborough County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

3/9/2021

Meeting Date

SB982

Bill Number (if applicable)

Topic Commerce & Tourism

Amendment Barcode (if applicable)

Name Nicole Fogarty

Job Title Legislative Affairs Director

Address 2300 Virginia Ave.

Phone 772-708-3954

Street

Fort Pierce

FL

34982

Email FogartyN@stlucieco.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing St. Lucie County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

S-001 (10/14/14)



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THE FLORIDA SENATE

APPEARANCE RECORD

3/9/21

Meeting Date

982

Bill Number (if applicable)

Topic Tax Refund Program for Qualified Targeted Industries

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough Street

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/9/21

Meeting Date

982

Bill Number (if applicable)

Topic Qualified Target Industry Tax Credit

Amendment Barcode (if applicable)

Name Robert Stuart

Job Title Senior Director of Government Affairs

Address 301 S Bronough Street, Suite 600

Phone 850-577-9090

Street

Orlando

FL

32301

Email robert.stuart@gray-robinson.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Orlando Economic Partnership

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/9/2021

*Meeting Date*

982

*Bill Number (if applicable)*

Topic Tax Refund Program for Qualified Target Industry Businesses

*Amendment Barcode (if applicable)*

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Phone (850) 922-9755

*Street*

Tallahassee

FL

32038

Email bmckee@flcounties.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Association of Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**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 Commerce and Tourism

---

BILL: SB 982

INTRODUCER: Senator Gruters

SUBJECT: Tax Refund Program for Qualified Target Industry Businesses

DATE: March 8, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Favorable</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

---

**I. Summary:**

SB 982 reauthorizes the Qualified Target Industry Tax Refund Program by repealing the June 30, 2020, deadline for applicants to be certified for the program.

The bill takes effect July 1, 2021.

**II. Present Situation:**

**Qualified Target Industry Tax Refund Program**

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994<sup>1</sup> to encourage the creation and retention of high-quality, high-wage jobs by providing a state grant equal to the amount paid for certain state and local taxes<sup>2</sup> to eligible businesses creating jobs in certain target industries.<sup>3</sup> The amount of the tax refund awarded through the program is determined by the number of jobs created by, the average annual wages paid by, and the location of the eligible business. As of June 30, 2020, no additional applicants may be certified under the program; existing agreements made prior to this date will continue in effect according to their terms.<sup>4</sup>

In order to be eligible to receive a grant, a business must apply to be certified as a qualified target industry business with the Department of Economic Opportunity (DEO).<sup>5</sup> Businesses must be

---

<sup>1</sup> Chapter 94-136, s. 76, Laws of Fla.

<sup>2</sup> Tax refunds may be claimed for the following taxes paid: sales and use taxes, corporate income taxes, insurance premium taxes, intangible personal property taxes, excise taxes, ad valorem taxes, certain state communication services taxes, excise taxes on documents. *See* s. 288.106(3)(9), F.S.

<sup>3</sup> Section 288.106(1), F.S.

<sup>4</sup> Section 288.106(9), F.S.

<sup>5</sup> Section 288.106(4), F.S.

engaged in one of Florida's target industries as identified by the DEO and Enterprise Florida, Inc. (EFI).<sup>6</sup> The current qualified target industries are aviation and aerospace; corporate headquarters; clean technology; defense and homeland security; financial and professional services; global logistics and trade; information technology; life sciences; manufacturing; and research and development.<sup>7</sup>

Additionally, a business applying for certification as a qualified target industry business must meet the following requirements:

- A business's project must create at least 10 new jobs, or create a net employment increase of at least 10 percent in the case of an expansion of an existing business. The DEO is authorized to waive this requirement for a business in a rural community or an enterprise zone;<sup>8</sup>
- New jobs must pay an annual average wage of at least 115 percent of the average private sector wage in a business's area or the statewide private sector average wage. The DEO is authorized to waive this requirement for a business in a brownfield area, a rural city, a rural community, or an enterprise zone.<sup>9</sup> Jobs created by a manufacturing project in any location within the state may pay an annual average wage of at least 100 percent of the average private sector wage in a business's area;<sup>10</sup> and
- A business must receive a local funding match, paid by public or private sources, equal to 20 percent of the annual tax refund. The existence of local financial support must be confirmed by a resolution adopted by the governing body of the county or municipality where the business is located.<sup>11</sup> A business located in a brownfield area, a rural city, or a rural community is authorized to exercise an exemption from the local financial support requirement, but the business would not be eligible for more than 80 percent of the total tax refunds originally allowed.<sup>12</sup>

