

Tab 1	SB 1150 by Bean ; (Similar to CS/H 0953) Legislative Reauthorization of Agency Rulemaking Authority					
535736	A	S		GO, Hays	btw L.52 - 53:	01/25 08:53 AM
Tab 2	SB 1428 by Simmons ; State Investments					
Tab 3	SB 124 by Evers ; (Similar to CS/H 0095) Public Procurement Practices					
325428	D	S	RCS	GO, Hays	Delete everything after	02/01 03:48 PM
Tab 4	SB 126 by Evers ; (Similar to H 0097) Public Records and Public Meetings/Public-private Partnerships					
753094	A	S	RCS	GO, Hays	Delete L.25:	02/01 03:48 PM
Tab 5	CS/SB 686 by EE, Gaetz ; (Compare to CS/1ST ENG/H 0479) Government Accountability					
933068	A	S		GO, Ring	Delete everything after	02/01 10:20 AM
Tab 6	SB 478 by Joyner ; (Similar to H 0213) State Employee Salaries					
308680	A	S	RCS	GO, Bullard	Delete L.15:	02/01 03:48 PM
Tab 7	SB 724 by Joyner ; (Identical to H 0857) Public Records					
Tab 8	SB 762 by Abruzzo ; (Compare to CS/H 0741) Public Records/Involuntary Assessment and Stabilization Petition					
886576	D	S	RCS	GO, Bullard	Delete everything after	02/01 03:48 PM
Tab 9	SB 914 by Detert ; (Similar to H 0901) Public Records/Identifying Medical and Personal Information					
Tab 10	SB 1054 by Dean (CO-INTRODUCERS) Grimsley ; (Similar to CS/H 0803) Historic and Archaeological Artifacts					
592026	A	S	RCS	GO, Hays	Delete L.22 - 49:	02/03 01:33 PM
Tab 11	SB 1206 by Abruzzo ; (Identical to H 0839) Auditor General					
Tab 12	SB 7048 by CF ; (Similar to H 7069) OGSR/Client Records and Donor Information Collected by Regional Autism Centers					
Tab 13	SB 864 by Smith ; (Identical to H 0955) State Contracts					
Tab 14	CS/SB 1004 by CA, Hays ; (Similar to CS/H 0869) Public Records/Security System Plans					
Tab 15	CS/SB 1278 by JU, Ring ; (Compare to CS/H 1027) Public Records/Petitions to Determine Incapacity					
774350	D	S	RCS	GO, Ring	Delete everything after	02/01 03:48 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Ring, Chair
Senator Hays, Vice Chair

MEETING DATE: Monday, February 1, 2016
TIME: 1:30—3:30 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bullard, Latvala, and Legg

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1150 Bean (Similar CS/H 953)	Legislative Reauthorization of Agency Rulemaking Authority; Providing for suspension of certain rulemaking authority after a specified period, until reauthorized by general law; providing for expiration of such reauthorization after a specified period; providing for suspension of rulemaking authority upon expiration of its reauthorization, until reauthorized by general law; authorizing the Governor to delay suspension of rulemaking authority for a specified period upon declaration of a public necessity; providing exceptions, etc.	GO 01/26/2016 Not Considered GO 02/01/2016 AGG AP
2	SB 1428 Simmons	State Investments; Encouraging the State Board of Administration to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland; encouraging the state board to take certain action upon making a determination; providing that the state board is not liable or subject to a cause of action under the act, etc.	GO 02/01/2016 AGG AP
3	SB 124 Evers (Similar H 95, Compare H 97, Linked S 126)	Public Procurement Practices; Deleting provisions creating the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force; requiring a private entity that submits an unsolicited proposal to pay an initial application fee and additional amounts if the fee does not cover certain costs; deleting provisions relating to notice to affected local jurisdictions; increasing the dollar threshold for a contract amount of a project for which a person, the state, or a political subdivision is prohibited from refusing a surety bond issued by a surety company that meets certain requirements, etc.	CA 11/17/2015 Favorable GO 02/01/2016 FP

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 126 Evers (Similar H 97, Compare H 95, Linked S 124)	Public Records and Public Meetings/Public-private Partnerships; Transferring, renumbering, and amending provisions relating to public-private partnerships for public facilities and infrastructure; providing an exemption from public records requirements for a specified period for unsolicited proposals received by a responsible public entity; providing an exemption from public records requirements for a specified period for the recording of, and any records generated during, a closed meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.	CA 11/17/2015 Favorable GO 02/01/2016 FP
5	CS/SB 686 Ethics and Elections / Gaetz (Compare CS/H 479, H 593, CS/H 651, CS/H 669, H 7071, CS/S 582, S 956, CS/S 992)	Government Accountability; Citing this act as the "Florida Anti-Corruption Act of 2016"; requiring each house of the Legislature to provide by rule reporting requirements regarding lobbying firm's lobbying activities; specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; prohibiting a member of the Legislature from accepting employment with a private entity that directly receives state funds, etc.	EE 01/12/2016 Fav/CS GO 02/01/2016 CA AP
6	SB 478 Joyner (Similar H 213, H 1239)	State Employee Salaries; Defining the term "state employee"; requiring a competitive pay adjustment for state employees as of a specified date, etc.	GO 01/26/2016 Not Considered GO 02/01/2016 AGG AP
7	SB 724 Joyner (Identical H 857)	Public Records; Authorizing a court to hold a custodian of a public record personally liable for the reasonable costs of enforcement, including attorney fees, in a civil action to enforce ch, 119, F.S., if certain conditions exist, etc.	GO 01/19/2016 Temporarily Postponed GO 02/01/2016 ACJ AP

COMMITTEE MEETING EXPANDED AGENDAGovernmental Oversight and Accountability
Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 762 Abruzzo (Compare CS/H 741)	Public Records/Involuntary Assessment and Stabilization Petition; Providing an exemption from public records requirements for a petition for involuntary assessment and stabilization of a substance abuse impaired person; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing for release of a petition to a guardian advocate, etc.	CF 01/20/2016 Favorable GO 02/01/2016 RC
9	SB 914 Detert (Similar H 901)	Public Records/Identifying Medical and Personal Information; Creating an exemption from public records requirements for medical and personal identifying information of an applicant for or a recipient of the property tax exemption for totally and permanently disabled persons; providing for retroactive application; authorizing disclosure of such information under certain conditions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.	CA 01/19/2016 Favorable GO 02/01/2016 RC
10	SB 1054 Dean (Similar CS/H 803)	Historic and Archaeological Artifacts; Directing the Division of Historical Resources of the Department of State to implement a program to administer the discovery of certain historic and archaeological artifacts; providing program requirements, etc.	GO 02/01/2016 ATD FP
11	SB 1206 Abruzzo (Identical H 839)	Auditor General; Requiring the Auditor General to annually conduct a performance audit of a randomly selected state agency, etc.	GO 02/01/2016 AGG AP

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 7048 Children, Families, and Elder Affairs (Similar H 7069)	OGSR/Client Records and Donor Information Collected by Regional Autism Centers; Amending provisions which provide an exemption from public records requirements for information relating to client records and donor information collected by regional autism centers; removing the scheduled repeal of the exemption, etc. GO 02/01/2016 RC	
13	SB 864 Smith (Identical H 955)	State Contracts; Requiring all state contracts in excess of a certain amount to require that call-center services be staffed by persons located within the United States, etc. CM 01/19/2016 Favorable GO 02/01/2016 AGG AP	
14	CS/SB 1004 Community Affairs / Hays (Similar CS/H 869)	Public Records/Security System Plans; Revising exceptions to a public records exemption; providing exceptions to a public records exemption, etc. CA 01/19/2016 Fav/CS GO 02/01/2016 RC	
15	CS/SB 1278 Judiciary / Ring (Similar S 1280, Compare CS/H 1027)	Public Records/Petitions to Determine Incapacity; Providing exemptions from public records requirements for petitions to determine incapacity; listing persons to whom the clerk of the court shall allow access to the petition; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. JU 01/20/2016 Fav/CS GO 02/01/2016 RC	

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Investment Advisory Council

16	Cobb, Charles E. (Coral Gables)	12/12/2019	
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COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Monday, February 1, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1150

INTRODUCER: Senator Bean

SUBJECT: Legislative Reauthorization of Agency Rulemaking Authority

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 1150 amends s. 120.536, F.S., to suspend any new rulemaking authority for 3 years after the effective date of the law authorizing rulemaking until reauthorized by general law. Any rulemaking authority effective on or before July 1, 2016, is suspended July 1, 2019, until reauthorized by general law.

The bill provides that reauthorization of rulemaking authority remains in effect for 3 years, after which the reauthorization expires and rulemaking authority is then suspended until reauthorized by general law.

Although the rulemaking authority is suspended, an agency may continue to use the rulemaking process to adopt rules. However, any rule adopted during this suspension of rulemaking authority must be ratified by the Legislature.

The bill allows the Governor to issue a one-time written declaration of public necessity delaying a suspension for 90 days, allowing the Legislature to convene and address the necessity.

SB 1150 makes exceptions for emergency rulemaking and rulemaking necessary to maintain financial or legal integrity of any financial obligation of the state, its agencies or political subdivisions.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Administrative Procedure Act

Chapter 120, F.S., known as the Administrative Procedure Act (APA),¹ regulates administrative rulemaking, administrative enforcement and administrative resolution of disputes arising out of administrative actions of most state agencies and some subdivisions of state government. The term “agency” is defined in s. 120.52(1), F.S., as:

- Each state officer and state department, and departmental unit described in s. 20.04, F.S.²
- The Board of Governors of the State University System, the Commission on Ethics and the Fish and Wildlife Conservation Commission when acting pursuant to statutory authority derived from the Legislature.
- A regional water supply authority.
- A regional planning agency.
- A multicounty special district with a majority of its governing board comprised of non-elected persons.
- Educational units.
- Each entity described in chs. 163 (Intergovernmental Programs), 373 (Water Resources), 380 (Land and Water Management), and 582 (Soil and Water Conservation), F.S., and s. 186.504 (regional planning councils), F.S.
- Other units of government in the state, including counties and municipalities, to the extent they are expressly made subject to the act by general or special law or existing judicial decisions.³

The definition of “agency” also includes the Governor⁴ in the exercise of all executive powers other than those derived from the State Constitution.

Administrative actions authorized by law and regulated by the APA include adoption of a rule,⁵ granting or denying a permit or license, an order enforcing a law or rule that assesses a fine or other discipline and final decisions in administrative disputes or other matters resulting in an agency decision. Such disputes include challenges to the validity of a rule or proposed rule or challenges to agency reliance on unadopted rules,⁶ as well as challenges to other proposed agency actions which affect substantial interests of any party.⁷ In addition to disputes, agency action occurs when the agency acts on a petition for a declaratory statement⁸ or settles a dispute through mediation.⁹

¹ Section 120.51, F.S.

² Section 20.04, F.S., sets the structure of the executive branch of state government.

³ The definition of agency expressly excludes certain legal entities or organizations found in chs. 343, 348, 349 and 361, F.S., and ss. 339.175 and 163.01(7), F.S.

⁴ Section 120.52(1)(a), F.S.

⁵ Section 120.54, F.S.

⁶ Section 120.56, F.S.

⁷ Section 120.569, F.S.

⁸ Section 120.565, F.S.

⁹ Section 120.573, F.S.

Administrative Rulemaking

The APA governs all rulemaking by state agencies except when specific legislation exempts its application. Rulemaking authority is delegated by the Legislature¹⁰ authorizing an agency to “adopt, develop, establish, or otherwise create”¹¹ a rule. Agencies do not have discretion whether to engage in rulemaking.¹² To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking.¹³ The grant of rulemaking authority itself need not be detailed.¹⁴ The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.¹⁵ A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.¹⁶ Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.¹⁷

In 1996 the Legislature extensively revised¹⁸ agency rulemaking under the APA to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.¹⁹ The effect of an agency statement determines whether it meets the statutory definition of a rule, regardless of how the agency characterizes the statement.²⁰ If an agency statement generally requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law, it is a rule.²¹

¹⁰ *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

¹¹ Section 120.52(17), F.S.

¹² Section 120.54(1)(a), F.S.

¹³ Sections 120.52(8) & 120.536(1), F.S.

¹⁴ *Save the Manatee Club, Inc.*, supra at 599.

¹⁵ *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

¹⁶ *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).

¹⁷ *Sarasota County. v. Barg*, 302 So. 2d 737 (Fla. 1974).

¹⁸ Ch. 96-159, LOF.

¹⁹ Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

²⁰ *Dept. of Administration v. Harvey*, 356 So. 2d 323, 325 (Fla. 1st DCA 1977).

²¹ *McDonald v. Dep't of Banking & Fin.*, 346 So.2d 569, 581 (Fla. 1st DCA 1977), articulated this principle subsequently cited in numerous cases. See, *State of Florida, Dept. of Administration v. Stevens*, 344 So. 2d 290 (Fla. 1st DCA 1977); *Dept. of Administration v. Harvey*, 356 So. 2d 323 (Fla. 1st DCA 1977); *Balsam v. Department of Health and Rehabilitative Services*, 452 So.2d 976, 977-978 (Fla. 1st DCA 1984); *Department of Transp. v. Blackhawk Quarry Co.*, 528 So.2d 447, 450 (Fla. 5th DCA 1988), rev. den. 536 So.2d 243 (Fla.1988); *Dept. of Natural Resources v. Wingfield*, 581 So. 2d 193, 196 (Fla. 1st DCA 1991); *Dept. of Revenue v. Vanjaria Enterprises, Inc.*, 675 So. 2d 252, 255 (Fla. 5th DCA 1996); *Volusia County School Board v. Volusia Homes Builders Association, Inc.*, 946 So. 2d 1084 (Fla. 5th DCA 2007); *Florida Dept. of Financial Services v. Capital Collateral Regional Counsel*, 969 So. 2d 527 (Fla. 1st DCA 2007); *Coventry First, LLC v. State of Florida, Office of Insurance Regulation*, 38 So. 3d 200 (Fla. 1st DCA 2010).

A notice of rule development initiates public input on a rule proposal.²² The process may be facilitated by conducting public workshops or engaging in negotiated rulemaking.²³ An agency begins the formal rulemaking by filing a notice of the proposed rule.²⁴ The notice is published by the Department of State in the Florida Administrative Register²⁵ and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC) if one is prepared,²⁶ and how a party may request a public hearing on the proposed rule. The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy, adverse impact on business competitiveness or increase in regulatory costs.²⁷

The economic analysis mandated for each SERC must analyze a rule's potential impact over the 5 year period from when the rule goes into effect.²⁸ First, is the rule's likely adverse impact on economic growth, private-sector job creation or employment, or private-sector investment.²⁹ Next, is the likely adverse impact on business competitiveness,³⁰ productivity, or innovation.³¹ Finally, the analysis must discuss whether the rule is likely to increase regulatory costs, including any transactional costs.³² If the analysis shows the projected impact of the proposed rule in any one of these areas will exceed \$1 million in the aggregate for the 5 year period, the rule cannot go into effect until ratified by the Legislature pursuant to s. 120.541(3), F.S.

Present law distinguishes between a rule being "adopted" and becoming enforceable or "effective."³³ A rule must be filed for adoption before it may go into effect³⁴ and cannot be filed for adoption until completion of the rulemaking process.³⁵

Proposed rules also must be formally reviewed by the Legislature's Joint Administrative Procedures Committee (JAPC)³⁶ which reviews rules to determine their validity, authority, sufficiency of form, consistency with legislative intent, reasonableness of regulatory cost

²² Section 120.54(2)(a), F.S.

²³ Section 120.54(2)(c)-(d), F.S.

²⁴ Section 120.54(3)(a)1., F.S..

²⁵ Section 120.54(3)(a)2., F.S.

²⁶ Section 120.541(1)(b), F.S., requires preparation of a SERC if the proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 within one year of implementation of the rule. Alternatively, s. 120.541(1)(a), F.S., provides that preparation of a SERC is triggered when a substantially affected person submits a good faith written proposal for a lower cost regulatory alternative which substantially accomplishes the objectives of the law being implemented.

²⁷ Section 120.541(2)(a), F.S.

²⁸ *Id.*

²⁹ Section 120.541(2)(a)1., F.S.

³⁰ Section 120.541(2)(a)2., F.S., states that business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

³¹ *Id.*

³² Section 120.541(2)(a) 3., F.S.

³³ Section 120.54(3)(e)6., F.S. Before a rule becomes enforceable, thus "effective," the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.

³⁴ *Id.*

³⁵ Section 120.54(3)(e), F.S.

³⁶ Section 120.54(3)(a)4., F.S.

estimates and other matters.³⁷ An agency must formally respond to JAPC concerns or objections.³⁸

Emergency Rulemaking

Florida's APA provides for emergency rulemaking by any procedure which is fair under the circumstances when an immediate danger to the public health, safety, or welfare requires emergency action. Emergency rules may not be effective for more than 90 days but may be renewed if the agency has initiated rulemaking to adopt rules addressing the subject.³⁹

III. Effect of Proposed Changes:

Section 1 amends s. 120.536, F.S., to suspend all existing rulemaking authority on July 1, 2019, and to suspend all new rulemaking authority three years after its enactment unless the Legislature reauthorizes the rulemaking authority by general law.

A reauthorization of rulemaking authority remains in effect for three years, unless another date is specified in the law reauthorizing rulemaking, after which the reauthorization expires and the rulemaking authority is suspended until reauthorized by general law.

The bill allows an agency to continue or initiate rulemaking proceedings during a suspension but no rule adopted during a suspension of authority may be effective unless ratified by the Legislature.

Also, the bill allows the Governor to issue a written declaration of public necessity delaying a suspension for 90 days, allowing the Legislature to convene and address the necessity. A declaration of public necessity may be issued only once in regards to any suspension of rulemaking authority.

The bill makes exception for any emergency rulemaking or any rulemaking necessary to maintain the financial or legal integrity of any financial obligation of the state, its agencies or political subdivisions.

The bill expressly provides that all rules lawfully adopted remain in effect during any suspension of rulemaking authority under the bill's provisions.

Section 2 provides an effective date of July 1, 2016.

³⁷ Section 120.545(1), F.S.

³⁸ Sections 120.54(3)(e)4. and 120.545(3), F.S.

³⁹ Section 120.54(4), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It is unclear whether, under the State Constitution, an act of the legislature today can effectively suspend the rulemaking authority granted to the executive branch by a subsequent legislature. Lines 27-29 of the bill provide that "any new rulemaking authority is suspended 3 years after the effective date of the law authorizing rulemaking until reauthorized by general law." A subsequent act of the Legislature granting new rulemaking authority is most likely to take precedence over this act suspending all rulemaking authority generally. First, a new act granting new rulemaking authority is the later enacted legislation and typically supersedes prior laws. Secondly, the new act is more likely to relate to a specific grant of authority rather than a general "suspension." This issue relates to all grants of rulemaking authority enacted after the January 12, 2016 (the commencement of the Regular Session for 2016).

Lines 32-36 appear to place an additional burden on subsequent legislatures when enacting legislation granting rulemaking authority. Under this bill, if the subsequent legislature wants the grant of rulemaking authority to be permanent, the bill authorizing (or reauthorizing) the rulemaking authority must specifically state that it is of a permanent nature. Typically, when a law is enacted it is presumed to be of a permanent nature unless modified or repealed by a subsequent legislature. In a similar circumstance relating to the authorization and reauthorization of state trust funds, the State Constitution was amended to place the time limitation on the duration of the trust fund and require the legislature to reauthorize the trust fund beyond that time period.⁴⁰

⁴⁰ Article III, Section 19(f), Florida Constitution, adopted in 1992, stated:

(2) State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

That provision was subsequently amended 2005, CS/SJR 2144) to read:

(2) State trust funds shall terminate not more than four years after the effective date of the act authorizing the **initial** creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized. {emphasis added}

The overall impact of this legislation might be challenges as inconsistent with constitutional principles. If all rulemaking is suspended and a rule can only become effective if ratified by the Legislature, this legislation as applied might be challenged as unconstitutional. Depending upon how the ratification process is conducted, it may (a) be inadequate in terms of the constitutionally required notice for legislation; (b) lend itself to impermissible logrolling, or (c) violate the principles of separation of powers.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. For some rules, suspension may create uncertainty for individuals and businesses concerning the legal requirements for certain actions.

C. Government Sector Impact:

Indeterminate. There may be fewer rule challenges during the period when rulemaking has been suspended, but then a sharp increase in challenges when rulemaking is reauthorized.

VI. Technical Deficiencies:

Lines 37-40 may create confusion. While lines 26-36 of the bill suspend existing and new grants of rulemaking authority, lines 37-40 appear to allow the rulemaking process to continue through the adoption process but prevent the rule from becoming effective. Then, if the Legislature has not reauthorized the suspended rulemaking authority, the rule must be ratified by the Legislature to become effective.

Lines 40-45 permit the Governor to delay the suspension of the rulemaking authority for up to 90 days upon a written declaration of a public necessity. The term “public necessity” is not defined. This delay allows rules to become effective rather than subjected to the legislative ratification process. Since no clear standards are provided to the Governor for declaring a public necessity, the legal status of the rules becoming effective during the delay period become unclear. An opponent of such a rule would presumably have the ability to challenge the “public necessity.”

Lines 46-50 of the bill exempt from the suspension provisions “rulemaking necessary to maintain the financial or legal integrity of any financial obligation of the state or its agencies, or political subdivisions.” It is unclear as to what this exemption is intended to preserve. If this language is intended to exempt rulemaking authority associated with programs related to the flow of federal dollars, the language is ambiguous and may be inadequate. It is unclear whether a rule setting a fee that is used to support appropriations might be deemed as necessary to maintain a financial obligation.

Lines 51-52 provides that “rules lawfully adopted remain in effect during any suspension of rulemaking authority under this subsection.” If an agency determines a rule is no longer necessary, or the underlying legal authority has changed without a subsequent grant of rulemaking authority, the agency will not be permitted to modify the rule, and the taxpayers affected by the rule may be negatively impacted.

VII. Related Issues:

In practical terms this bill may have significant impacts on state agencies, the Executive Office of the Governor, and the Legislature. This bill suspends all agencies’ rulemaking authority on July 1, 2019. This suspension takes place shortly after the 2018 General Election at which the Governor, 120 members of the Florida House of Representatives and at least 20 members of the Florida Senate will be elected. Because of a transitioning executive branch leadership in most agencies, it is unclear whether the state agencies will be positioned adequately to make recommendations as to the rulemaking authority that should be reauthorized. With the legislative elections, it is unclear whether the legislation necessary to reauthorize rulemaking authority will be ready for consideration by the new legislative members. In combination, rulemaking authority may be suspend until the 2020 Regular Session or later leading to significant issues for agencies and potentially frustration of the legislature regarding the inability of agencies to implement timely those newly enacted laws that rely on existing (but suspended) rulemaking authority.

VIII. Statutes Affected:

This bill substantially amends section 120.536 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.



535736

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 52 and 53

insert:

Section 2. Paragraph (c) of subsection (4) of section
120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(4) EMERGENCY RULES.—

(c) An emergency rule adopted under this subsection shall
not be effective for a period longer than 90 days and shall not



535736

11 be renewable, except when the agency finds that the immediate
12 danger remains and continues to require emergency action, the
13 agency has initiated rulemaking to adopt rules addressing the
14 subject of the emergency rule, and one of the following
15 conditions has delayed implementation of the rules either:

16 1. A challenge to the proposed rules has been filed and
17 remains pending; or

18 2. The proposed rules have been filed for adoption and are
19 awaiting ratification by the Legislature pursuant to any law
20 requiring ratification for the rules to be effective s.
21 120.541(3).

22
23 Nothing in this paragraph prohibits the agency from adopting a
24 rule or rules identical to the emergency rule through the
25 rulemaking procedures specified in subsection (3).
26

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

28 And the title is amended as follows:

29 Delete line 15

30 and insert:

31 exceptions; providing applicability; amending s.
32 120.54, F.S.; revising circumstances under which
33 emergency rules may be renewed; providing an

By Senator Bean

4-01313-16

20161150__

A bill to be entitled

An act relating to legislative reauthorization of agency rulemaking authority; amending s. 120.536, F.S.; providing for suspension of certain rulemaking authority after a specified period, until reauthorized by general law; providing for expiration of such reauthorization after a specified period; providing for suspension of rulemaking authority upon expiration of its reauthorization, until reauthorized by general law; requiring legislative ratification of rules adopted while rulemaking authority is suspended; authorizing the Governor to delay suspension of rulemaking authority for a specified period upon declaration of a public necessity; providing exceptions; providing applicability; providing an effective date.

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

Section 1. Subsections (2) through (4) of section 120.536, Florida Statutes, are renumbered as subsections (3) through (5), respectively, and a new subsection (2) is added to that section, to read:

120.536 Rulemaking authority; reauthorization; repeal; challenge.—

(2) (a) Notwithstanding any other provision of law, and except as provided in paragraph (d), any new rulemaking authority is suspended 3 years after the effective date of the law authorizing rulemaking until reauthorized by general law. Any rulemaking authority effective on or before July 1, 2016, is suspended July 1, 2019, until reauthorized by general law.

(b) A reauthorization of rulemaking authority remains in

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4-01313-16

20161150__

effect for 3 years, unless another date is specified in the law reauthorizing rulemaking, after which the reauthorization expires and the rulemaking authority is suspended until reauthorized by general law.

(c) During the suspension of any rulemaking authority under this subsection, a rule may be adopted pursuant to such rulemaking authority but does not take effect unless ratified by the Legislature. Upon written declaration by the Governor of a public necessity, suspension of any rulemaking authority may be delayed for up to 90 days, allowing the Legislature an opportunity to reauthorize the rulemaking authority. A declaration of public necessity may be issued only once with respect to any suspension of rulemaking authority.

(d) This subsection does not apply to:

1. Emergency rulemaking pursuant to s. 120.54(4).

2. Rulemaking necessary to maintain the financial or legal integrity of any financial obligation of the state or its agencies or political subdivisions.

(e) Rules lawfully adopted remain in effect during any suspension of rulemaking authority under this subsection.

Section 2. This act shall take effect July 1, 2016.

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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)

2 / 1 / 2016
Meeting Date

Topic _____ Bill Number 1150
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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.

S-001 (10/2011)

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 Governmental Oversight and Accountability

BILL: SB 1428

INTRODUCER: Senator Simmons

SUBJECT: State Investments

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 1428 encourages the State Board of Administration (SBA) to take actions in support of the MacBride Principles in Northern Ireland. The MacBride Principles means the objectives for companies operating in Northern Ireland to provide fair employment opportunities to individuals from underrepresented religious groups in the workforce.

Specifically, the bill encourages the State Board of Administration (SBA) to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland. For those companies identified, the SBA is encouraged to:

- Notify the company that the SBA supports the MacBride Principles;
- Inquire regarding actions taken by the company in support of the MacBride Principles;
- Encourage the company that has not adopted the MacBride Principles to make all lawful efforts to implement similar fair employment practices; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority.

The bill provides that the SBA is not liable for, and a cause of action does not arise from, any action or inaction by the SBA in the administration of these provisions.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

State Board of Administration

The State Board of Administration (SBA) is created in Art. IV, s. 4 (e) of the State Constitution. The Governor, the Chief Financial Officer, and the Attorney General serve as the trustees of the SBA. The SBA derives its powers to oversee state funds from Art. XII, s. 9 of the State

Constitution. The SBA provides a variety of investment services to various governmental entities at both the state and local government levels.

The SBA has responsibility to invest the funds of the Florida Retirement System (FRS) Trust Fund which holds the assets of the FRS Pension Plan and the FRS Investment Plan. The FRS is the primary retirement system for employees of the state, universities, state colleges, school boards, counties, and various other local governments in Florida. The table below shows the primary funds the SBA invests and the balances of those funds as of January 26, 2016.¹

All SBA Funds - Estimated Market Values As of January 26, 2016 Market Close	
Fund Name	Estimated Current Value
Florida Retirement System Pension Plan	\$136,093,884,390
Florida PRIME	\$8,904,562,611
Florida Retirement System Investment Plan	\$7,917,531,799
Lawton Chiles Endowment Fund	\$568,432,757
Other SBA Mandates	\$16,884,963,473
Total	\$170,369,375,029

In investing assets, the SBA is statutorily directed to follow the fiduciary standards of care set forth in the Employee Retirement Income Security Act (ERISA), subject to certain limitations.² Pursuant to s. 215.444, F.S., a nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures. The SBA's ability to invest the FRS assets is governed by s. 215.47, F.S., which provides for a "legal list" of the types of investments and for how much of the total fund may be invested in each investment type.

Previous Restrictions on Investments in Northern Ireland

In the 2015 Legislative Session, section 121.153, F.S., relating to restrictions on investments in institutions doing business in or with Northern Ireland, was repealed.³ Section 121.153, F.S., was enacted by the Florida Legislature in 1988, and this section had required the SBA to determine the existence of nine types of affirmative action taken to eliminate the ethnic or religious discrimination practiced by the government of Northern Ireland, or with agencies or instrumentalities thereof.

These affirmative actions, known as the MacBride Principles,⁴ included:

- Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs;
- Providing adequate security for the protection of minority employees both at the workplace and while traveling to and from work;
- Banning provocative religious or political emblems from the workplace;

¹ State Board of Administration "Daily Estimate Report" as of January 26, 2016, issued January 27, 2016.

² Sections 215.44 and 215.47, F.S.

³ Chapter 2015-75, Laws of Fla.

⁴ Neil J. Conway, *Investment Responsibility in Northern Ireland: The MacBride Principles of Fair Employment*, 24 Loy. L.A. Int'l & Comp. L. Rev 1 (Jan. 2002).

- Publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups;
- Providing that layoff, recall, and termination procedures should not in practice favor particular religious groupings;
- Abolishing job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin;
- Developing training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees;
- Establishing procedures to assess, identify, and actively recruit minority employees with potential for further advancement; and
- Appointing senior management staff members to oversee affirmative action efforts and setting up timetables to carry out affirmative action principles.

III. **Effect of Proposed Changes:**

Section 1 defines the term “MacBride Principles” as the objectives for companies operating in Northern Ireland to:

- Increase the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.
- Provide adequate security for the protection of minority employees both at the workplace and while traveling to and from work.
- Ban provocative religious or political emblems from the workplace.
- Publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups.
- Provide that layoff, recall, and termination procedures should not in practice favor particular religious groups.
- Abolish job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin.
- Develop training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.
- Establish procedures to assess, identify, and actively recruit minority employees with potential for further advancement.
- Appoint senior management staff members to oversee affirmative action efforts and to set up timetables to carry out affirmative action principles.

The term “operating” is defined as actively engaging in commerce geographically in Northern Ireland through the acquisition, development, maintenance, ownership, sale, possession, lease, or operation of equipment, facilities, personnel, products, services, or personal property.

The term “publicly traded company” is defined as any business organization having equity securities listed on a national or an international exchange that is regulated by a national or an international regulatory authority.

The term “state board” is defined as the State Board of Administration.

The bill encourages the SBA to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland and is further encouraged to:

- Notify the publicly traded company that the state board supports the MacBride Principles;
- Inquire regarding the actions that the publicly traded company has taken in support of or furtherance of the MacBride Principles;
- Encourage a publicly traded company that has not adopted the MacBride Principles to make all lawful efforts to implement the fair employment practices embodied in the MacBride Principles; and
- Support the adoption of the MacBride Principles in exercising its proxy voting authority. For these purposes, the state board may not be a fiduciary under this section in exercising its proxy voting authority.

Also, the bill allows the SBA to utilize various sources of public information, including information provided by nonprofit organizations, research firms, international organizations, and government entities, to make the determinations.

Additionally, the bill provides that the SBA may not be held liable for, and no cause of action may arise from any action or inaction by the SBA in administering these provisions.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The SBA estimates that the cost for implementation should be minimal and covered within the existing management fee assessed on the FRS Trust Fund. Research services will need to be procured to determine which SBA investments in publicly traded companies have operations in or with Northern Ireland. The SBA will be required to dedicate staff time to complete the encouraged actions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 215.4702 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 Simmons

10-01338-16

20161428__

A bill to be entitled

An act relating to state investments; creating s. 215.4702, F.S.; defining terms; encouraging the State Board of Administration to determine which publicly traded companies in which the Florida Retirement System Trust Fund is invested operate in Northern Ireland; encouraging the state board to take certain action upon making a determination; authorizing the state board to rely on public information in making a determination; providing that the state board is not liable or subject to a cause of action under the act; providing an effective date.

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

Section 1. Section 215.4702, Florida Statutes, is created to read:

215.4702 Investments in publicly traded companies operating in Northern Ireland.—

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

(a) "MacBride Principles" means the objectives for companies operating in Northern Ireland to:

1. Increase the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

2. Provide adequate security for the protection of minority employees both at the workplace and while traveling to and from work.

3. Ban provocative religious or political emblems from the workplace.

4. Publicly advertise all job openings and make special

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recruitment efforts to attract applicants from underrepresented religious groups.

5. Provide that layoff, recall, and termination procedures should not in practice favor particular religious groups.

6. Abolish job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin.

7. Develop training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

8. Establish procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

9. Appoint senior management staff members to oversee affirmative action efforts and to set up timetables to carry out affirmative action principles.

(b) "Operating" means actively engaging in commerce geographically in Northern Ireland through the acquisition, development, maintenance, ownership, sale, possession, lease, or operation of equipment, facilities, personnel, products, services, or personal property.

(c) "Publicly traded company" means any business organization having equity securities listed on a national or an international exchange that is regulated by a national or an international regulatory authority.

(d) "State board" means the State Board of Administration.

(2) The state board is encouraged to determine which

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62 publicly traded companies in which the Florida Retirement System
63 Trust Fund is invested operate in Northern Ireland. If the state
64 board determines that a publicly traded company meets such
65 criteria, the state board is encouraged to:

66 (a) Notify the publicly traded company that the state board
67 supports the MacBride Principles;

68 (b) Inquire regarding the actions that the publicly traded
69 company has taken in support of or furtherance of the MacBride
70 Principles;

71 (c) Encourage a publicly traded company that has not
72 adopted the MacBride Principles to make all lawful efforts to
73 implement the fair employment practices embodied in the MacBride
74 Principles; and

75 (d) Support the adoption of the MacBride Principles in
76 exercising its proxy voting authority. For these purposes, the
77 state board may not be a fiduciary under this section in
78 exercising its proxy voting authority.

79 (3) In making the determination specified in subsection
80 (2), the state board may, to the extent it deems appropriate,
81 rely on available public information, including information
82 provided by nonprofit organizations, research firms,
83 international organizations, and government entities.

84 (4) The state board may not be held liable for, and a cause
85 of action does not arise from, any action or inaction by the
86 state board in the administration of this section.

87 Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 19, 2016

I respectfully request that **Senate Bill 1428**, relating to State Investments, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number 1428

Name BRIAN PITTS

(if applicable)

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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)

2/1/16
Meeting Date

51428
Bill Number (if applicable)

Topic STATE Investments

Amendment Barcode (if applicable)

Name Ash Williams

Job Title Exec Dir. & CEO, FLORIDA SBA

Address 1801 Hermitage Blvd
Street

Phone 850 413 1250

Tallahassee FL 32308
City State Zip

Email ash.williams@sba.fl.com

Speaking: For Against Information

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

Representing FL SBA

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 Governmental Oversight and Accountability

BILL: CS/SB 124

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Evers

SUBJECT: Public Procurement Practices

DATE: February 3, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.	Kim	McVaney	GO	Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 124 implements many of the recommendations of the statutorily created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform, improved process for engaging in public-private partnerships (P3s) across the state. The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system. It also provides that the P3 process is an alternative method that may be used.

The bill clarifies the list of entities authorized to conduct P3s includes special districts, and school districts (rather than school boards).

The bill provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity's governing body.

The bill provides that an unsolicited proposal must be submitted concurrently with an initial application fee, which may be established by the responsible public entity. The bill authorizes a responsible public entity to request additional funds if the initial fee does not cover the costs to evaluate the unsolicited proposal. It also requires the responsible public entity to return the initial application fee if the responsible public entity does not review the unsolicited proposal.

The bill provides that if an unsolicited proposal involves architecture, engineering or landscape engineering, the professional hired to evaluate or create the design criteria packaged must be retained until the entire project is completed.

The bill authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities.

The bill expands the limitation on state agencies' and local governments' authority to refuse surety bonds issued by surety companies that meet specific criteria.

The bill goes into effect July 1, 2016.

II. Present Situation:

Background

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects.¹ Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.²

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.³

Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

Section 287.05712(1)(i), F.S., defines "qualifying project" as:

- A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or

¹ See The Federal Highway Administration, United State Department of Transportation, Innovative Program Delivery website, available at: <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on September 14, 2015).

² *Id.*

³ Section 287.05712(4)(d), F.S.

- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

Procurement Procedures

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into a comprehensive agreement with a private entity for the building, upgrading, operation, ownership, or financing of facilities.⁴ Responsible public entities may establish a reasonable fee to accompany unsolicited proposals. The fee must be sufficient to pay the costs of evaluating the proposals.⁵

Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:⁶

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.⁷ The responsible public entity must establish a timeframe in which to accept other proposals; however, the timeframe for allowing other proposals must be at least 21 days, but not more than 120 days after the initial date of publication.⁸

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.⁹ If negotiations with the first ranked firm are unsuccessful, the

⁴ Section 287.05712(4), F.S.

⁵ Section 287.05712(4)(a), F.S.

⁶ Section 287.05712(5), F.S.

⁷ Section 287.05712(4)(b), F.S.

⁸ *Id.*

⁹ Section 287.05712(6)(c), F.S.

responsible public entity may begin negotiations with the second ranked firm.¹⁰ The responsible public entity may reject all proposals at any point in the process.¹¹

The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors and consultants.¹²

The responsible public entity may approve a qualifying project if:¹³

- There is a public need for or benefit derived from the project that the private entity proposes.
- The estimated cost of the qualifying project is reasonable in relation to similar facilities.
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

Notice to Affected Local Jurisdictions

A responsible public entity must notify each affected local jurisdiction when considering a qualifying project by furnishing a copy of the proposal to each affected local jurisdiction.¹⁴ The affected local jurisdictions may, within 60 days, submit written comments to the responsible public entity. The responsible public entity is required to consider the comments submitted by the affected local jurisdiction. In addition, a responsible public entity must mail a copy of the notice that is published in the FAR to each local government in the affected area.¹⁵

Agreements

Interim Agreement

Before entering into a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity, which does not obligate the responsible public entity to enter into a comprehensive agreement.¹⁶ Interim agreements must be limited to provisions that:

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project.
- Establish the process and timing of the negotiation of the comprehensive agreement.
- Contain any other provision related to any aspect of the development or operation of a qualifying project.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 287.05712(6)(f), F.S.

¹³ Section 287.05712(6)(e), F.S.

¹⁴ Section 287.05712(7), F.S.

¹⁵ Section 287.05712(4)(b), F.S.

¹⁶ Section 287.05712(8), F.S.

Comprehensive Agreement

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project.¹⁷ The comprehensive agreement must provide for:¹⁸

- Delivery of performance and payment bonds, letters of credit, and other security in connection with the development or operation of the qualifying project.
- Review of plans and specifications for the project by the public entity. This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement.
- Inspection of the qualifying project by the responsible public entity.
- Maintenance of a policy or policies of public liability insurance.
- Monitoring the practices of the private entity to ensure the qualifying project is properly maintained.
- Filing of financial statements on a periodic basis.
- Policies and procedures governing the rights and responsibilities of the public and private entity in the event of a termination of the comprehensive agreement or a material default.
- User fees, lease payments, or service payments as may be established.
- Duties of the private entity, including terms and conditions that the responsible public entity determines serve the public purpose of the qualifying project.

The comprehensive agreement may include the following:¹⁹

- An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from federal, state, or local government or any agency or instrumentality thereof.
- A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other entity.
- A provision that terminates the authority and duties of the private entity and dedicates the qualifying project to the responsible public entity.

Fees

The comprehensive agreement may authorize the private entity to impose fees on the public entity for use of the facility.²⁰

Financing

Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.

¹⁷ Section 287.05712(9), F.S.

¹⁸ Section 287.05712(9)(a), F.S.

¹⁹ Section 287.05712(9)(b), F.S.

²⁰ Section 287.05712(10), F.S.

Powers and Duties of the Private Entity

The private entity must develop, operate, and maintain the qualifying project in accordance with the comprehensive agreement.²¹ The private entity must cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and other facilities and infrastructure. The private entity must comply with the terms of the comprehensive agreement and any other lease or contract.

Expiration or Termination of Agreements

Upon the expiration or termination of a comprehensive agreement, the responsible public entity may use revenues from the qualifying project to pay the current operation and maintenance costs of the qualifying project.²² If the private entity materially defaults, the compensation that is otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the project are paid in the normal course. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity.

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force

Section 287.05712(3), F.S., created the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force). The task force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform P3 process across the state.²³ The seven-member task force was comprised of the Secretary of the Department of Management Services (department) and six members appointed by the Governor representing county government, municipal government, district school boards, and the business community. The department provided administrative and technical support to the task force.

In July 2014, the task force completed its duties and submitted a final report of its recommendations.²⁴ The task force was disbanded on December 31, 2014.²⁵

Performance Bond Requirements and Limitations

A governmental entity contracting for services with a private sector contractor may require the contractor to post a surety or performance bond. This type of bond is intended to protect the buyer by ensuring the contractor will perform the work as specified by the contract. The level of the bond is intended to allow the governmental entity to guard against the risk of nonperformance by the contractor and provide funds necessary to hold the governmental entity (and taxpayers) harmless to the greatest extent possible.

²¹ Section 287.05712(12), F.S.

²² Section 287.05712(13), F.S.

²³ Section 287.05712(3)(a), F.S.

²⁴ The task force report can be found online at: http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act (last visited September 14, 2015).

²⁵ Section 287.05712(3)(f), F.S.

Requirements

Section 255.05, F.S., requires any person entering into a formal contract with the state or any county, city, or other political subdivision, for the construction of a public building, for the completion of a public work, or for repairs upon a public building or public work, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. The statute specifies some exceptions and the form for the bond.

Limitations

Section 287.0935, F.S., limits the authority of a state agency or political subdivision of the state to refuse a surety issued by a surety company that meets certain criteria if the contract amount does not exceed \$500,000 and public funds are used for the project. The criteria that the surety company must meet include:

- Licensed to do business in Florida;
- Holds a certificate of authority to issue surety bonds in Florida;
- Complies with the provisions of the Florida Insurance Code;
- Holds a valid certificate of authority issued by the United State Department of the Treasury under 31 U.S.C. ss. 9304-9308 (federal regulation of corporations providing sureties for persons required or permitted to provide a surety bond with the federal government); and
- Has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

Under the Florida Insurance Code, differing levels of surplus are required based upon the type of insurance the insurer writes in Florida. Specifically, s. 624.408, F.S., requires, in pertinent part, an insurer to maintain surplus as to policyholders at least the greater of:²⁶

- \$1.5 million;
- \$4 million for property and casualty insurers, except for property and casualty insurers authorized to underwrite any line of residential property insurance;
- \$15 million for residential property insurers not holding a certificate of authority before July 1, 2011; or
- For residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016, \$5 million; on or after July 1, 2016, and until June 30, 2021, \$10 million; on or after July 1, 2021, \$15 million.²⁷

A.M. Best's Financial Strength Rating

A.M. Best's Financial Strength Rating is an independent opinion of an insurer's strength and ability to meet its ongoing insurance policy and contract obligations.²⁸ The rating is based on a comprehensive quantitative and qualitative evaluation of a company's balance sheet strength,

²⁶ Section 624.408(3), F.S., does not require an insurer to have surplus as to policyholders greater than \$100 million.

²⁷ Section 624.408(g), F.S., also provides that the Office of Insurance Regulation may reduce the surplus requirements in paragraphs (f) and (g) if the insurer is not writing new business, has premiums in force of less than \$1 million per year in residential property insurance, or is a mutual insurance company.

²⁸ See AM Best Ratings and Criteria Center webpage, available at <http://www.ambest.com/ratings/guide.asp> (last visited on September 14, 2015).

operating performance and business profile. The rating system uses certain methodologies to review Property/Casualty (Non-life), Life/Annuity, and Health/HMO industry segments all over the world. The table below shows the highest tier (“Secure”) of financial ratings.

Best’s Financial Strength Ratings²⁹			
	Rating	Descriptor	Definition
Secure	A++, A+	Superior	Assigned to companies that have a superior ability to meet their ongoing insurance obligations
	A, A-	Excellent	Assigned to companies that have an excellent ability to meet their ongoing insurance obligations
	B++, B+	Good	Assigned to companies that have a good ability to meet their ongoing insurance obligations

Administrative Commission’s Uniform Rules of Procedure

The Administrative Commission³⁰ has adopted Uniform Rules of Procedures. These procedures include rules governing bid protests under specified Florida Laws. Chapter 28-110, F.A.C., supplements the laws on bid protests that arise from the contract procurement process under chapters 24, 255, 287, 334 through 349, sections 282.303 through 282.313, F.S., and other statutes applicable to agencies as defined in s. 120.52(1), F.S.³¹

Rule 28.110.005, F.A.C., governs bond requirements for certain bid protests, such as procurement of commodities, contractual services, professional services and insurance, and for procurement of leases of space in privately-owned buildings.

III. Effect of Proposed Changes:

Section 1 transfers s. 287.05712, F.S., and renumbers it as s. 255.065, F.S., to incorporate many of the recommendations contained in the task force report, which include best practice recommendations as well as recommendations relating to needed clarification of s. 287.05712, F.S., which may facilitate the implementation of P3s.

Responsible Public Entity Definition

The bill modifies the definition of “responsible public entity” to include special districts and school districts (rather than school boards).³²

Task Force

The bill deletes the provisions relating to the task force because the task force was disbanded on December 31, 2014.

²⁹ Id.