Qualified target industry businesses are eligible to receive a tax refund equal to \$3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the amount is increased to \$6,000 per created job.<sup>13</sup> Qualified target industry businesses may also be eligible for the following additional tax refund payments:<sup>14</sup>

- \$1,000 per created job if such jobs pay an average annual wage of at least 150 percent of the average private sector wage in a business's area;
- \$2,000 per created job if such jobs pay an average annual wage of at least 200 percent of the average private sector wage in a business's area;
- \$1,000 per created job if a business's local financial support is equal to the state's incentive award; and

---

<sup>6</sup> Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

<sup>7</sup> Florida Department of Economic Opportunity, *2020 Incentives Report*, 12, available at [http://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0\\_2](http://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2) (last visited Mar. 8, 2021).

<sup>8</sup> Section 288.106(4)(b)2., F.S.

<sup>9</sup> Section 288.106(4)(b)1.a., F.S.

<sup>10</sup> Section 288.106(4)(b)1.b., F.S.

<sup>11</sup> Section 288.106(4)(a)10., F.S.

<sup>12</sup> Section 288.106(2)(k), F.S.

<sup>13</sup> Section 288.106(3)(b)1., F.S.

<sup>14</sup> Section 288.106(3)(b), F.S.

- \$2,000 per created job if a business falls within one of the designated high-impact sectors<sup>15</sup> or increases exports of its goods through a seaport<sup>16</sup> or airport in the state by at least 10 percent by value or tonnage in each of the years the business receives a tax refund payment.

A qualified target industry business cannot receive more than \$1.5 million in any fiscal year, or more than \$2.5 million in any fiscal year if the business is located in an enterprise zone.<sup>17</sup> The total state share of payments may not exceed \$35 million.<sup>18</sup>

In Fiscal Year 2019-2020, the last fiscal year during which applicants could be certified under the program, 7,890 jobs were created by 159 businesses actively participating in the program. The total number of jobs created exceeded the number of total new jobs expected to be created by 3,068.<sup>19</sup>

### ***QTI Agreement***

Each qualified target industry business must enter into a written agreement with the DEO that specifies certain criteria that must be met in order to be eligible for a payment, including receipts showing the amount of taxes paid and data showing that the business met its performance requirements.<sup>20</sup> Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year unless the department grants the business an economic recovery extension.<sup>21</sup>

In the event of negative economic conditions in a business's industry, a named hurricane or tropical storm, or specific acts of terrorism, a qualified target industry business may request an economic recovery extension. The request must provide evidence detailing how the aforementioned conditions have prevented a business from carrying out the terms of its agreement.<sup>22</sup> Upon approval, the DEO will renegotiate a business's agreement. Agreements may not be extended for more than 2 years, and a business that receives an extension may not receive a tax refund for the period covered by the extension.<sup>23</sup> Requests for an economic recovery

---

<sup>15</sup> Pursuant to s. 288.108(6), F.S., EFI must consult with the DEO, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists every three years, beginning January 1, 2011, to review the designated high-impact sectors. The sectors currently designated as high impact are clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, and corporate headquarters. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 52, available at [https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0\\_2](https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2) (last visited Mar. 8, 2021).

<sup>16</sup> Section 288.106(3)(b)4.b., F.S., limits seaports to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

<sup>17</sup> Section 288.106(3)(c), F.S.

<sup>18</sup> Section 288.095(3)(a), F.S.

<sup>19</sup> *Supra* note 7, at 7-8.

<sup>20</sup> Section 288.106(5)(a), F.S. The DEO may waive the requirement for proof of taxes paid in future years for a business that provides the DEO with proof that, in a single year, the business has paid an amount of certain state taxes that is at least equal to the total amount of payments that the business would receive through successful completion of its agreement.

Section 288.106(6), F.S.

<sup>21</sup> Section 288.106(5)(b), F.S.

<sup>22</sup> Section 288.106(5)(b)1., F.S.

<sup>23</sup> Section 288.106(5)(b)3., F.S.

extension were permitted in lieu of any claim scheduled between January 1, 2009, and July 1, 2012.<sup>24</sup>

### **III. Effect of Proposed Changes:**

The bill repeals s. 288.106(9), F.S., which prohibits the certification of applicants after June 30, 2020. In effect, the bill permanently reauthorizes the QTI program.

The bill takes effect July 1, 2021.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

The bill may have a significant yet indeterminate fiscal impact on future state expenditures. Payment of QTI contracts or agreements are subject to specific annual

---

<sup>24</sup> Section 288.106(5)(b)1., F.S.

appropriation by the legislature.<sup>25</sup> The annual funding cap of \$35 million, pursuant to s. 288.095(3)(a), F.S., still applies.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 288.106 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

---

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

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<sup>25</sup> Section 288.106(5)(d), F.S.



By Senator Gruters

23-01077-21

2021982\_\_

1                           A bill to be entitled  
2           An act relating to the tax refund program for  
3           qualified target industry businesses; amending s.  
4           288.106, F.S.; deleting a provision prohibiting the  
5           certification of applicants after a specified date;  
6           providing an effective date.

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

9  
10           Section 1. Subsection (9) of section 288.106, Florida  
11           Statutes, is amended to read:

12           288.106 Tax refund program for qualified target industry  
13           businesses.-

14           ~~(9) EXPIRATION.-An applicant may not be certified as~~  
15           ~~qualified under this section after June 30, 2020. A tax refund~~  
16           ~~agreement existing on that date shall continue in effect in~~  
17           ~~accordance with its terms.-~~

18           Section 2. This act shall take effect July 1, 2021.

# CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Commerce Committee Judge:

Started: 3/9/2021 12:30:35 PM

Ends: 3/9/2021 1:18:14 PM Length: 00:47:40

12:30:35 PM Chair called meeting to order  
12:30:52 PM Roll call  
12:31:05 PM Notes from the Chair  
12:31:53 PM Tab 2, CS/SB 148, Sen. Bradley  
12:34:23 PM Questions: None  
12:34:34 PM Jorge Chamizo, Uber Technologies, waive in support  
12:34:44 PM Diego Echeverri, Americans of Prosperity waive in support  
12:34:51 PM Brewster Bevis, Associated Industries of FL waive in support  
12:35:04 PM Christian Camara, Institute for Justice waive in support  
12:35:17 PM Jonathan Rees, Anheuser-Busch waive in support  
12:35:19 PM Jake Farmer, FL Retail Federation waive in support  
12:35:24 PM Jeff Sharkey, Golf Florida waive in support  
12:35:31 PM Greg Black, R Street Institute waive in support  
12:35:38 PM Samantha Padgett, FL Restaurant & Lodging Assoc. speaking for the bill  
12:36:48 PM In debate: None  
12:36:55 PM Sen. Bradley close on bill  
12:37:07 PM Roll call  
12:37:13 PM CS/SB 148 passes favorably  
12:37:31 PM Tab 6, SB 968 by Sen. Gainer  
12:39:10 PM Questions: Yes  
12:39:14 PM Sen. Powell question to sponsor  
12:39:29 PM Response from sponsor  
12:39:56 PM  
12:39:58 PM Sen Powell Follow up  
12:40:01 PM Response from sponsor  
12:40:13 PM Sen. Hudson question  
12:40:22 PM Response of sponsor  
12:40:36 PM Sen. Taddeo question  
12:41:05 PM Reponse of bill sponsor  
12:41:19 PM Sen Taddeo Follow up  
12:41:31 PM Response from sponsor  
12:41:49 PM John Schrader, FL Dept. of Economic Opportunity waive in support  
12:42:10 PM In debate: none  
12:42:15 PM Sen. Gainer close on bill  
12:42:21 PM Roll call  
12:42:26 PM SB 968 passes favorably  
12:42:50 PM Tab 1, SB 98 by Sen. Albritton  
12:45:00 PM Questions:  
12:45:04 PM Sen. Torres question to sponsor  
12:45:17 PM Response from sponsor  
12:46:21 PM Sen Torres Follow up  
12:46:40 PM Response from sponsor  
12:47:19 PM Robert Stuart, Career Source Central FL and Career Source Tampa Bay for information  
12:48:34 PM David Sadar waive in support  
12:48:49 PM In debate:  
12:48:53 PM Sen. Torres  
12:49:58 PM Sen. Albritton closes on bill  
12:51:04 PM Roll call  
12:51:08 PM SB 98 passes favorably  
12:51:31 PM Tab 5, SB 806 by Sen. Book  
12:53:40 PM Questions: None  
12:53:48 PM Gabriela Rojas, Miami Diaper Bank speaking for the bill