³⁰ Section 14.202, F.S. The Administrative Commission consists of the Governor and members of the Cabinet.

³¹ See Rule 28-110.001, F.A.C.

³² Id. at 18. The task force recommended amending the definition of “responsible public entity” to reference school district, rather than board, as the district is the unit that provides public primary education. It also recommended clarifying that the definition includes both special districts and the Florida College System.

Application Fees

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee.³³ The application fee must be paid by cash, cashier's check, or other noncancelable instrument. If the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the notice, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.

When evaluating an unsolicited proposal that involves architecture, engineering, or landscape architecture, a Florida licensed architect, engineer, or landscape architect must review the project. The professional who reviewed the project must be retained through the completion of the design and construction of the unsolicited proposal.

Solicitation Timeframes

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity's governing body.³⁴ It also removes the requirement that a school board obtain the approval of the local governing body.³⁵

Contents of Solicitation – Design Criteria Package

The bill requires a solicitation to include a design criteria package prepared by an architect, engineer or landscape architect licensed in Florida that is sufficient to allow private entities to prepare a bid or a response to the solicitation. The design criteria package must include reasonably specific criteria for the project, including:

- The legal description of the site, with survey information;
- Interior space requirements;
- Material quality standards;
- Schematic layouts and conceptual design criteria for the project, with budget estimates;
- Design and construction schedules; and
- Site development and utility requirements.

Responsible public entities must retain the design professional who prepared the design criteria until the project is completed.

³³ *Id.* at 9. The task force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation.

³⁴ *Id.* at 7. The task force discussed that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals.

³⁵ *Id.* at 18. The task force recommended striking this provision because school boards are not subject to governance by a local governing body.

Ownership by the Responsible Public Entity

The bill clarifies that the project must be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.³⁶

Unsolicited Proposal

The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.³⁷

Project Qualification

The bill alters the parties that must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects to allow the applicable party (or parties) of the private entity's team to be a qualifying entity, rather than just the private entity itself.³⁸

The bill deletes a requirement that a responsible public entity ensure that provision is made for the transfer of a private entity's obligations if the comprehensive agreement is terminated and replaces it with a requirement that the responsible public entity ensure that the comprehensive agreement addresses termination upon a material default.³⁹

Notice to Affected Local Jurisdictions

The bill deletes the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction when considering it.⁴⁰ The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project.

Financing

The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.⁴¹

The bill also deletes a provision that provides for the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the

³⁶ *Id.* at 13.

³⁷ *Id.* at 7.

³⁸ *Id.* at 21.

³⁹ *Id.* at 14.

⁴⁰ *Id.* at 12. The report provided a discussion on the notice that is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines.

⁴¹ *Id.* at 20.

qualifying project will be funded.⁴² Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers. Additionally, had the provision remained in current law, it is unclear how this provision would apply to state universities or Florida College System institutions.

Department of Management Services

The bill provides that the department may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.⁴³ Responsible public entities are not required to provide copies to the department; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

Construction

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority.⁴⁴

Miscellaneous

The bill transfers and renumbers s. 287.05712, F.S., as s. 255.065, F.S., because chapter 255, F.S., relates to procurement of construction services, and P3s are primarily construction-related projects.

The bill also makes other changes to provide for the consistent use of terminology and to provide clarity.

Section 2 amends s. 287.0935, F.S., to expand the limitation on state agencies and local governments to refuse surety bonds issued by surety companies that meet specific criteria. Specifically, the statute is amended to expand the limitation to include projects worth up to \$5 million (rather than \$500,000) and to prohibit a governmental entity from refusing a surety bond issued by a company that has an A- rating or higher from A.M. Best Company. Any surety company that does not maintain at least two times the minimum surplus and capital required under the Florida Insurance Code may rely on its AM Best rating, if at least an A-, to preclude a governmental entity from refusing its surety bonds for particular projects.

⁴² *Id.* at 14.

⁴³ *Id.* at 11. The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s.

⁴⁴ *Id.* at 19. The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority.

In practical application, this modification may reduce the level of surplus and capital available in Florida of a surety company writing performance bonds on publicly funded projects. This may reduce the ability of governmental entities to ensure the timely completion of public projects if a contractor fails to comply with a contract.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may provide more opportunities for the private sector to enter into contracts for construction services with state universities and local governments.

The entity submitting an unsolicited proposal must pay the full cost of the evaluation to the responsible public entity.

C. Government Sector Impact:

The bill will have an insignificant negative fiscal impact on the Department of Management Services for the purpose of receiving comprehensive agreements and acting as a depository for such comprehensive agreements. According to the department, the costs should be absorbed within current resources.

The bill requires the responsible public entity to retain a licensed professional to evaluate certain unsolicited proposals. However, the entity submitting the unsolicited proposal must pay the full cost of the evaluation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 126 is the related public records bill linked to this bill.

VIII. Statutes Affected:

This bill substantially amends section 287.05712 of the Florida Statutes and transfers and renumbers it as section 255.065 of the Florida Statutes.

This bill substantially amends section 287.0935 of the Florida Statutes.

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

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

CS by Governmental Oversight and Accountability on February 1, 2016:

- Removes Florida College Systems from the definition of a “responsible public entity;”
- Adds provisions stating that if the responsible public entity evaluates an unsolicited proposal involving architecture, engineering or landscape architecture, the project must meet standards consistent with public projects and be required to retain the professional until the project is complete;
- Provides that if a responsible public entity requests a proposal from a private entity which includes design work, the solicitation must include reasonably specific criteria and the licensed design profession who prepares the design criteria must be retained through the completion of the project; and
- Makes editorial changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 287.05712, Florida Statutes, is
transferred, renumbered as section 255.065, Florida Statutes,
and amended to read:

255.065 ~~287.05712~~ Public-private partnerships.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Affected local jurisdiction" means a county,



11 municipality, or special district in which all or a portion of a
12 qualifying project is located.

13 (b) "Develop" means to plan, design, finance, lease,
14 acquire, install, construct, or expand.

15 (c) "Fees" means charges imposed by the private entity of a
16 qualifying project for use of all or a portion of such
17 qualifying project pursuant to a comprehensive agreement.

18 (d) "Lease payment" means any form of payment, including a
19 land lease, by a public entity to the private entity of a
20 qualifying project for the use of the project.

21 (e) "Material default" means a nonperformance of its duties
22 by the private entity of a qualifying project which jeopardizes
23 adequate service to the public from the project.

24 (f) "Operate" means to finance, maintain, improve, equip,
25 modify, or repair.

26 (g) "Private entity" means any natural person, corporation,
27 general partnership, limited liability company, limited
28 partnership, joint venture, business trust, public benefit
29 corporation, nonprofit entity, or other private business entity.

30 (h) "Proposal" means a plan for a qualifying project with
31 detail beyond a conceptual level for which terms such as fixing
32 costs, payment schedules, financing, deliverables, and project
33 schedule are defined.

34 (i) "Qualifying project" means:

35 1. A facility or project that serves a public purpose,
36 including, but not limited to, any ferry or mass transit
37 facility, vehicle parking facility, airport or seaport facility,
38 rail facility or project, fuel supply facility, oil or gas
39 pipeline, medical or nursing care facility, recreational



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40 facility, sporting or cultural facility, or educational facility
41 or other building or facility that is used or will be used by a
42 public educational institution, or any other public facility or
43 infrastructure that is used or will be used by the public at
44 large or in support of an accepted public purpose or activity;

45 2. An improvement, including equipment, of a building that
46 will be principally used by a public entity or the public at
47 large or that supports a service delivery system in the public
48 sector;

49 3. A water, wastewater, or surface water management
50 facility or other related infrastructure; or

51 4. Notwithstanding any provision of this section, for
52 projects that involve a facility owned or operated by the
53 governing board of a county, district, or municipal hospital or
54 health care system, or projects that involve a facility owned or
55 operated by a municipal electric utility, only those projects
56 that the governing board designates as qualifying projects
57 pursuant to this section.

58 (j) "Responsible public entity" means a county,
59 municipality, school district, special district, ~~board,~~ or any
60 other political subdivision of the state; a public body
61 corporate and politic; or a regional entity that serves a public
62 purpose and is authorized to develop or operate a qualifying
63 project.

64 (k) "Revenues" means the income, earnings, user fees, lease
65 payments, or other service payments relating to the development
66 or operation of a qualifying project, including, but not limited
67 to, money received as grants or otherwise from the Federal
68 Government, a public entity, or an agency or instrumentality



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69 thereof in aid of the qualifying project.

70 (1) "Service contract" means a contract between a
71 responsible public entity and the private entity which defines
72 the terms of the services to be provided with respect to a
73 qualifying project.

74 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
75 that there is a public need for the construction or upgrade of
76 facilities that are used predominantly for public purposes and
77 that it is in the public's interest to provide for the
78 construction or upgrade of such facilities.

79 (a) The Legislature also finds that:

80 1. There is a public need for timely and cost-effective
81 acquisition, design, construction, improvement, renovation,
82 expansion, equipping, maintenance, operation, implementation, or
83 installation of projects serving a public purpose, including
84 educational facilities, transportation facilities, water or
85 wastewater management facilities and infrastructure, technology
86 infrastructure, roads, highways, bridges, and other public
87 infrastructure and government facilities within the state which
88 serve a public need and purpose, and that such public need may
89 not be wholly satisfied by existing procurement methods.

90 2. There are inadequate resources to develop new
91 educational facilities, transportation facilities, water or
92 wastewater management facilities and infrastructure, technology
93 infrastructure, roads, highways, bridges, and other public
94 infrastructure and government facilities for the benefit of
95 residents of this state, and that a public-private partnership
96 has demonstrated that it can meet the needs by improving the
97 schedule for delivery, lowering the cost, and providing other



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98 benefits to the public.

99 3. There may be state and federal tax incentives that
100 promote partnerships between public and private entities to
101 develop and operate qualifying projects.

102 4. A procurement under this section serves the public
103 purpose of this section if such procurement facilitates the
104 timely development or operation of a qualifying project.

105 (b) It is the intent of the Legislature to encourage
106 investment in the state by private entities; to facilitate
107 various bond financing mechanisms, private capital, and other
108 funding sources for the development and operation of qualifying
109 projects, including expansion and acceleration of such financing
110 to meet the public need; and to provide the greatest possible
111 flexibility to public and private entities contracting for the
112 provision of public services.

113 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.~~

114 ~~(a) There is created the Partnership for Public Facilities~~
115 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~
116 ~~recommending guidelines for the Legislature to consider for~~
117 ~~purposes of creating a uniform process for establishing public-~~
118 ~~private partnerships, including the types of factors responsible~~
119 ~~public entities should review and consider when processing~~
120 ~~requests for public-private partnership projects pursuant to~~
121 ~~this section.~~

122 ~~(b) The task force shall be composed of seven members, as~~
123 ~~follows:~~

124 1. ~~The Secretary of Management Services or his or her~~
125 ~~designee, who shall serve as chair of the task force.~~

126 2. ~~Six members appointed by the Governor, as follows:~~



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- 127 ~~a. One county government official.~~
- 128 ~~b. One municipal government official.~~
- 129 ~~c. One district school board member.~~
- 130 ~~d. Three representatives of the business community.~~
- 131 ~~(c) Task force members must be appointed by July 31, 2013.~~
- 132 ~~By August 31, 2013, the task force shall meet to establish~~
- 133 ~~procedures for the conduct of its business and to elect a vice~~
- 134 ~~chair. The task force shall meet at the call of the chair. A~~
- 135 ~~majority of the members of the task force constitutes a quorum,~~
- 136 ~~and a quorum is necessary for the purpose of voting on any~~
- 137 ~~action or recommendation of the task force. All meetings shall~~
- 138 ~~be held in Tallahassee, unless otherwise decided by the task~~
- 139 ~~force, and then no more than two such meetings may be held in~~
- 140 ~~other locations for the purpose of taking public testimony.~~
- 141 ~~Administrative and technical support shall be provided by the~~
- 142 ~~department. Task force members shall serve without compensation~~
- 143 ~~and are not entitled to reimbursement for per diem or travel~~
- 144 ~~expenses.~~
- 145 ~~(d) In reviewing public private partnerships and developing~~
- 146 ~~recommendations, the task force must consider:~~
- 147 ~~1. Opportunities for competition through public notice and~~
- 148 ~~the availability of representatives of the responsible public~~
- 149 ~~entity to meet with private entities considering a proposal.~~
- 150 ~~2. Reasonable criteria for choosing among competing~~
- 151 ~~proposals.~~
- 152 ~~3. Suggested timelines for selecting proposals and~~
- 153 ~~negotiating an interim or comprehensive agreement.~~
- 154 ~~4. If an accelerated selection and review and documentation~~
- 155 ~~timelines should be considered for proposals involving a~~



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156 ~~qualifying project that the responsible public entity deems a~~
157 ~~priority.~~

158 ~~5. Procedures for financial review and analysis which, at a~~
159 ~~minimum, include a cost-benefit analysis, an assessment of~~
160 ~~opportunity cost, and consideration of the results of all~~
161 ~~studies and analyses related to the proposed qualifying project.~~

162 ~~6. The adequacy of the information released when seeking~~
163 ~~competing proposals and providing for the enhancement of that~~
164 ~~information, if deemed necessary, to encourage competition.~~

165 ~~7. Current exemptions from public records and public~~
166 ~~meetings requirements, if any changes to those exemptions are~~
167 ~~necessary, or if any new exemptions should be created in order~~
168 ~~to maintain the confidentiality of financial and proprietary~~
169 ~~information received as part of an unsolicited proposal.~~

170 ~~8. Recommendations regarding the authority of the~~
171 ~~responsible public entity to engage the services of qualified~~
172 ~~professionals, which may include a Florida-registered~~
173 ~~professional or a certified public accountant, not otherwise~~
174 ~~employed by the responsible public entity, to provide an~~
175 ~~independent analysis regarding the specifics, advantages,~~
176 ~~disadvantages, and long-term and short-term costs of a request~~
177 ~~by a private entity for approval of a qualifying project, unless~~
178 ~~the governing body of the public entity determines that such~~
179 ~~analysis should be performed by employees of the public entity.~~

180 ~~(e) The task force must submit a final report of its~~
181 ~~recommendations to the Governor, the President of the Senate,~~
182 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

183 ~~(f) The task force is terminated December 31, 2014. The~~
184 ~~establishment of guidelines pursuant to this section or the~~



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185 ~~adoption of such guidelines by a responsible public entity is~~
186 ~~not required for such entity to request or receive proposals for~~
187 ~~a qualifying project or to enter into a comprehensive agreement~~
188 ~~for a qualifying project. A responsible public entity may adopt~~
189 ~~guidelines so long as such guidelines are not inconsistent with~~
190 ~~this section.~~

191 (3)~~(4)~~ PROCUREMENT PROCEDURES.—A responsible public entity
192 may receive unsolicited proposals or may solicit proposals for a
193 qualifying project ~~projects~~ and may thereafter enter into a
194 comprehensive ~~an~~ agreement with a private entity, or a
195 consortium of private entities, for the building, upgrading,
196 operating, ownership, or financing of facilities.

197 (a)1. The responsible public entity may establish a
198 reasonable application fee for the submission of an unsolicited
199 proposal under this section.

200 2. A private entity that submits an unsolicited proposal to
201 a responsible public entity must concurrently pay an initial
202 application fee, as determined by the responsible public entity.
203 Payment must be made by cash, cashier's check, or other
204 noncancelable instrument. Personal checks may not be accepted.

205 3. If the initial application fee does not cover the
206 responsible public entity's costs to evaluate the unsolicited
207 proposal, the responsible public entity must request in writing
208 the additional amounts required. The private entity must pay the
209 requested additional amounts within 30 days after receipt of the
210 notice. The responsible public entity may stop its review of the
211 unsolicited proposal if the private entity fails to pay the
212 additional amounts.

213 4. If the responsible public entity does not evaluate the



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214 unsolicited proposal, the responsible public entity must return
215 the application fee ~~The fee must be sufficient to pay the costs~~
216 ~~of evaluating the proposal. The responsible public entity may~~
217 ~~engage the services of a private consultant to assist in the~~
218 ~~evaluation.~~

219 5. If the responsible public entity chooses to evaluate an
220 unsolicited proposal involving architecture, engineering or
221 landscape architecture, it must ensure a professional review and
222 evaluation of the design and construction proposed by the
223 initial or subsequent proposers to assure material quality
224 standards, interior space utilization, budget estimates, design
225 and construction schedules and sustainable design and
226 construction standards consistent with public projects. Such
227 review shall be performed by an architect, a landscape architect
228 or an engineer licensed in this state qualified to perform the
229 review and such professional shall advise the responsible public
230 entity through completion of the design and construction of the
231 project.

232 (b) The responsible public entity may request a proposal
233 from private entities for a qualifying ~~public-private~~ project
234 or, if the responsible public entity receives an unsolicited
235 proposal for a qualifying ~~public-private~~ project and the
236 responsible public entity intends to enter into a comprehensive
237 agreement for the project described in the ~~such~~ unsolicited
238 proposal, the responsible public entity shall publish notice in
239 the Florida Administrative Register and a newspaper of general
240 circulation at least once a week for 2 weeks stating that the
241 responsible public entity has received a proposal and will
242 accept other proposals for the same project. The timeframe



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243 within which the responsible public entity may accept other
244 proposals shall be determined by the responsible public entity
245 on a project-by-project basis based upon the complexity of the
246 qualifying project and the public benefit to be gained by
247 allowing a longer or shorter period of time within which other
248 proposals may be received; however, the timeframe for allowing
249 other proposals must be at least 21 days, but no more than 120
250 days, after the initial date of publication. If approved by a
251 majority vote of the responsible public entity's governing body,
252 the responsible public entity may alter the timeframe for
253 accepting proposals to more adequately suit the needs of the
254 qualifying project. A copy of the notice must be mailed to each
255 local government in the affected area.

256 (c) If the solicited qualifying project provided in
257 paragraph (b) includes design work, the solicitation must
258 include a design criteria package prepared by an architect, a
259 landscape architect, or an engineer licensed in this state which
260 is sufficient to allow private entities to prepare a bid or a
261 response. The design criteria package must specify reasonably
262 specific criteria for the qualifying project such as the legal
263 description of the site, with survey information; interior space
264 requirements; material quality standards; schematic layouts and
265 conceptual design criteria for the qualifying project; cost or
266 budget estimates; design and construction schedules; and site
267 development and utility requirements. The licensed design
268 professional who prepares the design criteria package shall be
269 retained to serve the responsible public entity through
270 completion of the design and construction of the project ~~A~~
271 ~~responsible public entity that is a school board may enter into~~



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272 a ~~comprehensive agreement only with the approval of the local~~
273 ~~governing body.~~

274 (d) Before approving a comprehensive agreement approval,
275 the responsible public entity must determine that the proposed
276 project:

277 1. Is in the public's best interest.

278 2. Is for a facility that is owned by the responsible
279 public entity or for a facility for which ownership will be
280 conveyed to the responsible public entity.

281 3. Has adequate safeguards in place to ensure that
282 additional costs or service disruptions are not imposed on the
283 public in the event of material default or cancellation of the
284 comprehensive agreement by the responsible public entity.

285 4. Has adequate safeguards in place to ensure that the
286 responsible public entity or private entity has the opportunity
287 to add capacity to the proposed project or other facilities
288 serving similar predominantly public purposes.

289 5. Will be owned by the responsible public entity upon
290 completion, expiration, or termination of the comprehensive
291 agreement and upon payment of the amounts financed.

292 (e) Before signing a comprehensive agreement, the
293 responsible public entity must consider a reasonable finance
294 plan that is consistent with subsection (9) ~~(11)~~; the qualifying
295 project cost; revenues by source; available financing; major
296 assumptions; internal rate of return on private investments, if
297 governmental funds are assumed in order to deliver a cost-
298 feasible project; and a total cash-flow analysis beginning with
299 the implementation of the project and extending for the term of
300 the comprehensive agreement.



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301 (f) In considering an unsolicited proposal, the responsible
302 public entity may require from the private entity a technical
303 study prepared by a nationally recognized expert with experience
304 in preparing analysis for bond rating agencies. In evaluating
305 the technical study, the responsible public entity may rely upon
306 internal staff reports prepared by personnel familiar with the
307 operation of similar facilities or the advice of external
308 advisors or consultants who have relevant experience.

309 (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited
310 proposal from a private entity for approval of a qualifying
311 project must be accompanied by the following material and
312 information, unless waived by the responsible public entity:

313 (a) A description of the qualifying project, including the
314 conceptual design of the facilities or a conceptual plan for the
315 provision of services, and a schedule for the initiation and
316 completion of the qualifying project.

317 (b) A description of the method by which the private entity
318 proposes to secure the necessary property interests that are
319 required for the qualifying project.

320 (c) A description of the private entity's general plans for
321 financing the qualifying project, including the sources of the
322 private entity's funds and the identity of any dedicated revenue
323 source or proposed debt or equity investment on behalf of the
324 private entity.

325 (d) The name and address of a person who may be contacted
326 for additional information concerning the proposal.

327 (e) The proposed user fees, lease payments, or other
328 service payments over the term of a comprehensive agreement, and
329 the methodology for and circumstances that would allow changes



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330 to the user fees, lease payments, and other service payments
331 over time.

332 (f) Additional material or information that the responsible
333 public entity reasonably requests.

334

335 Any pricing or financial terms included in an unsolicited
336 proposal must be specific as to when the pricing or terms
337 expire.

338 (5)(6) PROJECT QUALIFICATION AND PROCESS.-

339 (a) The private entity, or the applicable party or parties
340 of the private entity's team, must meet the minimum standards
341 contained in the responsible public entity's guidelines for
342 qualifying professional services and contracts for traditional
343 procurement projects.

344 (b) The responsible public entity must:

345 1. Ensure that provision is made for the private entity's
346 performance and payment of subcontractors, including, but not
347 limited to, surety bonds, letters of credit, parent company
348 guarantees, and lender and equity partner guarantees. For the
349 components of the qualifying project which involve construction
350 performance and payment, bonds are required and are subject to
351 the recordation, notice, suit limitation, and other requirements
352 of s. 255.05.

353 2. Ensure the most efficient pricing of the security
354 package that provides for the performance and payment of
355 subcontractors.

356 3. Ensure that ~~provision is made for the transfer of the~~
357 ~~private entity's obligations if the comprehensive agreement~~
358 addresses termination upon is terminated or a material default



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359 of the comprehensive agreement ~~occurs~~.

360 (c) After the public notification period has expired in the
361 case of an unsolicited proposal, the responsible public entity
362 shall rank the proposals received in order of preference. In
363 ranking the proposals, the responsible public entity may
364 consider factors that include, but are not limited to,
365 professional qualifications, general business terms, innovative
366 design techniques or cost-reduction terms, and finance plans.
367 The responsible public entity may then begin negotiations for a
368 comprehensive agreement with the highest-ranked firm. If the
369 responsible public entity is not satisfied with the results of
370 the negotiations, the responsible public entity may terminate
371 negotiations with the proposer and negotiate with the second-
372 ranked or subsequent-ranked firms, in the order consistent with
373 this procedure. If only one proposal is received, the
374 responsible public entity may negotiate in good faith, and if
375 the responsible public entity is not satisfied with the results
376 of the negotiations, the responsible public entity may terminate
377 negotiations with the proposer. Notwithstanding this paragraph,
378 the responsible public entity may reject all proposals at any
379 point in the process until a contract with the proposer is
380 executed.

381 (d) The responsible public entity shall perform an
382 independent analysis of the proposed public-private partnership
383 which demonstrates the cost-effectiveness and overall public
384 benefit before the procurement process is initiated or before
385 the contract is awarded.

386 (e) The responsible public entity may approve the
387 development or operation of an educational facility, a



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388 transportation facility, a water or wastewater management
389 facility or related infrastructure, a technology infrastructure
390 or other public infrastructure, or a government facility needed
391 by the responsible public entity as a qualifying project, or the
392 design or equipping of a qualifying project that is developed or
393 operated, if:

394 1. There is a public need for or benefit derived from a
395 project of the type that the private entity proposes as the
396 qualifying project.

397 2. The estimated cost of the qualifying project is
398 reasonable in relation to similar facilities.

399 3. The private entity's plans will result in the timely
400 acquisition, design, construction, improvement, renovation,
401 expansion, equipping, maintenance, or operation of the
402 qualifying project.

403 (f) The responsible public entity may charge a reasonable
404 fee to cover the costs of processing, reviewing, and evaluating
405 the request, including, but not limited to, reasonable attorney
406 fees and fees for financial and technical advisors or
407 consultants and for other necessary advisors or consultants.

408 (g) Upon approval of a qualifying project, the responsible
409 public entity shall establish a date for the commencement of
410 activities related to the qualifying project. The responsible
411 public entity may extend the commencement date.

412 (h) Approval of a qualifying project by the responsible
413 public entity is subject to entering into a comprehensive
414 agreement with the private entity.

415 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.~~

416 ~~(a) The responsible public entity must notify each affected~~



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417 ~~local jurisdiction by furnishing a copy of the proposal to each~~
418 ~~affected local jurisdiction when considering a proposal for a~~
419 ~~qualifying project.~~

420 ~~(b) Each affected local jurisdiction that is not a~~
421 ~~responsible public entity for the respective qualifying project~~
422 ~~may, within 60 days after receiving the notice, submit in~~
423 ~~writing any comments to the responsible public entity and~~
424 ~~indicate whether the facility is incompatible with the local~~
425 ~~comprehensive plan, the local infrastructure development plan,~~
426 ~~the capital improvements budget, any development of regional~~
427 ~~impact processes or timelines, or other governmental spending~~
428 ~~plan. The responsible public entity shall consider the comments~~
429 ~~of the affected local jurisdiction before entering into a~~
430 ~~comprehensive agreement with a private entity. If an affected~~
431 ~~local jurisdiction fails to respond to the responsible public~~
432 ~~entity within the time provided in this paragraph, the~~
433 ~~nonresponse is deemed an acknowledgment by the affected local~~
434 ~~jurisdiction that the qualifying project is compatible with the~~
435 ~~local comprehensive plan, the local infrastructure development~~
436 ~~plan, the capital improvements budget, or other governmental~~
437 ~~spending plan.~~

438 ~~(6)(8)~~ INTERIM AGREEMENT.—Before or in connection with the
439 negotiation of a comprehensive agreement, the responsible public
440 entity may enter into an interim agreement with the private
441 entity proposing the development or operation of the qualifying
442 project. An interim agreement does not obligate the responsible
443 public entity to enter into a comprehensive agreement. The
444 interim agreement is discretionary with the parties and is not
445 required on a qualifying project for which the parties may



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446 proceed directly to a comprehensive agreement without the need
447 for an interim agreement. An interim agreement must be limited
448 to provisions that:

449 (a) Authorize the private entity to commence activities for
450 which it may be compensated related to the proposed qualifying
451 project, including, but not limited to, project planning and
452 development, design, environmental analysis and mitigation,
453 survey, other activities concerning any part of the proposed
454 qualifying project, and ascertaining the availability of
455 financing for the proposed facility or facilities.

456 (b) Establish the process and timing of the negotiation of
457 the comprehensive agreement.

458 (c) Contain such other provisions related to an aspect of
459 the development or operation of a qualifying project that the
460 responsible public entity and the private entity deem
461 appropriate.

462 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.—

463 (a) Before developing or operating the qualifying project,
464 the private entity must enter into a comprehensive agreement
465 with the responsible public entity. The comprehensive agreement
466 must provide for:

467 1. Delivery of performance and payment bonds, letters of
468 credit, or other security acceptable to the responsible public
469 entity in connection with the development or operation of the
470 qualifying project in the form and amount satisfactory to the
471 responsible public entity. For the components of the qualifying
472 project which involve construction, the form and amount of the
473 bonds must comply with s. 255.05.

474 2. Review of the design for the qualifying project by the



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475 responsible public entity and, if the design conforms to
476 standards acceptable to the responsible public entity, the
477 approval of the responsible public entity. This subparagraph
478 does not require the private entity to complete the design of
479 the qualifying project before the execution of the comprehensive
480 agreement.

481 3. Inspection of the qualifying project by the responsible
482 public entity to ensure that the private entity's activities are
483 acceptable to the responsible public entity in accordance with
484 the comprehensive agreement.

485 4. Maintenance of a policy of public liability insurance, a
486 copy of which must be filed with the responsible public entity
487 and accompanied by proofs of coverage, or self-insurance, each
488 in the form and amount satisfactory to the responsible public
489 entity and reasonably sufficient to ensure coverage of tort
490 liability to the public and employees and to enable the
491 continued operation of the qualifying project.

492 5. Monitoring by the responsible public entity of the
493 maintenance practices to be performed by the private entity to
494 ensure that the qualifying project is properly maintained.

495 6. Periodic filing by the private entity of the appropriate
496 financial statements that pertain to the qualifying project.

497 7. Procedures that govern the rights and responsibilities
498 of the responsible public entity and the private entity in the
499 course of the construction and operation of the qualifying
500 project and in the event of the termination of the comprehensive
501 agreement or a material default by the private entity. The
502 procedures must include conditions that govern the assumption of
503 the duties and responsibilities of the private entity by an



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504 entity that funded, in whole or part, the qualifying project or
505 by the responsible public entity, and must provide for the
506 transfer or purchase of property or other interests of the
507 private entity by the responsible public entity.

508 8. Fees, lease payments, or service payments. In
509 negotiating user fees, the fees must be the same for persons
510 using the facility under like conditions and must not materially
511 discourage use of the qualifying project. The execution of the
512 comprehensive agreement or a subsequent amendment is conclusive
513 evidence that the fees, lease payments, or service payments
514 provided for in the comprehensive agreement comply with this
515 section. Fees or lease payments established in the comprehensive
516 agreement as a source of revenue may be in addition to, or in
517 lieu of, service payments.

518 9. Duties of the private entity, including the terms and
519 conditions that the responsible public entity determines serve
520 the public purpose of this section.

521 (b) The comprehensive agreement may include:

522 1. An agreement by the responsible public entity to make
523 grants or loans to the private entity from amounts received from
524 the federal, state, or local government or an agency or
525 instrumentality thereof.

526 2. A provision under which each entity agrees to provide
527 notice of default and cure rights for the benefit of the other
528 entity, including, but not limited to, a provision regarding
529 unavoidable delays.

530 3. A provision that terminates the authority and duties of
531 the private entity under this section and dedicates the
532 qualifying project to the responsible public entity or, if the



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533 qualifying project was initially dedicated by an affected local
534 jurisdiction, to the affected local jurisdiction for public use.

535 (8)-(10) FEES.—A comprehensive ~~An~~ agreement entered into
536 pursuant to this section may authorize the private entity to
537 impose fees to members of the public for the use of the
538 facility. The following provisions apply to the comprehensive
539 agreement:

540 (a) The responsible public entity may develop new
541 facilities or increase capacity in existing facilities through a
542 comprehensive agreement with a private entity ~~agreements with~~
543 ~~public-private partnerships.~~

544 (b) The comprehensive ~~public-private partnership~~ agreement
545 must ensure that the facility is properly operated, maintained,
546 or improved in accordance with standards set forth in the
547 comprehensive agreement.

548 (c) The responsible public entity may lease existing fee-
549 for-use facilities through a comprehensive ~~public-private~~
550 ~~partnership~~ agreement.

551 (d) Any revenues must be authorized by and applied in the
552 manner set forth in ~~regulated by the responsible public entity~~
553 ~~pursuant to~~ the comprehensive agreement.

554 (e) A negotiated portion of revenues from fee-generating
555 uses ~~may~~ must be returned to the responsible public entity over
556 the life of the comprehensive agreement.

557 (9)-(11) FINANCING.—

558 (a) A private entity may enter into a private-source
559 financing agreement between financing sources and the private
560 entity. A financing agreement and any liens on the property or
561 facility must be paid in full at the applicable closing that



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562 transfers ownership or operation of the facility to the
563 responsible public entity at the conclusion of the term of the
564 comprehensive agreement.

565 (b) The responsible public entity may lend funds to private
566 entities that construct projects containing facilities that are
567 approved under this section.

568 (c) The responsible public entity may use innovative
569 finance techniques associated with a public-private partnership
570 under this section, including, but not limited to, federal loans
571 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
572 and hedges against inflation from commercial banks or other
573 private sources. In addition, the responsible public entity may
574 provide its own capital or operating budget to support a
575 qualifying project. The budget may be from any legally
576 permissible funding sources of the responsible public entity,
577 including the proceeds of debt issuances. A responsible public
578 entity may use the model financing agreement provided in s.
579 489.145(6) for its financing of a facility owned by a
580 responsible public entity. A financing agreement may not require
581 the responsible public entity to indemnify the financing source,
582 subject the responsible public entity's facility to liens in
583 violation of s. 11.066(5), or secure financing of by the
584 responsible public entity by a mortgage on, or security interest
585 in, the real or tangible personal property of the responsible
586 public entity in a manner that could result in the loss of the
587 fee ownership of the property by the responsible public entity
588 ~~with a pledge of security interest, and any such provision is~~
589 void.

590 ~~(d) A responsible public entity shall appropriate on a~~



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591 ~~priority basis as required by the comprehensive agreement a~~
592 ~~contractual payment obligation, annual or otherwise, from the~~
593 ~~enterprise or other government fund from which the qualifying~~
594 ~~projects will be funded. This required payment obligation must~~
595 ~~be appropriated before other noncontractual obligations payable~~
596 ~~from the same enterprise or other government fund.~~

597 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.-

598 (a) The private entity shall:

599 1. Develop or operate the qualifying project in a manner
600 that is acceptable to the responsible public entity in
601 accordance with the provisions of the comprehensive agreement.

602 2. Maintain, or provide by contract for the maintenance or
603 improvement of, the qualifying project if required by the
604 comprehensive agreement.

605 3. Cooperate with the responsible public entity in making
606 best efforts to establish interconnection between the qualifying
607 project and any other facility or infrastructure as requested by
608 the responsible public entity in accordance with the provisions
609 of the comprehensive agreement.

610 4. Comply with the comprehensive agreement and any lease or
611 service contract.

612 (b) Each private facility that is constructed pursuant to
613 this section must comply with the requirements of federal,
614 state, and local laws; state, regional, and local comprehensive
615 plans; the responsible public entity's rules, procedures, and
616 standards for facilities; and such other conditions that the
617 responsible public entity determines to be in the public's best
618 interest and that are included in the comprehensive agreement.

619 (c) The responsible public entity may provide services to



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620 the private entity. An agreement for maintenance and other
621 services entered into pursuant to this section must provide for
622 full reimbursement for services rendered for qualifying
623 projects.

624 (d) A private entity of a qualifying project may provide
625 additional services for the qualifying project to the public or
626 to other private entities if the provision of additional
627 services does not impair the private entity's ability to meet
628 its commitments to the responsible public entity pursuant to the
629 comprehensive agreement.

630 (11) ~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
631 expiration or termination of a comprehensive agreement, the
632 responsible public entity may use revenues from the qualifying
633 project to pay current operation and maintenance costs of the
634 qualifying project. If the private entity materially defaults
635 under the comprehensive agreement, the compensation that is
636 otherwise due to the private entity is payable to satisfy all
637 financial obligations to investors and lenders on the qualifying
638 project in the same way that is provided in the comprehensive
639 agreement or any other agreement involving the qualifying
640 project, if the costs of operating and maintaining the
641 qualifying project are paid in the normal course. Revenues in
642 excess of the costs for operation and maintenance costs may be
643 paid to the investors and lenders to satisfy payment obligations
644 under their respective agreements. A responsible public entity
645 may terminate with cause and without prejudice a comprehensive
646 agreement and may exercise any other rights or remedies that may
647 be available to it in accordance with the provisions of the
648 comprehensive agreement. The full faith and credit of the



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649 responsible public entity may not be pledged to secure the
650 financing of the private entity. The assumption of the
651 development or operation of the qualifying project does not
652 obligate the responsible public entity to pay any obligation of
653 the private entity from sources other than revenues from the
654 qualifying project unless stated otherwise in the comprehensive
655 agreement.

656 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive
657 the sovereign immunity of a responsible public entity, an
658 affected local jurisdiction, or an officer or employee thereof
659 with respect to participation in, or approval of, any part of a
660 qualifying project or its operation, including, but not limited
661 to, interconnection of the qualifying project with any other
662 infrastructure or project. A county or municipality in which a
663 qualifying project is located possesses sovereign immunity with
664 respect to the project, including, but not limited to, its
665 design, construction, and operation.

666 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

667 (a) A responsible public entity may provide a copy of its
668 comprehensive agreement to the Department of Management
669 Services. A responsible public entity must redact any
670 confidential or exempt information from the copy of the
671 comprehensive agreement before providing it to the Department of
672 Management Services.

673 (b) The Department of Management Services may accept and
674 maintain copies of comprehensive agreements received from
675 responsible public entities for the purpose of sharing
676 comprehensive agreements with other responsible public entities.

677 (c) This subsection does not require a responsible public



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678 entity to provide a copy of its comprehensive agreement to the
679 Department of Management Services.

680 (14)~~(15)~~ CONSTRUCTION.—

681 (a) This section shall be liberally construed to effectuate
682 the purposes of this section.

683 (b) This section shall be construed as cumulative and
684 supplemental to any other authority or power vested in or
685 exercised by the governing body ~~board~~ of a county, municipality,
686 special district, or municipal hospital or health care system
687 including those contained in acts of the Legislature
688 ~~establishing such public hospital boards or s. 155.40.~~

689 (c) This section does not affect any agreement or existing
690 relationship with a supporting organization involving such
691 governing body ~~board~~ or system in effect as of January 1, 2013.

692 (d)~~(a)~~ This section provides an alternative method and does
693 not limit a county, municipality, special district, or other
694 political subdivision of the state in the procurement or
695 operation of a qualifying project ~~acquisition, design, or~~
696 ~~construction of a public project~~ pursuant to other statutory or
697 constitutional authority.

698 (e)~~(b)~~ Except as otherwise provided in this section, this
699 section does not amend existing laws by granting additional
700 powers to, or further restricting, a local governmental entity
701 from regulating and entering into cooperative arrangements with
702 the private sector for the planning, construction, or operation
703 of a facility.

704 (f)~~(e)~~ This section does not waive any requirement of s.
705 287.055.

706 Section 2. This act shall take effect July 1, 2016.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public-private partnerships;
transferring, renumbering, and amending s. 287.05712,
F.S.; revising definitions; deleting provisions
creating the Public-Private Partnership Guidelines
Task Force; requiring a private entity that submits an
unsolicited proposal to pay an initial application fee
and additional amounts if the fee does not cover
certain costs; specifying payment methods; requiring a
professional review and evaluation of design and
construction to be completed for certain unsolicited
proposals; specifying requirements; authorizing a
responsible public entity to alter the statutory
timeframe for accepting proposals for a qualifying
project under certain circumstances; requiring a
design criteria package to be submitted to a
responsible public entity if such entity solicits
specific proposals; deleting a provision that requires
approval of the local governing body before a school
board enters into a comprehensive agreement; revising
the conditions necessary for a responsible public
entity to approve a comprehensive agreement; deleting
provisions relating to notice to affected local
jurisdictions; providing that fees imposed by a



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736 private entity must be applied as set forth in the
737 comprehensive agreement; authorizing a negotiated
738 portion of revenues from fee-generating uses to be
739 returned to the responsible public entity; restricting
740 provisions in financing agreements that could result
741 in a responsible public entity's losing ownership of
742 real or tangible personal property; deleting a
743 provision that required a responsible public entity to
744 comply with specific financial obligations; providing
745 duties of the Department of Management Services
746 relating to comprehensive agreements; revising
747 provisions relating to construction of the act;
748 providing an effective date.

By Senator Evers

2-00110-16

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1 A bill to be entitled
 2 An act relating to public procurement practices;
 3 transferring, renumbering, and amending s. 287.05712,
 4 F.S.; revising definitions; deleting provisions
 5 creating the Partnership for Public Facilities and
 6 Infrastructure Act Guidelines Task Force; requiring a
 7 private entity that submits an unsolicited proposal to
 8 pay an initial application fee and additional amounts
 9 if the fee does not cover certain costs; specifying
 10 payment methods; authorizing a responsible public
 11 entity to alter the statutory timeframe for accepting
 12 proposals for a qualifying project under certain
 13 circumstances; requiring a responsible public entity
 14 to include a design criteria package in a
 15 solicitation; specifying requirements for the design
 16 criteria package; deleting a provision that requires
 17 approval of the local governing body before a school
 18 board enters into a comprehensive agreement; revising
 19 the conditions necessary for a responsible public
 20 entity to approve a comprehensive agreement; deleting
 21 provisions relating to notice to affected local
 22 jurisdictions; requiring that fees imposed by a
 23 private entity be applied as set forth in the
 24 comprehensive agreement; restricting provisions in
 25 financing agreements which could result in a
 26 responsible public entity's loss of fee ownership of
 27 real or tangible personal property; deleting a
 28 provision that requires a responsible public entity to
 29 comply with specific financial obligations; specifying

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

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30 duties of the Department of Management Services;
 31 revising provisions relating to construction of the
 32 act; amending s. 287.0935, F.S.; increasing the dollar
 33 threshold for a contract amount of a project for which
 34 a person, the state, or a political subdivision is
 35 prohibited from refusing a surety bond issued by a
 36 surety company that meets certain requirements;
 37 revising the requirements for surety companies with
 38 respect to bonds issued for certain publicly funded
 39 contracts; providing an effective date.

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

42
 43 Section 1. Section 287.05712, Florida Statutes, is
 44 transferred, renumbered as section 255.065, Florida Statutes,
 45 and amended to read:

46 255.065 ~~287.05712~~ Public-private partnerships.—

47 (1) DEFINITIONS.—As used in this section, the term:

48 (a) "Affected local jurisdiction" means a county,
 49 municipality, or special district in which all or a portion of a
 50 qualifying project is located.

51 (b) "Develop" means to plan, design, finance, lease,
 52 acquire, install, construct, or expand.

53 (c) "Fees" means charges imposed by the private entity of a
 54 qualifying project for use of all or a portion of such
 55 qualifying project pursuant to a comprehensive agreement.

56 (d) "Lease payment" means any form of payment, including a
 57 land lease, by a public entity to the private entity of a
 58 qualifying project for the use of the project.

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59 (e) "Material default" means a nonperformance of its duties
60 by the private entity of a qualifying project which jeopardizes
61 adequate service to the public from the project.

62 (f) "Operate" means to finance, maintain, improve, equip,
63 modify, or repair.

64 (g) "Private entity" means any natural person, corporation,
65 general partnership, limited liability company, limited
66 partnership, joint venture, business trust, public benefit
67 corporation, nonprofit entity, or other private business entity.

68 (h) "Proposal" means a plan for a qualifying project with
69 detail beyond a conceptual level for which terms such as fixing
70 costs, payment schedules, financing, deliverables, and project
71 schedule are defined.

72 (i) "Qualifying project" means:

73 1. A facility or project that serves a public purpose,
74 including, but not limited to, any ferry or mass transit
75 facility, vehicle parking facility, airport or seaport facility,
76 rail facility or project, fuel supply facility, oil or gas
77 pipeline, medical or nursing care facility, recreational
78 facility, sporting or cultural facility, or educational facility
79 or other building or facility that is used or will be used by a
80 public educational institution, or any other public facility or
81 infrastructure that is used or will be used by the public at
82 large or in support of an accepted public purpose or activity;

83 2. An improvement, including equipment, of a building that
84 will be principally used by a public entity or the public at
85 large or that supports a service delivery system in the public
86 sector;

87 3. A water, wastewater, or surface water management

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88 facility or other related infrastructure; or

89 4. Notwithstanding any provision of this section, for
90 projects that involve a facility owned or operated by the
91 governing board of a county, district, or municipal hospital or
92 health care system, or projects that involve a facility owned or
93 operated by a municipal electric utility, only those projects
94 that the governing board designates as qualifying projects
95 pursuant to this section.

96 (j) "Responsible public entity" means a county,
97 municipality, school district, special district, or Florida
98 College System institution board, or any other political
99 subdivision of the state; a public body corporate and politic;
100 or a regional entity that serves a public purpose and is
101 authorized to develop or operate a qualifying project.

102 (k) "Revenues" means the income, earnings, user fees, lease
103 payments, or other service payments relating to the development
104 or operation of a qualifying project, including, but not limited
105 to, money received as grants or otherwise from the Federal
106 Government, a public entity, or an agency or instrumentality
107 thereof in aid of the qualifying project.

108 (l) "Service contract" means a contract between a
109 responsible public entity and the private entity which defines
110 the terms of the services to be provided with respect to a
111 qualifying project.

112 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
113 that there is a public need for the construction or upgrade of
114 facilities that are used predominantly for public purposes and
115 that it is in the public's interest to provide for the
116 construction or upgrade of such facilities.

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117 (a) The Legislature also finds that:

118 1. There is a public need for timely and cost-effective
 119 acquisition, design, construction, improvement, renovation,
 120 expansion, equipping, maintenance, operation, implementation, or
 121 installation of projects serving a public purpose, including
 122 educational facilities, transportation facilities, water or
 123 wastewater management facilities and infrastructure, technology
 124 infrastructure, roads, highways, bridges, and other public
 125 infrastructure and government facilities within the state which
 126 serve a public need and purpose, and that such public need may
 127 not be wholly satisfied by existing procurement methods.

128 2. There are inadequate resources to develop new
 129 educational facilities, transportation facilities, water or
 130 wastewater management facilities and infrastructure, technology
 131 infrastructure, roads, highways, bridges, and other public
 132 infrastructure and government facilities for the benefit of
 133 residents of this state, and that a public-private partnership
 134 has demonstrated that it can meet the needs by improving the
 135 schedule for delivery, lowering the cost, and providing other
 136 benefits to the public.

137 3. There may be state and federal tax incentives that
 138 promote partnerships between public and private entities to
 139 develop and operate qualifying projects.

140 4. A procurement under this section serves the public
 141 purpose of this section if such procurement facilitates the
 142 timely development or operation of a qualifying project.

143 (b) It is the intent of the Legislature to encourage
 144 investment in the state by private entities; to facilitate
 145 various bond financing mechanisms, private capital, and other

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146 funding sources for the development and operation of qualifying
 147 projects, including expansion and acceleration of such financing
 148 to meet the public need; and to provide the greatest possible
 149 flexibility to public and private entities contracting for the
 150 provision of public services.

151 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.—~~

152 ~~(a) There is created the Partnership for Public Facilities~~
 153 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~
 154 ~~recommending guidelines for the Legislature to consider for~~
 155 ~~purposes of creating a uniform process for establishing public-~~
 156 ~~private partnerships, including the types of factors responsible~~
 157 ~~public entities should review and consider when processing~~
 158 ~~requests for public private partnership projects pursuant to~~
 159 ~~this section.~~

160 ~~(b) The task force shall be composed of seven members, as~~
 161 ~~follows:~~

162 1. ~~The Secretary of Management Services or his or her~~
 163 ~~designee, who shall serve as chair of the task force.~~

164 2. ~~Six members appointed by the Governor, as follows:~~

165 a. ~~One county government official.~~

166 b. ~~One municipal government official.~~

167 c. ~~One district school board member.~~

168 d. ~~Three representatives of the business community.~~

169 ~~(c) Task force members must be appointed by July 31, 2013.~~

170 ~~By August 31, 2013, the task force shall meet to establish~~
 171 ~~procedures for the conduct of its business and to elect a vice~~
 172 ~~chair. The task force shall meet at the call of the chair. A~~
 173 ~~majority of the members of the task force constitutes a quorum,~~
 174 ~~and a quorum is necessary for the purpose of voting on any~~

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175 ~~action or recommendation of the task force. All meetings shall~~
 176 ~~be held in Tallahassee, unless otherwise decided by the task~~
 177 ~~force, and then no more than two such meetings may be held in~~
 178 ~~other locations for the purpose of taking public testimony.~~
 179 ~~Administrative and technical support shall be provided by the~~
 180 ~~department. Task force members shall serve without compensation~~
 181 ~~and are not entitled to reimbursement for per diem or travel~~
 182 ~~expenses.~~

183 ~~(d) In reviewing public-private partnerships and developing~~
 184 ~~recommendations, the task force must consider:~~

185 ~~1. Opportunities for competition through public notice and~~
 186 ~~the availability of representatives of the responsible public~~
 187 ~~entity to meet with private entities considering a proposal.~~

188 ~~2. Reasonable criteria for choosing among competing~~
 189 ~~proposals.~~

190 ~~3. Suggested timelines for selecting proposals and~~
 191 ~~negotiating an interim or comprehensive agreement.~~

192 ~~4. If an accelerated selection and review and documentation~~
 193 ~~timelines should be considered for proposals involving a~~
 194 ~~qualifying project that the responsible public entity deems a~~
 195 ~~priority.~~

196 ~~5. Procedures for financial review and analysis which, at a~~
 197 ~~minimum, include a cost-benefit analysis, an assessment of~~
 198 ~~opportunity cost, and consideration of the results of all~~
 199 ~~studies and analyses related to the proposed qualifying project.~~

200 ~~6. The adequacy of the information released when seeking~~
 201 ~~competing proposals and providing for the enhancement of that~~
 202 ~~information, if deemed necessary, to encourage competition.~~

203 ~~7. Current exemptions from public records and public~~

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204 ~~meetings requirements, if any changes to those exemptions are~~
 205 ~~necessary, or if any new exemptions should be created in order~~
 206 ~~to maintain the confidentiality of financial and proprietary~~
 207 ~~information received as part of an unsolicited proposal.~~

208 ~~8. Recommendations regarding the authority of the~~
 209 ~~responsible public entity to engage the services of qualified~~
 210 ~~professionals, which may include a Florida-registered~~
 211 ~~professional or a certified public accountant, not otherwise~~
 212 ~~employed by the responsible public entity, to provide an~~
 213 ~~independent analysis regarding the specifics, advantages,~~
 214 ~~disadvantages, and long-term and short-term costs of a request~~
 215 ~~by a private entity for approval of a qualifying project, unless~~
 216 ~~the governing body of the public entity determines that such~~
 217 ~~analysis should be performed by employees of the public entity.~~

218 ~~(e) The task force must submit a final report of its~~
 219 ~~recommendations to the Governor, the President of the Senate,~~
 220 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

221 ~~(f) The task force is terminated December 31, 2014. The~~
 222 ~~establishment of guidelines pursuant to this section or the~~
 223 ~~adoption of such guidelines by a responsible public entity is~~
 224 ~~not required for such entity to request or receive proposals for~~
 225 ~~a qualifying project or to enter into a comprehensive agreement~~
 226 ~~for a qualifying project. A responsible public entity may adopt~~
 227 ~~guidelines so long as such guidelines are not inconsistent with~~
 228 ~~this section.~~

229 ~~(3)-(4) PROCUREMENT PROCEDURES.-A responsible public entity~~
 230 ~~may receive unsolicited proposals or may solicit proposals for~~
 231 ~~qualifying projects and may thereafter enter into a~~
 232 ~~comprehensive an agreement with a private entity, or a~~

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233 consortium of private entities, for the building, upgrading,
234 operating, ownership, or financing of facilities.

235 (a) 1. The responsible public entity may establish a
236 reasonable application fee for the submission of an unsolicited
237 proposal under this section.

238 2. A private entity that submits an unsolicited proposal to
239 the responsible public entity must concurrently pay an initial
240 application fee, as determined by the responsible public entity.
241 Payment must be made by cash, cashier's check, or other
242 noncancelable instrument. Personal checks may not be accepted.

243 3. If the initial application fee does not cover the
244 responsible public entity's costs to evaluate the unsolicited
245 proposal, the responsible public entity must request in writing
246 the additional amounts required. The private entity must pay the
247 requested additional amounts within 30 days after receipt of the
248 notice. The responsible public entity may stop its review of the
249 unsolicited proposal if the private entity fails to pay the
250 additional fee.

251 4. If the responsible public entity does not evaluate the
252 unsolicited proposal, the responsible public entity must return
253 the application fee ~~The fee must be sufficient to pay the costs~~
254 ~~of evaluating the proposal. The responsible public entity may~~
255 ~~engage the services of a private consultant to assist in the~~
256 ~~evaluation.~~

257 (b) The responsible public entity may request a proposal
258 from private entities for a qualifying public-private project
259 or, if the responsible public entity receives an unsolicited
260 proposal for a qualifying public-private project and the
261 responsible public entity intends to enter into a comprehensive

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262 agreement for the project described in ~~the such~~ unsolicited
263 proposal, the responsible public entity shall publish notice in
264 the Florida Administrative Register and a newspaper of general
265 circulation at least once a week for 2 weeks stating that the
266 responsible public entity has received a proposal and will
267 accept other proposals for the same project. The timeframe
268 within which the responsible public entity may accept other
269 proposals shall be determined by the responsible public entity
270 on a project-by-project basis based upon the complexity of the
271 qualifying project and the public benefit to be gained by
272 allowing a longer or shorter period of time within which other
273 proposals may be received; however, the timeframe for allowing
274 other proposals must be at least 21 days, but no more than 120
275 days, after the initial date of publication. If approved by a
276 majority vote of the responsible public entity's governing body,
277 the responsible public entity may alter the timeframe for
278 accepting proposals to more adequately suit the needs of the
279 qualifying project. A copy of the notice must be mailed to each
280 local government in the affected area.

281 (c) If the responsible public entity solicits proposals
282 under this section, the solicitation must include a design
283 criteria package prepared by an architect, an engineer, or a
284 landscape architect licensed in this state which is sufficient
285 to allow private entities to prepare a bid or a response. The
286 design criteria package must specify performance-based criteria
287 for the project, including the legal description of the site,
288 with survey information; interior space requirements; material
289 quality standards; schematic layouts and conceptual design
290 criteria for the project; cost or budget estimates; design and

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291 construction schedules; and site development and utility
 292 requirements A ~~responsible public entity that is a school board~~
 293 ~~may enter into a comprehensive agreement only with the approval~~
 294 ~~of the local governing body.~~

295 (d) Before approving a comprehensive agreement ~~approval~~,
 296 the responsible public entity must determine that the proposed
 297 project:

- 298 1. Is in the public's best interest.
- 299 2. Is for a facility that is owned by the responsible
 300 public entity or for a facility for which ownership will be
 301 conveyed to the responsible public entity.
- 302 3. Has adequate safeguards in place to ensure that
 303 additional costs or service disruptions are not imposed on the
 304 public in the event of material default or cancellation of the
 305 comprehensive agreement by the responsible public entity.
- 306 4. Has adequate safeguards in place to ensure that the
 307 responsible public entity or private entity has the opportunity
 308 to add capacity to the proposed project or other facilities
 309 serving similar predominantly public purposes.
- 310 5. Will be owned by the responsible public entity upon
 311 completion, expiration, or termination of the comprehensive
 312 agreement and upon payment of the amounts financed.

313 (e) Before signing a comprehensive agreement, the
 314 responsible public entity must consider a reasonable finance
 315 plan that is consistent with subsection (9) ~~(11)~~; the qualifying
 316 project cost; revenues by source; available financing; major
 317 assumptions; internal rate of return on private investments, if
 318 governmental funds are assumed in order to deliver a cost-
 319 feasible project; and a total cash-flow analysis beginning with

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320 the implementation of the project and extending for the term of
 321 the comprehensive agreement.

322 (f) In considering an unsolicited proposal, the responsible
 323 public entity may require from the private entity a technical
 324 study prepared by a nationally recognized expert with experience
 325 in preparing analyses ~~analysis~~ for bond rating agencies. In
 326 evaluating the technical study, the responsible public entity
 327 may rely upon internal staff reports prepared by personnel
 328 familiar with the operation of similar facilities or the advice
 329 of external advisors or consultants who have relevant
 330 experience.

331 ~~(4)(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited
 332 proposal from a private entity for approval of a qualifying
 333 project must be accompanied by the following material and
 334 information, unless waived by the responsible public entity:

335 (a) A description of the qualifying project, including the
 336 conceptual design of the facilities or a conceptual plan for the
 337 provision of services, and a schedule for the initiation and
 338 completion of the qualifying project.

339 (b) A description of the method by which the private entity
 340 proposes to secure the necessary property interests that are
 341 required for the qualifying project.

342 (c) A description of the private entity's general plans for
 343 financing the qualifying project, including the sources of the
 344 private entity's funds and the identity of any dedicated revenue
 345 source or proposed debt or equity investment on behalf of the
 346 private entity.

347 (d) The name and address of a person who may be contacted
 348 for additional information concerning the proposal.

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349 (e) The proposed user fees, lease payments, or other
 350 service payments over the term of a comprehensive agreement, and
 351 the methodology for and circumstances that would allow changes
 352 to the user fees, lease payments, and other service payments
 353 over time.

354 (f) Additional material or information that the responsible
 355 public entity reasonably requests.

356 Any pricing or financial terms included in an unsolicited
 357 proposal must be specific as to when the pricing or terms
 358 expire.

360 ~~(5)~~ (6) PROJECT QUALIFICATION AND PROCESS.—

361 (a) The private entity, or the applicable party or parties
 362 of the private entity's team, must meet the minimum standards
 363 contained in the responsible public entity's guidelines for
 364 qualifying professional services and contracts for traditional
 365 procurement projects.

366 (b) The responsible public entity must:

367 1. Ensure that provision is made for the private entity's
 368 performance and payment of subcontractors, including, but not
 369 limited to, surety bonds, letters of credit, parent company
 370 guarantees, and lender and equity partner guarantees. For the
 371 components of the qualifying project which involve construction
 372 performance and payment, bonds are required and are subject to
 373 the recordation, notice, suit limitation, and other requirements
 374 of s. 255.05.

375 2. Ensure the most efficient pricing of the security
 376 package that provides for the performance and payment of
 377 subcontractors.

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378 3. Ensure that ~~provision is made for the transfer of the~~
 379 ~~private entity's obligations if the comprehensive agreement~~
 380 ~~addresses termination upon is terminated or a material default~~
 381 of the comprehensive agreement occurs.

382 (c) After the public notification period has expired in the
 383 case of an unsolicited proposal, the responsible public entity
 384 shall rank the proposals received in order of preference. In
 385 ranking the proposals, the responsible public entity may
 386 consider factors that include, but are not limited to,
 387 professional qualifications, general business terms, innovative
 388 design techniques or cost-reduction terms, and finance plans.
 389 The responsible public entity may then begin negotiations for a
 390 comprehensive agreement with the highest-ranked firm. If the
 391 responsible public entity is not satisfied with the results of
 392 the negotiations, the responsible public entity may terminate
 393 negotiations with the proposer and negotiate with the second-
 394 ranked or subsequent-ranked firms, in the order consistent with
 395 this procedure. If only one proposal is received, the
 396 responsible public entity may negotiate in good faith, and if
 397 the responsible public entity is not satisfied with the results
 398 of the negotiations, the responsible public entity may terminate
 399 negotiations with the proposer. Notwithstanding this paragraph,
 400 the responsible public entity may reject all proposals at any
 401 point in the process until a contract with the proposer is
 402 executed.

403 (d) The responsible public entity shall perform an
 404 independent analysis of the proposed public-private partnership
 405 which demonstrates the cost-effectiveness and overall public
 406 benefit before the procurement process is initiated or before

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407 the contract is awarded.

408 (e) The responsible public entity may approve the
409 development or operation of an educational facility, a
410 transportation facility, a water or wastewater management
411 facility or related infrastructure, a technology infrastructure
412 or other public infrastructure, or a government facility needed
413 by the responsible public entity as a qualifying project, or the
414 design or equipping of a qualifying project that is developed or
415 operated, if:

416 1. There is a public need for or benefit derived from a
417 project of the type that the private entity proposes as the
418 qualifying project.

419 2. The estimated cost of the qualifying project is
420 reasonable in relation to similar facilities.

421 3. The private entity's plans will result in the timely
422 acquisition, design, construction, improvement, renovation,
423 expansion, equipping, maintenance, or operation of the
424 qualifying project.

425 (f) The responsible public entity may charge a reasonable
426 fee to cover the costs of processing, reviewing, and evaluating
427 the request, including, but not limited to, reasonable attorney
428 fees and fees for financial and technical advisors or
429 consultants and for other necessary advisors or consultants.

430 (g) Upon approval of a qualifying project, the responsible
431 public entity shall establish a date for the commencement of
432 activities related to the qualifying project. The responsible
433 public entity may extend the commencement date.

434 (h) Approval of a qualifying project by the responsible
435 public entity is subject to entering into a comprehensive

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436 agreement with the private entity.

437 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.--~~

438 ~~(a) The responsible public entity must notify each affected~~
439 ~~local jurisdiction by furnishing a copy of the proposal to each~~
440 ~~affected local jurisdiction when considering a proposal for a~~
441 ~~qualifying project.~~

442 ~~(b) Each affected local jurisdiction that is not a~~
443 ~~responsible public entity for the respective qualifying project~~
444 ~~may, within 60 days after receiving the notice, submit in~~
445 ~~writing any comments to the responsible public entity and~~
446 ~~indicate whether the facility is incompatible with the local~~
447 ~~comprehensive plan, the local infrastructure development plan,~~
448 ~~the capital improvements budget, any development of regional~~
449 ~~impact processes or timelines, or other governmental spending~~
450 ~~plan. The responsible public entity shall consider the comments~~
451 ~~of the affected local jurisdiction before entering into a~~
452 ~~comprehensive agreement with a private entity. If an affected~~
453 ~~local jurisdiction fails to respond to the responsible public~~
454 ~~entity within the time provided in this paragraph, the~~
455 ~~nonresponse is deemed an acknowledgment by the affected local~~
456 ~~jurisdiction that the qualifying project is compatible with the~~
457 ~~local comprehensive plan, the local infrastructure development~~
458 ~~plan, the capital improvements budget, or other governmental~~
459 ~~spending plan.~~

460 (6)(8) INTERIM AGREEMENT.--Before or in connection with the
461 negotiation of a comprehensive agreement, the responsible public
462 entity may enter into an interim agreement with the private
463 entity proposing the development or operation of the qualifying
464 project. An interim agreement does not obligate the responsible

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465 public entity to enter into a comprehensive agreement. The
 466 interim agreement is discretionary with the parties and is not
 467 required on a qualifying project for which the parties may
 468 proceed directly to a comprehensive agreement without the need
 469 for an interim agreement. An interim agreement must be limited
 470 to provisions that:

471 (a) Authorize the private entity to commence activities for
 472 which it may be compensated related to the proposed qualifying
 473 project, including, but not limited to, project planning and
 474 development, design, environmental analysis and mitigation,
 475 survey, other activities concerning any part of the proposed
 476 qualifying project, and ascertaining the availability of
 477 financing for the proposed facility or facilities.

478 (b) Establish the process and timing of the negotiation of
 479 the comprehensive agreement.

480 (c) Contain such other provisions related to an aspect of
 481 the development or operation of a qualifying project that the
 482 responsible public entity and the private entity deem
 483 appropriate.

484 ~~(7)~~ (9) COMPREHENSIVE AGREEMENT.—

485 (a) Before developing or operating the qualifying project,
 486 the private entity must enter into a comprehensive agreement
 487 with the responsible public entity. The comprehensive agreement
 488 must provide for:

489 1. Delivery of performance and payment bonds, letters of
 490 credit, or other security acceptable to the responsible public
 491 entity in connection with the development or operation of the
 492 qualifying project in the form and amount satisfactory to the
 493 responsible public entity. For the components of the qualifying

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494 project which involve construction, the form and amount of the
 495 bonds must comply with s. 255.05.

496 2. Review of the design for the qualifying project by the
 497 responsible public entity and, if the design conforms to
 498 standards acceptable to the responsible public entity, the
 499 approval of the responsible public entity. This subparagraph
 500 does not require the private entity to complete the design of
 501 the qualifying project before the execution of the comprehensive
 502 agreement.

503 3. Inspection of the qualifying project by the responsible
 504 public entity to ensure that the private entity's activities are
 505 acceptable to the responsible public entity in accordance with
 506 the comprehensive agreement.

507 4. Maintenance of a policy of public liability insurance, a
 508 copy of which must be filed with the responsible public entity
 509 and accompanied by proofs of coverage, or self-insurance, each
 510 in the form and amount satisfactory to the responsible public
 511 entity and reasonably sufficient to ensure coverage of tort
 512 liability to the public and employees and to enable the
 513 continued operation of the qualifying project.

514 5. Monitoring by the responsible public entity of the
 515 maintenance practices to be performed by the private entity to
 516 ensure that the qualifying project is properly maintained.

517 6. Periodic filing by the private entity of the appropriate
 518 financial statements that pertain to the qualifying project.

519 7. Procedures that govern the rights and responsibilities
 520 of the responsible public entity and the private entity in the
 521 course of the construction and operation of the qualifying
 522 project and in the event of the termination of the comprehensive

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523 agreement or a material default by the private entity. The
 524 procedures must include conditions that govern the assumption of
 525 the duties and responsibilities of the private entity by an
 526 entity that funded, in whole or in part, the qualifying project
 527 or by the responsible public entity, and must provide for the
 528 transfer or purchase of property or other interests of the
 529 private entity by the responsible public entity.

530 8. Fees, lease payments, or service payments. In
 531 negotiating user fees, the fees must be the same for persons
 532 using the facility under like conditions and must not materially
 533 discourage use of the qualifying project. The execution of the
 534 comprehensive agreement or a subsequent amendment is conclusive
 535 evidence that the fees, lease payments, or service payments
 536 provided for in the comprehensive agreement comply with this
 537 section. Fees or lease payments established in the comprehensive
 538 agreement as a source of revenue may be in addition to, or in
 539 lieu of, service payments.

540 9. Duties of the private entity, including the terms and
 541 conditions that the responsible public entity determines serve
 542 the public purpose of this section.

543 (b) The comprehensive agreement may include:

544 1. An agreement by the responsible public entity to make
 545 grants or loans to the private entity from amounts received from
 546 the federal, state, or local government or an agency or
 547 instrumentality thereof.

548 2. A provision under which each entity agrees to provide
 549 notice of default and cure rights for the benefit of the other
 550 entity, including, but not limited to, a provision regarding
 551 unavoidable delays.

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552 3. A provision that terminates the authority and duties of
 553 the private entity under this section and dedicates the
 554 qualifying project to the responsible public entity or, if the
 555 qualifying project was initially dedicated by an affected local
 556 jurisdiction, to the affected local jurisdiction for public use.

557 ~~(8)-(10)~~ FEES.—A comprehensive ~~an~~ agreement entered into
 558 pursuant to this section may authorize the private entity to
 559 impose fees on ~~to~~ members of the public for the use of the
 560 facility. The following provisions apply to the comprehensive
 561 agreement:

562 (a) The responsible public entity may develop new
 563 facilities or increase capacity in existing facilities through a
 564 comprehensive agreement with a private entity ~~agreements with~~
 565 ~~public-private partnerships.~~

566 (b) The comprehensive ~~public-private partnership~~ agreement
 567 must ensure that the facility is properly operated, maintained,
 568 or improved in accordance with standards set forth in the
 569 comprehensive agreement.

570 (c) The responsible public entity may lease existing fee-
 571 for-use facilities through a comprehensive ~~public-private~~
 572 ~~partnership~~ agreement.

573 (d) Any revenues must be authorized by and applied in the
 574 manner set forth in ~~regulated by the responsible public entity~~
 575 ~~pursuant to~~ the comprehensive agreement.

576 (e) A negotiated portion of revenues from fee-generating
 577 uses may ~~must~~ be returned to the responsible public entity over
 578 the life of the comprehensive agreement.

579 ~~(9)-(11)~~ FINANCING.—

580 (a) A private entity may enter into a private-source

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581 financing agreement between financing sources and the private
582 entity. A financing agreement and any liens on the property or
583 facility must be paid in full at the applicable closing that
584 transfers ownership or operation of the facility to the
585 responsible public entity at the conclusion of the term of the
586 comprehensive agreement.

587 (b) The responsible public entity may lend funds to private
588 entities that construct projects containing facilities that are
589 approved under this section.

590 (c) The responsible public entity may use innovative
591 finance techniques associated with a public-private partnership
592 under this section, including, but not limited to, federal loans
593 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
594 and hedges against inflation from commercial banks or other
595 private sources. In addition, the responsible public entity may
596 provide its own capital or operating budget to support a
597 qualifying project. The budget may be from any legally
598 permissible funding sources of the responsible public entity,
599 including the proceeds of debt issuances. A responsible public
600 entity may use the model financing agreement provided in s.
601 489.145(6) for its financing of a facility owned by a
602 responsible public entity. A financing agreement may not require
603 the responsible public entity to indemnify the financing source,
604 subject the responsible public entity's facility to liens in
605 violation of s. 11.066(5), or secure financing of by the
606 responsible public entity by a mortgage on, or security interest
607 in, the real or tangible personal property of the responsible
608 public entity in a manner that could result in the loss of the
609 fee ownership of the property by the responsible public entity

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610 ~~with a pledge of security interest, and any such provision is~~
611 ~~void.~~

612 ~~(d) A responsible public entity shall appropriate on a~~
613 ~~priority basis as required by the comprehensive agreement a~~
614 ~~contractual payment obligation, annual or otherwise, from the~~
615 ~~enterprise or other government fund from which the qualifying~~
616 ~~projects will be funded. This required payment obligation must~~
617 ~~be appropriated before other noncontractual obligations payable~~
618 ~~from the same enterprise or other government fund.~~

619 (10)(12) POWERS AND DUTIES OF THE PRIVATE ENTITY.-

620 (a) The private entity shall:

- 621 1. Develop or operate the qualifying project in a manner
622 that is acceptable to the responsible public entity in
623 accordance with the provisions of the comprehensive agreement.
- 624 2. Maintain, or provide by contract for the maintenance or
625 improvement of, the qualifying project if required by the
626 comprehensive agreement.
- 627 3. Cooperate with the responsible public entity in making
628 best efforts to establish interconnection between the qualifying
629 project and any other facility or infrastructure as requested by
630 the responsible public entity in accordance with the provisions
631 of the comprehensive agreement.
- 632 4. Comply with the comprehensive agreement and any lease or
633 service contract.

634 (b) Each private facility that is constructed pursuant to
635 this section must comply with the requirements of federal,
636 state, and local laws; state, regional, and local comprehensive
637 plans; the responsible public entity's rules, procedures, and
638 standards for facilities; and such other conditions that the

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639 responsible public entity determines to be in the public's best
640 interest and that are included in the comprehensive agreement.

641 (c) The responsible public entity may provide services to
642 the private entity. An agreement for maintenance and other
643 services entered into pursuant to this section must provide for
644 full reimbursement for services rendered for qualifying
645 projects.

646 (d) A private entity of a qualifying project may provide
647 additional services for the qualifying project to the public or
648 to other private entities if the provision of additional
649 services does not impair the private entity's ability to meet
650 its commitments to the responsible public entity pursuant to the
651 comprehensive agreement.

652 (11)~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
653 expiration or termination of a comprehensive agreement, the
654 responsible public entity may use revenues from the qualifying
655 project to pay current operation and maintenance costs of the
656 qualifying project. If the private entity materially defaults
657 under the comprehensive agreement, the compensation that is
658 otherwise due to the private entity is payable to satisfy all
659 financial obligations to investors and lenders on the qualifying
660 project in the same way that is provided in the comprehensive
661 agreement or any other agreement involving the qualifying
662 project, if the costs of operating and maintaining the
663 qualifying project are paid in the normal course. Revenues in
664 excess of the costs for operation and maintenance costs may be
665 paid to the investors and lenders to satisfy payment obligations
666 under their respective agreements. A responsible public entity
667 may terminate with cause and without prejudice a comprehensive

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668 agreement and may exercise any other rights or remedies that may
669 be available to it in accordance with the provisions of the
670 comprehensive agreement. The full faith and credit of the
671 responsible public entity may not be pledged to secure the
672 financing of the private entity. The assumption of the
673 development or operation of the qualifying project does not
674 obligate the responsible public entity to pay any obligation of
675 the private entity from sources other than revenues from the
676 qualifying project unless stated otherwise in the comprehensive
677 agreement.

678 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive
679 the sovereign immunity of a responsible public entity, an
680 affected local jurisdiction, or an officer or employee thereof
681 with respect to participation in, or approval of, any part of a
682 qualifying project or its operation, including, but not limited to,
683 to, interconnection of the qualifying project with any other
684 infrastructure or project. A county or municipality in which a
685 qualifying project is located possesses sovereign immunity with
686 respect to the project, including, but not limited to, its
687 design, construction, and operation.

688 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

689 (a) A responsible public entity may provide a copy of its
690 comprehensive agreement to the Department of Management
691 Services. A responsible public entity must redact any
692 confidential or exempt information from the copy of the
693 comprehensive agreement before providing it to the Department of
694 Management Services.

695 (b) The Department of Management Services may accept and
696 maintain copies of comprehensive agreements received from

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697 responsible public entities for the purpose of sharing
 698 comprehensive agreements with other responsible public entities.
 699 (c) This subsection does not require a responsible public
 700 entity to provide a copy of its comprehensive agreement to the
 701 Department of Management Services.
 702 (14)(15) CONSTRUCTION.-
 703 (a) This section shall be liberally construed to effectuate
 704 the purposes of this section.
 705 (b) This section shall be construed as cumulative and
 706 supplemental to any other authority or power vested in or
 707 exercised by the governing body ~~board~~ of a county, municipality,
 708 special district, or municipal hospital or health care system
 709 including those contained in acts of the Legislature
 710 establishing such public hospital boards or s. 155.40.
 711 (c) This section does not affect any agreement or existing
 712 relationship with a supporting organization involving such
 713 governing body ~~board~~ or system in effect as of January 1, 2013.
 714 (d) ~~(a)~~ This section provides an alternative method and does
 715 not limit a county, municipality, special district, or other
 716 political subdivision of the state in the procurement or
 717 operation of a qualifying project ~~acquisition, design, or~~
 718 ~~construction of a public project~~ pursuant to other statutory or
 719 constitutional authority.
 720 (e) ~~(b)~~ Except as otherwise provided in this section, this
 721 section does not amend existing laws by granting additional
 722 powers to, or further restricting, a local governmental entity
 723 from regulating and entering into cooperative arrangements with
 724 the private sector for the planning, construction, or operation
 725 of a facility.

2-00110-16 2016124__

726 (f) ~~(e)~~ This section does not waive any requirement of s.
 727 287.055.
 728 Section 2. Section 287.0935, Florida Statutes, is amended
 729 to read:
 730 287.0935 Surety bond insurers.—When the contract amount of
 731 a project that uses public funds does not exceed \$5 million
 732 ~~\$500,000 and when public funds are utilized for the project,~~ a
 733 person, the state, or a political subdivision may ~~shall~~ not
 734 refuse, ~~as surety for the project,~~ bid bonds, performance bonds,
 735 labor and materials payment bonds, or any other surety bonds as
 736 surety for the project if such bonds ~~which~~ are issued by a
 737 surety company that meets all ~~which fulfills~~ each of the
 738 following requirements ~~provisions~~:
 739 (1) The surety company is licensed to do business in this
 740 state. ~~the State of Florida,~~
 741 (2) The surety company holds a certificate of authority
 742 authorizing it to write surety bonds in this state.~~†~~
 743 (3) The surety company has twice the minimum surplus and
 744 capital required by the Florida Insurance Code at the time the
 745 invitation to bid is issued, or is currently rated "A-" or
 746 higher by A.M. Best Company.~~†~~
 747 (4) The surety company is otherwise in compliance with the
 748 provisions of the Florida Insurance Code.~~†~~ ~~and~~
 749 (5) The surety company holds a currently valid certificate
 750 of authority issued by the United States Department of the
 751 Treasury under 31 U.S.C. ss. 9304-9308.
 752 Section 3. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Ring
Chair, Governmental Oversight and Accountability

Subject: Committee Agenda Request

November 17, 2015

Dear Senator Ring,

I respectfully request that **Senate Bill 0124**, regarding **Public Procurement Practices**, be placed on the:

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

C

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/16

Meeting Date

124

Bill Number (if applicable)

Topic Public Procurement

Amendment Barcode (if applicable)

Name David Cruz

Job Title Asst. State General Counsel

Address P.O. Box 1757

Phone 701-3070

Street

Tallahassee

City

State

Zip

Email

Speaking: For Against Information

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

Representing Florida League of Cities

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

124 2/1/16
Meeting Date

124
Bill Number (if applicable)

Topic PPP

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 16038

Phone 850 222-0600

Street Tallahassee FL 32302

Email rick@watsonassociates.com

City State Zip

Speaking: For Against Information

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

Representing Associated Builders and Contractors of FL

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.

THE FLOR.
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number 124

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

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 Governmental Oversight and Accountability

BILL: CS/SB 126

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Evers

SUBJECT: Public Records and Public Meetings/Public-private Partnerships

DATE: February 3, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 126, which is linked to the passage of CS/SB 124, creates an exemption from public record and public meeting requirements for unsolicited proposals for public-private partnership (P3) projects for public facilities and infrastructure.

This bill requires a two-thirds vote by both chambers for passage. This bill will go into effect when CS/SB 124 becomes a law.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.² The Legislature's meetings must also be open and noticed to the public, unless there is an exemption provided for by the Constitution.³

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(b).

³ FLA. CONST., art. I, s. 24(b).

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act⁴ guarantees every person's right to inspect and copy any state or local government public record.⁵ The Sunshine Law⁶ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁷

The Legislature may create an exemption to public records or open meetings requirements.⁸ An exemption must specifically state the public necessity justifying the exemption⁹ and must be tailored to accomplish the stated purpose of the law.¹⁰

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹¹ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹²

The OGSR 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.¹³

⁴ Chapter 119, F.S.

⁵ 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." Section 119.011(2), F.S., defines "agency" to mean "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." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.

⁶ Section 286.011, F.S.

⁷ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

⁸ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released, to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁴
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁵ or
- It protects trade or business secrets.¹⁶

The OGSR also requires specified questions to be considered during the review process.¹⁷ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is 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.¹⁹

Public-Private Partnerships

Section 287.05712, F.S., governs the procurement process for public-private partnerships (P3s) for public purpose projects. It authorizes a responsible public entity²⁰ to enter into a P3 for

¹⁴ Section 119.15(6)(b)1., F.S.

¹⁵ Section 119.15(6)(b)2., F.S.

¹⁶ Section 119.15(6)(b)3., F.S.

¹⁷ 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?

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

²⁰ Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

specified qualifying projects²¹ if the responsible public entity determines the project is in the public's best interest.²²

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into an agreement with a private entity for the building, upgrading, operation, ownership, or financing of facilities. Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:²³

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the project, the responsible public entity must publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.²⁴ The responsible public entity must establish a timeframe in which to accept other proposals.²⁵

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.²⁶ If negotiations with the first ranked firm are unsuccessful, the

²¹ Section 287.05712(1)(i), F.S., defines the term "qualifying project" as a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity; an improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector; a water, wastewater, or surface water management facility or other related infrastructure; or for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

²² Section 287.05712(4)(d), F.S.

²³ Section 287.05712(5), F.S.

²⁴ Section 287.05712(4)(b), F.S.

²⁵ *Id.*

²⁶ Section 287.05712(6)(c), F.S.

responsible public entity may begin negotiations with the second ranked firm.²⁷ The responsible public entity may reject all proposals at any point in the process.²⁸

Public Record and Public Meeting Exemptions

Current law does not provide a public record exemption for unsolicited proposals. However, sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt²⁹ from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.³⁰ If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until the agency provides notice of its intended decision or withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.³¹

Current law does not provide a public meeting exemption for meetings during which an unsolicited proposal is discussed. However, public meetings in which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation are exempt from public meeting requirements.³² A complete recording of the closed meeting must be made and no portion of the exempt meeting may be held off the record.³³

The recording of, and any records presented at, the exempt meeting are exempt from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.³⁴ If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting remain exempt from public record requirements until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation.³⁵ A recording and any records presented at an

²⁷ *Id.*

²⁸ *Id.*

²⁹ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

³⁰ Section 119.071(1)(b), F.S.

³¹ *Id.*

³² Section 286.0113(2)(b), F.S.

³³ Section 286.0113(2)(c), F.S.

³⁴ *Id.*

³⁵ *Id.*

exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 287.05712(15), F.S., and transfers and renumbers it as s. 255.065(15), F.S., to create an exemption from public record and public meeting requirements for unsolicited proposals for P3 projects for public facilities and infrastructure.

Under the bill, unsolicited proposals held by a responsible public entity are exempt until the responsible public entity provides notice of its intended decision. If the responsible public entity rejects all proposals and concurrently provides notice of its intent to seek additional proposals, the unsolicited proposal remains exempt until such time that the responsible public entity provides notice of an intended decision concerning the reissued competitive solicitation or until the responsible public entity withdraws the reissued competitive solicitation for the project. An unsolicited proposal is not exempt for more than 90 days after the responsible public entity initially rejects all proposals received for the project described in the unsolicited proposal.

If the responsible public entity does not issue a competitive solicitation, the unsolicited proposal is not exempt for more than 180 days after it is received by the responsible public entity.

The bill creates a public meeting exemption for any portion of a meeting during which the exempt unsolicited proposal is discussed. The bill does not require a public entity to provide notice to the public that the meeting will take place. A recording must be made of the closed portion of the meeting. The recording, and any records generated during the closed meeting, are exempt from public record requirements until such time as the underlying public record exemption expires.

The public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

Section 2 states the bill becomes effective on the same date that CS/SB 124 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because counties and municipalities may incur additional costs relating to redacting information made exempt from public access under this bill and the training necessary to comply with the new requirements. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

³⁶ *Id.*

B. Public Records/Open Meetings Issues:

This bill creates new public record and public meeting exemptions. Therefore the following constitutional requirements apply.

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 newly created public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The public necessity statement provides that unsolicited proposals should be made temporarily exempt in order to encourage private entities to submit proposals and prevent competitors from gaining an unfair advantage.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may result in a minimal fiscal impact on local governments that receive unsolicited P3 proposals because staff responsible for complying with public record requests could require training related to the public record exemption. Local governments may incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, may be absorbed, as they are part of the day-to-day responsibilities of the local government. In addition, local governments may incur minimal fiscal costs associated with recording that portion of a closed meeting during which an unsolicited proposal that is exempt is discussed.

VI. Technical Deficiencies:

The bill creates public record and public meeting exemptions for unsolicited proposals for P3 projects that expire after a certain event occurs or a period of time expires. It is possible that none of those triggers will occur for some P3 projects. For example, the substantive bill, CS/SB 124, contemplates that the responsible public entity may never evaluate the unsolicited proposal (line 249-251), and it is not clear that a project that was never evaluated would be made public. Compare this to the current public records exemption for competitive solicitations, which provides that all responses to a competitive solicitation become public after a notice of intended decision is published or 30 days after the sealed bid, proposal or final reply has been opened.³⁷ In addition, in a competitive solicitation, a bid, proposal or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids.³⁸

The bill currently provides that an unsolicited proposal may be considered at the same time that there is a competitive solicitation has been rejected and reissued (lines 36-37). This language appears to contemplate a situation where an unsolicited proposal would result in a competitive solicitation being issued or that an unsolicited proposal could exist at the same time that the competitive solicitation process was ongoing. In this case, the bill could allow the unsolicited proposal to remain exempt from public disclosure even though all of the responses to a competitive solicitation or a reissued competitive solicitation had already become public pursuant to the competitive solicitations public records exemption.

VII. Related Issues:

CS/SB 124 substantially amends the P3 process, however, most of the amendments proposed in CS/SB 124 do not materially alter the process described above for public records and public meeting purposes. The most noticeable difference between CS/SB 124 and current law is that CS/SB 124 provides that, if a public entity does not evaluate an unsolicited proposal, the public entity must return the application fee. This is materially different from current law because it gives the public entity the option to not evaluate a proposal.

VIII. Statutes Affected:

This bill substantially amends section 287.05712(15) of the Florida Statutes and transfers and renumbers it as section 255.065(15) of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on February 1, 2016:
The CS inserts the linked bill's number (124) into this bill.

³⁷ Section 119.071(1)(b)2., F.S.

³⁸ Section 119.071(1)(b)3., F.S.

B. Amendments:

None.

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



753094

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment

Delete line 25
and insert:
124, to read:

Delete line 133
and insert:
SB 124 or similar legislation takes effect, if such legislation

By Senator Evers

2-00111-16

2016126__

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 transferring, renumbering, and amending s. 287.05712,
 4 F.S., relating to public-private partnerships for
 5 public facilities and infrastructure; providing a
 6 definition; providing an exemption from public records
 7 requirements for a specified period for unsolicited
 8 proposals received by a responsible public entity;
 9 providing an exemption from public meeting
 10 requirements for any portion of a meeting of a
 11 responsible public entity during which exempt
 12 proposals are discussed; requiring that a recording be
 13 made of the closed meeting; providing an exemption
 14 from public records requirements for a specified
 15 period for the recording of, and any records generated
 16 during, a closed meeting; providing for future
 17 legislative review and repeal of the exemptions;
 18 providing a statement of public necessity; providing a
 19 contingent effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (15) is added to section 287.05712,
 24 Florida Statutes, as transferred, renumbered, and amended by SB
 25 ____, to read:

26 255.065 287.05712 Public-private partnerships; public
 27 records and public meetings exemptions.-

28 (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

29 (a) As used in this subsection, the term "competitive

Page 1 of 5

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

2-00111-16

2016126__

30 solicitation" has the same meaning as provided in s. 119.071(1).

31 (b)1. An unsolicited proposal received by a responsible
 32 public entity is exempt from s. 119.07(1) and s. 24(a), Art. I
 33 of the State Constitution until such time as the responsible
 34 public entity provides notice of an intended decision for a
 35 qualifying project.

36 2. If the responsible public entity rejects all proposals
 37 submitted pursuant to a competitive solicitation for a
 38 qualifying project and such entity concurrently provides notice
 39 of its intent to seek additional proposals for such project, the
 40 unsolicited proposal remains exempt until the responsible public
 41 entity provides notice of an intended decision concerning the
 42 reissued competitive solicitation for the qualifying project or
 43 until the responsible public entity withdraws the reissued
 44 competitive solicitation for such project.

45 3. An unsolicited proposal is exempt for no longer than 90
 46 days after the initial notice by the responsible public entity
 47 rejecting all proposals.

48 (c) If the responsible public entity does not issue a
 49 competitive solicitation for a qualifying project, the
 50 unsolicited proposal ceases to be exempt 180 days after receipt
 51 of the unsolicited proposal by such entity.

52 (d)1. Any portion of a meeting of a responsible public
 53 entity during which an unsolicited proposal that is exempt is
 54 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
 55 State Constitution.

56 2.a. A complete recording must be made of any portion of an
 57 exempt meeting. No portion of the exempt meeting may be held off
 58 the record.

Page 2 of 5

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2-00111-16

2016126__

59 b. The recording of, and any records generated during, the
 60 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
 61 of the State Constitution until such time as the responsible
 62 public entity provides notice of an intended decision for a
 63 qualifying project or 180 days after receipt of the unsolicited
 64 proposal by the responsible public entity if such entity does
 65 not issue a competitive solicitation for the project.

66 c. If the responsible public entity rejects all proposals
 67 and concurrently provides notice of its intent to reissue a
 68 competitive solicitation, the recording and any records
 69 generated at the exempt meeting remain exempt from s. 119.07(1)
 70 and s. 24(a), Art. I of the State Constitution until such time
 71 as the responsible public entity provides notice of an intended
 72 decision concerning the reissued competitive solicitation or
 73 until the responsible public entity withdraws the reissued
 74 competitive solicitation for such project.

75 d. A recording and any records generated during an exempt
 76 meeting are exempt for no longer than 90 days after the initial
 77 notice by the responsible public entity rejecting all proposals.

78 (e) This subsection is subject to the Open Government
 79 Sunset Review Act in accordance with s. 119.15 and shall stand
 80 repealed on October 2, 2021, unless reviewed and saved from
 81 repeal through reenactment by the Legislature.

82 Section 2. (1) The Legislature finds that it is a public
 83 necessity that an unsolicited proposal received by a responsible
 84 public entity pursuant to s. 255.065, Florida Statutes, be made
 85 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 86 Article I of the State Constitution for a specified period.
 87 Temporarily prohibiting the public release of unsolicited

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88 proposals ensures the effective and efficient administration of
 89 the public-private partnership process established in s.
 90 255.065, Florida Statutes. Temporarily protecting unsolicited
 91 proposals protects the public-private partnership process by
 92 encouraging private entities to submit such proposals, which
 93 will facilitate the timely development and operation of a
 94 qualifying project. Protecting such information ensures that
 95 other private entities do not gain an unfair competitive
 96 advantage. The public records exemption preserves public
 97 oversight of the public-private partnership process by providing
 98 for disclosure of the unsolicited proposal when the responsible
 99 public entity provides notice of an intended decision; by
 100 limiting the exemption to no longer than 90 days after the
 101 responsible public entity rejects all proposals received in a
 102 competitive solicitation for a qualifying project; or by
 103 limiting the exemption to no longer than 180 days after receipt
 104 of an unsolicited proposal if such entity does not issue a
 105 competitive solicitation for a qualifying project related to the
 106 proposal.

107 (2) The Legislature further finds that it is a public
 108 necessity that any portion of a meeting of the responsible
 109 public entity during which an unsolicited proposal that is
 110 exempt from public records requirements is discussed be made
 111 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
 112 I of the State Constitution. The Legislature also finds that it
 113 is a public necessity that the recording of, and any records
 114 generated during, a closed meeting be made temporarily exempt
 115 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
 116 the State Constitution. Failure to close any portion of a

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117 meeting during which such unsolicited proposal is discussed, and
118 failure to protect the release of the recording and records
119 generated during that closed meeting, would defeat the purpose
120 of the public records exemption. In addition, the Legislature
121 finds that public oversight is maintained because the public
122 records exemption for the recording and records generated during
123 any closed portion of a meeting of the responsible public entity
124 are subject to public disclosure when such entity provides
125 notice of an intended decision; are exempt no longer than 90
126 days after the responsible public entity rejects all proposals
127 received in a competitive solicitation for a qualifying project;
128 or are exempt no longer than 180 days after receipt of an
129 unsolicited proposal if the responsible public entity does not
130 issue a competitive solicitation for a qualifying project
131 related to the proposal.

132 Section 3. This act shall take effect on the same date that
133 SB ___ or similar legislation takes effect, if such legislation
134 is adopted in the same legislative session or an extension
135 thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Ring
Chair, Governmental Oversight and Accountability

Subject: Committee Agenda Request

November 17, 2015

Dear Senator Ring,

I respectfully request that **Senate Bill 0126**, regarding **Public Records and Public Meetings/Public-Private Partnerships**, be placed on the:

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

C

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number F 26
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 appearance record for this meeting.

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 Governmental Oversight and Accountability

BILL: CS/SB 686

INTRODUCER: Ethics and Elections Committee and Senator Gaetz

SUBJECT: Government Accountability

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/CS
2.	Peacock	McVaney	GO	Pre-meeting
3.			CA	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 686 is an omnibus government accountability bill. The bill;

- Creates a new monthly report required of legislative branch lobbyists to disclose which bills, appropriations, or proposed legislation the lobbyists are seeking to support, oppose, or influence. If a lobbyist fails to file the disclosure within 7 business days of the beginning of the month, a fine is imposed of \$50 per day up to a maximum of \$5,000; which may be waived upon a demonstration of unusual circumstances.
- Prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act. A member who is employed by such an entity may keep his or her employment, however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee.
- Includes changes to Florida's governmental ethics policies including broadening the water management district lobbyist registration provisions to apply to many more special districts, and applying post-employment lobbying restrictions to certain individuals with Enterprise Florida, its divisions, and the Florida Development Finance Corporation.
- Applies certain ethics standards and post-employment lobbying restrictions to corporations created or housed within the Department of Economic Opportunity that are not currently covered by ethical standards.

- Extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or are an officer, director, or a member who manages such an entity.
- Requires that, beginning in 2016, all elected municipal officers must file the more detailed CE Form 6 financial disclosure with their qualifying papers and for each year that they hold office.
- Allows the Commission on Ethics to initiate its own investigations, by super-majority vote, based upon receipt of reliable and publicly disseminated information.
- Amends Florida's criminal provisions relating to Bribery, Misuse of Public Office, Unlawful Compensation or Reward for Official Behavior, Official Misconduct, Bid Tampering to replace the corrupt intent mens rea requirement with the knowingly and intentionally mens rea requirement. The bill also applies those crimes to "public contractors."
- Requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.
- Requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.
- Makes it a first degree misdemeanor to provide prohibited compensation. The bill requires governmental entities to investigate claims of unauthorized compensation and authorizes litigation to enforce the civil penalty and treble damages provisions. Finally, it provides a reward structure and extends Whistle-blower's Protection Act coverage to those reporting prohibited compensation. The bill also makes compensation claims in violation of s. 215.425, F.S., a false claim against the state. Thus, the state would be authorized to sue to recover damages and civil penalties as provided in ss. 68.082 and 68.083, F.S. (The False Claims Act). Additionally, the Department of Financial Services is authorized to file suit under the False Claims Act.
- Allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. It increases the Single Audit Act threshold from \$500,000 to \$750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. It makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. It requires the Florida Virtual School to have an independent financial audit each year.
- Requires the Florida Clerk of Courts Corporation to notify the Legislature quarterly of any clerk of court not meeting workload requirements and provide corrective action plans within 45 days of the end of the quarter.
- Requires a water management district monthly financial report to be provided in the format required by the Department of Financial Services.
- Requires the Governor or the Commissioner of Education must notify the Legislative Auditing Committee of financial emergencies instead of notifying the members of the Legislative Auditing Committee.

- Clarifies that members of the public are not required to provide an advance written copy of his or her testimony or comments as a precondition to being given the opportunity to be heard.

The bill is effective October 1, 2016.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the III. Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

DISCUSSION

Statement of Legislative Findings and Intent

Section 1 of the bill provides that the act shall be known as the Florida Anti-Corruption Act of 2016. The bill explains that the intent of the bill is to prevent fraud, waste, and abuse, and to safeguard government resources. Specifically, section 50 of the bill provides:

“The Legislature finds that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property. Therefore, the Legislature determines and declares that this act fulfills an important state interest.”

Governmental Ethics Laws

Legislative Branch Lobbying

Present Situation: Sections 11.045 through 11.062 of the Florida Statutes, regulate legislative branch lobbying. Section 11.045, F.S., requires legislative branch lobbyists to register; to file quarterly compensation reports; prohibits expenditures; authorizes advisory opinions on application of the expenditure ban and disclosure requirements; and authorizes investigations and punishment of violations. Section 11.0451, F.S., prohibits a convicted felon from registering as a legislative branch lobbyist until such time as he/she has been released from incarceration and any post-conviction supervision, has paid all court costs and court ordered restitution, and had his/her civil rights restored. Section 11.0455, F.S., requires lobbyists compensation reporting to be filed electronically. Section 11.047, F.S., prohibits contingency fee arrangements concerning the enactment, defeat, modification, or other outcome of certain legislative action. Such arrangements are made a first degree misdemeanor. Section 11.061, F.S., requires registration of lobbyists employed by the state, universities, and community colleges and requires them to record their attendance at committee meetings with the committee chairman. Additionally, such individuals are required to record with the joint legislative office that he or she is in attendance in the chambers, committee rooms, legislative hallways, and other areas in the immediate vicinity. Finally, s. 11.062, F.S., prohibits the use of state funds for lobbying.

Effect of the Bill: The bill amends s. 11.045, F.S., to define the terms “lobbying activities,” “proposed legislation,” and “proposed legislative action,” and requires each house of the Legislature (or by joint rule) to establish monthly reporting requirements by rule that include:

- The name, address, and telephone number of the lobbying firm;
- The name of the firm’s lobbyists;
- An itemized list of the firm’s lobbying activity specifying:
 - The proposed legislation or proposed legislative action that the firm has attempted to support, oppose, or influence;
 - The entity lobbied;
 - Each principal on behalf of whom the firm acted; and
 - If lobbying on an appropriation, the intended recipient of the appropriation.

The bill requires the reports to identify proposed legislation by any legislatively assigned identifying numbers including bill numbers, amendment barcode numbers, or specific appropriation numbers. If the proposed legislation does not have an identifying number assigned, the report must include a description of the subject matter of the proposed legislation, whether the lobbying firm is supporting or opposing the proposed legislation and, if seeking to modify the proposed legislation, how the lobbying firm’s modification would alter the proposal. The reports must be filed even if the firm did not engage in any activities requiring disclosure during that month. If no such activities occurred, then the firm must simply indicate that the disclosures are not applicable.

The reports are required to be filed by the seventh business day after the end of the preceding month. If late, the firm is subject to a penalty of \$50 per day up to a maximum of \$5,000. The bill contains a one-time waiver for the first missed deadline. It also provides authority to appeal the fine based upon unusual circumstances. All lobbyist registrations are suspended until the fine is paid. Finally, failure to disclose any fact required to be disclosed or knowingly providing false information is a noncriminal infraction punishable by fine up to \$5,000. That penalty is in addition to any other penalty assessed for failing to timely file the forms.

Executive Branch Lobbying

Present Situation: Sections 112.3215 through 112.3217 of the Florida Statutes, regulate executive branch lobbying. Section 112.3215, F.S., requires executive branch lobbyists to register; to file quarterly compensation reports; prohibits expenditures; authorizes advisory opinions on application of the expenditure ban and disclosure requirements; and authorizes investigations and punishment of violations. Section 112.32151, F.S., prohibits a convicted felon from registering as an executive branch lobbyist until such time as he/she has been released from incarceration and any post-conviction supervision, has paid all court costs and court ordered restitution, and had his/her civil rights restored. Section 112.32155, F.S., requires lobbyist compensation reporting to be filed electronically. Section 112.3217, F.S., prohibits contingency fee arrangements concerning the enactment, defeat, modification, or other outcome of certain executive action. Such arrangements are made a first degree misdemeanor.

Effect of the Bill: The bill amends s. 112.3215, F.S., to require a lobbying firm to file monthly reports if it lobbies the Governor to approve or veto a bill or appropriation. The report must contain the same information that legislative branch lobbyists are required to disclose described

above. In fact, the legislative form promulgated for that report may be filed with the Commission on Ethics to satisfy the reporting requirement. The reports must be filed even if the firm did not engage in any activities requiring disclosure during that month. If no such activities occurred, then the firm must simply indicate that the disclosures are not applicable.

The reports are required to be filed by the seventh business day after the end of the preceding month. If late, the firm is subject to a penalty of \$50 per day up to a maximum of \$5,000. The bill contains a one-time waiver for the first missed deadline. It also provides authority to appeal the fine to the Commission on Ethics based upon unusual circumstances. All lobbyist registrations are suspended until the fine is paid. Finally, failure to disclose any fact required to be disclosed or knowingly providing false information is a noncriminal infraction punishable by fine up to \$5,000. That penalty is in addition to any other penalty assessed for failing to timely file the forms. The Commission on Ethics is authorized to investigate any complaint concerning a failure to file the report or allegation that any false information is contained in the report.

Employment of Members of the Legislature

Present Situation: Article II, Section 8(e) of the State Constitution prohibits members of the legislature from personally representing another person or entity for compensation before any state agency other than judicial tribunals. Additionally, s. 112.3125, F.S., prohibits legislators (as well as other public officers) from being employed by the state or any of its political subdivisions if he or she knows, or with the exercise of reasonable care should know, that the position is being offered for the purpose of gaining influence or other advantage based upon his or her service as a legislator. A legislator may accept public employment if: the position was already in existence or was created before the entity knew the legislator was interested in the position; the position was publicly advertised; the legislator was subject to the same application and hiring process as other candidates for the position; and, the legislator meets or exceeds the qualifications for the position.

The standards of conduct in the Code of Ethics for Public Officers and Employees also contain several limitations on the types of private sector employment and duties that a legislator may have. Specifically, s. 112.313(3), F.S., prohibits a legislator from doing business with the legislature; s. 112.313(7), F.S., prohibits legislators from having employment or contractual relationships with any business entity or agency that is subject to the regulation of, or doing business with, the Legislature. That Section also prohibits employment or contractual relationships that will create a continuing or frequently recurring conflict of interests or that would impede the proper performance of his or her public duties. Several other provisions of the Code prohibit certain actions, even if the employment or contractual relationship itself is permitted.

Effect of the bill: The bill creates s. 112.3126, F.S., to define the term “private entity” as any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any legal entity, or any natural person. The bill prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act. A member who is employed by such an entity before his or her legislative service may keep his or her employment; however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of

his or her position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee.

Investigations by the Commission on Ethics

Present Situation: Section 112.324, F.S., authorizes the Commission on Ethics to investigate alleged ethics violations received via ethics complaint or referral from the Governor, the Florida Department of Law Enforcement, a state attorney, or a United States Attorney. The Commission does not have the authority to initiate an investigation outside of these avenues. Upon receipt of the allegations, the Commission must determine whether the complaint or referral is legally sufficient; that is, that the complaint indicates a possible violation of the ethics laws. If legally sufficient, the Commission must investigate the allegations and determine whether or not there is probable cause to believe the ethics law were actually violated. If probable cause is found, the respondent may either enter into a settlement agreement or may have a public hearing to determine whether, by a preponderance of the evidence, the violation occurred. If it is determined that a violation occurred, the findings are reported to the Governor or other appropriate authority for imposition of penalties.

Effect of the bill: The bill amends s. 112.324, F.S., to authorize the Commission on Ethics to initiate investigations based upon receipt of reliable and publicly disseminated information indicating a potential violation of the ethics laws. Seven of the nine Commission members must vote to initiate the investigation for the investigation to begin. After the investigation is initiated, the matter will proceed in the same manner as a complaint or referral.

Collection Methods for Unpaid Financial Disclosure Fines

Present Situation: Section 112.31455, F.S., authorizes the Florida Commission on Ethics to engage in common-law withholding of wages and to seek garnishment in order to collect unpaid financial disclosure fines. Prior to referring such a fine to the Department of Financial Services, the Florida Commission on Ethics must attempt to determine whether or not the filer is a current public officer or public employee.¹ If the person is currently a public officer or public employee, the Florida Commission on Ethics may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of the fine owed to the Florida Commission on Ethics. After receipt and verification of the notice from the Florida Commission on Ethics, the appropriate governing body is required to begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the Florida Commission on Ethics until the fine is satisfied. Additionally, the Chief Financial Officer or appropriate governing body may retain an amount from each withheld payment to cover administrative costs incurred under s. 112.31455(1)(b), F.S. In the event that the Florida Commission on Ethics determines that the person is no longer a public officer, or is unable to make such a determination, the Florida Commission on Ethics must wait for 6 months. After that period of time, the Florida Commission on Ethics can seek garnishment pursuant to ch. 77, F.S. Additionally, the Florida Commission on Ethics can refer the unpaid fine to a collection agency.² The collection agency

¹ Section 112.31455(1), F.S.

² Section 112.31455(3), F.S.

can use any legal tool it may possess to collect the unpaid fine. The statute of limitations for an unpaid financial disclosure fine is 20 years.³

Effect of the Bill: The bill amends s. 112.31455, F.S., to expressly require school districts to withhold public salary-related payments after receiving notice from the commission that an employee has an unpaid fine, including a portion to cover any administrative costs incurred under this section.

Lobbying Registration and Reporting Requirements for Certain Districts

Present Situation: Section 112.3261, F.S., requires a person who seeks to lobby a water management district to register as a lobbyist before he or she begins to lobby. The lobbyist must present a signed statement authorizing him or her to act on the principal's behalf. The statement must also state the principal's main business. Changes to this information must be reported within 15 days. Water management districts may create their own lobbyist registration forms or use a legislative or executive branch lobbyist registration form. Districts are required to be diligent in ascertaining whether lobbyists have properly registered and may not knowingly allow a lobbyist to lobby if he or she is not registered. The Florida Commission on Ethics is charged with investigating complaints alleging that a lobbyist has failed to register or provided false information in a report or registration. The Governor has the authority to enforce the Florida Commission on Ethics' findings and recommendation. The water management districts were granted rulemaking authority to adopt rules and establish procedures to govern lobbyist registration, including the adoption of forms and the establishment of a lobbyist registration fee not to exceed \$40.

Effect of the Bill: The bill amends s. 112.3261, F.S., to revise definitions of the terms "governmental entity" or "entity," and "lobbies," and to expand the scope of lobbyist registration and reporting requirements to apply to hospital districts, a children's services district, expressway authorities, port authorities, counties or municipalities that have not adopted lobbyist registration or reporting requirements, or any independent special district with annual revenues of more than \$5 million which exercises ad valorem taxing authority.

Post Service Lobbying Restrictions

Present Situation: Section 288.92, F.S., authorizes Enterprise Florida, Inc. (Enterprise Florida) to create and dissolve divisions as necessary to carry out its mission. That section also requires Enterprise Florida to have certain divisions. The law also provides for hiring of officers and members of the divisions of Enterprise Florida and subjects certain officers and members to several standards of conduct in the Code of Ethics for Public Officers and Employees.⁴ The law currently does not contain any post-employment or post-service restrictions.

Effect of Bill: The bill amends s. 288.92, F.S., to prohibit officers and members of the boards of directors of the divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, from representing another person or entity

³ Section 112.31455(4), F.S.

⁴ Part III, Chapter 112, Florida Statutes.

for compensation before Enterprise Florida, divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, for a period of 2 years after retirement or termination of service to a division, or for a period of 10 years if such officer or board member is removed or terminated for misconduct, as defined in s. 443.036(29), F.S.

Present Situation: The Florida Development Finance Authority is created in s. 288.9604, F.S. That provision addresses appointment of members of the board of directors and powers of the corporation. It also subjects directors to several standards of conduct in the Code of Ethics for Public Officers and Employees.⁵ The law currently does not contain any post-employment or post-service restrictions.

Effect of the Bill: The bill amends s. 288.9604, F.S., to prohibit directors of the Florida Development Finance Authority from representing another person or entity for compensation before the corporation, for a period of 2 years following his or her service on the board.

Present Situation: The Department of Economic Opportunity is created in s. 20.60, F.S., and has numerous entities under its purview in various chapters of the Florida Statutes. While the Department is an agency, and therefore subject to the provisions of the Code of Ethics for Public Officers and Employees, many of the divisions and corporations created by, or administratively housed in, may not be subject to the provisions.

Effect of the Bill: The bill creates s. 20.602, F.S., to subject the officers and members of the boards of directors of any corporation created pursuant to ch. 288, F.S., Space Florida, CareerSource Florida, Inc., the Florida Housing Finance Corporation, or any other corporation created by the Department of Economic Opportunity to certain standards of conduct. Specifically, those individuals are subject to the anti-nepotism provision in s. 112.3135, F.S., the voting conflicts standard applicable to statewide officers in s. 112.3143(2), F.S., and the standards of conduct in s. 112.313, F.S. Additionally, the bill prohibits a former officer or board member from representing a person or entity for compensation before his or her corporation; a division, subsidiary or the board of directors of a corporation created to carry out the mission of his or her corporation; a corporation with which his or her former corporation within DEO is required by law to contract with to carry out its missions for a period of 6 years after retirement or termination of service with the DEO corporate entity. If he or she is removed due to misconduct, as defined in s. 443.036(29), F.S., the prohibition applies for a period of 10 years.

Conflicting Employment and Contractual Relationships

Present Situation: Section 112.313(7)(a), F.S., prohibits public officers and employees of an agency from having employment or contractual relationships with a business entity or agency that is subject to the regulation of, or doing business with, his or her agency. That section further prohibits public officers and employees of an agency from having employment or a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

⁵ *Id.*

In its annual reports to the Legislature for the last several years, the Commission on Ethics has advised that the law needs to be amended. Specifically, the Commission has advised that individuals were creating a fictitious legal entity then using those fictitious legal entities to engage in contracts that would be prohibited if the people entered them individually.

Effect of the Bill: The bill amends s. 112.313(7)(a), F.S., to provide that if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer. As such, if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, it would be a violation for the business entity to have a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. The public officer or public employee would face penalties ranging from censure and reprimand to removal from office. The penalties also permit a civil fine up to \$10,000 per violation.

CE Form 6 Financial Disclosure

Present Situation: Section 112.3144, F.S., requires certain officers that are specified in Article II, Section 8 of the State Constitution, and other officers as required by law, to file a Full and Public Disclosure of Financial Interests (commonly referred to as a CE Form 6). That statute addresses what is required to be disclosed, the due date of the disclosure, the processes to amend the disclosure, and penalties for failing to file the CE Form 6 as required. This filing is more detailed than what is referred to as a CE Form 1 which is filed annually by other officers as provided in s. 112.3145, F.S. Currently, elected municipal officers are subject to the CE Form 1 filing requirement in accordance with s. 99.061, F.S.

Effect of the Bill: The bill amends s. 112.3144, F.S., to require all elected municipal officers to file the more detailed CE Form 6 annually as provided in s. 112.3144, F.S., beginning with the 2016 filing year.⁶ The bill also amends s. 99.061, F.S., to require a candidate for elected municipal office to file a CE Form 6 with his or her qualifying papers.

⁶ Financial disclosure, much like federal income tax filings, are done for the preceding year. Thus, elected municipal officers will be required to file the CE Form 6 for the first year by July 1, 2017.

Criminal Ethics Provisions

Nineteenth Statewide Grand Jury

A statewide grand jury⁷ was impaneled in February 2010 upon the petition of Governor Charlie Crist to the Supreme Court of Florida. In the Petition for Order to Impanel a Statewide Grand Jury, Governor Crist requested that the following should be addressed:⁸

- Examine criminal activity of public officials who have abused their powers via their public office;
- Consider whether Florida’s prosecutors have sufficient resources to effectively combat corruption;
- Address the effectiveness of Florida’s current statutes in fighting public corruption;
- Identify any deficiencies in current laws, punishments or enforcement efforts and make detailed recommendations to improve our anti-corruption initiatives;
- Investigate crimes, return indictments, and make presentations; and
- Examine public policy issues regarding public corruption and develop specific recommendations regarding improving current laws.

The Nineteenth Statewide Grand Jury issued its First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions on December 17, 2010. In its report, the Nineteenth Statewide Grand Jury made several recommendations to the Legislature, including revisions to ch. 838, F.S., regarding the definitions of the terms “public servant” and “corruptly” and “corrupt intent,” and the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and bid tampering.

Color of Law

Florida law does not enhance criminal classifications or felony sentencing penalties for criminal acts committed “under color of law” where the enhancements for wrongful conduct are based on public authority or position or the assertion of such that does not form an element of the underlying crime. The Nineteenth Statewide Grand Jury also recommended that the legislature consider reclassification of such offenses.⁹

Doctrine of Mens Rea and Scienter

The term “mens rea” is defined as “a guilty mind; a guilty or wrongful purpose; a criminal intent.”¹⁰ Black’s Law Dictionary notes that the term scienter is defined as “knowingly” and frequently used to signify the defendant’s guilty knowledge.¹¹ The general rule is that scienter or mens rea is a necessary element in the indictment for every crime.¹²

⁷ See ss. 905.31-905.40, F.S., known as the Statewide Grand Jury Act.

⁸ Nineteenth Statewide Grand Jury First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions, December 17, 2010, Case No. SC 09-1910. Available online at: [http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/\\$file/19thSWGJInterimReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/$file/19thSWGJInterimReport.pdf) (last visited on November 20, 2015).

⁹ *Id.*

¹⁰ BLACK’S LAW DICTIONARY 1137 (4th Rev. 1968).

¹¹ *Id.* 1512.

¹² *Chicone v. State*, 684 So. 2d 736, 741 (Fla. 1996). Also, see *U.S. v. Balint*, 258 U.S. 250 (1922).

The Nineteenth Statewide Grand Jury found that the use of the word “corruptly” or “with corrupt intent” made prosecutions of offenses under ch. 838, F.S., more difficult and might require additional evidence, such as testimony from persons involved.¹³ The Nineteenth Statewide Grand Jury recommended that the additional element of “corruptly” or “with corrupt intent” be removed from the ch. 838, F.S., offenses of bribery, unlawful compensation, official misconduct, and bid tampering.¹⁴

Bribery; Misuse of Public Office: Chapter 838, F.S.

Present Situation: Chapter 838, F.S., pertains to bribery and other offenses concerning the misuse of public office.

Section 838.014(4), F.S., defines the term “corruptly” or “with corrupt intent” as acting knowingly and dishonestly for a wrongful purpose.

Section 838.014(6), F.S., defines the term “public servant” as:

- a) Any officer or employee of a state, county, municipal, or special district agency or entity;
- b) Any legislative or judicial officer or employee;
- c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

Effect of the Bill: The bill amends s. 838.014, F.S., to define the term “governmental entity” as an agency or entity of the state, a county, a municipality, or a special district or any other public entity created or authorized by law. The bill appears to expand the definition of “governmental entity” to include other public entities, such as Citizens Property Insurance Corporation,¹⁵ statutorily-created direct support organizations,¹⁶ and other statutorily-created public entities. The definition of “corruptly” or “with corrupt intent” is eliminated.

The bill defines the term “public contractor” as any person, as defined in s. 1.01, F.S., who has entered into a contract with a governmental entity; or any officer or employee of a person, as defined in s. 1.01, F.S., who has entered into a contract with a governmental entity. “Person” is defined in s. 1.01(3), F.S., as “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

¹³ See *supra* note 8, at 24.

¹⁴ *Id.*

¹⁵ Section 627.351(6), F.S. Citizens Property Insurance Corporation was created in 2002 as a not-for-profit insurer of last resort for home-owners who could not obtain insurance elsewhere.

¹⁶ A direct support organization is an organization incorporated under ch. 617, F.S., and approved by the Department of State as a Florida corporation not for profit that is approved by a state agency to operate for the benefit of a specific program, such as the Florida Historic Capitol Museum Council’s direct support organization. See s. 272.131(1)(e), F.S.

The bill revises the definition of the term “public servant” as any officer or employee of a governmental entity including executive, legislative, or judicial branch officer or employee and a candidate for election or appointment to any of the officer positions listed in this subsection.

Bribery

Present Situation: Section 838.015, F.S., relates to the offense of bribery.¹⁷ Any individual who violates this section is guilty of a felony of the second degree, which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.¹⁸

Chapter 838, F.S., also contains 3 other bribery offenses, including bribery in athletic contests,¹⁹ commercial bribery receiving,²⁰ and commercial bribery.²¹ In *Roque v. State*, the Florida Supreme Court held that s. 838.15, F.S., the commercial bribe receiving law, was invalid.²² The Nineteenth Statewide Grand Jury Report opined that s. 838.16, F.S., commercial bribery, was probably unconstitutionally vague since s. 838.16, F.S., referred to s. 838.15, F.S.²³

Effect of the bill: The bill amends s. 838.015, F.S., to expand the offense of bribery to include public contractors. Also, the mens rea element of the offense of bribery is changed from “corruptly” to “knowingly and intentionally.”

Unlawful Compensation or Reward for Official Behavior

Present Situation: Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. Any person who violates this section commits a second degree felony which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.²⁴

Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. It is a second degree felony for any person corruptly to give, offer, or promise to any public servant any benefit not authorized by law; or for any public servant corruptly to request, solicit, accept or agree to accept any benefit not authorized by law:

- For the past, present, or future performance, nonperformance or violation of any act or omission; or
- For the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or the public

¹⁷ Section 838.015(1), F.S., defines “bribery” as corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

¹⁸ Section 838.015(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a second degree felony is punishable by a term of imprisonment not to exceed 15 years, and a maximum fine of \$10,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a second degree felony, such offender may be sentenced for a term not exceeding 30 years.

¹⁹ Section 838.12, F.S.

²⁰ Section 838.15, F.S.

²¹ Section 838.16, F.S.

²² *Roque v. State*, 664 So.2d 928 (Fla. 1995). The Court further noted that s. 838.015, F.S., was impermissibly vague and subject to arbitrary application. *Id.* at 929.

²³ See *supra* note 2, at 34.

²⁴ Section 838.016(4), F.S. Also, see *supra* note 4.

servant represents to have been either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.

Effect of the bill: The bill amends s. 838.016, F.S., to expand the offense of unlawful compensation or reward for official behavior to include public contractors. Also, the mens rea element of this offense is changed from “corruptly” to “knowingly and intentionally.”

Official Misconduct

Present Situation: The offense of official misconduct contained in s. 838.022(1), F.S., provides that it “is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another to:

- e) Falsify, or cause another person to falsify, any official record or official document;
- f) Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- g) Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

Any person who violates this section commits a felony of the third degree, which is punishable as provided for in sections 775.082, 775.083, or section 775.084, F.S.²⁵

Effect of the bill: The bill amends s. 838.022, F.S., to subject public contractors to the same level of conduct as public servants. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally.” The law is clarified so that the harm caused to another must be an “unlawful” harm.” Concealing, covering up, destroying, mutilating, or altering an official record is criminalized unless such action is authorized by law or contract.

Bid Tampering

Present Situation: Section 838.22, F.S., provides that:

- 1) It is unlawful for a public servant, with corrupt intent to influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:
 - a) Disclose material information concerning a bid or other aspects of the competitive bidding process when such information is not publicly disclosed.
 - b) Alter or amend a submitted bid, documents or other materials supporting a submitted bid, or bid results for the purpose of intentionally providing a competitive advantage to any person who submits a bid.
- 2) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.
- 3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant to violate subsection (1) or subsection (2).

²⁵ Section 838.022(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a third degree felony is punishable by a term of imprisonment not to exceed 5 years, and a maximum fine of \$5,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a third degree felony, such offender may be sentenced for a term not exceeding 10 years.

- 4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant acting in violation of subsection (1) or subsection (2).
- 5) Any person who violates this section commits a felony of the second degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.²⁶

Effect of the Bill: The offense known as “Bid Tampering” in s. 838.22, F.S., is renamed “Unlawful influence of the competitive solicitation process.” The bill amends s. 838.22, F.S., to expand the application of the bid tampering laws to public contractors who have contracted with a governmental entity to assist in a competitive procurement. These public contractors are treated similar to public servants for this law. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally” influence.

Online Posting of Governmental Budgets

Counties, Municipalities, and Special Districts

Present Situation: Counties²⁷, municipalities²⁸, and special districts²⁹ are required to post their tentative budgets on their websites 2 days prior to consideration of the budget. The final budget of a county, municipality or special district must be posted on the county’s, municipality’s, or special district’s website within 30 days after adoption. An amendment to a budget must be posted to the county’s, municipality’s, or special district’s website within 5 days of adoption.³⁰ Current law does not specify how long those items must remain available on the website.

Effect of the Bill: The bill amends s. 129.03, F.S., to require a county’s tentative budget to remain on the county’s website for at least 45 days and the final budget remain on its website for at least 2 years. The bill amends s. 129.06, F.S., to require that the amended final adopted budget must remain on the county’s website for at least 2 years.

The bill amends s. 166.241, F.S., to require a municipality’s tentative budget to remain on the municipality’s website for at least 45 days and the final adopted budget remain on its website for at least 2 years.

The bill amends s. 189.016, F.S., to require a special district’s tentative budget to remain on the special district’s website for at least 45 days, the final adopted budget to remain on its website for at least 2 years, and the amended final adopted budget remain on its website for at least 2 years.

Water Management Districts

Present Situation: Chapter 373 governs Florida’s water resource management. That chapter includes provisions authorizing the creation of water management districts and provides those districts with taxing authority. Section 373.536, F.S., governs water management districts’ budget process. That section also requires financial audits, 5-year capital improvement plans, and

²⁶ See *supra* note 3.

²⁷ Section 129.03, F.S.

²⁸ Section 166.241, F.S.

²⁹ Section 189.016, F.S.

³⁰ Section 129.06, F.S.

5-year water resource development work programs. All of these items must be submitted to the Department of Environmental Protection as specified in s. 373.536(6), F.S. The tentative budget is required to be posted on the water management district's website at least 2 days before the budget hearings are conducted. The law requires the final budget to be posted on the district's official website within 30 days of adoption.

Effect of the Bill: The bill amends s. 373.536, F.S., to require the tentative budget to remain on the district's website for at least 45 days. The bill requires the final budget to remain on the district's website for at least 2 years.

Internal Controls to Prevent and Detect Fraud, Waste, and Abuse

State Agencies and the Judicial Branch

Present Situation: Section 215.86, F.S., provides:

Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.

Effect of Bill: The bill amends s. 215.86, F.S., to require each entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Local Governmental Entities

Present Situation: Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity shall follow uniform accounting practices and procedures as provided by rule of the department to assure the use of proper accounting and fiscal management by such units. Such rules shall include a uniform classification of accounts.

Effect of Bill: The amends s. 218.33, F.S., to require each local governmental entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Charter Schools

Present Situation: Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to the creation of charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law requires that the governing body of a charter school is responsible for: ensuring that the charter school has retained a certified public accountant to perform its annual audit; reviewing the audit report; establishing a

corrective plan, if necessary; monitoring a financial recovery plan to ensure compliance; and, participating in governance training approved by the Department of Education. That governance training is required to address government in the sunshine, conflicts of interest, ethics, and financial responsibility.

Effect of Bill: The amends s. 1002.33, F.S., to require each the governing body of each charter school to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

School Districts and Florida College System Institutions

Present Situation: The financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the State Board of Education shall be prepared and maintained as prescribed by law and rules of the State Board of Education. The financial records and accounts of each state university under the supervision of the Board of Governors shall be prepared and maintained as prescribed by law and rules of the Board of Governors. Rules of the State Board of Education and rules of the Board of Governors shall incorporate the requirements of law and accounting principles generally accepted in the United States. Such rules shall include a uniform classification of accounts. Each state university shall annually file with the Board of Governors financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the Board of Governors. The Board of Governors' rules shall prescribe the filing deadline for the financial statements. Required financial accounts and reports shall include provisions that are unique to each of the following: K-12 school districts, Florida College System institutions, and state universities, and shall provide for the data to be reported to the National Center of Educational Statistics and other governmental and professional educational data information services as appropriate.

Section 1001.42, F.S., outlines the powers and duties of district school boards, including the discretionary authority to retain an internal auditor to perform ongoing financial verification of the financial records of the school district.

Effect of Bill: The bill amends s. 1010.01, F.S., to require each school district, Florida College System institution, and state university to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets..

The bill also amends s. 1001.42(12), F.S., to authorize the internal auditor that may be employed by the school district to perform ongoing financial verification of financial records and other such audits and reviews as the district school board directs for the purposes of determining: the adequacy of internal controls designed to prevent and detect fraud, waste and abuse; compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices; the efficiency of operations; the reliability of financial records and reports; and the safeguarding of assets.

Justice Administration Commission

Present Situation: The Justice Administration Commission is created in s. 43.16, F.S. Among its duties, the Commission is charged with maintaining a central state office for administrative services and assistance when possible, and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program. Additionally, the Commission records and submits necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans that were created by the state attorney, public defender, and criminal conflict and civil regional counsel and the Guardian Ad Litem Program.

Effect of the Bill: The bill amends s. 43.16, F.S., to require the Justice Administration Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

Extra Compensation Claims and False Claims Act Changes

Extra Compensation Claims

Present Situation: Section 215.425, F.S., prohibits extra compensation to any officer, agent, employee, or contractor after the service has been rendered or the contract made; nor shall any money be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year. That section also requires a contract or employment agreement, or renewal of a contract or employment agreement, containing a provision for severance pay to limit severance pay to 20 weeks and to prohibit severance pay when the individual is terminated for misconduct.

Effect of the Bill: The bill amends s. 215.425, F.S., to define the term “public funds” as:

any taxes, tuition, grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities.

The bill clarifies that there can be no violation of s. 215.425, F.S., for payment of a bonus or severance pay that is paid from sources other than public funds. Additionally, if allowed under

the Code of Ethics for Public Officers and Employees in Part III, Chapter 112, F.S., the following funds may be used to pay extra compensation:

- Revenues received by state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Certain revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid Provider Contract, and that:
 - Are not derived from the levy of an ad valorem tax;
 - Are not derived from patient services paid through the Medicaid or Medicare program;
 - Are derived from patient services pursuant to contracts with private insurers or private managed care entities; or
 - Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.
- Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

CS/SB 686 requires new contracts or renewal contracts after October 1, 2016, in which state universities or units of government are a party, to contain a requirement that severance pay from public funds may not exceed 20 weeks and to prohibit severance paid from any source of revenue when the officer, agent, employee, or contractor has been fired for misconduct.

The bill requires a unit of government that has made a prohibited compensation payment to investigate and take all actions necessary to recover the prohibited compensation. If the compensation was provided unintentionally, the unit of government must recover the prohibited compensation through its normal recovery methods. If the prohibited payment was willfully made, the unit of government must recover the payment from either the recipient or the person who authorized the prohibited payment. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation. Willfully providing a prohibited payment would become a first degree misdemeanor under the bill. The bill provides for suspension and removal of officers as follows: An officer who exercises the powers and duties of a state or county office may be suspended by the Governor and removed by the Florida Senate. Any other officer may be suspended and removed by the Governor pursuant to s. 112.51, F.S.

A person who reports the making of a prohibited extra compensation payment is eligible for a reward of at least \$500, or the lesser of 10 percent of the funds recovered or \$10,000 per incident, depending upon the extent to which the person substantially contributed to the discovery, notification, and recovery of such prohibited payment. There is an exception to the reward and payment of attorney fees and costs pursuant to s. 68.085, F.S., where the recovery of the prohibited compensation is based on disclosures of information relating to allegations or

transactions in a criminal, civil, or administrative hearing; a legislative, administrative, inspector general, or other government report; in an auditor general report, hearing, audit, or investigation; or from the news media. If the person was involved in the authorization, or was convicted for his role in the unauthorized compensation, he or she is not eligible for the reward and payment of attorney fees and costs pursuant to s. 68.085, F.S. Whistle-blowers are granted full protection under the Whistle-blower's Act.³¹

If the unit of government fails to recover the prohibited extra compensation payment within 90 days, a cause of action is authorized to recover state and other funds using the legal procedures in ss. 68.082, (governing false claims against the state) and 68.083, F.S., (governing civil actions for false claims). The Department of Legal Affairs and a person are authorized to bring such cause of action to recover other funds. Litigation to recover such other funds must be brought in the circuit court of the county in which the unit of local government is located. Subsections (7)-(12) apply prospectively to contracts or employment agreements, or the renewal or renegotiation or an existing contract or employment agreement, effective on or after October 1, 2016.

False Claims Against the State

Present Situation: Section 68.082, F.S., prohibits a person from:

- Knowingly presenting a false or fraudulent claim for payment or approval;
- Knowingly making or using a false record or statement material to a false or fraudulent claim;
- Conspiring to commit a violation of this subsection;
- Having possession, custody, or control of property or money used or to be used by the state and knowingly delivering less than all of that money or property;
- Making or delivering a document certifying receipt of property used or to be used by the state and, intending to defraud the state, making or delivering the receipt without knowing that the information on the receipt is true;
- Knowingly buying or receiving, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or
- Knowingly making or using a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state.

A person who does any of the foregoing is liable to the state for a civil penalty of not less than \$5,500 and not more than \$11,000 and for treble the amount of damages the state sustains.

Section 68.083, F.S., authorizes the Department of Legal Affairs to investigate an allegation of a false claim against the state. If the Department of Legal Affairs determines a violation has occurred, it is authorized to commence a civil action against the violator. Additionally, the Department of Financial Services (DFS) may bring such a suit if the Department of Legal Affairs has not done so.

³¹ Section 112.3187, F.S.

Effect of the Bill: The bill amends s. 68.082, F.S., to make it a “false claim against the state” for any person to knowingly authorize, approve, or receive payment of prohibited extra compensation in violation of s. 215.425, F.S. A person who authorizes, approves, or receives payment of prohibited extra compensation is also subject to the civil penalty and for treble damages that the state sustains.

The bill amends s. 68.083, F.S., to authorize the DFS to bring a civil action if the action arises from an investigation by DFS concerning a violation of the prohibited extra compensation claim under s. 215.425, F.S., and the Department of Legal Affairs has not filed an action under the false claim act.

Auditing

Joint Legislative Auditing Committee

Present Situation: Section 11.40, F.S., provides:

Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within ss. 11.45(5)-(7),³² 218.32(1),³³ 218.38,³⁴ or 218.503(3),³⁵ the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action.

Section 11.45, F.S., defines the types of audits that may be conducted. That section requires the Auditor General to conduct certain state and local governmental audits and specifies the frequency with which the audits must occur. Section 11.45, F.S., also allows the Auditor General to conduct other audits he or she determines to be appropriate. For purposes of s. 11.45, F.S., the term local governmental entity means “a county agency, municipality, or special district as defined in s. 189.012, F.S., but does not include any housing authority established under ch. 421, F.S.”

The Auditor General is required to transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Effect of the Bill: The bill amends s. 11.40, F.S., to provide that the Governor or his or her designee, or the Commissioner of Education or his or her designee, may also notify the Joint Legislative Auditing Committee that a local governmental entity has failed to comply with

³² Section 11.45, F.S., governs certain audits to be conducted by the Auditor General.

³³ Section 218.32(1), F.S., requires annual financial reports from local governmental entities.

³⁴ Section 218.38, F.S., requires notice of bond issuance and contains verification requirements.

³⁵ Section 218.503(3), F.S., requires those entities to disclose a financial emergency and provide certain information concerning a financial emergency.

applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill amends s. 11.45, F.S., to define the terms “abuse,” “fraud,” and “waste” as follows:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill also redefines the term “Local governmental entity” for purposes of s. 11.45, F.S., to include tourist development councils and county tourism promotion agencies.

The bill exempts water management districts from being subject to audits pursuant to s. 11.45(2)(j), F.S. The bill allows the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies. The bill also conforms the Auditor General’s reporting requirement to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, by removing the obsolete reference to water management districts and replacing it with the phrase “local governmental entity.”

Single Audit Act

Present Situation: The Florida Single Audit Act, s. 215.97, F.S., is designed to establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects; promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities; promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities; provide for identification of state financial assistance transactions in the state accounting records and recipient organization records; promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and, ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities. Pursuant to the Single Audit Act, certain entities that exceed the “audit threshold” are subject to a state single audit or a project specific audit. Currently, the “audit threshold” is defined as:

the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such nonstate entity shall be required to have a state single

audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits under this section and may adjust such threshold amount consistent with the purposes of this section. Section 215.97(2)(a), F.S.

Effect of the Bill: The bill amends s. 215.97, F.S., to change the audit threshold from \$500,000 to \$750,000. Additionally, the bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every 2 years to “periodically.” The term “periodically” is not defined in the bill. Finally, the bill authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(f), F.S.

Local Government Entity Annual Financial Reports

Present Situation: Section 218.32, F.S., requires certain local governmental entities to submit an annual financial report for the previous fiscal year. The annual financial report is required to be signed by the chair of the governing body and the chief financial officer of the local governmental entity. That section also specifies what information is required to be in the report.

Additionally, the Department of Financial Services is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.³⁶

Effect of the Bill: The bill amends s. 218.32, F.S., to require an independent certified public accountant completing an audit of a unit of local government pursuant to s. 218.39, F.S., to determine, as part of the audit, whether or not the entity’s annual financial report is in agreement with the audit report. The accountant’s audit report must be supported by the same level of detail required for the annual financial report. If the reports are not in agreement, the bill requires the audit to specify the differences that exist between the annual financial report and the audit report.

The bill also provides that, in preparing the verified report, the Department of Financial Services may request additional information from the local governmental entity. Any additional information requested must be provided within 45 days of the request. If the local governmental entity does not comply with the request, the Department of Financial Services must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

Annual Financial Audit Reports

Present Situation: If certain types of governmental entities are not notified by the first day of the fiscal year that they will be audited by the Auditor General, those entities must have an annual financial audit performed by an independent certified public accountant completed within 9

³⁶ Section 218.32(2), F.S.

months.³⁷ Section 218.39, F.S., lays out the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and provides for corrective steps including actions pursuant to s. 11.40(2), F.S.

Effect of the Bill: The bill amends s. 218.39, F.S., to provide that if the audit report contains a recommendation from the preceding financial audit report, the governing body, within 60 days, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Auditor Selection Procedures

Present Situation: Section 218.391, F.S., lays out the process that specified governmental entities³⁸ must follow in selecting its independent certified public accountant to act as an auditor. Noncharter counties are required to create a committee consisting of each of its elected county constitutional officers and one member of the board of county commissioners or their designee. Those entities must create an audit committee which must make a request for proposals. The law lays out what must be considered in selecting the firm and discusses negotiating for compensation.

Effect of the Bill: The bill amends s. 218.391, F.S., to require all counties to have an auditor selection committee consisting of each of its officers elected pursuant to the county charter or Florida Constitution. The bill requires municipalities, special districts, district school boards, charter schools, or charter technical career centers to create an audit committee with at least three members, one of which must be a member of the governing body of the entity. That member will serve as the committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not be a member of an audit committee established under this section.

The audit report submitted pursuant to s. 218.39, F.S., must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the auditor selection requirements. If the Auditor General determines that an entity failed to comply with the requirements in selecting an auditor, the entity shall select a replacement auditor to conduct audits for the remaining subsequent fiscal year(s) remaining in the contract.

The Florida Virtual School

Present Situation: The Florida Virtual School³⁹ was created to develop and deliver online and distance learning. The Commissioner of Education is charged with monitoring the Florida

³⁷ Section 218.39, F.S.

³⁸ The entities are: the governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center.

³⁹ Section 100.37, F.S.

Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education. The report is required to address: operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global; marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology; assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year; a copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General; recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and, recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.⁴⁰

The Auditor General is required to conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit must include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.

Effect of the Bill: The bill amends s. 1002.37, F.S. to eliminate the requirement that the Auditor General conduct an operation audit and report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2014. That provision is replaced with requiring the Florida Virtual School to have an annual financial audit of its accounts and records completed by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with the rules adopted by the Auditor General governing such audits. The audit report is required to include a written statement of the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. Upon completion of the audits, the independent auditor is required to submit an audit report to the board of trustees and the Auditor General no later than 9 months after the end of the prior fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education, by requiring a copy of the audit report be submitted with the annual statement.

Required Audits of Certain Educational Institutions

Present Situation: Section 1010.30(1), F.S., provides that school districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education and state universities under the supervision of the Board of Governors are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the

⁴⁰ Section 1002.37(6), F.S.

district school board, the Florida College System institution board of trustees, or the university board of trustees shall conduct an audit overview during a public meeting.⁴¹

Effect of the Bill: The bill amends s. 1010.30, F.S., to require that if any audit report includes a recommendation that was previously included in the preceding financial audit report, the district school board, the Florida College System institution board of trustees, or the university board of trustees, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. This response must occur during a regularly scheduled public meeting. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Other Provisions

Florida Clerk of Courts Corporation

Present Situation: Currently, s. 28.35, F.S., requires the Florida Clerk of Courts Corporation to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

Effect of the Bill: The bill amends s. 28.35, F.S., to require the Florida Clerk of Courts Corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

Transparency in Government Spending

Present Situation: The Transparency Florida Act, located in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. That law requires certain budget information to be readily available online, certain contract information, and minimum functionality standards. In pertinent part, s. 215.985(11), F.S.,

⁴¹ Section 1010.30(2), F.S.

requires: “Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website.”

Effect of the Bill: The bill amends s. 215.985, F.S., to require the monthly financial statement to be in the form and manner prescribed by the Department of Financial Services to the district’s governing board and make such monthly financial statement available to the public on its website.

Financial Emergencies

Present Situation: Local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, under certain circumstances.⁴² If a financial emergency occurs, the Governor or the Commissioner of Education must contact the entity to determine what steps have been taken to rectify, resolve, or prevent the financial emergency. Any information requested must be provided within 45 days. If the local governmental entity or the district school board does not comply with the request, the Governor or Commissioner of Education must notify the *members* of the Legislative Auditing Committee who may take action pursuant to s. 11.40, F.S. The Governor or the Commissioner of Education must then determine whether the entity needs state assistance. If so, the entity is considered to be in a state of financial emergency. The Governor or the Commissioner of Education then has the authority to take steps to resolve the financial emergency.⁴³

Effect of the Bill: The bill amends s. 218.503, F.S., to provide that the Governor, or his or her designee, or the Commissioner of Education, or his or her designee, must notify the Legislative Auditing Committee instead of notifying the members of the Legislative Auditing Committee.

Reasonable Opportunity to be Heard at Public Meetings

Present Situation: Section 286.0114, F.S., requires, with certain exceptions, that the public be provided a reasonable opportunity to be heard. That Section prescribes the general process and permits entities to prescribe how public comment is made and certain reasonable limitations. The law also provides for the availability of attorneys fees.

Effect of the Bill: The bill amends s. 286.0114, F.S., to clarify that a member of the public is not required to provide an advance written copy of his or her testimony or comments as a precondition to being given the opportunity to be heard.

Directory

Section 1 provides that the act may be cited as the “Florida Anti-Corruption Act of 2016.”

Section 2 amends s. 11.045, F.S., relating to lobbying before the Legislature.

⁴² Section 218.503(1), F.S.

⁴³ Section 218.503(3), F.S.

Section 3 amends s. 11.40, F.S., relating to the Legislative Auditing Committee.

Section 4 amends s. 11.45, F.S., relating to definitions, duties, authorities, reports, and rules of the Auditor General.