12:58:24 PM Chris Hansen, Consumer Healthcare Products Assoc waive in support  
12:58:34 PM Eric Adelson, FL Essential Needs Coalition speaking for the bill  
12:59:55 PM Christy Rogers, Jr. League of Panama City Diaper Bank speaking for the bill  
1:01:42 PM Kaitlin Guidry, Jr. League of Panama City Diaper Bank waive in support  
1:02:11 PM Sen. Pizzo speaking in debate  
1:03:04 PM Sen. Book closes on bill  
1:03:12 PM Roll call  
1:03:17 PM SB 806 passes favorably  
1:03:50 PM Tab 3, SB 346 by Sen. Rodriguez  
1:04:33 PM Will McRea, Appraisal Institute waive in support  
1:04:42 PM Andy Gonzalez, Florida Realtors waive in support  
1:05:02 PM  
1:05:02 PM In debate: none  
1:05:12 PM Sen. Rodriguez waives close  
1:05:17 PM Roll call  
1:05:21 PM SB 346 passes favorably  
1:05:41 PM Tab 4, CS/SB 352 by Sen. Rodriguez  
1:06:11 PM Sen. Torres question  
1:06:36 PM Response of sponsor  
1:06:39 PM Anita Berry, FL State Massage Therapy Assoc waive in support  
1:06:55 PM In debate: none  
1:07:01 PM Sen. Rodriguez waive close  
1:07:07 PM Roll call  
1:07:15 PM CS/SB 352 passes favorably  
1:07:33 PM Tab 7, SB 1120 by Sen. Gibson (presented by Sen. Powell in her absence)  
1:08:57 PM Sen. Powell waives close  
1:09:06 PM Roll call  
1:09:11 PM SB 1120 passes favorably  
1:09:31 PM Tab 8, SB 586 by Sen. Wright  
1:10:55 PM Christian Cochran, FL Dept of Veterans Affairs waive in support  
1:11:08 PM Bob Asztalos, FL Veterans Foundation waive in support  
1:11:18 PM Dan Hendrickson, Tallahassee Veterans Legal Collaborative waive in support  
1:11:29 PM James Mosteller, The Foundation for FL's Future waive in support  
1:11:35 PM Matthew Choy, FL Chamber of Commerce waive in support  
1:11:40 PM Joe Marino, Veterans Florida waive in support  
1:12:12 PM Sen. Torres in debate on bill  
1:13:18 PM Chair comments to sponsor on bill  
1:13:39 PM Sen. Wright waives close  
1:13:49 PM Roll call  
1:13:54 PM SB 586 passes favorably  
1:14:12 PM Tab 9, SB 982 by Sen. Gruters  
1:15:02 PM Sen. Pizzo in questions  
1:15:11 PM Response of sponsor  
1:15:17 PM Sen Pizzo Follow up  
1:15:22 PM Response of sponsor  
1:15:31 PM Bob McKee, Florida Association of Counties waive in support  
1:15:39 PM Jim Taylor, Hillsborough County waive in support  
1:15:48 PM Brewster Bevis, Associated Industries of FL waive in support  
1:15:56 PM Nicole Fogarty, St. Lucie County waive in support  
1:16:03 PM Caroly Johnson, FL Chamber of Commerce waive in support  
1:16:05 PM Robert Stuart, Orlando Economic Partnership waive in support  
1:16:14 PM Jerry Sansom, Northrop Grumman Corp. waive in support  
1:16:42 PM John Schrader, FL Dept of Economic Opportunity waive in support  
1:16:49 PM Jake Felder, Enterprise Florida, Inc., waive in support  
1:16:58 PM David Sadar waive in support  
1:17:12 PM Sen. Gruters waive in support  
1:17:20 PM Roll call  
1:17:22 PM SB 982 passes favorably  
1:17:38 PM SB 982 passes favorably  
1:17:46 PM Motion to adjourn by Sen. Gruters  
1:17:57 PM Meeting adjourned