Section 5 creates s. 20.602, F.S., relating to standards of conduct; officers and board members of DEO corporate entities.

Section 6 amends s. 28.35, F.S., relating to the Florida Clerks of Court Operations Corporation.

Section 7 amends s. 43.16, F.S., relating to the Justice Administrative Commission.

Section 8 creates s. 112.3126, F.S., relating to employment restrictions for legislators.

Section 9 amends s. 112.313, F.S., relating to standards of conduct for public officers, employees of agencies, and local government attorneys.

Section 10 amends s. 112.3144, F.S., relating to full and public disclosure of financial interests.

Section 11 specifies that the changes made to s. 112.3144, F.S., apply to disclosures filed for the 2016 calendar year and all subsequent calendar years.

Section 12 amends s. 112.31455, F.S., relating to collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.

Section 13 amends s. 112.3215, F.S., relating to lobbying before the executive branch or the Constitutional Revision Commission.

Section 14 amends s. 112.324, F.S., relating to procedures on complaints of violations and referrals for the Commission on Ethics.

Section 15 amends s. 112.3261, F.S., relating to lobbying before water management districts; registration and reporting.

Section 16 amends s. 129.03, F.S., relating to preparation and adoption of county budgets.

Section 17 amends s. 129.06, F.S., relating to execution and amendment of county budgets.

Section 18 amends s. 166.241, F.S., relating to fiscal years, budgets, and budget amendments for municipalities.

Section 19 amends s. 189.016, F.S., relating to reports, budgets, and audits for special districts.

Section 20 amends s. 215.425, F.S., relating to extra compensation claims prohibited; bonuses; severance pay.

Section 21 amends s. 215.86, F.S., relating to management systems and controls for state agencies and the judicial branch.

Section 22 amends s. 215.97, F.S., relating to the Florida Single Audit Act.

Section 23 amends s. 215.985, F.S., relating to transparency in government spending.

Section 24 amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.

Section 25 amends s. 218.33, F.S., relating to local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.

Section 26 amends s. 218.39, F.S., relating to annual financial audit reports.

Section 27 amends s. 218.391, F.S., relating to auditor selection procedures.

Section 28 amends s. 286.0114, F.S., relating to public meetings; reasonable opportunity to be heard; attorney fees.

Section 29 amends s. 288.92, F.S., relating to divisions of Enterprise Florida, Inc.

Section 30 amends s. 288.9604, F.S., relating to creation of the Florida Development Finance Corporation.

Section 31 amends s. 373.536, F.S., relating to water management district budget and hearing thereon.

Section 32 amends s. 838.014, F.S., relating to definitions.

Section 33 amends s. 838.015, F.S., relating to bribery.

Section 34 amends s. 838.016, F.S., relating to unlawful compensation or reward for official behavior.

Section 35 amends s. 838.022, F.S., relating to official misconduct.

Section 36 amends s. 838.22, F.S., relating to bid tampering.

Section 37 amends s. 1001.42, F.S., relating to powers and duties of district school boards.

Section 38 amends s. 1002.33, F.S., relating to charter schools.

Section 39 amends s. 1002.37, F.S., relating to the Florida Virtual School.

Section 40 amends s. 1010.01, F.S., relating to uniform records and accounts.

Section 41 amends s. 1010.30, F.S., relating to audits required.

Section 42 amends s. 11.0455, F.S., relating to electronic filing of compensation reports and other information.

Section 43 amends s. 68.082, F.S., relating to false claims against the state; definitions; liability.

Section 44 amends s. 68.083, F.S., relating to civil actions for false claims.

Section 45 amends s. 99.061, F.S., relating to method of qualifying for nomination or election to federal, state, county, or district office.

Section 46 amends s. 218.503, F.S., relating to determination of financial emergency.

Section 47 reenacts s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart, to incorporate by reference revisions made to s. 838.22, F.S., in this act.

Section 48 amends s. 1002.455, F.S., relating to student eligibility for K-12 instruction, to incorporate by reference revisions made to s. 1002.37, F.S., in this act.

Section 49 amends s. 817.568, F.S., relating to criminal use of personal identification information, to incorporate by reference revisions made to s. 838.014, F.S., in this act.

Section 50 provides Legislative intent and declares that the act fulfills an important state interest.

Section 51 provides an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments to establish and maintain specified internal controls. An exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. An exception also may apply because similarly situated persons are all required to comply and the bill articulates a threshold finding of serving an important state interest (section 50 of the bill).

B. Public Records/Open Meetings Issues:

As amended, CS/SB 686 authorizes the Florida Commission on Ethics to initiate investigation, without having received a complaint or referral, based upon reliable and publicly disseminated information. The Commission's investigations of complaints and referrals are confidential until such time as the respondent (the public officer or employee) waives confidentiality or probable cause is found to believe that a violation occurred. This confidentiality should also be maintained for investigations that the Commission initiates on its own. Therefore, a separate public records exemption bill is needed.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill requires members of the public to register as a lobbyist when lobbying a specified unit of local government. Current law authorizes a fee for each registration, which may not exceed \$40.

C. Government Sector Impact:

The bill requires state agencies, the judicial branch, local governments, district school boards, charter schools, school districts, state colleges and universities, and the Justice Administration Commission to establish specified internal controls. Such requirement may require additional time and expense to create the internal controls.

The bill amends provisions related to the prohibition against extra compensation. It requires investigations of allegations and repayment of any prohibited compensation. It also requires the payment of rewards to individuals who report violations. The changes may result in the recovery of prohibited payments, but it also will have an associated increased workload cost for investigations and the payment of rewards.

VI. Technical Deficiencies:

The amendment to s. 215.425, F.S. (Extra compensation claims prohibited), contained in section 20 of the bill, does not specify who may bring a cause of action for recovery of state funds and where venue will lie in such matter. Also, this section does not define the term “other funds.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 20.602 and 112.3126 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 11.045, 11.40, 11.45, 28.35, 43.16, 112.313, 112.3144, 112.31455, 112.3215, 112.324, 112.3261, 129.03, 129.06, 166.241, 189.016, 215.425, 215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 286.0114, 288.92, 288.9604, 373.536, 838.014, 838.015, 838.016, 838.022, 838.22, 1001.42, 1002.33, 1002.37, 1010.01, 1010.30, 11.0455, 68.082, 68.083, 99.061, 218.503, 1002.455, and 817.568.

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

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

CS by Ethics and Elections on January 12, 2016:

CS/SB 686 differs from the original bill in that it:

- Requires legislative branch lobbyists to file a monthly report detailing which bills or appropriations that they have attempted to support, oppose, or influence;
- Authorizes fines of \$50 per day up to a maximum of \$5,000 for failing to timely file the monthly reports and provides grounds for waiving the fines;
- Prohibits lobbying the Department of Economic Opportunity and its various divisions, units and corporations (including the Florida Development Finance Corporation) for a period of 2 years instead of 6 years;
- Prohibits legislators from accepting certain employment while in office;
- Authorizes the Commission on Ethics to initiate investigations under certain circumstances by a super-majority vote;
- Clarifies which sources of funds are permissible to use to pay additional compensation or severance pay in excess of those authorized by statute to public employees;
- Defines “public contractor” and removes the definition of “nongovernmental entity” from the bill in s. 838.014, F.S.; and
- Applies the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and unlawful influence in the competitive solicitation process to “public contractors.”

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (5) through (9) of section
11.045, Florida Statutes, are renumbered as subsections (6)
through (10), respectively, a new subsection (5) is added to
that section, and present subsection (8) of that section is
amended, to read:

11.045 Lobbying before the Legislature; registration and



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11 reporting; exemptions; penalties.-

12 (5) (a) For purposes of this subsection, the term:

13 1. "Lobbying activities" means any action designed to
14 support, oppose, or influence proposed legislation or proposed
15 legislative action. The term includes, but is not limited to,
16 any verbal, written, or electronic communication with any
17 legislator or legislative employee undertaken for the purpose of
18 directly or indirectly supporting, opposing, or influencing
19 legislation or requesting proposed legislation to be filed.

20 2. "Proposed legislation" includes, but is not limited to,
21 policies, ideas, issues, concepts, or statutory language that is
22 presently, or may at some future point be, reflected in or
23 impacted by a bill, a memorial, a resolution, a compact, or an
24 appropriation.

25 3. "Proposed legislative action" means any action by a
26 constituent entity of the Legislature, including, but not
27 limited to, the houses of the Legislature, a joint office, and a
28 joint committee.

29 (b) Each house of the Legislature shall provide reporting
30 requirements by rule requiring each lobbying firm to file a
31 monthly report with the office. The report must include:

32 1. The full name, business address, and telephone number of
33 the lobbying firm.

34 2. The name of each of the lobbying firm's lobbyists.

35 3. A list detailing the lobbying firm's lobbying activities
36 during the reporting period. The list must itemize:

37 a. The proposed legislation or proposed legislative action
38 that the lobbying firm has attempted to support, oppose, or
39 influence;



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40 b. The entity lobbied;
41 c. Each principal on behalf of whom the lobbying firm has
42 acted; and
43 d. If the proposed legislation included an appropriation or
44 was an appropriation, the intended recipient of the
45 appropriation.
46 (c) For purposes of the reporting requirement provided in
47 this subsection, the reports must identify proposed legislation
48 by referencing any legislatively assigned identifying numbers,
49 including, but not limited to, bill numbers, amendment barcode
50 numbers, or specific appropriation numbers. If the proposed
51 legislation does not have an identifying number assigned, the
52 report must include a description of the subject matter of the
53 proposed legislation, whether the lobbying firm is supporting or
54 opposing the proposed legislation and, if seeking to modify the
55 proposed legislation, how the lobbying firm's modification would
56 alter the proposal.
57 (d) The reports shall be filed even if the reporting
58 lobbying firm did not engage in any lobbying activities
59 requiring disclosure, in which the report shall be marked "not
60 applicable."
61 (e) The reports shall be filed with the office by
62 electronic means no later than 7 business days after the end of
63 the preceding month. The reports shall be rendered in the
64 identical form provided by the respective houses and shall be
65 open to public inspection.
66 (f) Each house of the Legislature shall provide by rule, or
67 both houses may provide by joint rule, a procedure by which a
68 lobbying firm that fails to timely file a report is notified and



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69 assessed fines. The rule must provide the following:

70 1. Upon determining that the report is late, the person
71 designated to review the timeliness of reports shall immediately
72 notify the lobbying firm as to the failure to timely file the
73 report and that a fine is being assessed for each late day. The
74 fine shall be \$50 per day per report for each late day, not to
75 exceed \$5,000 per report.

76 2. Upon receipt of the report, the person designated to
77 review the timeliness of reports shall determine the amount of
78 the fine due based upon when a report is actually received by
79 the office.

80 3. Such fine must be paid within 30 days after the notice
81 of payment due is transmitted by the office, unless appeal is
82 made to the office. The moneys shall be deposited into the
83 Legislative Lobbyist Registration Trust Fund.

84 4. A fine may not be assessed against a lobbying firm the
85 first time any reports for which the lobbying firm is
86 responsible are not timely filed. However, to receive the one-
87 time fine waiver, all reports for which the lobbying firm is
88 responsible must be filed within 30 days after notice that any
89 reports have not been timely filed is transmitted by the
90 Lobbyist Registration Office. A fine shall be assessed for any
91 subsequent late-filed reports.

92 5. Any lobbying firm may appeal or dispute a fine, based
93 upon unusual circumstances surrounding the failure to file on
94 the designated due date, and may request and is entitled to a
95 hearing before the General Counsel of the Office of Legislative
96 Services, who shall recommend to the President of the Senate and
97 the Speaker of the House of Representatives, or their respective



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98 designees, that the fine be waived in whole or in part for good
99 cause shown. The President of the Senate and the Speaker of the
100 House of Representatives, or their respective designees, may
101 concur in the recommendation and waive the fine in whole or in
102 part. Any such request must be made within 30 days after the
103 notice of payment due is transmitted by the office. In such
104 case, the lobbying firm shall, within the 30-day period, notify
105 the person designated to review the timeliness of reports in
106 writing of his or her intention to request a hearing.

107 6. A lobbying firm may request that the filing of a report
108 be waived upon good cause shown, based on unusual circumstances.
109 The request must be filed with the General Counsel of the Office
110 of Legislative Services, who shall make a recommendation
111 concerning the waiver request to the President of the Senate and
112 the Speaker of the House of Representatives. The President of
113 the Senate and the Speaker of the House of Representatives may
114 grant or deny the request.

115 7. All lobbyist registrations for lobbyists who are
116 partners, owners, officers, or employees of a lobbying firm that
117 fails to timely pay a fine are automatically suspended until the
118 fine is paid or waived, and the office shall promptly notify all
119 affected principals of any suspension or reinstatement.

120 8. The person designated to review the timeliness of
121 reports shall notify the coordinator of the office of the
122 failure of a lobbying firm to file a report after notice or of
123 the failure of a lobbying firm to pay the fine imposed.

124 (9)~~(8)~~ Any person required to be registered or to provide
125 information pursuant to this section or pursuant to rules
126 established in conformity with this section who knowingly fails



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127 to disclose any material fact required by this section or by
128 rules established in conformity with this section, or who
129 knowingly provides false information on any report required by
130 this section or by rules established in conformity with this
131 section, commits a noncriminal infraction, punishable by a fine
132 not to exceed \$5,000. Such penalty shall be in addition to any
133 other penalty assessed by a house of the Legislature pursuant to
134 subsection (8) ~~(7)~~.

135 Section 2. Subsection (2) of section 11.40, Florida
136 Statutes, is amended to read:

137 11.40 Legislative Auditing Committee.—

138 (2) Following notification by the Auditor General, the
139 Department of Financial Services, ~~or~~ the Division of Bond
140 Finance of the State Board of Administration, the Governor or
141 his or her designee, or the Commissioner of Education or his or
142 her designee of the failure of a local governmental entity,
143 district school board, charter school, or charter technical
144 career center to comply with the applicable provisions within s.
145 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the
146 Legislative Auditing Committee may schedule a hearing to
147 determine if the entity should be subject to further state
148 action. If the committee determines that the entity should be
149 subject to further state action, the committee shall:

150 (a) In the case of a local governmental entity or district
151 school board, direct the Department of Revenue and the
152 Department of Financial Services to withhold any funds not
153 pledged for bond debt service satisfaction which are payable to
154 such entity until the entity complies with the law. The
155 committee shall specify the date that such action must ~~shall~~



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156 begin, and the directive must be received by the Department of
157 Revenue and the Department of Financial Services 30 days before
158 the date of the distribution mandated by law. The Department of
159 Revenue and the Department of Financial Services may implement
160 ~~the provisions of~~ this paragraph.

161 (b) In the case of a special district created by:

162 1. A special act, notify the President of the Senate, the
163 Speaker of the House of Representatives, the standing committees
164 of the Senate and the House of Representatives charged with
165 special district oversight as determined by the presiding
166 officers of each respective chamber, the legislators who
167 represent a portion of the geographical jurisdiction of the
168 special district pursuant to s. 189.034(2), and the Department
169 of Economic Opportunity that the special district has failed to
170 comply with the law. Upon receipt of notification, the
171 Department of Economic Opportunity shall proceed pursuant to s.
172 189.062 or s. 189.067. If the special district remains in
173 noncompliance after the process set forth in s. 189.034(3), or
174 if a public hearing is not held, the Legislative Auditing
175 Committee may request the department to proceed pursuant to s.
176 189.067(3).

177 2. A local ordinance, notify the chair or equivalent of the
178 local general-purpose government pursuant to s. 189.035(2) and
179 the Department of Economic Opportunity that the special district
180 has failed to comply with the law. Upon receipt of notification,
181 the department shall proceed pursuant to s. 189.062 or s.
182 189.067. If the special district remains in noncompliance after
183 the process set forth in s. 189.034(3), or if a public hearing
184 is not held, the Legislative Auditing Committee may request the



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185 department to proceed pursuant to s. 189.067(3).

186 3. Any manner other than a special act or local ordinance,
187 notify the Department of Economic Opportunity that the special
188 district has failed to comply with the law. Upon receipt of
189 notification, the department shall proceed pursuant to s.
190 189.062 or s. 189.067(3).

191 (c) In the case of a charter school or charter technical
192 career center, notify the appropriate sponsoring entity, which
193 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

194 Section 3. Subsection (1), paragraph (j) of subsection (2),
195 paragraph (u) of subsection (3), and paragraph (i) of subsection
196 (7) of section 11.45, Florida Statutes, are amended, and
197 paragraph (x) is added to subsection (3) of that section, to
198 read:

199 11.45 Definitions; duties; authorities; reports; rules.—

200 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

201 (a) "Abuse" means behavior that is deficient or improper
202 when compared with behavior that a prudent person would consider
203 a reasonable and necessary operational practice given the facts
204 and circumstances. The term includes the misuse of authority or
205 position for personal gain.

206 (b) ~~(a)~~ "Audit" means a financial audit, operational audit,
207 or performance audit.

208 (c) ~~(b)~~ "County agency" means a board of county
209 commissioners or other legislative and governing body of a
210 county, however styled, including that of a consolidated or
211 metropolitan government, a clerk of the circuit court, a
212 separate or ex officio clerk of the county court, a sheriff, a
213 property appraiser, a tax collector, a supervisor of elections,



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214 or any other officer in whom any portion of the fiscal duties of
215 a body or officer expressly stated in this paragraph are ~~the~~
216 above are under law separately placed by law.

217 (d)(e) "Financial audit" means an examination of financial
218 statements in order to express an opinion on the fairness with
219 which they are presented in conformity with generally accepted
220 accounting principles and an examination to determine whether
221 operations are properly conducted in accordance with legal and
222 regulatory requirements. Financial audits must be conducted in
223 accordance with auditing standards generally accepted in the
224 United States and government auditing standards as adopted by
225 the Board of Accountancy. When applicable, the scope of
226 financial audits must ~~shall~~ encompass the additional activities
227 necessary to establish compliance with the Single Audit Act
228 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
229 applicable federal law.

230 (e) "Fraud" means obtaining something of value through
231 willful misrepresentation, including, but not limited to, the
232 intentional misstatements or omissions of amounts or disclosures
233 in financial statements to deceive users of financial
234 statements, theft of an entity's assets, bribery, or the use of
235 one's position for personal enrichment through the deliberate
236 misuse or misapplication of an organization's resources.

237 (f)(d) "Governmental entity" means a state agency, a county
238 agency, or any other entity, however styled, that independently
239 exercises any type of state or local governmental function.

240 (g)(e) "Local governmental entity" means a county agency,
241 municipality, tourist development council, county tourism
242 promotion agency, or special district as defined in s. 189.012.



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243 The term, ~~but~~ does not include any housing authority established
244 under chapter 421.

245 (h) ~~(f)~~ "Management letter" means a statement of the
246 auditor's comments and recommendations.

247 (i) ~~(g)~~ "Operational audit" means an audit whose purpose is
248 to evaluate management's performance in establishing and
249 maintaining internal controls, including controls designed to
250 prevent and detect fraud, waste, and abuse, and in administering
251 assigned responsibilities in accordance with applicable laws,
252 administrative rules, contracts, grant agreements, and other
253 guidelines. Operational audits must be conducted in accordance
254 with government auditing standards. Such audits examine internal
255 controls that are designed and placed in operation to promote
256 and encourage the achievement of management's control objectives
257 in the categories of compliance, economic and efficient
258 operations, reliability of financial records and reports, and
259 safeguarding of assets, and identify weaknesses in those
260 internal controls.

261 (j) ~~(h)~~ "Performance audit" means an examination of a
262 program, activity, or function of a governmental entity,
263 conducted in accordance with applicable government auditing
264 standards or auditing and evaluation standards of other
265 appropriate authoritative bodies. The term includes an
266 examination of issues related to:

267 1. Economy, efficiency, or effectiveness of the program.

268 2. Structure or design of the program to accomplish its
269 goals and objectives.

270 3. Adequacy of the program to meet the needs identified by
271 the Legislature or governing body.



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272 4. Alternative methods of providing program services or
273 products.

274 5. Goals, objectives, and performance measures used by the
275 agency to monitor and report program accomplishments.

276 6. The accuracy or adequacy of public documents, reports,
277 or requests prepared under the program by state agencies.

278 7. Compliance of the program with appropriate policies,
279 rules, or laws.

280 8. Any other issues related to governmental entities as
281 directed by the Legislative Auditing Committee.

282 (k)~~(i)~~ "Political subdivision" means a separate agency or
283 unit of local government created or established by law and
284 includes, but is not limited to, the following and the officers
285 thereof: authority, board, branch, bureau, city, commission,
286 consolidated government, county, department, district,
287 institution, metropolitan government, municipality, office,
288 officer, public corporation, town, or village.

289 (l)~~(j)~~ "State agency" means a separate agency or unit of
290 state government created or established by law and includes, but
291 is not limited to, the following and the officers thereof:
292 authority, board, branch, bureau, commission, department,
293 division, institution, office, officer, or public corporation,
294 as the case may be, except any such agency or unit within the
295 legislative branch of state government other than the Florida
296 Public Service Commission.

297 (m) "Waste" means the act of using or expending resources
298 unreasonably, carelessly, extravagantly, or for no useful
299 purpose.

300 (2) DUTIES.—The Auditor General shall:



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301 (j) Conduct audits of local governmental entities when
302 determined to be necessary by the Auditor General, when directed
303 by the Legislative Auditing Committee, or when otherwise
304 required by law. No later than 18 months after the release of
305 the audit report, the Auditor General shall perform such
306 appropriate followup procedures as he or she deems necessary to
307 determine the audited entity's progress in addressing the
308 findings and recommendations contained within the Auditor
309 General's previous report. The Auditor General shall notify each
310 member of the audited entity's governing body and the
311 Legislative Auditing Committee of the results of his or her
312 determination. For purposes of this paragraph, local
313 governmental entities do not include water management districts.

314
315 The Auditor General shall perform his or her duties
316 independently but under the general policies established by the
317 Legislative Auditing Committee. This subsection does not limit
318 the Auditor General's discretionary authority to conduct other
319 audits or engagements of governmental entities as authorized in
320 subsection (3).

321 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
322 General may, pursuant to his or her own authority, or at the
323 direction of the Legislative Auditing Committee, conduct audits
324 or other engagements as determined appropriate by the Auditor
325 General of:

326 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

327 (x) Tourist development councils and county tourism
328 promotion agencies.

329 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—



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330 (i) The Auditor General shall annually transmit by July 15,
331 to the President of the Senate, the Speaker of the House of
332 Representatives, and the Department of Financial Services, a
333 list of all school districts, charter schools, charter technical
334 career centers, Florida College System institutions, state
335 universities, and local governmental entities ~~water management~~
336 ~~districts~~ that have failed to comply with the transparency
337 requirements as identified in the audit reports reviewed
338 pursuant to paragraph (b) and those conducted pursuant to
339 subsection (2).

340 Section 4. Section 20.602, Florida Statutes, is created to
341 read:

342 20.602 Standards of conduct; officers and board members of
343 Department of Economic Opportunity corporate entities.-

344 (1) The following officers and board members are subject to
345 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
346 112.3143(2):

347 (a) Officers and members of the board of directors of:

348 1. Any corporation created under chapter 288;

349 2. Space Florida;

350 3. CareerSource Florida, Inc., or the programs or entities
351 created by CareerSource Florida, Inc., pursuant to s. 445.004;

352 4. The Florida Housing Finance Corporation; or

353 5. Any other corporation created by the Department of
354 Economic Opportunity in accordance with its powers and duties
355 under s. 20.60.

356 (b) Officers and members of the board of directors of a
357 corporate parent or subsidiary corporation of a corporation
358 described in paragraph (a).



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359 (c) Officers and members of the board of directors of a
360 corporation created to carry out the missions of a corporation
361 described in paragraph (a).

362 (d) Officers and members of the board of directors of a
363 corporation with which a corporation described in paragraph (a)
364 is required by law to contract with to carry out its missions.

365 (2) For purposes of applying ss. 112.313(1)-(8), (10),
366 (12), and (15); 112.3135; and 112.3143(2) to activities of the
367 officers and members of the board of directors specified in
368 subsection (1), those persons shall be considered public
369 officers or employees and the corporation shall be considered
370 their agency.

371 (3) For a period of 2 years after retirement from or
372 termination of service, or for a period of 10 years if removed
373 or terminated for cause or for misconduct, as defined in s.
374 443.036(29), an officer or a member of the board of directors
375 specified in subsection (1) may not represent another person or
376 entity for compensation before:

377 (a) His or her corporation;

378 (b) A division, a subsidiary, or the board of directors of
379 a corporation created to carry out the mission of his or her
380 corporation; or

381 (c) A corporation with which the corporation is required by
382 law to contract to carry out its missions.

383 (4) This section does not supersede any additional or more
384 stringent standards of conduct applicable to an officer or a
385 member of the board of directors of an entity specified in
386 subsection (1) prescribed by any other provision of law.

387 Section 5. Paragraph (d) of subsection (2) of section



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388 28.35, Florida Statutes, is amended to read:

389 28.35 Florida Clerks of Court Operations Corporation.—

390 (2) The duties of the corporation shall include the
391 following:

392 (d) Developing and certifying a uniform system of workload
393 measures and applicable workload standards for court-related
394 functions as developed by the corporation and clerk workload
395 performance in meeting the workload performance standards. These
396 workload measures and workload performance standards shall be
397 designed to facilitate an objective determination of the
398 performance of each clerk in accordance with minimum standards
399 for fiscal management, operational efficiency, and effective
400 collection of fines, fees, service charges, and court costs. The
401 corporation shall develop the workload measures and workload
402 performance standards in consultation with the Legislature. When
403 the corporation finds a clerk has not met the workload
404 performance standards, the corporation shall identify the nature
405 of each deficiency and any corrective action recommended and
406 taken by the affected clerk of the court. For quarterly periods
407 ending on the last day of March, June, September, and December
408 of each year, the corporation shall notify the Legislature of
409 any clerk not meeting workload performance standards and provide
410 a copy of any corrective action plans. Such notifications shall
411 be submitted no later than 45 days after the end of the
412 preceding quarterly period. As used in this subsection, the
413 term:

414 1. "Workload measures" means the measurement of the
415 activities and frequency of the work required for the clerk to
416 adequately perform the court-related duties of the office as



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417 defined by the membership of the Florida Clerks of Court
418 Operations Corporation.

419 2. "Workload performance standards" means the standards
420 developed to measure the timeliness and effectiveness of the
421 activities that are accomplished by the clerk in the performance
422 of the court-related duties of the office as defined by the
423 membership of the Florida Clerks of Court Operations
424 Corporation.

425 Section 6. Present subsections (6) and (7) of section
426 43.16, Florida Statutes, are redesignated as subsections (7) and
427 (8), respectively, and a new subsection (6) is added to that
428 section, to read:

429 43.16 Justice Administrative Commission; membership, powers
430 and duties.—

431 (6) The commission, each state attorney, each public
432 defender, the criminal conflict and civil regional counsel, the
433 capital collateral regional counsel, and the Guardian Ad Litem
434 Program shall establish and maintain internal controls designed
435 to:

436 (a) Prevent and detect fraud, waste, and abuse.

437 (b) Promote and encourage compliance with applicable laws,
438 rules, contracts, grant agreements, and best practices.

439 (c) Support economical and efficient operations.

440 (d) Ensure reliability of financial records and reports.

441 (e) Safeguard assets.

442 Section 7. Section 112.3126, Florida Statutes, is created
443 to read:

444 112.3126 Employment restrictions; legislators.—

445 (1) As used in this section, the term "private entity"



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446 means any nongovernmental entity, such as a corporation,
447 partnership, company or nonprofit organization, any other legal
448 entity, or any natural person.

449 (2) (a) A member of, or candidate for, the Legislature may
450 not accept employment with a private entity that directly
451 receives funding through state revenues appropriated by the
452 General Appropriations Act if he or she knows, or with the
453 exercise of reasonable care should know, that the position is
454 being offered by the employer for the purpose of gaining
455 influence or other advantage based on the legislator's office or
456 candidacy. Any employment with a private entity that directly
457 receives funding through state revenues appropriated by the
458 General Appropriations Act accepted by a member or candidate
459 must meet all of the following conditions:

460 1. The position was already in existence or was created by
461 the employer without the knowledge or anticipation of the
462 legislator's interest in such position;

463 2. The position was open to other applicants;

464 3. The legislator was subject to the same application and
465 hiring process as other candidates for the position; and

466 4. The legislator meets or exceeds the required
467 qualifications for the position.

468 (b) A member of the Legislature who is employed by such
469 private entity before his or her legislative service begins may
470 continue his or her employment. However, he or she may not
471 accept promotion, advancement, additional compensation, or
472 anything of value that he or she knows, or with the exercise of
473 reasonable care should know, is provided or given to influence
474 or attempt to influence his or her legislative office, or that



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475 is otherwise inconsistent with the promotion, advancement,
476 additional compensation, or anything of value provided or given
477 an employee who is similarly situated.

478 Section 8. Subsection (7) of section 112.313, Florida
479 Statutes, is amended to read:

480 112.313 Standards of conduct for public officers, employees
481 of agencies, and local government attorneys.—

482 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

483 (a) A ~~No~~ public officer or employee of an agency may not
484 ~~shall~~ have or hold any employment or contractual relationship
485 with any business entity or any agency that ~~which~~ is subject to
486 the regulation of, or is doing business with, an agency of which
487 he or she is an officer or employee, excluding those
488 organizations and their officers who, when acting in their
489 official capacity, enter into or negotiate a collective
490 bargaining contract with the state or any municipality, county,
491 or other political subdivision of the state; and ~~nor shall~~ an
492 officer or employee of an agency may not have or hold any
493 employment or contractual relationship that will create a
494 continuing or frequently recurring conflict between his or her
495 private interests and the performance of his or her public
496 duties or that would impede the full and faithful discharge of
497 his or her public duties. For purposes of this subsection, if a
498 public officer or employee of an agency holds a controlling
499 interest in a business entity or is an officer, a director, or a
500 member who manages such an entity, contractual relationships
501 held by the business entity are deemed to be held by the public
502 officer or employee.

503 1. When the agency referred to is a ~~that certain kind of~~



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504 special tax district created by general or special law and is
505 limited specifically to constructing, maintaining, managing, and
506 financing improvements in the land area over which the agency
507 has jurisdiction, or when the agency has been organized pursuant
508 to chapter 298, ~~then~~ employment with, or entering into a
509 contractual relationship with, such a business entity by a
510 public officer or employee of such an agency is ~~shall~~ not ~~be~~
511 prohibited by this subsection or ~~be~~ deemed a conflict per se.
512 However, conduct by such officer or employee that is prohibited
513 by, or otherwise frustrates the intent of, this section must
514 ~~shall~~ be deemed a conflict of interest in violation of the
515 standards of conduct set forth by this section.

516 2. When the agency referred to is a legislative body and
517 the regulatory power over the business entity resides in another
518 agency, or when the regulatory power that ~~which~~ the legislative
519 body exercises over the business entity or agency is strictly
520 through the enactment of laws or ordinances, ~~then~~ employment or
521 a contractual relationship with such a business entity by a
522 public officer or employee of a legislative body is ~~shall~~ not ~~be~~
523 prohibited by this subsection or ~~be~~ deemed a conflict.

524 (b) This subsection does ~~shall~~ not prohibit a public
525 officer or employee from practicing in a particular profession
526 or occupation when such practice by persons holding such public
527 office or employment is required or permitted by law or
528 ordinance.

529 Section 9. Subsections (1) and (2) of section 112.3144,
530 Florida Statutes, are amended to read:

531 112.3144 Full and public disclosure of financial
532 interests.—



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533 (1) In addition to officers specified in s. 8, Art. II of
534 the State Constitution or other state law, all elected municipal
535 officers are required to file a full and public disclosure of
536 their financial interests. An officer who is required ~~by s. 8,~~
537 ~~Art. II of the State Constitution~~ to file a full and public
538 disclosure of ~~his or her~~ financial interests for any calendar or
539 fiscal year shall file that disclosure with the ~~Florida~~
540 Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~
541 An officer who is required to complete annual ethics training
542 pursuant to s. 112.3142 must certify on his or her full and
543 public disclosure of financial interests that he or she has
544 completed the required training.

545 (2) A person who is required, ~~pursuant to s. 8, Art. II of~~
546 ~~the State Constitution,~~ to file a full and public disclosure of
547 financial interests and who has filed a full and public
548 disclosure of financial interests for any calendar or fiscal
549 year is shall not ~~be~~ required to file a statement of financial
550 interests pursuant to s. 112.3145(2) and (3) for the same year
551 or for any part thereof notwithstanding any requirement of this
552 part. If an incumbent in an elective office has filed the full
553 and public disclosure of financial interests to qualify for
554 election to the same office or if a candidate for office holds
555 another office subject to the annual filing requirement, the
556 qualifying officer shall forward an electronic copy of the full
557 and public disclosure of financial interests to the commission
558 no later than July 1. The electronic copy of the full and public
559 disclosure of financial interests satisfies the annual
560 disclosure requirement of this section. A candidate who does not
561 qualify until after the annual full and public disclosure of



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562 financial interests has been filed pursuant to this section
563 shall file a copy of his or her disclosure with the officer
564 before whom he or she qualifies.

565 Section 10. The amendment made to s. 112.3144, Florida
566 Statutes, by this act applies to disclosures filed for the 2016
567 calendar year and all subsequent calendar years.

568 Section 11. Subsection (1) of section 112.31455, Florida
569 Statutes, is amended to read:

570 112.31455 Collection methods for unpaid automatic fines for
571 failure to timely file disclosure of financial interests.-

572 (1) Before referring any unpaid fine accrued pursuant to s.
573 112.3144(5) or s. 112.3145(7) to the Department of Financial
574 Services, the commission shall attempt to determine whether the
575 individual owing such a fine is a current public officer or
576 current public employee. If so, the commission may notify the
577 Chief Financial Officer or the governing body of the appropriate
578 county, municipality, school district, or special district of
579 the total amount of any fine owed to the commission by such
580 individual.

581 (a) After receipt and verification of the notice from the
582 commission, the Chief Financial Officer or the governing body of
583 the county, municipality, school district, or special district
584 shall begin withholding the lesser of 10 percent or the maximum
585 amount allowed under federal law from any salary-related
586 payment. The withheld payments shall be remitted to the
587 commission until the fine is satisfied.

588 (b) The Chief Financial Officer or the governing body of
589 the county, municipality, school district, or special district
590 may retain an amount of each withheld payment, as provided in s.



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591 77.0305, to cover the administrative costs incurred under this
592 section.

593 Section 12. Present subsections (7) through (15) of section
594 112.3215, Florida Statutes, are renumbered as subsections (8)
595 through (16), respectively, a new subsection (7) is added to
596 that section, and paragraph (a) of present subsection (8) and
597 present subsection (11) of that section are amended, to read:

598 112.3215 Lobbying before the executive branch or the
599 Constitution Revision Commission; registration and reporting;
600 investigation by commission.—

601 (7) If a lobbying firm lobbies the Governor to approve or
602 veto any bill passed by the Legislature or a specific
603 appropriation in the General Appropriations Act, the lobbying
604 firm must file a monthly report disclosing such activity with
605 the commission.

606 (a) The monthly report must contain the same information
607 required under s. 11.045(5). The reports must be filed with the
608 commission no later than 7 business days after the end of the
609 preceding month. A lobbying firm may satisfy the filing
610 requirements of this subsection by using the form used under s.
611 11.045(5).

612 (b) The reports shall be filed even if the reporting
613 lobbying firm did not engage in any lobbying activities
614 requiring disclosure, in which the report shall be marked "not
615 applicable."

616 (c) The commission shall provide by rule the grounds for
617 waiving a fine, the procedures by which a lobbying firm that
618 fails to timely file a report shall be notified and assessed
619 finances, and the procedure for appealing the fines. The rule shall



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620 provide for the following:

621 1. Upon determining that the report is late, the person
622 designated to review the timeliness of reports shall immediately
623 notify the lobbying firm as to the failure to timely file the
624 report and that a fine is being assessed for each late day. The
625 fine shall be \$50 per day per report for each late day up to a
626 maximum of \$5,000 per late report.

627 2. Upon receipt of the report, the person designated to
628 review the timeliness of reports shall determine the amount of
629 the fine due based upon when a report is actually received by
630 the commission.

631 3. Such fine shall be paid within 30 days after the notice
632 of payment due is transmitted by the commission, unless appeal
633 is made to the commission. The moneys shall be deposited into
634 the Executive Branch Lobby Registration Trust Fund.

635 4. A fine may not be assessed against a lobbying firm the
636 first time any reports for which the lobbying firm is
637 responsible are not timely filed. However, to receive the one-
638 time fine waiver, all reports for which the lobbying firm is
639 responsible must be filed within 30 days after the notice that
640 any reports have not been timely filed is transmitted by the
641 commission. A fine shall be assessed for any subsequent late-
642 filed reports.

643 5. Any lobbying firm may appeal or dispute a fine, based
644 upon unusual circumstances surrounding the failure to file on
645 the designated due date, and may request and shall be entitled
646 to a hearing before the commission, which shall have the
647 authority to waive the fine in whole or in part for good cause
648 shown. Any such request shall be made within 30 days after the



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649 notice of payment due is transmitted by the commission. In such
650 case, the lobbying firm shall, within the 30-day period, notify
651 the person designated to review the timeliness of reports in
652 writing of his or her intention to bring the matter before the
653 commission.

654 6. The person designated to review the timeliness of
655 reports shall notify the commission of the failure of a lobbying
656 firm to file a report after notice or of the failure of a
657 lobbying firm to pay the fine imposed. All lobbyist
658 registrations for lobbyists who are partners, owners, officers,
659 or employees of a lobbying firm that fails to timely pay a fine
660 are automatically suspended until the fine is paid or waived,
661 and the commission shall promptly notify all affected principals
662 of each suspension and each reinstatement.

663 7. Notwithstanding any provision of chapter 120, any fine
664 imposed under this subsection that is not waived by final order
665 of the commission and that remains unpaid more than 60 days
666 after the notice of payment due or more than 60 days after the
667 commission renders a final order on the lobbying firm's appeal
668 shall be collected by the Department of Financial Services as a
669 claim, debt, or other obligation owed to the state, and the
670 department may assign the collection of such fine to a
671 collection agent as provided in s. 17.20.

672 (9) (a) ~~(8) (a)~~ The commission shall investigate every sworn
673 complaint that is filed with it alleging that a person covered
674 by this section has failed to register, has failed to submit a
675 compensation report, has made a prohibited expenditure, has
676 failed to file a report required by subsection (7), or has
677 knowingly submitted false information in any report or



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678 registration required in this section.

679 (12)~~(11)~~ Any person who is required to be registered or to
680 provide information under this section or under rules adopted
681 pursuant to this section and who knowingly fails to disclose any
682 material fact that is required by this section or by rules
683 adopted pursuant to this section, or who knowingly provides
684 false information on any report required by this section or by
685 rules adopted pursuant to this section, commits a noncriminal
686 infraction, punishable by a fine not to exceed \$5,000. Such
687 penalty is in addition to any other penalty assessed by the
688 Governor and Cabinet pursuant to subsection (11) ~~(10)~~.

689 Section 13. Section 112.3261, Florida Statutes, is amended
690 to read:

691 112.3261 Lobbying before governmental entities ~~water~~
692 ~~management districts~~; registration and reporting.—

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

694 (a) "Governmental entity" or "entity" ~~"District"~~ means a
695 water management district created in s. 373.069 and operating
696 under the authority of chapter 373, a hospital district, a
697 children's services district, an expressway authority as the
698 term "authority" is defined in s. 348.0002, the term "port
699 authority" as defined in s. 315.02, a county or municipality
700 that has not adopted lobbyist registration and reporting
701 requirements, or an independent special district with annual
702 revenues of more than \$5 million which exercises ad valorem
703 taxing authority.

704 (b) "Lobbies" means seeking, on behalf of another person,
705 to influence a governmental entity ~~district~~ with respect to a
706 decision of the entity ~~district~~ in an area of policy or



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707 procurement or an attempt to obtain the goodwill of an a
708 ~~district~~ official or employee of a governmental entity. The term
709 "~~lobbies~~" shall be interpreted and applied consistently with the
710 rules of the commission implementing s. 112.3215.

711 (c) "Lobbyist" has the same meaning as provided in s.
712 112.3215.

713 (d) "Principal" has the same meaning as provided in s.
714 112.3215.

715 (2) A person may not lobby a governmental entity ~~district~~
716 until such person has registered as a lobbyist with that entity
717 ~~district~~. Such registration shall be due upon initially being
718 retained to lobby and is renewable on a calendar-year basis
719 thereafter. Upon registration, the person shall provide a
720 statement signed by the principal or principal's representative
721 stating that the registrant is authorized to represent the
722 principal. The principal shall also identify and designate its
723 main business on the statement authorizing that lobbyist
724 pursuant to a classification system approved by the governmental
725 entity ~~district~~. Any changes to the information required by this
726 section must be disclosed within 15 days by filing a new
727 registration form. The registration form must ~~shall~~ require each
728 lobbyist to disclose, under oath, the following:

729 (a) The lobbyist's name and business address.

730 (b) The name and business address of each principal
731 represented.

732 (c) The existence of any direct or indirect business
733 association, partnership, or financial relationship with an
734 official ~~any officer~~ or employee of a governmental entity
735 ~~district~~ with which he or she lobbies or intends to lobby.



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736 (d) A governmental entity shall create a lobbyist
737 registration form modeled after the ~~In lieu of creating its own~~
738 ~~lobbyist registration forms, a district may accept a completed~~
739 legislative branch or executive branch lobbyist registration
740 form, which must be returned to the governmental entity.

741 (3) A governmental entity ~~district~~ shall make lobbyist
742 registrations available to the public. If a governmental entity
743 ~~district~~ maintains a website, a database of currently registered
744 lobbyists and principals must be available on the entity's
745 ~~district's~~ website.

746 (4) A lobbyist shall promptly send a written statement to
747 the governmental entity ~~district~~ canceling the registration for
748 a principal upon termination of the lobbyist's representation of
749 that principal. A governmental entity ~~district~~ may remove the
750 name of a lobbyist from the list of registered lobbyists if the
751 principal notifies the entity ~~district~~ that a person is no
752 longer authorized to represent that principal.

753 (5) A governmental entity ~~district~~ may establish an annual
754 lobbyist registration fee, not to exceed \$40, for each principal
755 represented. The governmental entity ~~district~~ may use
756 registration fees only to administer this section.

757 (6) A governmental entity ~~district~~ shall be diligent to
758 ascertain whether persons required to register pursuant to this
759 section have complied. A governmental entity ~~district~~ may not
760 knowingly authorize a person who is not registered pursuant to
761 this section to lobby the entity ~~district~~.

762 (7) Upon receipt of a sworn complaint alleging that a
763 lobbyist or principal has failed to register with a governmental
764 entity ~~district~~ or has knowingly submitted false information in



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765 a report or registration required under this section, the
766 commission shall investigate a lobbyist or principal pursuant to
767 the procedures established under s. 112.324. The commission
768 shall provide the Governor with a report of its findings and
769 recommendations in any investigation conducted pursuant to this
770 subsection. The Governor is authorized to enforce the
771 commission's findings and recommendations.

772 (8) A governmental entity ~~Water management districts~~ may
773 adopt rules to establish procedures to govern the registration
774 of lobbyists, including the adoption of forms and the
775 establishment of a lobbyist registration fee.

776 Section 14. Paragraph (c) of subsection (3) of section
777 129.03, Florida Statutes, is amended to read:

778 129.03 Preparation and adoption of budget.—

779 (3) The county budget officer, after tentatively
780 ascertaining the proposed fiscal policies of the board for the
781 next fiscal year, shall prepare and present to the board a
782 tentative budget for the next fiscal year for each of the funds
783 provided in this chapter, including all estimated receipts,
784 taxes to be levied, and balances expected to be brought forward
785 and all estimated expenditures, reserves, and balances to be
786 carried over at the end of the year.

787 (c) The board shall hold public hearings to adopt tentative
788 and final budgets pursuant to s. 200.065. The hearings shall be
789 primarily for the purpose of hearing requests and complaints
790 from the public regarding the budgets and the proposed tax
791 levies and for explaining the budget and any proposed or adopted
792 amendments. The tentative budget must be posted on the county's
793 official website at least 2 days before the public hearing to



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794 consider such budget and must remain on the website for at least
795 45 days. The final budget must be posted on the website within
796 30 days after adoption and must remain on the website for at
797 least 2 years. The tentative budgets, adopted tentative budgets,
798 and final budgets shall be filed in the office of the county
799 auditor as a public record. Sufficient reference in words and
800 figures to identify the particular transactions must ~~shall~~ be
801 made in the minutes of the board to record its actions with
802 reference to the budgets.

803 Section 15. Paragraph (f) of subsection (2) of section
804 129.06, Florida Statutes, is amended to read:

805 129.06 Execution and amendment of budget.—

806 (2) The board at any time within a fiscal year may amend a
807 budget for that year, and may within the first 60 days of a
808 fiscal year amend the budget for the prior fiscal year, as
809 follows:

810 (f) Unless otherwise prohibited by law, if an amendment to
811 a budget is required for a purpose not specifically authorized
812 in paragraphs (a)-(e), the amendment may be authorized by
813 resolution or ordinance of the board of county commissioners
814 adopted following a public hearing.

815 1. The public hearing must be advertised at least 2 days,
816 but not more than 5 days, before the date of the hearing. The
817 advertisement must appear in a newspaper of paid general
818 circulation and must identify the name of the taxing authority,
819 the date, place, and time of the hearing, and the purpose of the
820 hearing. The advertisement must also identify each budgetary
821 fund to be amended, the source of the funds, the use of the
822 funds, and the total amount of each fund's appropriations.



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823 2. If the board amends the budget pursuant to this
824 paragraph, the adopted amendment must be posted on the county's
825 official website within 5 days after adoption and must remain on
826 the website for at least 2 years.

827 Section 16. Subsections (3) and (5) of section 166.241,
828 Florida Statutes, are amended to read:

829 166.241 Fiscal years, budgets, and budget amendments.—

830 (3) The tentative budget must be posted on the
831 municipality's official website at least 2 days before the
832 budget hearing, held pursuant to s. 200.065 or other law, to
833 consider such budget, and must remain on the website for at
834 least 45 days. The final adopted budget must be posted on the
835 municipality's official website within 30 days after adoption
836 and must remain on the website for at least 2 years. If the
837 municipality does not operate an official website, the
838 municipality must, within a reasonable period of time as
839 established by the county or counties in which the municipality
840 is located, transmit the tentative budget and final budget to
841 the manager or administrator of such county or counties who
842 shall post the budgets on the county's website.

843 (5) If the governing body of a municipality amends the
844 budget pursuant to paragraph (4) (c), the adopted amendment must
845 be posted on the official website of the municipality within 5
846 days after adoption and must remain on the website for at least
847 2 years. If the municipality does not operate an official
848 website, the municipality must, within a reasonable period of
849 time as established by the county or counties in which the
850 municipality is located, transmit the adopted amendment to the
851 manager or administrator of such county or counties who shall



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852 post the adopted amendment on the county's website.

853 Section 17. Subsections (4) and (7) of section 189.016,
854 Florida Statutes, are amended to read:

855 189.016 Reports; budgets; audits.-

856 (4) The tentative budget must be posted on the special
857 district's official website at least 2 days before the budget
858 hearing, held pursuant to s. 200.065 or other law, to consider
859 such budget, and must remain on the website for at least 45
860 days. The final adopted budget must be posted on the special
861 district's official website within 30 days after adoption and
862 must remain on the website for at least 2 years. If the special
863 district does not operate an official website, the special
864 district must, within a reasonable period of time as established
865 by the local general-purpose government or governments in which
866 the special district is located or the local governing authority
867 to which the district is dependent, transmit the tentative
868 budget or final budget to the manager or administrator of the
869 local general-purpose government or the local governing
870 authority. The manager or administrator shall post the tentative
871 budget or final budget on the website of the local general-
872 purpose government or governing authority. This subsection and
873 subsection (3) do not apply to water management districts as
874 defined in s. 373.019.

875 (7) If the governing body of a special district amends the
876 budget pursuant to paragraph (6)(c), the adopted amendment must
877 be posted on the official website of the special district within
878 5 days after adoption and must remain on the website for at
879 least 2 years. If the special district does not operate an
880 official website, the special district must, within a reasonable



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881 period of time as established by the local general-purpose
882 government or governments in which the special district is
883 located or the local governing authority to which the district
884 is dependent, transmit the adopted amendment to the manager or
885 administrator of the local general-purpose government or
886 governing authority. The manager or administrator shall post the
887 adopted amendment on the website of the local general-purpose
888 government or governing authority.

889 Section 18. Present subsections (1) through (5) of section
890 215.425, Florida Statutes, are renumbered as subsections (2)
891 through (6), respectively, present subsection (2) and paragraph
892 (a) of present subsection (4) of that section are amended, and a
893 new subsection (1) and subsections (7) through (13) are added to
894 that section, to read:

895 215.425 Extra compensation claims prohibited; bonuses;
896 severance pay.—

897 (1) As used in this section, the term "public funds" means
898 any taxes, tuition, grants, fines, fees, or other charges or any
899 other type of revenue collected by the state or any county,
900 municipality, special district, school district, Florida College
901 System institution, state university, or other separate unit of
902 government created pursuant to law, including any office,
903 department, agency, division, subdivision, political
904 subdivision, board, bureau, or commission of such entities.

905 (3)~~(2)~~ Notwithstanding subsection (2), if the payment and
906 receipt does not otherwise violate part III of chapter 112, the
907 following funds may be used to provide extra compensation or
908 severance pay in excess of the amount specified in subparagraph
909 (5) (a) 1.:



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910 (a) Revenues received by state universities through or from
911 faculty practice plans; health services support organizations;
912 hospitals with which state universities are affiliated; direct-
913 support organizations; or federal, auxiliary, or private
914 sources, except for tuition.

915 (b) Revenues received by Florida College System
916 institutions through or from faculty practice plans; health
917 services support organizations; direct-support organizations; or
918 federal, auxiliary, or private sources, except for tuition.

919 (c) Revenues that are received by a hospital licensed under
920 chapter 395 which has entered into a Medicaid provider contract
921 and that:

922 1. Are not derived from the levy of an ad valorem tax;

923 2. Are not derived from patient services paid through the
924 Medicaid or Medicare program;

925 3. Are derived from patient services pursuant to contracts
926 with private insurers or private managed care entities; or

927 4. Are not appropriated by the Legislature or by any
928 county, municipality, special district, school district, Florida
929 College System institution, state university, or other separate
930 unit of government created pursuant to law, including any
931 office, department, agency, division, subdivision, political
932 subdivision, board, bureau, commission, authority, or
933 institution of such entities, except for revenues otherwise
934 authorized to be used pursuant to subparagraphs 2. and 3. ~~This~~
935 section does not apply to:

936 (a) a bonus or severance pay that is paid wholly from
937 nontax revenues and nonstate-appropriated funds, the payment and
938 receipt of which does not otherwise violate part III of chapter



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939 ~~112, and which is paid to an officer, agent, employee, or~~
940 ~~contractor of a public hospital that is operated by a county or~~
941 ~~a special district; or~~

942 (d) ~~(b)~~ A clothing and maintenance allowance given to
943 plainclothes deputies pursuant to s. 30.49.

944 (e) Revenues or fees received by a seaport or airport from
945 sources other than through the levy of a tax, or funds
946 appropriated by any county or municipality or the Legislature.

947 (5) (a) ~~(4) (a)~~ On or after July 1, 2011, A unit of
948 government, on or after July 1, 2011, or a state university, on
949 or after July 1, 2012, that is a party to enters into a contract
950 or employment agreement, or renewal or renegotiation of an
951 existing contract or employment agreement, that contains a
952 provision for severance pay with an officer, agent, employee, or
953 contractor must include the following provisions in the
954 contract:

955 1. A requirement that severance pay paid from public funds
956 ~~provided~~ may not exceed an amount greater than 20 weeks of
957 compensation.

958 2. A prohibition of provision of severance pay paid from
959 public funds when the officer, agent, employee, or contractor
960 has been fired for misconduct, as defined in s. 443.036(29), by
961 the unit of government.

962 (7) Upon discovery or notification that a unit of
963 government has provided prohibited compensation to any officer,
964 agent, employee, or contractor in violation of this section,
965 such unit of government shall investigate and take all necessary
966 action to recover the prohibited compensation.

967 (a) If the violation was unintentional, the unit of



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968 government shall recover the prohibited compensation from the
969 individual receiving the prohibited compensation through normal
970 recovery methods for overpayments.

971 (b) If the violation was willful, the unit of government
972 shall recover the prohibited compensation from either the
973 individual receiving the prohibited compensation or the
974 individual or individuals responsible for approving the
975 prohibited compensation. Each individual determined to have
976 willfully violated this section is jointly and severally liable
977 for repayment of the prohibited compensation.

978 (8) A person who willfully violates this section commits a
979 misdemeanor of the first degree, punishable as provided in s.
980 775.082 or s. 775.083.

981 (9) An officer who exercises the powers and duties of a
982 state or county officer and willfully violates this section is
983 subject to the Governor's power under s. 7(a), Art. IV of the
984 State Constitution. An officer who exercises powers and duties
985 other than those of a state or county officer and willfully
986 violates this section is subject to the suspension and removal
987 procedures under s. 112.51.

988 (10) (a) A person who reports a violation of this section is
989 eligible for a reward of at least \$500, or the lesser of 10
990 percent of the funds recovered or \$10,000 per incident of a
991 prohibited compensation payment recovered by the unit of
992 government, depending upon the extent to which the person
993 substantially contributed to the discovery, notification, and
994 recovery of such prohibited payment.

995 (b) In the event that the recovery of the prohibited
996 compensation is based primarily on disclosures of specific



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997 information, other than information provided by such person,
998 relating to allegations or transactions in a criminal, civil, or
999 administrative hearing; in a legislative, administrative,
1000 inspector general, or other government report; in an auditor
1001 general report, hearing, audit, or investigation; or from the
1002 news media, such person is not eligible for a reward, or for an
1003 award of a portion of the proceeds or payment of attorney fees
1004 and costs pursuant to s. 68.085.

1005 (c) If it is determined that the person who reported a
1006 violation of this section was involved in the authorization,
1007 approval, or receipt of the prohibited compensation or is
1008 convicted of criminal conduct arising from his or her role in
1009 the authorization, approval, or receipt of the prohibited
1010 compensation, such person is not eligible for a reward, or for
1011 an award of a portion of the proceeds or payment of attorney
1012 fees and costs pursuant to s. 68.085.

1013 (11) An employee who is discharged, demoted, suspended,
1014 threatened, harassed, or in any manner discriminated against in
1015 the terms and conditions of employment by his or her employer
1016 because of lawful acts done by the employee on behalf of the
1017 employee or others in furtherance of an action under this
1018 section, including investigation for initiation of, testimony
1019 for, or assistance in an action filed or to be filed under this
1020 section, has a cause of action under s. 112.3187.

1021 (12) If the unit of government fails to recover prohibited
1022 compensation for a willful violation of this section upon
1023 discovery and notification of such prohibited payment within 90
1024 days, a cause of action may be brought to:

1025 (a) Recover state funds in accordance with ss. 68.082 and



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1026 68.083.

1027 (b) Recover other funds by the Department of Legal Affairs
1028 using the procedures set forth in ss. 68.082 and 68.083, except
1029 that venue shall lie in the circuit court of the county in which
1030 the unit of government is located.

1031 (c) Recover other funds by a person using the procedures
1032 set forth in ss. 68.082 and 68.083, except that venue shall lie
1033 in the circuit court of the county in which the unit of
1034 government is located.

1035 (13) Subsections (7)-(12) apply prospectively to contracts
1036 or employment agreements, or the renewal or renegotiation of an
1037 existing contract or employment agreement, effective on or after
1038 October 1, 2016.

1039 Section 19. Section 215.86, Florida Statutes, is amended to
1040 read:

1041 215.86 Management systems and controls.—Each state agency
1042 and the judicial branch as defined in s. 216.011 shall establish
1043 and maintain management systems and internal controls designed
1044 to:

1045 (1) Prevent and detect fraud, waste, and abuse. ~~that~~

1046 (2) Promote and encourage compliance with applicable laws,
1047 rules, contracts, grant agreements, and best practices.†

1048 (3) Support economical and ~~economic,~~ efficient, ~~and~~
1049 effective operations.†

1050 (4) Ensure reliability of financial records and reports.†

1051 (5) Safeguard ~~and safeguarding of~~ assets. Accounting
1052 systems and procedures shall be designed to fulfill the
1053 requirements of generally accepted accounting principles.

1054 Section 20. Paragraph (a) of subsection (2) of section



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1055 215.97, Florida Statutes, is amended to read:
1056 215.97 Florida Single Audit Act.—
1057 (2) Definitions; as used in this section, the term:
1058 (a) "Audit threshold" means the threshold amount used to
1059 determine when a state single audit or project-specific audit of
1060 a nonstate entity shall be conducted in accordance with this
1061 section. Each nonstate entity that expends a total amount of
1062 state financial assistance equal to or in excess of \$750,000
1063 ~~\$500,000~~ in any fiscal year of such nonstate entity shall be
1064 required to have a state single audit, or a project-specific
1065 audit, for such fiscal year in accordance with the requirements
1066 of this section. ~~Every 2 years the Auditor General,~~ After
1067 consulting with the Executive Office of the Governor, the
1068 Department of Financial Services, and all state awarding
1069 agencies, the Auditor General shall periodically review the
1070 threshold amount for requiring audits under this section and may
1071 recommend any appropriate statutory change to revise the
1072 threshold amount in the annual report submitted pursuant to s.
1073 11.45(7)(h) to the Legislature ~~may adjust such threshold amount~~
1074 ~~consistent with the purposes of this section.~~

1075 Section 21. Subsection (11) of section 215.985, Florida
1076 Statutes, is amended to read:
1077 215.985 Transparency in government spending.—
1078 (11) Each water management district shall provide a monthly
1079 financial statement in the form and manner prescribed by the
1080 Department of Financial Services to the district's ~~its~~ governing
1081 board and make such monthly financial statement available for
1082 public access on its website.

1083 Section 22. Paragraph (d) of subsection (1) and subsection



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1084 (2) of section 218.32, Florida Statutes, are amended to read:
1085 218.32 Annual financial reports; local governmental
1086 entities.—

1087 (1)

1088 (d) Each local governmental entity that is required to
1089 provide for an audit under s. 218.39(1) must submit a copy of
1090 the audit report and annual financial report to the department
1091 within 45 days after the completion of the audit report but no
1092 later than 9 months after the end of the fiscal year. In
1093 conducting an audit of a local governmental entity pursuant to
1094 s. 218.39, an independent certified public accountant shall
1095 determine whether the entity's annual financial report is in
1096 agreement with the audited financial statements. The
1097 accountant's audit report must be supported by the same level of
1098 detail as required for the annual financial report. If the
1099 accountant's audit report is not in agreement with the annual
1100 financial report, the accountant shall specify and explain the
1101 significant differences that exist between the annual financial
1102 report and the audit report.

1103 (2) The department shall annually by December 1 file a
1104 verified report with the Governor, the Legislature, the Auditor
1105 General, and the Special District Accountability Program of the
1106 Department of Economic Opportunity showing the revenues, both
1107 locally derived and derived from intergovernmental transfers,
1108 and the expenditures of each local governmental entity, regional
1109 planning council, local government finance commission, and
1110 municipal power corporation that is required to submit an annual
1111 financial report. In preparing the verified report, the
1112 department may request additional information from the local



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1113 governmental entity. The information requested must be provided
1114 to the department within 45 days after the request. If the local
1115 governmental entity does not comply with the request, the
1116 department shall notify the Legislative Auditing Committee,
1117 which may take action pursuant to s. 11.40(2). The report must
1118 include, but is not limited to:

1119 (a) The total revenues and expenditures of each local
1120 governmental entity that is a component unit included in the
1121 annual financial report of the reporting entity.

1122 (b) The amount of outstanding long-term debt by each local
1123 governmental entity. For purposes of this paragraph, the term
1124 "long-term debt" means any agreement or series of agreements to
1125 pay money, which, at inception, contemplate terms of payment
1126 exceeding 1 year in duration.

1127 Section 23. Present subsection (3) of section 218.33,
1128 Florida Statutes, is redesignated as subsection (4), and a new
1129 subsection (3) is added to that section, to read:

1130 218.33 Local governmental entities; establishment of
1131 uniform fiscal years and accounting practices and procedures.—

1132 (3) Each local governmental entity shall establish and
1133 maintain internal controls designed to:

1134 (a) Prevent and detect fraud, waste, and abuse.

1135 (b) Promote and encourage compliance with applicable laws,
1136 rules, contracts, grant agreements, and best practices.

1137 (c) Support economical and efficient operations.

1138 (d) Ensure reliability of financial records and reports.

1139 (e) Safeguard assets.

1140 Section 24. Present subsections (8) through (12) of section
1141 218.39, Florida Statutes, are redesignated as subsections (9)



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1142 through (13), respectively, and a new subsection (8) is added to
1143 that section, to read:

1144 218.39 Annual financial audit reports.—

1145 (8) If the audit report includes a recommendation that was
1146 included in the preceding financial audit report but remains
1147 unaddressed, the governing body of the audited entity, within 60
1148 days after the delivery of the audit report to the governing
1149 body, shall indicate during a regularly scheduled public meeting
1150 whether it intends to take corrective action, the intended
1151 corrective action, and the timeframe for the corrective action.
1152 If the governing body indicates that it does not intend to take
1153 corrective action, it shall explain its decision at the public
1154 meeting.

1155 Section 25. Subsection (2) of section 218.391, Florida
1156 Statutes, is amended, and subsection (9) is added to that
1157 section, to read:

1158 218.391 Auditor selection procedures.—

1159 (2) The governing body of a ~~charter~~ county, municipality,
1160 special district, district school board, charter school, or
1161 charter technical career center shall establish an audit
1162 committee.

1163 (a) The audit committee for a county ~~Each noncharter county~~
1164 ~~shall establish an audit committee that,~~ at a minimum, shall
1165 consist of each of the county officers elected pursuant to the
1166 county charter or s. 1(d), Art. VIII of the State Constitution,
1167 or their respective designees ~~a designee,~~ and one member of the
1168 board of county commissioners or its designee.

1169 (b) The audit committee for a municipality, special
1170 district, district school board, charter school, or charter



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1171 technical career center shall consist of at least three members.
1172 One member of the audit committee must be a member of the
1173 governing body of an entity specified in this paragraph, who
1174 shall also serve as the chair of the committee.

1175 (c) An employee, chief executive officer, or chief
1176 financial officer of the county, municipality, special district,
1177 district school board, charter school, or charter technical
1178 career center may not serve as a member of an audit committee
1179 established under this subsection.

1180 (d) The primary purpose of the audit committee is to assist
1181 the governing body in selecting an auditor to conduct the annual
1182 financial audit required in s. 218.39; however, the audit
1183 committee may serve other audit oversight purposes as determined
1184 by the entity's governing body. The public ~~may~~ shall not be
1185 excluded from the proceedings under this section.

1186 (9) An audit report submitted pursuant to s. 218.39 must
1187 include an affidavit executed by the chair of the audit
1188 committee affirming that the committee complied with the
1189 requirements of subsections (3)-(6) in selecting an auditor. If
1190 the Auditor General determines that an entity failed to comply
1191 with the requirements of subsections (3)-(6) in selecting an
1192 auditor, the entity shall select a replacement auditor in
1193 accordance with this section to conduct audits for subsequent
1194 fiscal years if the original audit was performed under a
1195 multiyear contract. If the replacement of an auditor would
1196 preclude the entity from timely completing the annual financial
1197 audit required by s. 218.39, the entity shall replace an auditor
1198 in accordance with this section for the subsequent annual
1199 financial audit. A multiyear contract between an entity or an



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1200 auditor may not prohibit or restrict an entity from complying
1201 with this subsection.

1202 Section 26. Subsection (2) of section 286.0114, Florida
1203 Statutes, is amended to read:

1204 286.0114 Public meetings; reasonable opportunity to be
1205 heard; attorney fees.—

1206 (2) Members of the public shall be given a reasonable
1207 opportunity to be heard on a proposition before a board or
1208 commission. The opportunity to be heard need not occur at the
1209 same meeting at which the board or commission takes official
1210 action on the proposition if the opportunity occurs at a meeting
1211 that is during the decisionmaking process and is within
1212 reasonable proximity in time before the meeting at which the
1213 board or commission takes the official action. A board or
1214 commission may not require a member of the public to provide an
1215 advance written copy of his or her testimony or comments as a
1216 precondition of being given the opportunity to be heard at a
1217 meeting. This section does not prohibit a board or commission
1218 from maintaining orderly conduct or proper decorum in a public
1219 meeting. The opportunity to be heard is subject to rules or
1220 policies adopted by the board or commission, as provided in
1221 subsection (4).

1222 Section 27. Paragraph (b) of subsection (2) of section
1223 288.92, Florida Statutes, is amended to read:

1224 288.92 Divisions of Enterprise Florida, Inc.—

1225 (2)

1226 (b)1. The following officers and board members are subject
1227 to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
1228 112.3143(2):



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1229 a. Officers and members of the board of directors of the
1230 divisions of Enterprise Florida, Inc.

1231 b. Officers and members of the board of directors of
1232 subsidiaries of Enterprise Florida, Inc.

1233 c. Officers and members of the board of directors of
1234 corporations created to carry out the missions of Enterprise
1235 Florida, Inc.

1236 d. Officers and members of the board of directors of
1237 corporations with which a division is required by law to
1238 contract to carry out its missions.

1239 2. For a period of 2 years after retirement from or
1240 termination of service to a division, or for a period of 10
1241 years if removed or terminated for cause or for misconduct, as
1242 defined in s. 443.036(29), the officers and board members
1243 specified in subparagraph 1. may not represent another person or
1244 entity for compensation before:

1245 a. Enterprise Florida, Inc.;

1246 b. A division, a subsidiary, or the board of directors of
1247 corporations created to carry out the missions of Enterprise
1248 Florida, Inc.; or

1249 c. A division with which Enterprise Florida, Inc., is
1250 required by law to contract to carry out its missions.

1251 ~~3.2.~~ For purposes of applying ss. 112.313(1)-(8), (10),
1252 (12), and (15); 112.3135; and 112.3143(2) to activities of the
1253 officers and members of the board of directors specified in
1254 subparagraph 1., those persons shall be considered public
1255 officers or employees and the corporation shall be considered
1256 their agency.

1257 ~~4.3.~~ It is not a violation of s. 112.3143(2) or (4) for the



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1258 officers or members of the board of directors of the Florida
1259 Tourism Industry Marketing Corporation to:

1260 a. Vote on the 4-year marketing plan required under s.
1261 288.923 or vote on any individual component of or amendment to
1262 the plan.

1263 b. Participate in the establishment or calculation of
1264 payments related to the private match requirements of s.
1265 288.904(3). The officer or member must file an annual disclosure
1266 describing the nature of his or her interests or the interests
1267 of his or her principals, including corporate parents and
1268 subsidiaries of his or her principal, in the private match
1269 requirements. This annual disclosure requirement satisfies the
1270 disclosure requirement of s. 112.3143(4). This disclosure must
1271 be placed ~~either~~ on the Florida Tourism Industry Marketing
1272 Corporation's website or included in the minutes of each meeting
1273 of the Florida Tourism Industry Marketing Corporation's board of
1274 directors at which the private match requirements are discussed
1275 or voted upon.

1276 Section 28. Paragraph (a) of subsection (3) of section
1277 288.9604, Florida Statutes, is amended to read:

1278 288.9604 Creation of the authority.—

1279 (3)(a)1. A director may not receive compensation for his or
1280 her services, but is entitled to necessary expenses, including
1281 travel expenses, incurred in the discharge of his or her duties.
1282 Each director shall hold office until his or her successor has
1283 been appointed.

1284 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
1285 and (15); 112.3135; and 112.3143(2). For purposes of applying
1286 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and



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1287 112.3143(2) to activities of directors, directors shall be
1288 considered public officers and the corporation shall be
1289 considered their agency.

1290 3. A director of the corporation may not represent another
1291 person or entity for compensation before the corporation for a
1292 period of 2 years following his or her service on the board of
1293 directors.

1294 Section 29. Paragraph (e) of subsection (4), paragraph (d)
1295 of subsection (5), and paragraph (d) of subsection (6) of
1296 section 373.536, Florida Statutes, are amended to read:

1297 373.536 District budget and hearing thereon.—

1298 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

1299 (e) ~~By September 1, 2012,~~ Each district shall provide a
1300 monthly financial statement in the form and manner prescribed by
1301 the Department of Financial Services to the district's governing
1302 board and make such monthly financial statement available for
1303 public access on its website.

1304 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
1305 APPROVAL.—

1306 (d) Each district shall, by August 1 of each year, submit
1307 for review a tentative budget and a description of any
1308 significant changes from the preliminary budget submitted to the
1309 Legislature pursuant to s. 373.535 to the Governor, the
1310 President of the Senate, the Speaker of the House of
1311 Representatives, the chairs of all legislative committees and
1312 subcommittees having substantive or fiscal jurisdiction over
1313 water management districts, as determined by the President of
1314 the Senate or the Speaker of the House of Representatives, as
1315 applicable, the secretary of the department, and the governing



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1316 body of each county in which the district has jurisdiction or
1317 derives any funds for the operations of the district. The
1318 tentative budget must be posted on the district's official
1319 website at least 2 days before budget hearings held pursuant to
1320 s. 200.065 or other law and must remain on the website for at
1321 least 45 days.

1322 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
1323 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1324 (d) The final adopted budget must be posted on the water
1325 management district's official website within 30 days after
1326 adoption and must remain on the website for at least 2 years.

1327 Section 30. Subsection (7) of section 838.014, Florida
1328 Statutes, is renumbered as subsection (8), present subsections
1329 (4) and (6) are amended, and a new subsection (6) is added to
1330 that section, to read:

1331 838.014 Definitions.—As used in this chapter, the term:

1332 (4) "Governmental entity" means an agency or entity of the
1333 state, a county, municipality, or special district or any other
1334 public entity created or authorized by law ~~"Corruptly" or "with~~
1335 ~~corrupt intent" means acting knowingly and dishonestly for a~~
1336 ~~wrongful purpose.~~

1337 (6) "Public contractor" means, for purposes of ss. 838.022
1338 and 838.22 only:

1339 (a) Any person, as defined in s. 1.01(3), who has entered
1340 into a contract with a governmental entity; or

1341 (b) Any officer or employee of a person, as defined in s.
1342 1.01(3), who has entered into a contract with a governmental
1343 entity.

1344 (7)~~(6)~~ "Public servant" means:



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1345 (a) Any officer or employee of a governmental state,
1346 ~~county, municipal, or special district agency or entity,~~
1347 including

1348 ~~(b)~~ any executive, legislative, or judicial branch officer
1349 or employee;

1350 (b) ~~(e)~~ Any person, except a witness, who acts as a general
1351 or special magistrate, receiver, auditor, arbitrator, umpire,
1352 referee, consultant, or hearing officer while performing a
1353 governmental function; or

1354 (c) ~~(d)~~ A candidate for election or appointment to any of
1355 the officer positions listed in this subsection, or an
1356 individual who has been elected to, but has yet to officially
1357 assume the responsibilities of, public office.

1358 Section 31. Subsection (1) of section 838.015, Florida
1359 Statutes, is amended to read:

1360 838.015 Bribery.—

1361 (1) "Bribery" means ~~corruptly~~ to knowingly and
1362 intentionally give, offer, or promise to any public servant, or,
1363 if a public servant, ~~corruptly~~ to knowingly and intentionally
1364 request, solicit, accept, or agree to accept for himself or
1365 herself or another, any pecuniary or other benefit not
1366 authorized by law with an intent or purpose to influence the
1367 performance of any act or omission which the person believes to
1368 be, or the public servant represents as being, within the
1369 official discretion of a public servant, in violation of a
1370 public duty, or in performance of a public duty.

1371 Section 32. Subsections (1) and (2) of section 838.016,
1372 Florida Statutes, are amended to read:

1373 838.016 Unlawful compensation or reward for official



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1374 behavior.-

1375 (1) It is unlawful for any person ~~corruptly~~ to knowingly
1376 and intentionally give, offer, or promise to any public servant,
1377 or, if a public servant, ~~corruptly~~ to knowingly and
1378 intentionally request, solicit, accept, or agree to accept, any
1379 pecuniary or other benefit not authorized by law, for the past,
1380 present, or future performance, nonperformance, or violation of
1381 any act or omission which the person believes to have been, or
1382 the public servant represents as having been, either within the
1383 official discretion of the public servant, in violation of a
1384 public duty, or in performance of a public duty. This section
1385 does not ~~Nothing herein shall be construed to~~ preclude a public
1386 servant from accepting rewards for services performed in
1387 apprehending any criminal.

1388 (2) It is unlawful for any person ~~corruptly~~ to knowingly
1389 and intentionally give, offer, or promise to any public servant,
1390 or, if a public servant, ~~corruptly~~ to knowingly and
1391 intentionally request, solicit, accept, or agree to accept, any
1392 pecuniary or other benefit not authorized by law for the past,
1393 present, or future exertion of any influence upon or with any
1394 other public servant regarding any act or omission which the
1395 person believes to have been, or which is represented to him or
1396 her as having been, either within the official discretion of the
1397 other public servant, in violation of a public duty, or in
1398 performance of a public duty.

1399 Section 33. Subsection (1) of section 838.022, Florida
1400 Statutes, is amended, and subsection (2) of that section is
1401 republished, to read:

1402 838.022 Official misconduct.-



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1403 (1) It is unlawful for a public servant or public
1404 contractor, with corrupt intent to knowingly and intentionally
1405 obtain a benefit for any person or to cause unlawful harm to
1406 another, by ~~to~~:

1407 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to
1408 falsify, any official record or official document;

1409 (b) Concealing, covering up, destroying, mutilating, or
1410 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
1411 official record or official document, except as authorized by
1412 law or contract, or causing ~~cause~~ another person to perform such
1413 an act; or

1414 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
1415 ~~or prevent~~ the communication of information relating to the
1416 commission of a felony that directly involves or affects the
1417 government ~~public agency or public~~ entity served by the public
1418 servant or public contractor.

1419 (2) For the purposes of this section:

1420 (a) The term "public servant" does not include a candidate
1421 who does not otherwise qualify as a public servant.

1422 (b) An official record or official document includes only
1423 public records.

1424 Section 34. Section 838.22, Florida Statutes, is amended to
1425 read:

1426 838.22 Bid tampering.—

1427 (1) It is unlawful for a public servant or a public
1428 contractor who has contracted with a governmental entity to
1429 assist in a competitive procurement, with corrupt intent to
1430 knowingly and intentionally influence or attempt to influence
1431 the competitive solicitation ~~bidding process~~ undertaken by any



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1432 ~~governmental state, county, municipal, or special district~~
1433 ~~agency, or any other public entity,~~ for the procurement of
1434 commodities or services, by ~~to~~:

1435 (a) Disclosing, except as authorized by law, ~~Disclose~~
1436 material information concerning a vendor's response, any
1437 evaluation results, ~~bid~~ or other aspects of the competitive
1438 solicitation bidding process when such information is not
1439 publicly disclosed.

1440 (b) Altering or amending ~~Alter or amend~~ a submitted
1441 response bid, documents or other materials supporting a
1442 submitted response bid, or any evaluation bid results relating
1443 to the competitive solicitation for the purpose of intentionally
1444 providing a competitive advantage to any person who submits a
1445 response bid.

1446 (2) It is unlawful for a public servant or a public
1447 contractor who has contracted with a governmental entity to
1448 assist in a competitive procurement, ~~with corrupt intent~~ to
1449 knowingly and intentionally obtain a benefit for any person or
1450 to cause unlawful harm to another by circumventing, ~~to~~
1451 ~~circumvent~~ a competitive solicitation bidding process required
1452 by law or rule through the use of ~~by using~~ a sole-source
1453 contract for commodities or services.

1454 (3) It is unlawful for any person to knowingly agree,
1455 conspire, combine, or confederate, directly or indirectly, with
1456 a public servant or a public contractor who has contracted with
1457 a governmental entity to assist in a competitive procurement to
1458 violate subsection (1) or subsection (2).

1459 (4) It is unlawful for any person to knowingly enter into a
1460 contract for commodities or services which was secured by a



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1461 public servant or a public contractor who has contracted with a
1462 governmental entity to assist in a competitive procurement
1463 acting in violation of subsection (1) or subsection (2).

1464 (5) Any person who violates this section commits a felony
1465 of the second degree, punishable as provided in s. 775.082, s.
1466 775.083, or s. 775.084.

1467 Section 35. Present subsections (6) through (10) of section
1468 1002.37, Florida Statutes, are redesignated as subsections (7)
1469 through (11), respectively, a new subsection (6) is added to
1470 that section, and present subsections (6) and (11) of that
1471 section are amended, to read:

1472 1002.37 The Florida Virtual School.—

1473 (6) The Florida Virtual School shall have an annual
1474 financial audit of its accounts and records conducted by an
1475 independent auditor who is a certified public accountant
1476 licensed under chapter 473. The independent auditor shall
1477 conduct the audit in accordance with rules adopted by the
1478 Auditor General pursuant to s. 11.45 and, upon completion of the
1479 audit, shall prepare an audit report in accordance with such
1480 rules. The audit report must include a written statement of the
1481 board of trustees describing corrective action to be taken in
1482 response to each of the recommendations of the independent
1483 auditor included in the audit report. The independent auditor
1484 shall submit the audit report to the board of trustees and the
1485 Auditor General no later than 9 months after the end of the
1486 preceding fiscal year.

1487 (7) ~~(6)~~ The board of trustees shall annually submit to the
1488 Governor, the Legislature, the Commissioner of Education, and
1489 the State Board of Education the audit report prepared pursuant



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1490 to subsection (6) and a complete and detailed report setting
1491 forth:

1492 (a) The operations and accomplishments of the Florida
1493 Virtual School within the state and those occurring outside the
1494 state as Florida Virtual School Global.

1495 (b) The marketing and operational plan for the Florida
1496 Virtual School and Florida Virtual School Global, including
1497 recommendations regarding methods for improving the delivery of
1498 education through the Internet and other distance learning
1499 technology.

1500 (c) The assets and liabilities of the Florida Virtual
1501 School and Florida Virtual School Global at the end of the
1502 fiscal year.

1503 ~~(d) A copy of an annual financial audit of the accounts and~~
1504 ~~records of the Florida Virtual School and Florida Virtual School~~
1505 ~~Global, conducted by an independent certified public accountant~~
1506 ~~and performed in accordance with rules adopted by the Auditor~~
1507 ~~General.~~

1508 ~~(e)~~ Recommendations regarding the unit cost of providing
1509 services to students through the Florida Virtual School and
1510 Florida Virtual School Global. In order to most effectively
1511 develop public policy regarding any future funding of the
1512 Florida Virtual School, it is imperative that the cost of the
1513 program is accurately identified. The identified cost of the
1514 program must be based on reliable data.

1515 (e) ~~(f)~~ Recommendations regarding an accountability
1516 mechanism to assess the effectiveness of the services provided
1517 by the Florida Virtual School and Florida Virtual School Global.

1518 ~~(11) The Auditor General shall conduct an operational audit~~



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1519 ~~of the Florida Virtual School, including Florida Virtual School~~
1520 ~~Global. The scope of the audit shall include, but not be limited~~
1521 ~~to, the administration of responsibilities relating to~~
1522 ~~personnel; procurement and contracting; revenue production;~~
1523 ~~school funds, including internal funds; student enrollment~~
1524 ~~records; franchise agreements; information technology~~
1525 ~~utilization, assets, and security; performance measures and~~
1526 ~~standards; and accountability. The final report on the audit~~
1527 ~~shall be submitted to the President of the Senate and the~~
1528 ~~Speaker of the House of Representatives no later than January~~
1529 ~~31, 2014.~~

1530 Section 36. Subsection (5) is added to section 1010.01,
1531 Florida Statutes, to read:

1532 1010.01 Uniform records and accounts.—

1533 (5) Each school district, Florida College System
1534 institution, and state university shall establish and maintain
1535 internal controls designed to:

1536 (a) Prevent and detect fraud, waste, and abuse.

1537 (b) Promote and encourage compliance with applicable laws,
1538 rules, contracts, grant agreements, and best practices.

1539 (c) Support economical and efficient operations.

1540 (d) Ensure reliability of financial records and reports.

1541 (e) Safeguard assets.

1542 Section 37. Subsection (2) of section 1010.30, Florida
1543 Statutes, is amended to read:

1544 1010.30 Audits required.—

1545 (2) If a school district, Florida College System
1546 institution, or university audit report includes a
1547 recommendation that was included in the preceding financial



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1548 audit report but remains unaddressed, an audit contains a
1549 significant finding, the district school board, the Florida
1550 College System institution board of trustees, or the university
1551 board of trustees, within 60 days after the delivery of the
1552 audit report to the school district, Florida College System
1553 institution, or university, shall indicate ~~conduct an audit~~
1554 overview during a regularly scheduled public meeting whether it
1555 intends to take corrective action, the intended corrective
1556 action, and the timeframe for the corrective action. If the
1557 district school board, Florida College System institution board
1558 of trustees, or university board of trustees indicates that it
1559 does not intend to take corrective action, it shall explain its
1560 decision at the public meeting.

1561 Section 38. Subsection (4) of section 11.0455, Florida
1562 Statutes, is amended to read:

1563 11.0455 Electronic filing of compensation reports and other
1564 information.—

1565 (4) Each report filed pursuant to this section is deemed to
1566 meet the certification requirements of s. 11.045(3)(a)4., and as
1567 such subjects the person responsible for filing and the lobbying
1568 firm to the provisions of s. 11.045(8) and (9) ~~s. 11.045(7) and~~
1569 ~~(8)~~. Persons given a secure sign-on to the electronic filing
1570 system are responsible for protecting it from disclosure and are
1571 responsible for all filings using such credentials, unless they
1572 have notified the office that their credentials have been
1573 compromised.

1574 Section 39. Subsection (2) of section 68.082, Florida
1575 Statutes, is amended to read:

1576 68.082 False claims against the state; definitions;



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1577 liability.-
1578 (2) Any person who:
1579 (a) Knowingly presents or causes to be presented a false or
1580 fraudulent claim for payment or approval;
1581 (b) Knowingly authorizes, approves, or receives payment of
1582 prohibited compensation in violation of s. 215.425;
1583 (c)~~(b)~~ Knowingly makes, uses, or causes to be made or used
1584 a false record or statement material to a false or fraudulent
1585 claim;
1586 (d)~~(e)~~ Conspires to commit a violation of this subsection;
1587 (e)~~(d)~~ Has possession, custody, or control of property or
1588 money used or to be used by the state and knowingly delivers or
1589 causes to be delivered less than all of that money or property;
1590 (f)~~(e)~~ Is authorized to make or deliver a document
1591 certifying receipt of property used or to be used by the state
1592 and, intending to defraud the state, makes or delivers the
1593 receipt without knowing that the information on the receipt is
1594 true;
1595 (g)~~(f)~~ Knowingly buys or receives, as a pledge of an
1596 obligation or a debt, public property from an officer or
1597 employee of the state who may not sell or pledge the property;
1598 or
1599 (h)~~(g)~~ Knowingly makes, uses, or causes to be made or used
1600 a false record or statement material to an obligation to pay or
1601 transmit money or property to the state, or knowingly conceals
1602 or knowingly and improperly avoids or decreases an obligation to
1603 pay or transmit money or property to the state
1604
1605 is liable to the state for a civil penalty of not less than



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1606 \$5,500 and not more than \$11,000 and for treble the amount of
1607 damages the state sustains because of the act of that person.

1608 Section 40. Subsection (1) of section 68.083, Florida
1609 Statutes, is amended to read:

1610 68.083 Civil actions for false claims.-

1611 (1) The department may diligently investigate a violation
1612 under s. 68.082. If the department finds that a person has
1613 violated or is violating s. 68.082, the department may bring a
1614 civil action under the Florida False Claims Act against the
1615 person. The Department of Financial Services may bring a civil
1616 action under this section if the action arises from an
1617 investigation by that department and the Department of Legal
1618 Affairs has not filed an action under this act. For a violation
1619 of s. 68.082 regarding prohibited compensation paid from state
1620 funds, the Department of Financial Services may bring a civil
1621 action under this section if the action arises from an
1622 investigation by that department concerning a violation of s.
1623 215.425 by the state and the Department of Legal Affairs has not
1624 filed an action under this act.

1625 Section 41. Subsection (5) of section 99.061, Florida
1626 Statutes, is amended to read:

1627 99.061 Method of qualifying for nomination or election to
1628 federal, state, county, or district office.-

1629 (5) At the time of qualifying for office, each candidate
1630 for a constitutional office or an elected municipal office shall
1631 file a full and public disclosure of financial interests
1632 pursuant to s. 8, Art. II of the State Constitution, which must
1633 be verified under oath or affirmation pursuant to s.
1634 92.525(1) (a), and a candidate for any other office, ~~including~~



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1635 ~~local elective office,~~ shall file a statement of financial
1636 interests pursuant to s. 112.3145.

1637 Section 42. Subsection (3) of section 218.503, Florida
1638 Statutes, is amended to read:

1639 218.503 Determination of financial emergency.—

1640 (3) Upon notification that one or more of the conditions in
1641 subsection (1) have occurred or will occur if action is not
1642 taken to assist the local governmental entity or district school
1643 board, the Governor or his or her designee shall contact the
1644 local governmental entity or the Commissioner of Education or
1645 his or her designee shall contact the district school board, as
1646 appropriate, to determine what actions have been taken by the
1647 local governmental entity or the district school board to
1648 resolve or prevent the condition. The information requested must
1649 be provided within 45 days after the date of the request. If the
1650 local governmental entity or the district school board does not
1651 comply with the request, the Governor or his or her designee or
1652 the Commissioner of Education or his or her designee shall
1653 notify ~~the members of~~ the Legislative Auditing Committee, which
1654 ~~who~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The
1655 Governor or the Commissioner of Education, as appropriate, shall
1656 determine whether the local governmental entity or the district
1657 school board needs state assistance to resolve or prevent the
1658 condition. If state assistance is needed, the local governmental
1659 entity or district school board is considered to be in a state
1660 of financial emergency. The Governor or the Commissioner of
1661 Education, as appropriate, has the authority to implement
1662 measures as set forth in ss. 218.50-218.504 to assist the local
1663 governmental entity or district school board in resolving the



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1664 financial emergency. Such measures may include, but are not
1665 limited to:

1666 (a) Requiring approval of the local governmental entity's
1667 budget by the Governor or approval of the district school
1668 board's budget by the Commissioner of Education.

1669 (b) Authorizing a state loan to a local governmental entity
1670 and providing for repayment of same.

1671 (c) Prohibiting a local governmental entity or district
1672 school board from issuing bonds, notes, certificates of
1673 indebtedness, or any other form of debt until such time as it is
1674 no longer subject to this section.

1675 (d) Making such inspections and reviews of records,
1676 information, reports, and assets of the local governmental
1677 entity or district school board as are needed. The appropriate
1678 local officials shall cooperate in such inspections and reviews.

1679 (e) Consulting with officials and auditors of the local
1680 governmental entity or the district school board and the
1681 appropriate state officials regarding any steps necessary to
1682 bring the books of account, accounting systems, financial
1683 procedures, and reports into compliance with state requirements.

1684 (f) Providing technical assistance to the local
1685 governmental entity or the district school board.

1686 (g)1. Establishing a financial emergency board to oversee
1687 the activities of the local governmental entity or the district
1688 school board. If a financial emergency board is established for
1689 a local governmental entity, the Governor shall appoint board
1690 members and select a chair. If a financial emergency board is
1691 established for a district school board, the State Board of
1692 Education shall appoint board members and select a chair. The



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1693 financial emergency board shall adopt such rules as are
1694 necessary for conducting board business. The board may:
1695 a. Make such reviews of records, reports, and assets of the
1696 local governmental entity or the district school board as are
1697 needed.
1698 b. Consult with officials and auditors of the local
1699 governmental entity or the district school board and the
1700 appropriate state officials regarding any steps necessary to
1701 bring the books of account, accounting systems, financial
1702 procedures, and reports of the local governmental entity or the
1703 district school board into compliance with state requirements.
1704 c. Review the operations, management, efficiency,
1705 productivity, and financing of functions and operations of the
1706 local governmental entity or the district school board.
1707 d. Consult with other governmental entities for the
1708 consolidation of all administrative direction and support
1709 services, including, but not limited to, services for asset
1710 sales, economic and community development, building inspections,
1711 parks and recreation, facilities management, engineering and
1712 construction, insurance coverage, risk management, planning and
1713 zoning, information systems, fleet management, and purchasing.
1714 2. The recommendations and reports made by the financial
1715 emergency board must be submitted to the Governor for local
1716 governmental entities or to the Commissioner of Education and
1717 the State Board of Education for district school boards for
1718 appropriate action.
1719 (h) Requiring and approving a plan, to be prepared by
1720 officials of the local governmental entity or the district
1721 school board in consultation with the appropriate state



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1722 officials, prescribing actions that will cause the local
1723 governmental entity or district school board to no longer be
1724 subject to this section. The plan must include, but need not be
1725 limited to:

1726 1. Provision for payment in full of obligations outlined in
1727 subsection (1), designated as priority items, which are
1728 currently due or will come due.

1729 2. Establishment of priority budgeting or zero-based
1730 budgeting in order to eliminate items that are not affordable.

1731 3. The prohibition of a level of operations which can be
1732 sustained only with nonrecurring revenues.

1733 4. Provisions implementing the consolidation, sourcing, or
1734 discontinuance of all administrative direction and support
1735 services, including, but not limited to, services for asset
1736 sales, economic and community development, building inspections,
1737 parks and recreation, facilities management, engineering and
1738 construction, insurance coverage, risk management, planning and
1739 zoning, information systems, fleet management, and purchasing.

1740 Section 43. Subsection (2) of section 1002.455, Florida
1741 Statutes, is amended to read:

1742 1002.455 Student eligibility for K-12 virtual instruction.—

1743 (2) A student is eligible to participate in virtual
1744 instruction if:

1745 (a) The student spent the prior school year in attendance
1746 at a public school in the state and was enrolled and reported by
1747 the school district for funding during October and February for
1748 purposes of the Florida Education Finance Program surveys;

1749 (b) The student is a dependent child of a member of the
1750 United States Armed Forces who was transferred within the last



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1751 12 months to this state from another state or from a foreign
1752 country pursuant to a permanent change of station order;

1753 (c) The student was enrolled during the prior school year
1754 in a virtual instruction program under s. 1002.45 or a full-time
1755 Florida Virtual School program under s. 1002.37(9)(a) ~~s.~~
1756 ~~1002.37(8)(a)~~;

1757 (d) The student has a sibling who is currently enrolled in
1758 a virtual instruction program and the sibling was enrolled in
1759 that program at the end of the prior school year;

1760 (e) The student is eligible to enter kindergarten or first
1761 grade; or

1762 (f) The student is eligible to enter grades 2 through 5 and
1763 is enrolled full-time in a school district virtual instruction
1764 program, virtual charter school, or the Florida Virtual School.

1765 Section 44. For the purpose of incorporating the amendment
1766 made by this act to section 838.022, Florida Statutes, in a
1767 reference thereto, paragraph (a) of subsection (2) of section
1768 112.534, Florida Statutes, is reenacted to read:

1769 112.534 Failure to comply; official misconduct.—

1770 (2)(a) All the provisions of s. 838.022 shall apply to this
1771 part.

1772 Section 45. For the purpose of incorporating the amendment
1773 made by this act to section 838.022, Florida Statutes, in a
1774 reference thereto, paragraph (d) of subsection (4) of section
1775 117.01, Florida Statutes, is reenacted to read:

1776 117.01 Appointment, application, suspension, revocation,
1777 application fee, bond, and oath.—

1778 (4) The Governor may suspend a notary public for any of the
1779 grounds provided in s. 7, Art. IV of the State Constitution.



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1780 Grounds constituting malfeasance, misfeasance, or neglect of
1781 duty include, but are not limited to, the following:

1782 (d) Official misconduct as defined in s. 838.022.

1783 Section 46. For the purpose of incorporating the amendment
1784 made by this act to section 838.014, Florida Statutes, in a
1785 reference thereto, subsection (11) of section 817.568, Florida
1786 Statutes, is reenacted to read:

1787 817.568 Criminal use of personal identification
1788 information.—

1789 (11) A person who willfully and without authorization
1790 fraudulently uses personal identification information concerning
1791 an individual who is 60 years of age or older; a disabled adult
1792 as defined in s. 825.101; a public servant as defined in s.
1793 838.014; a veteran as defined in s. 1.01; a first responder as
1794 defined in s. 125.01045; an individual who is employed by the
1795 State of Florida; or an individual who is employed by the
1796 Federal Government without first obtaining the consent of that
1797 individual commits a felony of the second degree, punishable as
1798 provided in s. 775.082, s. 775.083, or s. 775.084.

1799 Section 47. For the purpose of incorporating the amendments
1800 made by this act to sections 838.015, 838.016, and 838.22,
1801 Florida Statutes, in references thereto, paragraph (g) of
1802 subsection (3) of section 921.0022, Florida Statutes, is
1803 reenacted to read:

1804 921.0022 Criminal Punishment Code; offense severity ranking
1805 chart.—

1806 (3) OFFENSE SEVERITY RANKING CHART

1807 (g) LEVEL 7

1808



1809	Florida Statute	Felony Degree	Description
1810	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1811	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1812	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1813	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
1814	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1815	409.920	3rd	Medicaid provider fraud;



1816	(2) (b) 1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud; more
	(2) (b) 1.b.		than \$10,000, but less than
1817			\$50,000.
	456.065 (2)	3rd	Practicing a health care
1818			profession without a license.
	456.065 (2)	2nd	Practicing a health care
1819			profession without a license
			which results in serious bodily
			injury.
	458.327 (1)	3rd	Practicing medicine without a
1820			license.
	459.013 (1)	3rd	Practicing osteopathic medicine
1821			without a license.
	460.411 (1)	3rd	Practicing chiropractic
1822			medicine without a license.
	461.012 (1)	3rd	Practicing podiatric medicine
1823			without a license.
	462.17	3rd	Practicing naturopathy without
1824			a license.



1825	463.015 (1)	3rd	Practicing optometry without a license.
1826	464.016 (1)	3rd	Practicing nursing without a license.
1827	465.015 (2)	3rd	Practicing pharmacy without a license.
1828	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
1829	467.201	3rd	Practicing midwifery without a license.
1830	468.366	3rd	Delivering respiratory care services without a license.
1831	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
1832	483.901 (9)	3rd	Practicing medical physics without a license.
1833	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
	484.053	3rd	Dispensing hearing aids without



1834			a license.
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1835			
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1836			
	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1837			
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1838			
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other



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1839			registration violations.
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1840			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1841			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1842			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1843			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1844			
	782.072	2nd	Killing of a human being by the operation of a vessel in a



1845			reckless manner (vessel homicide).
1846	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1847	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1848	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1849	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1850	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1851	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1852	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1853	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.



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1854	784.081(1)	1st	Aggravated battery on specified official or employee.
1855	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1856	784.083(1)	1st	Aggravated battery on code inspector.
1857	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1858	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1859	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1860	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
	790.165(2)	2nd	Manufacture, sell, possess, or



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1861			deliver hoax bomb.
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1862			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1863			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1864			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1865			
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1866			
	796.05(1)	1st	Live on earnings of a



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1867			prostitute; 2nd offense.
	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1868			
	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1869			
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1870			
	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1871			
	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
1872			
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.



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1873	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1874	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1875	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1876	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1877	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1878	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1879	812.014 (2) (b) 4.	2nd	Property stolen, law



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1880			enforcement equipment from authorized emergency vehicle.
1881	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1882	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1883	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1884	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1885	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1886	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1887	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.



1888	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1889	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1890	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1891	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1892	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1893	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.



1894	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1895	838.015	2nd	Bribery.
1896	838.016	2nd	Unlawful compensation or reward for official behavior.
1897	838.021(3)(a)	2nd	Unlawful harm to a public servant.
1898	838.22	2nd	Bid tampering.
1899	843.0855(2)	3rd	Impersonation of a public officer or employee.
1900	843.0855(3)	3rd	Unlawful simulation of legal process.
1901	843.0855(4)	3rd	Intimidation of a public officer or employee.
1902	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1903	847.0135(4)	2nd	Traveling to meet a minor to



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1904			commit an unlawful sex act.
1905	872.06	2nd	Abuse of a dead human body.
1906	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1907	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1908	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s.



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			893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1909	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1910	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1911	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1912	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1913	893.135(1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1914	893.135(1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50



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1915			grams.
	893.135(1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1916			
	893.135(1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1917			
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1918			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1919			
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1920			
	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1921			
	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5



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1922			kilograms.
	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1923			
	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1924			
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1925			
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1926			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1927			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1928			



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1929	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1930	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1931	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1932	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1933	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
1934	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
	944.607 (12)	3rd	Failure to report or providing



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1935

944.607(13)

3rd

false information about a sexual offender; harbor or conceal a sexual offender.

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1936

985.4815(10)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

1937

985.4815(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1938

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1939

1940

1941

1942

1943

Section 48. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a



1944 reference thereto, paragraph (d) of subsection (3) of section
1945 921.0022, Florida Statutes, is reenacted to read:
1946 921.0022 Criminal Punishment Code; offense severity ranking
1947 chart.—

1948 (3) OFFENSE SEVERITY RANKING CHART

1949 (d) LEVEL 4

1950

1951

Florida Statute	Felony Degree	Description
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1952

316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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1953

499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
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1954

499.0051 (2)	3rd	Failure to authenticate pedigree papers.
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1955

499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
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1956

517.07 (1)	3rd	Failure to register securities.
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1957	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
1958	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
1959	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
1960	784.075	3rd	Battery on detention or commitment facility staff.
1961	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1962	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1963	784.081 (3)	3rd	Battery on specified official or employee.
1964	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1965	784.083 (3)	3rd	Battery on code inspector.
1966			



1967	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1968	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1969	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
1970	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1971	787.07	3rd	Human smuggling.
1972	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.



1973	790.115 (2) (c)	3rd	Possessing firearm on school property.
1974	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1975	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1976	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1977	810.06	3rd	Burglary; possession of tools.
1978	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1979	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1980	812.014 (2) (c) 4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.



1981	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1982	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1983	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
1984	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
1985	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
1986	837.02 (1)	3rd	Perjury in official proceedings.
1987	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1988	838.022	3rd	Official misconduct.
1989			



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1990	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1991	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
1992	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1993	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1994	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1995	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1996	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.



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1997	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
1998	914.14(2)	3rd	Witnesses accepting bribes.
1999	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
2000	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
2001	918.12	3rd	Tampering with jurors.
2002	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
2003			
2004			
2005			
2006			
2007			
2008			
2009			
2010			
2011			

2005 Section 49. As provided in s. 112.322(3), Florida Statutes,
2006 the Commission on Ethics is authorized to render advisory
2007 opinions to any public officer, candidate for public office, or
2008 public employee regarding the application of part III of chapter
2009 112, Florida Statutes, including the amendments made by this
2010 act.

2011 Section 50. The Legislature finds that a proper and



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2012 legitimate state purpose is served when internal controls are
2013 established to prevent and detect fraud, waste, and abuse and to
2014 safeguard and account for government funds and property.
2015 Therefore, the Legislature determines and declares that this act
2016 fulfills an important state interest.

2017 Section 51. This act shall take effect October 1, 2016.

2018
2019 ===== T I T L E A M E N D M E N T =====

2020 And the title is amended as follows:

2021 Delete everything before the enacting clause
2022 and insert:

2023 A bill to be entitled
2024 An act relating to government accountability; amending
2025 s. 11.045, F.S.; defining terms; requiring each house
2026 of the Legislature to provide by rule reporting
2027 requirements regarding lobbying firm's lobbying
2028 activities; specifying requirements regarding the
2029 content of reports and filing deadlines; requiring
2030 each house of the Legislature to establish procedures
2031 applicable to untimely filing of reports by rule;
2032 providing fines for late filing of reports; amending
2033 s. 11.40, F.S.; specifying that the Governor, the
2034 Commissioner of Education, or the designee of the
2035 Governor or of the Commissioner of Education may
2036 notify the Legislative Auditing Committee of an
2037 entity's failure to comply with certain auditing and
2038 financial reporting requirements; amending s. 11.45,
2039 F.S.; defining the terms "abuse," "fraud," and
2040 "waste"; revising the definition of the term "local



2041 governmental entity"; excluding water management
2042 districts from certain audit requirements; removing a
2043 cross-reference; authorizing the Auditor General to
2044 conduct audits of tourist development councils and
2045 county tourism promotion agencies; revising reporting
2046 requirements applicable to the Auditor General;
2047 creating s. 20.602, F.S.; specifying the applicability
2048 of certain provisions of the Code of Ethics for Public
2049 Officers and Employees to officers and board members
2050 of corporate entities associated with the Department
2051 of Economic Opportunity; prohibiting such officers and
2052 board members from representing a person or an entity
2053 for compensation before certain bodies for a specified
2054 timeframe; providing for construction; amending s.
2055 28.35, F.S.; revising reporting requirements
2056 applicable to the Florida Clerks of Court Operations
2057 Corporation; amending s. 43.16, F.S.; revising the
2058 responsibilities of the Justice Administrative
2059 Commission, each state attorney, each public defender,
2060 a criminal conflict and civil regional counsel, a
2061 capital collateral regional counsel, and the Guardian
2062 Ad Litem Program, to include the establishment and
2063 maintenance of certain internal controls; creating s.
2064 112.3126, F.S.; defining the term "private entity";
2065 prohibiting a member of the Legislature or a candidate
2066 for legislative office from accepting employment with
2067 a private entity that directly receives funding
2068 through state revenues under certain circumstances;
2069 authorizing employment with a private entity if



2070 certain conditions are met; amending s. 112.313, F.S.;
2071 specifying that prohibitions on conflicting employment
2072 or contractual relationships for public officers or
2073 employees of an agency apply to contractual
2074 relationships held by certain business entities;
2075 amending s. 112.3144, F.S.; requiring elected
2076 municipal officers to file a full and public
2077 disclosure of financial interests, rather than a
2078 statement of financial interests; providing for
2079 applicability; amending s. 112.31455, F.S.; revising
2080 provisions governing collection methods for unpaid
2081 automatic fines for failure to timely file disclosure
2082 of financial interests to include school districts;
2083 amending s. 112.3215, F.S.; requiring a lobbying firm
2084 to file a report with the Commission on Ethics
2085 disclosing whether the firm lobbied the Governor to
2086 approve or veto a bill or an appropriation; requiring
2087 the commission to establish procedures applicable to
2088 untimely filing of reports by rule; providing fines
2089 for late filing of reports; conforming provisions to
2090 changes made by the act; amending s. 112.3261, F.S.;
2091 revising terms to conform to changes made by the act;
2092 expanding the types of governmental entities that are
2093 subject to lobbyist registration requirements;
2094 requiring a governmental entity to create a lobbyist
2095 registration form; amending ss. 129.03, 129.06,
2096 166.241, and 189.016, F.S.; requiring counties,
2097 municipalities, and special districts to maintain
2098 certain budget documents on the entities' websites for



2099 a specified period; amending s. 215.425, F.S.;

2100 defining the term "public funds"; revising exceptions

2101 to the prohibition on extra compensation claims;

2102 requiring certain contracts to which a unit of

2103 government or state university is a party during a

2104 specified period to contain certain prohibitions on

2105 severance pay; requiring a unit of government to

2106 investigate and take necessary action to recover

2107 prohibited compensation; specifying methods of

2108 recovery for unintentional and willful violations;

2109 providing a penalty; specifying applicability of

2110 procedures regarding suspension and removal of an

2111 officer who commits a willful violation; establishing

2112 eligibility criteria and amounts for rewards;

2113 specifying circumstances under which an employee has a

2114 cause of action under the Whistle-blower's Act;

2115 establishing causes of action if a unit of government

2116 fails to recover prohibited compensation within a

2117 certain timeframe; providing for applicability;

2118 amending s. 215.86, F.S.; revising the purposes for

2119 which management systems and internal controls must be

2120 established and maintained by each state agency and

2121 the judicial branch; amending s. 215.97, F.S.;

2122 revising the definition of the term "audit threshold";

2123 amending s. 215.985, F.S.; revising the requirements

2124 for a monthly financial statement provided by a water

2125 management district; amending s. 218.32, F.S.;

2126 revising the requirements of the annual financial

2127 audit report of a local governmental entity;



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2128 authorizing the Department of Financial Services to
2129 request additional information from a local
2130 governmental entity; requiring a local governmental
2131 entity to respond to such requests within a specified
2132 timeframe; requiring the department to notify the
2133 Legislative Auditing Committee of noncompliance;
2134 amending s. 218.33, F.S.; requiring local governmental
2135 entities to establish and maintain internal controls
2136 to achieve specified purposes; amending s. 218.39,
2137 F.S.; requiring an audited entity to respond to audit
2138 recommendations under specified circumstances;
2139 amending s. 218.391, F.S.; revising the composition of
2140 an audit committee; prohibiting an audit committee
2141 member from being an employee, a chief executive
2142 officer, or a chief financial officer of the
2143 respective governmental entity; requiring the chair of
2144 an audit committee to sign and execute an affidavit
2145 affirming compliance with auditor selection
2146 procedures; prescribing procedures in the event of
2147 noncompliance with auditor selection procedures;
2148 amending s. 286.0114, F.S.; prohibiting a board or
2149 commission from requiring an advance copy of testimony
2150 or comments from a member of the public as a
2151 precondition to be given the opportunity to be heard
2152 at a public meeting; amending s. 288.92, F.S.;
2153 prohibiting specified officers and board members of
2154 Enterprise Florida, Inc., from representing a person
2155 or entity for compensation before Enterprise Florida,
2156 Inc., and associated entities thereof, for a specified



2157 timeframe; amending s. 288.9604, F.S.; prohibiting a
2158 director of the Florida Development Finance
2159 Corporation from representing a person or an entity
2160 for compensation before the corporation for a
2161 specified timeframe; amending s. 373.536, F.S.;
2162 deleting obsolete language; requiring water management
2163 districts to maintain certain budget documents on the
2164 districts' websites for a specified period; amending
2165 s. 838.014, F.S.; revising and providing definitions;
2166 amending s. 838.015, F.S.; revising the definition of
2167 the term "bribery"; revising requirements for
2168 prosecution; amending s. 838.016, F.S.; revising the
2169 prohibition against unlawful compensation or reward
2170 for official behavior to conform to changes made by
2171 the act; amending s. 838.022, F.S.; revising the
2172 prohibition against official misconduct to conform to
2173 changes made by the act; revising applicability of the
2174 offense to include public contractors; amending s.
2175 838.22, F.S.; revising the prohibition against bid
2176 tampering to conform to changes made by the act;
2177 revising applicability of the offense to include
2178 specified public contractors; amending s. 1002.37,
2179 F.S.; requiring completion of an annual financial
2180 audit of the Florida Virtual School; specifying audit
2181 requirements; requiring an audit report to be
2182 submitted to the board of trustees of the Florida
2183 Virtual School and the Auditor General; removing
2184 obsolete provisions; amending s. 1010.01, F.S.;
2185 requiring each school district, Florida College System



2186 institution, and state university to establish and
2187 maintain certain internal controls; amending s.
2188 1010.30, F.S.; requiring a district school board,
2189 Florida College System institution board of trustees,
2190 or university board of trustees to respond to audit
2191 recommendations under certain circumstances; amending
2192 ss. 11.0455, 68.082, 68.083, 99.061, 218.503, and
2193 1002.455, F.S.; conforming provisions and cross-
2194 references to changes made by the act; reenacting s.
2195 112.534(2)(a), F.S., relating to official misconduct,
2196 and s. 117.01(4)(d), F.S., relating to appointment,
2197 application, suspension, revocation, application fee,
2198 bond, and oath of notaries public, to incorporate the
2199 amendment made by the act to s. 838.022, F.S., in
2200 references thereto; reenacting s. 817.568(11), F.S.,
2201 relating to criminal use of personal identification
2202 information, to incorporate the amendment made by the
2203 act to s. 838.014, F.S., in a reference thereto;
2204 reenacting s. 921.0022(3)(d) and (g), F.S., relating
2205 to the Criminal Punishment Code offense severity
2206 ranking chart, to incorporate the amendments made by
2207 the act to ss. 838.015, 838.016, 838.022, and 838.22,
2208 F.S., in references thereto; providing for
2209 applicability; declaring that the act fulfills an
2210 important state interest; providing an effective date.

By the Committee on Ethics and Elections; and Senator Gaetz

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1 A bill to be entitled
 2 An act relating to government accountability;
 3 providing a short title; amending s. 11.045, F.S.;
 4 defining terms; requiring each house of the
 5 Legislature to provide by rule reporting requirements
 6 regarding lobbying firm's lobbying activities;
 7 specifying requirements regarding the content of
 8 reports and filing deadlines; requiring each house of
 9 the Legislature to establish procedures applicable to
 10 untimely filing of reports by rule; providing fines
 11 for late filing of reports; amending s. 11.40, F.S.;
 12 specifying that the Governor, the Commissioner of
 13 Education, or the designee of the Governor or of the
 14 Commissioner of Education may notify the Legislative
 15 Auditing Committee of an entity's failure to comply
 16 with certain auditing and financial reporting
 17 requirements; amending s. 11.45, F.S.; defining the
 18 terms "abuse," "fraud," and "waste"; revising the
 19 definition of the term "local governmental entity";
 20 excluding water management districts from certain
 21 audit requirements; removing a cross-reference;
 22 authorizing the Auditor General to conduct audits of
 23 tourist development councils and county tourism
 24 promotion agencies; revising reporting requirements
 25 applicable to the Auditor General; creating s. 20.602,
 26 F.S.; specifying the applicability of certain
 27 provisions of the Code of Ethics for Public Officers
 28 and Employees to officers and board members of
 29 corporate entities associated with the Department of
 30 Economic Opportunity; prohibiting such officers and
 31 board members from representing a person or an entity
 32 for compensation before certain bodies for a specified

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33 timeframe; providing for construction; amending s.
 34 28.35, F.S.; revising reporting requirements
 35 applicable to the Florida Clerks of Court Operations
 36 Corporation; amending s. 43.16, F.S.; revising the
 37 responsibilities of the Justice Administrative
 38 Commission, each state attorney, each public defender,
 39 a criminal conflict and civil regional counsel, a
 40 capital collateral regional counsel, and the Guardian
 41 Ad Litem Program, to include the establishment and
 42 maintenance of certain internal controls; creating s.
 43 112.3126, F.S.; defining the term "private entity";
 44 prohibiting a member of the Legislature from accepting
 45 employment with a private entity that directly
 46 receives state funds; providing an exception; amending
 47 s. 112.313, F.S.; specifying that prohibitions on
 48 conflicting employment or contractual relationships
 49 for public officers or employees of an agency apply to
 50 contractual relationships held by certain business
 51 entities; amending s. 112.3144, F.S.; requiring
 52 elected municipal officers to file a full and public
 53 disclosure of financial interests, rather than a
 54 statement of financial interests; providing for
 55 applicability; amending s. 112.31455, F.S.; revising
 56 provisions governing collection methods for unpaid
 57 automatic fines for failure to timely file disclosure
 58 of financial interests to include school districts;
 59 amending s. 112.3215, F.S.; requiring a lobbying firm
 60 to file a report with the Commission on Ethics
 61 disclosing whether the firm lobbied the Governor to

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62 approve or veto a bill or an appropriation; requiring
 63 the commission to establish procedures applicable to
 64 untimely filing of reports by rule; providing fines
 65 for late filing of reports; conforming provisions to
 66 changes made by the act; amending s. 112.324, F.S.;
 67 authorizing the commission to investigate certain
 68 violations of the public trust upon receipt of
 69 reliable and publicly disseminated information if
 70 certain conditions are met; conforming provisions to
 71 changes made by the act; amending s. 112.3261, F.S.;
 72 revising terms to conform to changes made by the act;
 73 expanding the types of governmental entities that are
 74 subject to lobbyist registration requirements;
 75 requiring a governmental entity to create a lobbyist
 76 registration form; amending ss. 129.03, 129.06,
 77 166.241, and 189.016, F.S.; requiring counties,
 78 municipalities, and special districts to maintain
 79 certain budget documents on the entities' websites for
 80 a specified period; amending s. 215.425, F.S.;
 81 defining the term "public funds"; revising exceptions
 82 to the prohibition on extra compensation claims;
 83 requiring certain contracts to which a unit of
 84 government or state university is a party during a
 85 specified period to contain certain prohibitions on
 86 severance pay; requiring a unit of government to
 87 investigate and take necessary action to recover
 88 prohibited compensation; specifying methods of
 89 recovery for unintentional and willful violations;
 90 providing a penalty; specifying applicability of

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91 procedures regarding suspension and removal of an
 92 officer who commits a willful violation; establishing
 93 eligibility criteria and amounts for rewards;
 94 specifying circumstances under which an employee has a
 95 cause of action under the Whistle-blower's Act;
 96 establishing causes of action if a unit of government
 97 fails to recover prohibited compensation within a
 98 certain timeframe; providing for applicability;
 99 amending s. 215.86, F.S.; revising the purposes for
 100 which management systems and internal controls must be
 101 established and maintained by each state agency and
 102 the judicial branch; amending s. 215.97, F.S.;
 103 revising the definition of the term "audit threshold";
 104 amending s. 215.985, F.S.; revising the requirements
 105 for a monthly financial statement provided by a water
 106 management district; amending s. 218.32, F.S.;
 107 revising the requirements of the annual financial
 108 audit report of a local governmental entity;
 109 authorizing the Department of Financial Services to
 110 request additional information from a local
 111 governmental entity; requiring a local governmental
 112 entity to respond to such requests within a specified
 113 timeframe; requiring the department to notify the
 114 Legislative Auditing Committee of noncompliance;
 115 amending s. 218.33, F.S.; requiring local governmental
 116 entities to establish and maintain internal controls
 117 to achieve specified purposes; amending s. 218.39,
 118 F.S.; requiring an audited entity to respond to audit
 119 recommendations under specified circumstances;

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120 amending s. 218.391, F.S.; revising the composition of
 121 an audit committee; prohibiting an audit committee
 122 member from being an employee, a chief executive
 123 officer, or a chief financial officer of the
 124 respective governmental entity; requiring the chair of
 125 an audit committee to sign and execute an affidavit
 126 affirming compliance with auditor selection
 127 procedures; prescribing procedures in the event of
 128 noncompliance with auditor selection procedures;
 129 amending s. 286.0114, F.S.; prohibiting a board or
 130 commission from requiring an advance copy of testimony
 131 or comments from a member of the public as a
 132 precondition to be given the opportunity to be heard
 133 at a public meeting; amending s. 288.92, F.S.;

134 prohibiting specified officers and board members of
 135 Enterprise Florida, Inc., from representing a person
 136 or entity for compensation before Enterprise Florida,
 137 Inc., and associated entities thereof, for a specified
 138 timeframe; amending s. 288.9604, F.S.; prohibiting a
 139 director of the Florida Development Finance
 140 Corporation from representing a person or an entity
 141 for compensation before the corporation for a
 142 specified timeframe; amending s. 373.536, F.S.;

143 deleting obsolete language; requiring water management
 144 districts to maintain certain budget documents on the
 145 districts' websites for a specified period; amending
 146 s. 838.014, F.S.; deleting, revising, and providing
 147 definitions; amending s. 838.015, F.S.; revising the
 148 definition of "bribery"; providing a penalty;

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149 conforming a provision to changes made by the act;
 150 amending s. 838.016, F.S.; prohibiting a person from
 151 knowingly and intentionally giving, offering, or
 152 promising unlawful compensation or reward for official
 153 behavior to a public servant; prohibiting a public
 154 servant or public contractor from knowingly and
 155 intentionally procuring unlawful compensation or
 156 reward for official behavior; providing a penalty;
 157 conforming provisions to changes made by the act;
 158 amending s. 838.022, F.S.; prohibiting a public
 159 servant or public contractor from knowingly and
 160 intentionally engaging in specified activities
 161 constituting official misconduct; providing a penalty;
 162 amending s. 838.22, F.S.; prohibiting a public servant
 163 and certain public contractors from knowingly and
 164 intentionally influencing or attempting to influence
 165 the competitive solicitation process; prohibiting any
 166 person from committing specified acts to influence the
 167 competitive solicitation process; providing a penalty;
 168 revising terminology; amending s. 1001.42, F.S.;

169 authorizing additional internal audits as directed by
 170 the district school board; amending s. 1002.33, F.S.;

171 revising the responsibilities of the governing board
 172 of a charter school to include the establishment and
 173 maintenance of internal controls; amending s. 1002.37,
 174 F.S.; requiring completion of an annual financial
 175 audit of the Florida Virtual School; specifying audit
 176 requirements; requiring an audit report to be
 177 submitted to the board of trustees of the Florida

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178 Virtual School and the Auditor General; removing
 179 obsolete provisions; amending s. 1010.01, F.S.;
 180 requiring each school district, Florida College System
 181 institution, and state university to establish and
 182 maintain certain internal controls; amending s.
 183 1010.30, F.S.; requiring a district school board,
 184 Florida College System institution board of trustees,
 185 or university board of trustees to respond to audit
 186 recommendations under certain circumstances; amending
 187 ss. 11.0455, 68.082, 68.083, 99.061, 218.503,
 188 921.0022, and 1002.455, F.S.; conforming provisions
 189 and cross-references to changes made by the act;
 190 reenacting s. 817.568(11), F.S., relating to criminal
 191 use of personal identification information, to
 192 incorporate the amendment made to s. 838.014, F.S., in
 193 a reference thereto; declaring that the act fulfills
 194 an important state interest; providing an effective
 195 date.

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

198
 199 Section 1. This act may be cited as the "Florida Anti-
 200 Corruption Act of 2016."

201 Section 2. Present subsections (5) through (9) of section
 202 11.045, Florida Statutes, are renumbered as subsections (6)
 203 through (10), respectively, a new subsection (5) is added to
 204 that section, and present subsection (8) of that section is
 205 amended, to read:

206 11.045 Lobbying before the Legislature; registration and

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207 reporting; exemptions; penalties.-

208 (5) (a) For purposes of this subsection, the term:

209 1. "Lobbying activities" means any action designed to
 210 support, oppose, or influence proposed legislation or proposed
 211 legislative action. The term includes, but is not limited to,
 212 any verbal, written, or electronic communication with any
 213 legislator or legislative employee undertaken for the purpose of
 214 directly or indirectly supporting, opposing, or influencing
 215 legislation or requesting proposed legislation to be filed.

216 2. "Proposed legislation" includes, but is not limited to,
 217 policies, ideas, issues, concepts, or statutory language that is
 218 presently, or may at some future point be, reflected in or
 219 impacted by a bill, a memorial, a resolution, a compact, or an
 220 appropriation.

221 3. "Proposed legislative action" means any action by a
 222 constituent entity of the Legislature, including, but not
 223 limited to, the houses of the Legislature, a joint office, and a
 224 joint committee.

225 (b) Each house of the Legislature shall provide reporting
 226 requirements by rule requiring each lobbying firm to file a
 227 monthly report with the office. The report must include:

228 1. The full name, business address, and telephone number of
 229 the lobbying firm.

230 2. The name of each of the lobbying firm's lobbyists.

231 3. A list detailing the lobbying firm's lobbying activities
 232 during the reporting period. The list must itemize:

233 a. The proposed legislation or proposed legislative action
 234 that the lobbying firm has attempted to support, oppose, or
 235 influence;

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236 b. The entity lobbied;

237 c. Each principal on behalf of whom the lobbying firm has
 238 acted; and

239 d. If the proposed legislation included an appropriation or
 240 was an appropriation, the intended recipient of the
 241 appropriation.

242 (c) For purposes of the reporting requirement provided in
 243 this subsection, the reports must identify proposed legislation
 244 by referencing any legislatively assigned identifying numbers,
 245 including, but not limited to, bill numbers, amendment barcode
 246 numbers, or specific appropriation numbers. If the proposed
 247 legislation does not have an identifying number assigned, the
 248 report must include a description of the subject matter of the
 249 proposed legislation, whether the lobbying firm is supporting or
 250 opposing the proposed legislation and, if seeking to modify the
 251 proposed legislation, how the lobbying firm's modification would
 252 alter the proposal.

253 (d) The reports shall be filed even if the reporting
 254 lobbying firm did not engage in any lobbying activities
 255 requiring disclosure, in which the report shall be marked "not
 256 applicable."

257 (e) The reports shall be filed with the office by
 258 electronic means no later than 7 business days after the end of
 259 the preceding month. The reports shall be rendered in the
 260 identical form provided by the respective houses and shall be
 261 open to public inspection.

262 (f) Each house of the Legislature shall provide by rule, or
 263 both houses may provide by joint rule, a procedure by which a
 264 lobbying firm that fails to timely file a report is notified and

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265 assessed fines. The rule must provide the following:

266 1. Upon determining that the report is late, the person
 267 designated to review the timeliness of reports shall immediately
 268 notify the lobbying firm as to the failure to timely file the
 269 report and that a fine is being assessed for each late day. The
 270 fine shall be \$50 per day per report for each late day, not to
 271 exceed \$5,000 per report.

272 2. Upon receipt of the report, the person designated to
 273 review the timeliness of reports shall determine the amount of
 274 the fine due based upon when a report is actually received by
 275 the office.

276 3. Such fine must be paid within 30 days after the notice
 277 of payment due is transmitted by the office, unless appeal is
 278 made to the office. The moneys shall be deposited into the
 279 Legislative Lobbyist Registration Trust Fund.

280 4. A fine may not be assessed against a lobbying firm the
 281 first time any reports for which the lobbying firm is
 282 responsible are not timely filed. However, to receive the one-
 283 time fine waiver, all reports for which the lobbying firm is
 284 responsible must be filed within 30 days after notice that any
 285 reports have not been timely filed is transmitted by the
 286 Lobbyist Registration Office. A fine shall be assessed for any
 287 subsequent late-filed reports.

288 5. Any lobbying firm may appeal or dispute a fine, based
 289 upon unusual circumstances surrounding the failure to file on
 290 the designated due date, and may request and is entitled to a
 291 hearing before the General Counsel of the Office of Legislative
 292 Services, who shall recommend to the President of the Senate and
 293 the Speaker of the House of Representatives, or their respective

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294 designees, that the fine be waived in whole or in part for good
 295 cause shown. The President of the Senate and the Speaker of the
 296 House of Representatives, or their respective designees, may
 297 concur in the recommendation and waive the fine in whole or in
 298 part. Any such request must be made within 30 days after the
 299 notice of payment due is transmitted by the office. In such
 300 case, the lobbying firm shall, within the 30-day period, notify
 301 the person designated to review the timeliness of reports in
 302 writing of his or her intention to request a hearing.

303 6. A lobbying firm may request that the filing of a report
 304 be waived upon good cause shown, based on unusual circumstances.
 305 The request must be filed with the General Counsel of the Office
 306 of Legislative Services, who shall make a recommendation
 307 concerning the waiver request to the President of the Senate and
 308 the Speaker of the House of Representatives. The President of
 309 the Senate and the Speaker of the House of Representatives may
 310 grant or deny the request.

311 7. All lobbyist registrations for lobbyists who are
 312 partners, owners, officers, or employees of a lobbying firm that
 313 fails to timely pay a fine are automatically suspended until the
 314 fine is paid or waived, and the office shall promptly notify all
 315 affected principals of any suspension or reinstatement.

316 8. The person designated to review the timeliness of
 317 reports shall notify the coordinator of the office of the
 318 failure of a lobbying firm to file a report after notice or of
 319 the failure of a lobbying firm to pay the fine imposed.

320 (9)(8) Any person required to be registered or to provide
 321 information pursuant to this section or pursuant to rules
 322 established in conformity with this section who knowingly fails

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323 to disclose any material fact required by this section or by
 324 rules established in conformity with this section, or who
 325 knowingly provides false information on any report required by
 326 this section or by rules established in conformity with this
 327 section, commits a noncriminal infraction, punishable by a fine
 328 not to exceed \$5,000. Such penalty shall be in addition to any
 329 other penalty assessed by a house of the Legislature pursuant to
 330 subsection (8) ~~(7)~~.

331 Section 3. Subsection (2) of section 11.40, Florida
 332 Statutes, is amended to read:

333 11.40 Legislative Auditing Committee.—

334 (2) Following notification by the Auditor General, the
 335 Department of Financial Services, ~~or~~ the Division of Bond
 336 Finance of the State Board of Administration, the Governor or
 337 his or her designee, or the Commissioner of Education or his or
 338 her designee of the failure of a local governmental entity,
 339 district school board, charter school, or charter technical
 340 career center to comply with the applicable provisions within s.
 341 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the
 342 Legislative Auditing Committee may schedule a hearing to
 343 determine if the entity should be subject to further state
 344 action. If the committee determines that the entity should be
 345 subject to further state action, the committee shall:

346 (a) In the case of a local governmental entity or district
 347 school board, direct the Department of Revenue and the
 348 Department of Financial Services to withhold any funds not
 349 pledged for bond debt service satisfaction which are payable to
 350 such entity until the entity complies with the law. The
 351 committee shall specify the date that such action must shall

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352 begin, and the directive must be received by the Department of
 353 Revenue and the Department of Financial Services 30 days before
 354 the date of the distribution mandated by law. The Department of
 355 Revenue and the Department of Financial Services may implement
 356 ~~the provisions of~~ this paragraph.

357 (b) In the case of a special district created by:

358 1. A special act, notify the President of the Senate, the
 359 Speaker of the House of Representatives, the standing committees
 360 of the Senate and the House of Representatives charged with
 361 special district oversight as determined by the presiding
 362 officers of each respective chamber, the legislators who
 363 represent a portion of the geographical jurisdiction of the
 364 special district pursuant to s. 189.034(2), and the Department
 365 of Economic Opportunity that the special district has failed to
 366 comply with the law. Upon receipt of notification, the
 367 Department of Economic Opportunity shall proceed pursuant to s.
 368 189.062 or s. 189.067. If the special district remains in
 369 noncompliance after the process set forth in s. 189.034(3), or
 370 if a public hearing is not held, the Legislative Auditing
 371 Committee may request the department to proceed pursuant to s.
 372 189.067(3).

373 2. A local ordinance, notify the chair or equivalent of the
 374 local general-purpose government pursuant to s. 189.035(2) and
 375 the Department of Economic Opportunity that the special district
 376 has failed to comply with the law. Upon receipt of notification,
 377 the department shall proceed pursuant to s. 189.062 or s.
 378 189.067. If the special district remains in noncompliance after
 379 the process set forth in s. 189.034(3), or if a public hearing
 380 is not held, the Legislative Auditing Committee may request the

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381 department to proceed pursuant to s. 189.067(3).

382 3. Any manner other than a special act or local ordinance,
 383 notify the Department of Economic Opportunity that the special
 384 district has failed to comply with the law. Upon receipt of
 385 notification, the department shall proceed pursuant to s.
 386 189.062 or s. 189.067(3).

387 (c) In the case of a charter school or charter technical
 388 career center, notify the appropriate sponsoring entity, which
 389 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

390 Section 4. Subsection (1), paragraph (j) of subsection (2),
 391 paragraph (u) of subsection (3), and paragraph (i) of subsection
 392 (7) of section 11.45, Florida Statutes, are amended, and
 393 paragraph (x) is added to subsection (3) of that section, to
 394 read:

395 11.45 Definitions; duties; authorities; reports; rules.—

396 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

397 (a) "Abuse" means behavior that is deficient or improper
 398 when compared with behavior that a prudent person would consider
 399 a reasonable and necessary operational practice given the facts
 400 and circumstances. The term includes the misuse of authority or
 401 position for personal gain.

402 ~~(b)-(a)~~ "Audit" means a financial audit, operational audit,
 403 or performance audit.

404 ~~(c)-(b)~~ "County agency" means a board of county
 405 commissioners or other legislative and governing body of a
 406 county, however styled, including that of a consolidated or
 407 metropolitan government, a clerk of the circuit court, a
 408 separate or ex officio clerk of the county court, a sheriff, a
 409 property appraiser, a tax collector, a supervisor of elections,

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410 or any other officer in whom any portion of the fiscal duties of
 411 a body or officer expressly stated in this paragraph are the
 412 ~~above are under law~~ separately placed by law.

413 (d)(e) "Financial audit" means an examination of financial
 414 statements in order to express an opinion on the fairness with
 415 which they are presented in conformity with generally accepted
 416 accounting principles and an examination to determine whether
 417 operations are properly conducted in accordance with legal and
 418 regulatory requirements. Financial audits must be conducted in
 419 accordance with auditing standards generally accepted in the
 420 United States and government auditing standards as adopted by
 421 the Board of Accountancy. When applicable, the scope of
 422 financial audits must ~~shall~~ encompass the additional activities
 423 necessary to establish compliance with the Single Audit Act
 424 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
 425 applicable federal law.

426 (e) "Fraud" means obtaining something of value through
 427 willful misrepresentation, including, but not limited to, the
 428 intentional misstatements or omissions of amounts or disclosures
 429 in financial statements to deceive users of financial
 430 statements, theft of an entity's assets, bribery, or the use of
 431 one's position for personal enrichment through the deliberate
 432 misuse or misapplication of an organization's resources.

433 (f)(d) "Governmental entity" means a state agency, a county
 434 agency, or any other entity, however styled, that independently
 435 exercises any type of state or local governmental function.

436 (g)(e) "Local governmental entity" means a county agency,
 437 municipality, tourist development council, county tourism
 438 promotion agency, or special district as defined in s. 189.012.

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439 ~~The term, but~~ does not include any housing authority established
 440 under chapter 421.

441 (h)(f) "Management letter" means a statement of the
 442 auditor's comments and recommendations.

443 (i)(g) "Operational audit" means an audit whose purpose is
 444 to evaluate management's performance in establishing and
 445 maintaining internal controls, including controls designed to
 446 prevent and detect fraud, waste, and abuse, and in administering
 447 assigned responsibilities in accordance with applicable laws,
 448 administrative rules, contracts, grant agreements, and other
 449 guidelines. Operational audits must be conducted in accordance
 450 with government auditing standards. Such audits examine internal
 451 controls that are designed and placed in operation to promote
 452 and encourage the achievement of management's control objectives
 453 in the categories of compliance, economic and efficient
 454 operations, reliability of financial records and reports, and
 455 safeguarding of assets, and identify weaknesses in those
 456 internal controls.

457 (j)(h) "Performance audit" means an examination of a
 458 program, activity, or function of a governmental entity,
 459 conducted in accordance with applicable government auditing
 460 standards or auditing and evaluation standards of other
 461 appropriate authoritative bodies. The term includes an
 462 examination of issues related to:
 463 1. Economy, efficiency, or effectiveness of the program.
 464 2. Structure or design of the program to accomplish its
 465 goals and objectives.
 466 3. Adequacy of the program to meet the needs identified by
 467 the Legislature or governing body.

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468 4. Alternative methods of providing program services or
 469 products.

470 5. Goals, objectives, and performance measures used by the
 471 agency to monitor and report program accomplishments.

472 6. The accuracy or adequacy of public documents, reports,
 473 or requests prepared under the program by state agencies.

474 7. Compliance of the program with appropriate policies,
 475 rules, or laws.

476 8. Any other issues related to governmental entities as
 477 directed by the Legislative Auditing Committee.

478 (k) ~~(i)~~ "Political subdivision" means a separate agency or
 479 unit of local government created or established by law and
 480 includes, but is not limited to, the following and the officers
 481 thereof: authority, board, branch, bureau, city, commission,
 482 consolidated government, county, department, district,
 483 institution, metropolitan government, municipality, office,
 484 officer, public corporation, town, or village.

485 (l) ~~(j)~~ "State agency" means a separate agency or unit of
 486 state government created or established by law and includes, but
 487 is not limited to, the following and the officers thereof:
 488 authority, board, branch, bureau, commission, department,
 489 division, institution, office, officer, or public corporation,
 490 as the case may be, except any such agency or unit within the
 491 legislative branch of state government other than the Florida
 492 Public Service Commission.

493 (m) "Waste" means the act of using or expending resources
 494 unreasonably, carelessly, extravagantly, or for no useful
 495 purpose.

496 (2) DUTIES.—The Auditor General shall:

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497 (j) Conduct audits of local governmental entities when
 498 determined to be necessary by the Auditor General, when directed
 499 by the Legislative Auditing Committee, or when otherwise
 500 required by law. No later than 18 months after the release of
 501 the audit report, the Auditor General shall perform such
 502 appropriate followup procedures as he or she deems necessary to
 503 determine the audited entity's progress in addressing the
 504 findings and recommendations contained within the Auditor
 505 General's previous report. The Auditor General shall notify each
 506 member of the audited entity's governing body and the
 507 Legislative Auditing Committee of the results of his or her
 508 determination. For purposes of this paragraph, local
 509 governmental entities do not include water management districts.

510 The Auditor General shall perform his or her duties
 511 independently but under the general policies established by the
 512 Legislative Auditing Committee. This subsection does not limit
 513 the Auditor General's discretionary authority to conduct other
 514 audits or engagements of governmental entities as authorized in
 515 subsection (3).

516 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
 517 General may, pursuant to his or her own authority, or at the
 518 direction of the Legislative Auditing Committee, conduct audits
 519 or other engagements as determined appropriate by the Auditor
 520 General of:

521 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

522 (x) Tourist development councils and county tourism
 523 promotion agencies.

524 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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526 (i) The Auditor General shall annually transmit by July 15,
 527 to the President of the Senate, the Speaker of the House of
 528 Representatives, and the Department of Financial Services, a
 529 list of all school districts, charter schools, charter technical
 530 career centers, Florida College System institutions, state
 531 universities, and local governmental entities ~~water management~~
 532 ~~districts~~ that have failed to comply with the transparency
 533 requirements as identified in the audit reports reviewed
 534 pursuant to paragraph (b) and those conducted pursuant to
 535 subsection (2).

536 Section 5. Section 20.602, Florida Statutes, is created to
 537 read:

538 20.602 Standards of conduct; officers and board members of
 539 Department of Economic Opportunity corporate entities.-

540 (1) The following officers and board members are subject to
 541 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
 542 112.3143(2):

543 (a) Officers and members of the board of directors of:

- 544 1. Any corporation created under chapter 288;
- 545 2. Space Florida;
- 546 3. CareerSource Florida, Inc., or the programs or entities
 547 created by CareerSource Florida, Inc., pursuant to s. 445.004;
- 548 4. The Florida Housing Finance Corporation; or
- 549 5. Any other corporation created by the Department of
 550 Economic Opportunity in accordance with its powers and duties
 551 under s. 20.60.

552 (b) Officers and members of the board of directors of a
 553 corporate parent or subsidiary corporation of a corporation
 554 described in paragraph (a).

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555 (c) Officers and members of the board of directors of a
 556 corporation created to carry out the missions of a corporation
 557 described in paragraph (a).

558 (d) Officers and members of the board of directors of a
 559 corporation with which a corporation described in paragraph (a)
 560 is required by law to contract with to carry out its missions.

561 (2) For purposes of applying ss. 112.313(1)-(8), (10),
 562 (12), and (15); 112.3135; and 112.3143(2) to activities of the
 563 officers and members of the board of directors specified in
 564 subsection (1), those persons shall be considered public
 565 officers or employees and the corporation shall be considered
 566 their agency.

567 (3) For a period of 2 years after retirement from or
 568 termination of service, or for a period of 10 years if removed
 569 or terminated for cause or for misconduct, as defined in s.
 570 443.036(29), an officer or a member of the board of directors
 571 specified in subsection (1) may not represent another person or
 572 entity for compensation before:

573 (a) His or her corporation;

574 (b) A division, a subsidiary, or the board of directors of
 575 a corporation created to carry out the mission of his or her
 576 corporation; or

577 (c) A corporation with which the corporation is required by
 578 law to contract to carry out its missions.

579 (4) This section does not supersede any additional or more
 580 stringent standards of conduct applicable to an officer or a
 581 member of the board of directors of an entity specified in
 582 subsection (1) prescribed by any other provision of law.

583 Section 6. Paragraph (d) of subsection (2) of section

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584 28.35, Florida Statutes, is amended to read:

585 28.35 Florida Clerks of Court Operations Corporation.—

586 (2) The duties of the corporation shall include the
587 following:

588 (d) Developing and certifying a uniform system of workload
589 measures and applicable workload standards for court-related
590 functions as developed by the corporation and clerk workload
591 performance in meeting the workload performance standards. These
592 workload measures and workload performance standards shall be
593 designed to facilitate an objective determination of the
594 performance of each clerk in accordance with minimum standards
595 for fiscal management, operational efficiency, and effective
596 collection of fines, fees, service charges, and court costs. The
597 corporation shall develop the workload measures and workload
598 performance standards in consultation with the Legislature. When
599 the corporation finds a clerk has not met the workload
600 performance standards, the corporation shall identify the nature
601 of each deficiency and any corrective action recommended and
602 taken by the affected clerk of the court. For quarterly periods
603 ending on the last day of March, June, September, and December
604 of each year, the corporation shall notify the Legislature of
605 any clerk not meeting workload performance standards and provide
606 a copy of any corrective action plans. Such notifications shall
607 be submitted no later than 45 days after the end of the
608 preceding quarterly period. As used in this subsection, the
609 term:

610 1. "Workload measures" means the measurement of the
611 activities and frequency of the work required for the clerk to
612 adequately perform the court-related duties of the office as

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613 defined by the membership of the Florida Clerks of Court
614 Operations Corporation.

615 2. "Workload performance standards" means the standards
616 developed to measure the timeliness and effectiveness of the
617 activities that are accomplished by the clerk in the performance
618 of the court-related duties of the office as defined by the
619 membership of the Florida Clerks of Court Operations
620 Corporation.

621 Section 7. Present subsections (6) and (7) of section
622 43.16, Florida Statutes, are redesignated as subsections (7) and
623 (8), respectively, and a new subsection (6) is added to that
624 section, to read:

625 43.16 Justice Administrative Commission; membership, powers
626 and duties.—

627 (6) The commission, each state attorney, each public
628 defender, the criminal conflict and civil regional counsel, the
629 capital collateral regional counsel, and the Guardian Ad Litem
630 Program shall establish and maintain internal controls designed
631 to:

632 (a) Prevent and detect fraud, waste, and abuse.

633 (b) Promote and encourage compliance with applicable laws,
634 rules, contracts, grant agreements, and best practices.

635 (c) Support economical and efficient operations.

636 (d) Ensure reliability of financial records and reports.

637 (e) Safeguard assets.

638 Section 8. Section 112.3126, Florida Statutes, is created
639 to read:

640 112.3126 Employment restrictions; legislators.—

641 (1) As used in this section, the term "private entity"

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642 means any nongovernmental entity, such as a corporation,
 643 partnership, company or nonprofit organization, any other legal
 644 entity, or any natural person.

645 (2) A member of the Legislature may not accept employment
 646 with a private entity that directly receives funding through
 647 state revenues appropriated by the General Appropriations Act. A
 648 member of the Legislature who is employed by such private entity
 649 before his or her legislative service begins may continue his or
 650 her employment. However, he or she may not accept promotion,
 651 advancement, additional compensation, or anything of value that
 652 he or she knows, or with the exercise of reasonable care should
 653 know, is provided or given as a result of his or her election or
 654 position, or that is otherwise inconsistent with the promotion,
 655 advancement, additional compensation, or anything of value
 656 provided or given an employee who is similarly situated.

657 Section 9. Subsection (7) of section 112.313, Florida
 658 Statutes, is amended to read:

659 112.313 Standards of conduct for public officers, employees
 660 of agencies, and local government attorneys.-

661 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.-

662 (a) A ~~No~~ public officer or employee of an agency may not
 663 ~~shall~~ have or hold any employment or contractual relationship
 664 with any business entity or any agency that ~~which~~ is subject to
 665 the regulation of, or is doing business with, an agency of which
 666 he or she is an officer or employee, excluding those
 667 organizations and their officers who, when acting in their
 668 official capacity, enter into or negotiate a collective
 669 bargaining contract with the state or any municipality, county,
 670 or other political subdivision of the state; and ~~nor shall~~ an

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671 officer or employee of an agency may not have or hold any
 672 employment or contractual relationship that will create a
 673 continuing or frequently recurring conflict between his or her
 674 private interests and the performance of his or her public
 675 duties or that would impede the full and faithful discharge of
 676 his or her public duties. For purposes of this subsection, if a
 677 public officer or employee of an agency holds a controlling
 678 interest in a business entity or is an officer, a director, or a
 679 member who manages such an entity, contractual relationships
 680 held by the business entity are deemed to be held by the public
 681 officer or employee.

682 1. When the agency referred to is ~~a~~ that certain kind of
 683 special tax district created by general or special law and is
 684 limited specifically to constructing, maintaining, managing, and
 685 financing improvements in the land area over which the agency
 686 has jurisdiction, or when the agency has been organized pursuant
 687 to chapter 298, ~~then~~ employment with, or entering into a
 688 contractual relationship with, such a business entity by a
 689 public officer or employee of such an agency is ~~shall~~ not ~~be~~
 690 prohibited by this subsection or ~~be~~ deemed a conflict per se.
 691 However, conduct by such officer or employee that is prohibited
 692 by, or otherwise frustrates the intent of, this section must
 693 ~~shall~~ be deemed a conflict of interest in violation of the
 694 standards of conduct set forth by this section.

695 2. When the agency referred to is a legislative body and
 696 the regulatory power over the business entity resides in another
 697 agency, or when the regulatory power that ~~which~~ the legislative
 698 body exercises over the business entity or agency is strictly
 699 through the enactment of laws or ordinances, ~~then~~ employment or

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700 a contractual relationship with such a business entity by a
 701 public officer or employee of a legislative body ~~is shall~~ not be
 702 prohibited by this subsection or be deemed a conflict.

703 (b) This subsection ~~does shall~~ not prohibit a public
 704 officer or employee from practicing in a particular profession
 705 or occupation when such practice by persons holding such public
 706 office or employment is required or permitted by law or
 707 ordinance.

708 Section 10. Subsections (1) and (2) of section 112.3144,
 709 Florida Statutes, are amended to read:

710 112.3144 Full and public disclosure of financial
 711 interests.-

712 (1) In addition to officers specified in s. 8, Art. II of
 713 the State Constitution or other state law, all elected municipal
 714 officers are required to file a full and public disclosure of
 715 their financial interests. An officer who is required by s. 8,
 716 Art. II of the State Constitution to file a full and public
 717 disclosure of his or her financial interests for any calendar or
 718 fiscal year shall file that disclosure with the Florida
 719 Commission on Ethics. Additionally, beginning January 1, 2015,
 720 An officer who is required to complete annual ethics training
 721 pursuant to s. 112.3142 must certify on his or her full and
 722 public disclosure of financial interests that he or she has
 723 completed the required training.

724 (2) A person who is required, ~~pursuant to s. 8, Art. II of~~
 725 ~~the State Constitution,~~ to file a full and public disclosure of
 726 financial interests and who has filed a full and public
 727 disclosure of financial interests for any calendar or fiscal
 728 year ~~is shall~~ not be required to file a statement of financial

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729 interests pursuant to s. 112.3145(2) and (3) for the same year
 730 or for any part thereof notwithstanding any requirement of this
 731 part. If an incumbent in an elective office has filed the full
 732 and public disclosure of financial interests to qualify for
 733 election to the same office or if a candidate for office holds
 734 another office subject to the annual filing requirement, the
 735 qualifying officer shall forward an electronic copy of the full
 736 and public disclosure of financial interests to the commission
 737 no later than July 1. The electronic copy of the full and public
 738 disclosure of financial interests satisfies the annual
 739 disclosure requirement of this section. A candidate who does not
 740 qualify until after the annual full and public disclosure of
 741 financial interests has been filed pursuant to this section
 742 shall file a copy of his or her disclosure with the officer
 743 before whom he or she qualifies.

744 Section 11. The amendment made to s. 112.3144, Florida
 745 Statutes, by this act applies to disclosures filed for the 2016
 746 calendar year and all subsequent calendar years.

747 Section 12. Subsection (1) of section 112.31455, Florida
 748 Statutes, is amended to read:

749 112.31455 Collection methods for unpaid automatic fines for
 750 failure to timely file disclosure of financial interests.-

751 (1) Before referring any unpaid fine accrued pursuant to s.
 752 112.3144(5) or s. 112.3145(7) to the Department of Financial
 753 Services, the commission shall attempt to determine whether the
 754 individual owing such a fine is a current public officer or
 755 current public employee. If so, the commission may notify the
 756 Chief Financial Officer or the governing body of the appropriate
 757 county, municipality, school district, or special district of

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758 the total amount of any fine owed to the commission by such
759 individual.

760 (a) After receipt and verification of the notice from the
761 commission, the Chief Financial Officer or the governing body of
762 the county, municipality, school district, or special district
763 shall begin withholding the lesser of 10 percent or the maximum
764 amount allowed under federal law from any salary-related
765 payment. The withheld payments shall be remitted to the
766 commission until the fine is satisfied.

767 (b) The Chief Financial Officer or the governing body of
768 the county, municipality, school district, or special district
769 may retain an amount of each withheld payment, as provided in s.
770 77.0305, to cover the administrative costs incurred under this
771 section.

772 Section 13. Present subsections (7) through (15) of section
773 112.3215, Florida Statutes, are renumbered as subsections (8)
774 through (16), respectively, a new subsection (7) is added to
775 that section, and paragraph (a) of present subsection (8) and
776 present subsection (11) of that section are amended, to read:

777 112.3215 Lobbying before the executive branch or the
778 Constitution Revision Commission; registration and reporting;
779 investigation by commission.—

780 (7) If a lobbying firm lobbies the Governor to approve or
781 veto any bill passed by the Legislature or a specific
782 appropriation in the General Appropriations Act, the lobbying
783 firm must file a monthly report disclosing such activity with
784 the commission.

785 (a) The monthly report must contain the same information
786 required under s. 11.045(5). The reports must be filed with the

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787 commission no later than 7 business days after the end of the
788 preceding month. A lobbying firm may satisfy the filing
789 requirements of this subsection by using the form used under s.
790 11.045(5).

791 (b) The reports shall be filed even if the reporting
792 lobbying firm did not engage in any lobbying activities
793 requiring disclosure, in which the report shall be marked "not
794 applicable."

795 (c) The commission shall provide by rule the grounds for
796 waiving a fine, the procedures by which a lobbying firm that
797 fails to timely file a report shall be notified and assessed
798 finer, and the procedure for appealing the fines. The rule shall
799 provide for the following:

800 1. Upon determining that the report is late, the person
801 designated to review the timeliness of reports shall immediately
802 notify the lobbying firm as to the failure to timely file the
803 report and that a fine is being assessed for each late day. The
804 fine shall be \$50 per day per report for each late day up to a
805 maximum of \$5,000 per late report.

806 2. Upon receipt of the report, the person designated to
807 review the timeliness of reports shall determine the amount of
808 the fine due based upon when a report is actually received by
809 the commission.

810 3. Such fine shall be paid within 30 days after the notice
811 of payment due is transmitted by the commission, unless appeal
812 is made to the commission. The moneys shall be deposited into
813 the Executive Branch Lobby Registration Trust Fund.

814 4. A fine may not be assessed against a lobbying firm the
815 first time any reports for which the lobbying firm is

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816 responsible are not timely filed. However, to receive the one-
 817 time fine waiver, all reports for which the lobbying firm is
 818 responsible must be filed within 30 days after the notice that
 819 any reports have not been timely filed is transmitted by the
 820 commission. A fine shall be assessed for any subsequent late-
 821 filed reports.

822 5. Any lobbying firm may appeal or dispute a fine, based
 823 upon unusual circumstances surrounding the failure to file on
 824 the designated due date, and may request and shall be entitled
 825 to a hearing before the commission, which shall have the
 826 authority to waive the fine in whole or in part for good cause
 827 shown. Any such request shall be made within 30 days after the
 828 notice of payment due is transmitted by the commission. In such
 829 case, the lobbying firm shall, within the 30-day period, notify
 830 the person designated to review the timeliness of reports in
 831 writing of his or her intention to bring the matter before the
 832 commission.

833 6. The person designated to review the timeliness of
 834 reports shall notify the commission of the failure of a lobbying
 835 firm to file a report after notice or of the failure of a
 836 lobbying firm to pay the fine imposed. All lobbyist
 837 registrations for lobbyists who are partners, owners, officers,
 838 or employees of a lobbying firm that fails to timely pay a fine
 839 are automatically suspended until the fine is paid or waived,
 840 and the commission shall promptly notify all affected principals
 841 of each suspension and each reinstatement.

842 7. Notwithstanding any provision of chapter 120, any fine
 843 imposed under this subsection that is not waived by final order
 844 of the commission and that remains unpaid more than 60 days

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845 after the notice of payment due or more than 60 days after the
 846 commission renders a final order on the lobbying firm's appeal
 847 shall be collected by the Department of Financial Services as a
 848 claim, debt, or other obligation owed to the state, and the
 849 department may assign the collection of such fine to a
 850 collection agent as provided in s. 17.20.

851 (9) (a) ~~(8) (a)~~ The commission shall investigate every sworn
 852 complaint that is filed with it alleging that a person covered
 853 by this section has failed to register, has failed to submit a
 854 compensation report, has made a prohibited expenditure, has
 855 failed to file a report required by subsection (7), or has
 856 knowingly submitted false information in any report or
 857 registration required in this section.

858 (12) ~~(11)~~ Any person who is required to be registered or to
 859 provide information under this section or under rules adopted
 860 pursuant to this section and who knowingly fails to disclose any
 861 material fact that is required by this section or by rules
 862 adopted pursuant to this section, or who knowingly provides
 863 false information on any report required by this section or by
 864 rules adopted pursuant to this section, commits a noncriminal
 865 infraction, punishable by a fine not to exceed \$5,000. Such
 866 penalty is in addition to any other penalty assessed by the
 867 Governor and Cabinet pursuant to subsection (11) ~~(10)~~.

868 Section 14. Section 112.324, Florida Statutes, is amended
 869 to read:

870 112.324 Investigative procedures ~~on complaints of~~
 871 ~~violations and referrals~~; public records and meeting
 872 exemptions.-

873 (1) The commission shall investigate an alleged violation

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874 of this part or other alleged breach of the public trust within
875 the jurisdiction of the commission as provided in s. 8(f), Art.
876 II of the State Constitution:

877 (a) Upon a written complaint executed on a form prescribed
878 by the commission and signed under oath or affirmation by any
879 person; ~~or~~

880 (b) Upon receipt of a written referral of a possible
881 violation of this part or other possible breach of the public
882 trust from the Governor, the Department of Law Enforcement, a
883 state attorney, or a United States Attorney which at least six
884 members of the commission determine is sufficient to indicate a
885 violation of this part or any other breach of the public trust;
886 or

887 (c) Upon receipt of reliable and publicly disseminated
888 information that is determined by at least seven members of the
889 commission to be sufficient to indicate a violation of this part
890 or any other breach of the public trust, provided that
891 commission staff did not undertake any formal investigation of
892 the matter other than collecting publicly disseminated
893 information before a determination of legal sufficiency is made
894 by the commission.

895 Within 5 days after receipt of a complaint by the commission, ~~or~~
896 a determination by at least six members of the commission that
897 the referral received is deemed sufficient, or a determination
898 of legal sufficiency is made by at least seven members of the
899 commission in response to reliable and publicly disseminated
900 information, a copy shall be transmitted to the alleged
901 violator.
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903 (2) (a) The complaint and records relating to the complaint
904 or to any preliminary investigation held by the commission or
905 its agents, by a Commission on Ethics and Public Trust
906 established by any county defined in s. 125.011(1) or by any
907 municipality defined in s. 165.031, or by any county or
908 municipality that has established a local investigatory process
909 to enforce more stringent standards of conduct and disclosure
910 requirements as provided in s. 112.326 are confidential and
911 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
912 Constitution.

913 (b) Written referrals and records relating to such
914 referrals held by the commission or its agents, the Governor,
915 the Department of Law Enforcement, or a state attorney, and
916 records relating to any preliminary investigation of such
917 referrals held by the commission or its agents, are confidential
918 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
919 Constitution.

920 (c) Any portion of a proceeding conducted by the
921 commission, a Commission on Ethics and Public Trust, or a county
922 or municipality that has established such local investigatory
923 process, pursuant to a complaint or preliminary investigation,
924 is exempt from s. 286.011, s. 24(b), Art. I of the State
925 Constitution, and s. 120.525.

926 (d) Any portion of a proceeding of the commission in which
927 a determination regarding a referral is discussed or acted upon
928 is exempt from s. 286.011 and s. 24(b), Art. I of the State
929 Constitution, and s. 120.525.

930 (e) The exemptions in paragraphs (a)-(d) apply until:
931 1. The complaint is dismissed as legally insufficient;

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932 2. The alleged violator requests in writing that such
 933 records and proceedings be made public;

934 3. The commission determines that it will not investigate
 935 the referral; or

936 4. The commission, a Commission on Ethics and Public Trust,
 937 or a county or municipality that has established such local
 938 investigatory process determines, based on such investigation,
 939 whether probable cause exists to believe that a violation has
 940 occurred.

941 (f) A complaint or referral under this part against a
 942 candidate in any general, special, or primary election may not
 943 be filed nor may any intention of filing such a complaint or
 944 referral be disclosed on the day of any such election or within
 945 the 30 days immediately preceding the date of the election,
 946 unless the complaint or referral is based upon personal
 947 information or information other than hearsay.

948 (g) This subsection is subject to the Open Government
 949 Sunset Review Act in accordance with s. 119.15 and shall stand
 950 repealed on October 2, 2018, unless reviewed and saved from
 951 repeal through reenactment by the Legislature.

952 (3) A preliminary investigation shall be undertaken by the
 953 commission of each legally sufficient complaint, ~~or~~ referral, or
 954 determination based on reliable and publicly disseminated
 955 information over which the commission has jurisdiction to
 956 determine whether there is probable cause to believe that a
 957 violation has occurred. If, upon completion of the preliminary
 958 investigation, the commission finds no probable cause to believe
 959 that this part has been violated or that any other breach of the
 960 public trust has been committed, the commission shall dismiss

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961 the matter ~~complaint or referral~~ with the issuance of a public
 962 report to the complainant and the alleged violator, stating with
 963 particularity its reasons for dismissal. At that time, ~~the~~
 964 ~~complaint or referral~~ and all materials relating to the matter,
 965 including any complaint or referral, shall become ~~a matter of~~
 966 public record. If the commission finds from the preliminary
 967 investigation probable cause to believe that this part has been
 968 violated or that any other breach of the public trust has been
 969 committed, it shall so notify the complainant and the alleged
 970 violator in writing. Such notification and all documents made or
 971 received in the disposition of the matter ~~complaint or referral~~
 972 shall then become public records. Upon request submitted to the
 973 commission in writing, any person who the commission finds
 974 probable cause to believe has violated any provision of this
 975 part or has committed any other breach of the public trust shall
 976 be entitled to a public hearing. Such person shall be deemed to
 977 have waived the right to a public hearing if the request is not
 978 received within 14 days following the mailing of the probable
 979 cause notification required by this subsection. However, the
 980 commission may on its own motion, ~~require~~ a public hearing, may
 981 conduct such further investigation as it deems necessary, and
 982 may enter into such stipulations and settlements as it finds to
 983 be just and in the best interest of the state. The commission is
 984 without jurisdiction to, and no respondent may voluntarily or
 985 involuntarily, enter into a stipulation or settlement which
 986 imposes any penalty, including, but not limited to, a sanction
 987 or admonition or any other penalty contained in s. 112.317.
 988 Penalties shall be imposed only by the appropriate disciplinary
 989 authority as designated in this section.

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990 (4) If, in cases pertaining to members of the Legislature,
 991 upon completion of a full and final investigation by the
 992 commission, the commission finds that there has been a violation
 993 of this part or of any provision of s. 8, Art. II of the State
 994 Constitution, the commission shall forward a copy of the
 995 complaint, ~~or referral, or information upon which the proceeding~~
 996 was initiated, and its findings by certified mail to the
 997 President of the Senate or the Speaker of the House of
 998 Representatives, whichever is applicable, who shall refer the
 999 matter ~~complaint or referral~~ to the appropriate committee for
 1000 investigation and action which shall be governed by the rules of
 1001 its respective house. It is the duty of the committee to report
 1002 its final action upon the matter to the commission within 90
 1003 days of the date of transmittal to the respective house. Upon
 1004 request of the committee, the commission shall submit a
 1005 recommendation as to what penalty, if any, should be imposed. In
 1006 the case of a member of the Legislature, the house in which the
 1007 member serves has the power to invoke the penalty provisions of
 1008 this part.

1009 (5) If, in cases against impeachable officers, upon
 1010 completion of a full and final investigation by the commission,
 1011 the commission finds that there has been a violation of this
 1012 part or of any provision of s. 8, Art. II of the State
 1013 Constitution, and the commission finds that the violation may
 1014 constitute grounds for impeachment, the commission shall forward
 1015 a copy of the complaint, ~~or referral, or information upon which~~
 1016 the proceeding was initiated, and its findings by certified mail
 1017 to the Speaker of the House of Representatives, who shall refer
 1018 the matter ~~complaint or referral~~ to the appropriate committee

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1019 for investigation and action which shall be governed by the
 1020 rules of the House of Representatives. It is the duty of the
 1021 committee to report its final action upon the matter to the
 1022 commission within 90 days of the date of transmittal.

1023 (6) If the commission finds that there has been a violation
 1024 of this part or of any provision of s. 8, Art. II of the State
 1025 Constitution by an impeachable officer other than the Governor,
 1026 and the commission recommends public censure and reprimand,
 1027 forfeiture of a portion of the officer's salary, a civil
 1028 penalty, or restitution, the commission shall report its
 1029 findings and recommendation of disciplinary action to the
 1030 Governor, who has the power to invoke the penalty provisions of
 1031 this part.

1032 (7) If the commission finds that there has been a violation
 1033 of this part or of any provision of s. 8, Art. II of the State
 1034 Constitution by the Governor, and the commission recommends
 1035 public censure and reprimand, forfeiture of a portion of the
 1036 Governor's salary, a civil penalty, or restitution, the
 1037 commission shall report its findings and recommendation of
 1038 disciplinary action to the Attorney General, who shall have the
 1039 power to invoke the penalty provisions of this part.

1040 (8) ~~If~~, In cases other than ~~those complaints or referrals~~
 1041 against impeachable officers or members of the Legislature, if
 1042 the commission finds, upon completion of a full and final
 1043 investigation by the commission, ~~the commission finds~~ that there
 1044 has been a violation of this part or of s. 8, Art. II of the
 1045 State Constitution, it is the duty of the commission to report
 1046 its findings and recommend appropriate action to the proper
 1047 disciplinary official or body as follows, and such official or

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1048 body has the power to invoke the penalty provisions of this
 1049 part, including the power to order the appropriate elections
 1050 official to remove a candidate from the ballot for a violation
 1051 of s. 112.3145 or s. 8(a) and (i), Art. II of the State
 1052 Constitution:

1053 (a) The President of the Senate and the Speaker of the
 1054 House of Representatives, jointly, in any case concerning the
 1055 Public Counsel, members of the Public Service Commission,
 1056 members of the Public Service Commission Nominating Council, the
 1057 Auditor General, or the director of the Office of Program Policy
 1058 Analysis and Government Accountability.

1059 (b) The Supreme Court, in any case concerning an employee
 1060 of the judicial branch.

1061 (c) The President of the Senate, in any case concerning an
 1062 employee of the Senate; the Speaker of the House of
 1063 Representatives, in any case concerning an employee of the House
 1064 of Representatives; or the President and the Speaker, jointly,
 1065 in any case concerning an employee of a committee of the
 1066 Legislature whose members are appointed solely by the President
 1067 and the Speaker or in any case concerning an employee of the
 1068 Public Counsel, Public Service Commission, Auditor General, or
 1069 Office of Program Policy Analysis and Government Accountability.

1070 (d) Except as otherwise provided by this part, the
 1071 Governor, in the case of any other public officer, public
 1072 employee, former public officer or public employee, candidate or
 1073 former candidate, or person who is not a public officer or
 1074 employee, other than lobbyists and lobbying firms under s.
 1075 112.3215 for violations of s. 112.3215.

1076 (e) The President of the Senate or the Speaker of the House

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1077 of Representatives, whichever is applicable, in any case
 1078 concerning a former member of the Legislature who has violated a
 1079 provision applicable to former members or whose violation
 1080 occurred while a member of the Legislature.

1081 (9) In addition to reporting its findings to the proper
 1082 disciplinary body or official, the commission shall report these
 1083 findings to the state attorney or any other appropriate official
 1084 or agency having authority to initiate prosecution when
 1085 violation of criminal law is indicated.

1086 (10) Notwithstanding the foregoing procedures of this
 1087 section, a sworn complaint against any member or employee of the
 1088 Commission on Ethics for violation of this part or of s. 8, Art.
 1089 II of the State Constitution shall be filed with the President
 1090 of the Senate and the Speaker of the House of Representatives.
 1091 Each presiding officer shall, after determining that there are
 1092 sufficient grounds for review, appoint three members of their
 1093 respective bodies to a special joint committee who shall
 1094 investigate the complaint. The members shall elect a chair from
 1095 among their number. If the special joint committee finds
 1096 insufficient evidence to establish probable cause to believe a
 1097 violation of this part or of s. 8, Art. II of the State
 1098 Constitution has occurred, it shall dismiss the complaint. If,
 1099 upon completion of its preliminary investigation, the committee
 1100 finds sufficient evidence to establish probable cause to believe
 1101 a violation has occurred, the chair thereof shall transmit such
 1102 findings to the Governor who shall convene a meeting of the
 1103 Governor, the President of the Senate, the Speaker of the House
 1104 of Representatives, and the Chief Justice of the Supreme Court
 1105 to take such final action on the complaint as they shall deem

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1106 appropriate, consistent with the penalty provisions of this
 1107 part. Upon request of a majority of the Governor, the President
 1108 of the Senate, the Speaker of the House of Representatives, and
 1109 the Chief Justice of the Supreme Court, the special joint
 1110 committee shall submit a recommendation as to what penalty, if
 1111 any, should be imposed.

1112 (11) (a) Notwithstanding subsections (1)-(8), the commission
 1113 may dismiss any complaint, ~~or referral, or matter based upon the~~
 1114 receipt of reliable and publicly disseminated information, at
 1115 any stage of disposition if it determines that the violation
 1116 that is alleged or has occurred is a de minimis violation
 1117 attributable to inadvertent or unintentional error. In
 1118 determining whether a violation was de minimis, the commission
 1119 shall consider whether the interests of the public were
 1120 protected despite the violation. This subsection does not apply
 1121 to complaints or referrals pursuant to ss. 112.3144 and
 1122 112.3145.

1123 (b) For the purposes of this subsection, a de minimis
 1124 violation is any violation that is unintentional and not
 1125 material in nature.

1126 (12) Notwithstanding the provisions of subsections (1)-(8),
 1127 the commission may, at its discretion, dismiss any matter
 1128 ~~complaint or referral~~ at any stage of disposition should it
 1129 determine that the public interest would not be served by
 1130 proceeding further, in which case the commission shall issue a
 1131 public report stating with particularity its reasons for the
 1132 dismissal.

1133 Section 15. Section 112.3261, Florida Statutes, is amended
 1134 to read:

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1135 112.3261 Lobbying before governmental entities ~~water~~
 1136 ~~management districts~~; registration and reporting.—

1137 (1) As used in this section, the term:

1138 (a) "Governmental entity" or "entity" ~~"District"~~ means a
 1139 water management district created in s. 373.069 and operating
 1140 under the authority of chapter 373, a hospital district, a
 1141 children's services district, an expressway authority as the
 1142 term "authority" is defined in s. 348.0002, the term "port
 1143 authority" as defined in s. 315.02, a county or municipality
 1144 that has not adopted lobbyist registration and reporting
 1145 requirements, or an independent special district with annual
 1146 revenues of more than \$5 million which exercises ad valorem
 1147 taxing authority.

1148 (b) "Lobbies" means seeking, on behalf of another person,
 1149 to influence a governmental entity ~~district~~ with respect to a
 1150 decision of the entity ~~district~~ in an area of policy or
 1151 procurement or an attempt to obtain the goodwill of an a
 1152 district official or employee of a governmental entity. The term
 1153 ~~"lobbies"~~ shall be interpreted and applied consistently with the
 1154 rules of the commission implementing s. 112.3215.

1155 (c) "Lobbyist" has the same meaning as provided in s.
 1156 112.3215.

1157 (d) "Principal" has the same meaning as provided in s.
 1158 112.3215.

1159 (2) A person may not lobby a governmental entity ~~district~~
 1160 until such person has registered as a lobbyist with that entity
 1161 ~~district~~. Such registration shall be due upon initially being
 1162 retained to lobby and is renewable on a calendar-year basis
 1163 thereafter. Upon registration, the person shall provide a

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1164 statement signed by the principal or principal's representative
 1165 stating that the registrant is authorized to represent the
 1166 principal. The principal shall also identify and designate its
 1167 main business on the statement authorizing that lobbyist
 1168 pursuant to a classification system approved by the governmental
 1169 entity district. Any changes to the information required by this
 1170 section must be disclosed within 15 days by filing a new
 1171 registration form. The registration form ~~must shall~~ require each
 1172 lobbyist to disclose, under oath, the following:

1173 (a) The lobbyist's name and business address.

1174 (b) The name and business address of each principal
 1175 represented.

1176 (c) The existence of any direct or indirect business
 1177 association, partnership, or financial relationship with an
 1178 official ~~any officer~~ or employee of a governmental entity
 1179 district with which he or she lobbies or intends to lobby.

1180 (d) A governmental entity shall create a lobbyist
 1181 registration form modeled after the ~~In lieu of creating its own~~
 1182 ~~lobbyist registration forms, a district may accept a completed~~
 1183 legislative branch or executive branch lobbyist registration
 1184 form, which must be returned to the governmental entity.

1185 (3) A governmental entity district shall make lobbyist
 1186 registrations available to the public. If a governmental entity
 1187 ~~district~~ maintains a website, a database of currently registered
 1188 lobbyists and principals must be available on the entity's
 1189 ~~district's~~ website.

1190 (4) A lobbyist shall promptly send a written statement to
 1191 the governmental entity district canceling the registration for
 1192 a principal upon termination of the lobbyist's representation of

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1193 that principal. A governmental entity district may remove the
 1194 name of a lobbyist from the list of registered lobbyists if the
 1195 principal notifies the entity district that a person is no
 1196 longer authorized to represent that principal.

1197 (5) A governmental entity district may establish an annual
 1198 lobbyist registration fee, not to exceed \$40, for each principal
 1199 represented. The governmental entity district may use
 1200 registration fees only to administer this section.

1201 (6) A governmental entity district shall be diligent to
 1202 ascertain whether persons required to register pursuant to this
 1203 section have complied. A governmental entity district may not
 1204 knowingly authorize a person who is not registered pursuant to
 1205 this section to lobby the entity district.

1206 (7) Upon receipt of a sworn complaint alleging that a
 1207 lobbyist or principal has failed to register with a governmental
 1208 entity district or has knowingly submitted false information in
 1209 a report or registration required under this section, the
 1210 commission shall investigate a lobbyist or principal pursuant to
 1211 the procedures established under s. 112.324. The commission
 1212 shall provide the Governor with a report of its findings and
 1213 recommendations in any investigation conducted pursuant to this
 1214 subsection. The Governor is authorized to enforce the
 1215 commission's findings and recommendations.

1216 (8) A governmental entity ~~water management districts~~ may
 1217 adopt rules to establish procedures to govern the registration
 1218 of lobbyists, including the adoption of forms and the
 1219 establishment of a lobbyist registration fee.

1220 Section 16. Paragraph (c) of subsection (3) of section
 1221 129.03, Florida Statutes, is amended to read:

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1222 129.03 Preparation and adoption of budget.—

1223 (3) The county budget officer, after tentatively
1224 ascertaining the proposed fiscal policies of the board for the
1225 next fiscal year, shall prepare and present to the board a
1226 tentative budget for the next fiscal year for each of the funds
1227 provided in this chapter, including all estimated receipts,
1228 taxes to be levied, and balances expected to be brought forward
1229 and all estimated expenditures, reserves, and balances to be
1230 carried over at the end of the year.

1231 (c) The board shall hold public hearings to adopt tentative
1232 and final budgets pursuant to s. 200.065. The hearings shall be
1233 primarily for the purpose of hearing requests and complaints
1234 from the public regarding the budgets and the proposed tax
1235 levies and for explaining the budget and any proposed or adopted
1236 amendments. The tentative budget must be posted on the county's
1237 official website at least 2 days before the public hearing to
1238 consider such budget and must remain on the website for at least
1239 45 days. The final budget must be posted on the website within
1240 30 days after adoption and must remain on the website for at
1241 least 2 years. The tentative budgets, adopted tentative budgets,
1242 and final budgets shall be filed in the office of the county
1243 auditor as a public record. Sufficient reference in words and
1244 figures to identify the particular transactions ~~must shall~~ be
1245 made in the minutes of the board to record its actions with
1246 reference to the budgets.

1247 Section 17. Paragraph (f) of subsection (2) of section
1248 129.06, Florida Statutes, is amended to read:

1249 129.06 Execution and amendment of budget.—

1250 (2) The board at any time within a fiscal year may amend a

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1251 budget for that year, and may within the first 60 days of a
1252 fiscal year amend the budget for the prior fiscal year, as
1253 follows:

1254 (f) Unless otherwise prohibited by law, if an amendment to
1255 a budget is required for a purpose not specifically authorized
1256 in paragraphs (a)-(e), the amendment may be authorized by
1257 resolution or ordinance of the board of county commissioners
1258 adopted following a public hearing.

1259 1. The public hearing must be advertised at least 2 days,
1260 but not more than 5 days, before the date of the hearing. The
1261 advertisement must appear in a newspaper of paid general
1262 circulation and must identify the name of the taxing authority,
1263 the date, place, and time of the hearing, and the purpose of the
1264 hearing. The advertisement must also identify each budgetary
1265 fund to be amended, the source of the funds, the use of the
1266 funds, and the total amount of each fund's appropriations.

1267 2. If the board amends the budget pursuant to this
1268 paragraph, the adopted amendment must be posted on the county's
1269 official website within 5 days after adoption and must remain on
1270 the website for at least 2 years.

1271 Section 18. Subsections (3) and (5) of section 166.241,
1272 Florida Statutes, are amended to read:

1273 166.241 Fiscal years, budgets, and budget amendments.—

1274 (3) The tentative budget must be posted on the
1275 municipality's official website at least 2 days before the
1276 budget hearing, held pursuant to s. 200.065 or other law, to
1277 consider such budget, and must remain on the website for at
1278 least 45 days. The final adopted budget must be posted on the
1279 municipality's official website within 30 days after adoption

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1280 and must remain on the website for at least 2 years. If the
 1281 municipality does not operate an official website, the
 1282 municipality must, within a reasonable period of time as
 1283 established by the county or counties in which the municipality
 1284 is located, transmit the tentative budget and final budget to
 1285 the manager or administrator of such county or counties who
 1286 shall post the budgets on the county's website.

1287 (5) If the governing body of a municipality amends the
 1288 budget pursuant to paragraph (4)(c), the adopted amendment must
 1289 be posted on the official website of the municipality within 5
 1290 days after adoption and must remain on the website for at least
 1291 2 years. If the municipality does not operate an official
 1292 website, the municipality must, within a reasonable period of
 1293 time as established by the county or counties in which the
 1294 municipality is located, transmit the adopted amendment to the
 1295 manager or administrator of such county or counties who shall
 1296 post the adopted amendment on the county's website.

1297 Section 19. Subsections (4) and (7) of section 189.016,
 1298 Florida Statutes, are amended to read:

1299 189.016 Reports; budgets; audits.—

1300 (4) The tentative budget must be posted on the special
 1301 district's official website at least 2 days before the budget
 1302 hearing, held pursuant to s. 200.065 or other law, to consider
 1303 such budget, and must remain on the website for at least 45
 1304 days. The final adopted budget must be posted on the special
 1305 district's official website within 30 days after adoption and
 1306 must remain on the website for at least 2 years. If the special
 1307 district does not operate an official website, the special
 1308 district must, within a reasonable period of time as established

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1309 by the local general-purpose government or governments in which
 1310 the special district is located or the local governing authority
 1311 to which the district is dependent, transmit the tentative
 1312 budget or final budget to the manager or administrator of the
 1313 local general-purpose government or the local governing
 1314 authority. The manager or administrator shall post the tentative
 1315 budget or final budget on the website of the local general-
 1316 purpose government or governing authority. This subsection and
 1317 subsection (3) do not apply to water management districts as
 1318 defined in s. 373.019.

1319 (7) If the governing body of a special district amends the
 1320 budget pursuant to paragraph (6)(c), the adopted amendment must
 1321 be posted on the official website of the special district within
 1322 5 days after adoption and must remain on the website for at
 1323 least 2 years. If the special district does not operate an
 1324 official website, the special district must, within a reasonable
 1325 period of time as established by the local general-purpose
 1326 government or governments in which the special district is
 1327 located or the local governing authority to which the district
 1328 is dependent, transmit the adopted amendment to the manager or
 1329 administrator of the local general-purpose government or
 1330 governing authority. The manager or administrator shall post the
 1331 adopted amendment on the website of the local general-purpose
 1332 government or governing authority.

1333 Section 20. Present subsections (1) through (5) of section
 1334 215.425, Florida Statutes, are renumbered as subsections (2)
 1335 through (6), respectively, present subsection (2) and paragraph
 1336 (a) of present subsection (4) of that section are amended, and a
 1337 new subsection (1) and subsections (7) through (13) are added to

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1338 that section, to read:

1339 215.425 Extra compensation claims prohibited; bonuses;
1340 severance pay.-

1341 (1) As used in this section, the term "public funds" means
1342 any taxes, tuition, grants, fines, fees, or other charges or any
1343 other type of revenue collected by the state or any county,
1344 municipality, special district, school district, Florida College
1345 System institution, state university, or other separate unit of
1346 government created pursuant to law, including any office,
1347 department, agency, division, subdivision, political
1348 subdivision, board, bureau, or commission of such entities.

1349 (3)(2) Notwithstanding subsection (2), if the payment and
1350 receipt does not otherwise violate part III of chapter 112, the
1351 following funds may be used to provide extra compensation or
1352 severance pay in excess of the amount specified in subparagraph
1353 (5)(a)1.:

1354 (a) Revenues received by state universities through or from
1355 faculty practice plans; health services support organizations;
1356 hospitals with which state universities are affiliated; direct-
1357 support organizations; or federal, auxiliary, or private
1358 sources, except for tuition.

1359 (b) Revenues received by Florida College System
1360 institutions through or from faculty practice plans; health
1361 services support organizations; direct-support organizations; or
1362 federal, auxiliary, or private sources, except for tuition.

1363 (c) Revenues that are received by a hospital licensed under
1364 chapter 395 which has entered into a Medicaid provider contract
1365 and that:

1366 1. Are not derived from the levy of an ad valorem tax;

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1367 2. Are not derived from patient services paid through the
1368 Medicaid or Medicare program;

1369 3. Are derived from patient services pursuant to contracts
1370 with private insurers or private managed care entities; or

1371 4. Are not appropriated by the Legislature or by any
1372 county, municipality, special district, school district, Florida
1373 College System institution, state university, or other separate
1374 unit of government created pursuant to law, including any
1375 office, department, agency, division, subdivision, political
1376 subdivision, board, bureau, commission, authority, or
1377 institution of such entities, except for revenues otherwise
1378 authorized to be used pursuant to subparagraphs 2. and 3. This
1379 section does not apply to:

1380 (a) a bonus or severance pay that is paid wholly from
1381 non-tax revenues and nonstate-appropriated funds, the payment and
1382 receipt of which does not otherwise violate part III of chapter
1383 112, and which is paid to an officer, agent, employee, or
1384 contractor of a public hospital that is operated by a county or
1385 a special district; or

1386 (d) ~~(b)~~ A clothing and maintenance allowance given to
1387 plainclothes deputies pursuant to s. 30.49.

1388 (e) Revenues or fees received by a seaport or airport from
1389 sources other than through the levy of a tax, or funds
1390 appropriated by any county or municipality or the Legislature.

1391 (5)(a)(4)(a) ~~On or after July 1, 2011,~~ A unit of
1392 government, on or after July 1, 2011, or a state university, on
1393 or after July 1, 2012, that is a party to ~~enters into~~ a contract
1394 or employment agreement, or renewal or renegotiation of an
1395 existing contract or employment agreement, that contains a

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1396 provision for severance pay with an officer, agent, employee, or
1397 contractor must include the following provisions in the
1398 contract:

1399 1. A requirement that severance pay paid from public funds
1400 ~~provided~~ may not exceed an amount greater than 20 weeks of
1401 compensation.

1402 2. A prohibition of provision of severance pay paid from
1403 public funds when the officer, agent, employee, or contractor
1404 has been fired for misconduct, as defined in s. 443.036(29), by
1405 the unit of government.

1406 (7) Upon discovery or notification that a unit of
1407 government has provided prohibited compensation to any officer,
1408 agent, employee, or contractor in violation of this section,
1409 such unit of government shall investigate and take all necessary
1410 action to recover the prohibited compensation.

1411 (a) If the violation was unintentional, the unit of
1412 government shall recover the prohibited compensation from the
1413 individual receiving the prohibited compensation through normal
1414 recovery methods for overpayments.

1415 (b) If the violation was willful, the unit of government
1416 shall recover the prohibited compensation from either the
1417 individual receiving the prohibited compensation or the
1418 individual or individuals responsible for approving the
1419 prohibited compensation. Each individual determined to have
1420 willfully violated this section is jointly and severally liable
1421 for repayment of the prohibited compensation.

1422 (8) A person who willfully violates this section commits a
1423 misdemeanor of the first degree, punishable as provided in s.
1424 775.082 or s. 775.083.

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1425 (9) An officer who exercises the powers and duties of a
1426 state or county officer and willfully violates this section is
1427 subject to the Governor's power under s. 7(a), Art. IV of the
1428 State Constitution. An officer who exercises powers and duties
1429 other than those of a state or county officer and willfully
1430 violates this section is subject to the suspension and removal
1431 procedures under s. 112.51.

1432 (10) (a) A person who reports a violation of this section is
1433 eligible for a reward of at least \$500, or the lesser of 10
1434 percent of the funds recovered or \$10,000 per incident of a
1435 prohibited compensation payment recovered by the unit of
1436 government, depending upon the extent to which the person
1437 substantially contributed to the discovery, notification, and
1438 recovery of such prohibited payment.

1439 (b) In the event that the recovery of the prohibited
1440 compensation is based primarily on disclosures of specific
1441 information, other than information provided by such person,
1442 relating to allegations or transactions in a criminal, civil, or
1443 administrative hearing; in a legislative, administrative,
1444 inspector general, or other government report; in an auditor
1445 general report, hearing, audit, or investigation; or from the
1446 news media, such person is not eligible for a reward, or for an
1447 award of a portion of the proceeds or payment of attorney fees
1448 and costs pursuant to s. 68.085.

1449 (c) If it is determined that the person who reported a
1450 violation of this section was involved in the authorization,
1451 approval, or receipt of the prohibited compensation or is
1452 convicted of criminal conduct arising from his or her role in
1453 the authorization, approval, or receipt of the prohibited

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1454 compensation, such person is not eligible for a reward, or for
 1455 an award of a portion of the proceeds or payment of attorney
 1456 fees and costs pursuant to s. 68.085.

1457 (11) An employee who is discharged, demoted, suspended,
 1458 threatened, harassed, or in any manner discriminated against in
 1459 the terms and conditions of employment by his or her employer
 1460 because of lawful acts done by the employee on behalf of the
 1461 employee or others in furtherance of an action under this
 1462 section, including investigation for initiation of, testimony
 1463 for, or assistance in an action filed or to be filed under this
 1464 section, has a cause of action under s. 112.3187.

1465 (12) If the unit of government fails to recover prohibited
 1466 compensation for a willful violation of this section upon
 1467 discovery and notification of such prohibited payment within 90
 1468 days, a cause of action may be brought to:

1469 (a) Recover state funds in accordance with ss. 68.082 and
 1470 68.083.

1471 (b) Recover other funds by the Department of Legal Affairs
 1472 using the procedures set forth in ss. 68.082 and 68.083, except
 1473 that venue shall lie in the circuit court of the county in which
 1474 the unit of government is located.

1475 (c) Recover other funds by a person using the procedures
 1476 set forth in ss. 68.082 and 68.083, except that venue shall lie
 1477 in the circuit court of the county in which the unit of
 1478 government is located.

1479 (13) Subsections (7)-(12) apply prospectively to contracts
 1480 or employment agreements, or the renewal or renegotiation of an
 1481 existing contract or employment agreement, effective on or after
 1482 October 1, 2016.

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1483 Section 21. Section 215.86, Florida Statutes, is amended to
 1484 read:

1485 215.86 Management systems and controls.—Each state agency
 1486 and the judicial branch as defined in s. 216.011 shall establish
 1487 and maintain management systems and internal controls designed
 1488 to:

1489 (1) Prevent and detect fraud, waste, and abuse. ~~that~~

1490 (2) Promote and encourage compliance with applicable laws,
 1491 rules, contracts, grant agreements, and best practices.†

1492 (3) Support economical and ~~economic,~~ efficient, and
 1493 effective operations.†

1494 (4) Ensure reliability of financial records and reports.†

1495 (5) Safeguard and ~~safeguarding of~~ assets. Accounting
 1496 systems and procedures shall be designed to fulfill the
 1497 requirements of generally accepted accounting principles.

1498 Section 22. Paragraph (a) of subsection (2) of section
 1499 215.97, Florida Statutes, is amended to read:

1500 215.97 Florida Single Audit Act.—

1501 (2) Definitions; as used in this section, the term:

1502 (a) "Audit threshold" means the threshold amount used to
 1503 determine when a state single audit or project-specific audit of
 1504 a nonstate entity shall be conducted in accordance with this
 1505 section. Each nonstate entity that expends a total amount of
 1506 state financial assistance equal to or in excess of \$750,000
 1507 ~~\$500,000~~ in any fiscal year of such nonstate entity shall be
 1508 required to have a state single audit, or a project-specific
 1509 audit, for such fiscal year in accordance with the requirements
 1510 of this section. ~~Every 2 years the Auditor General, After~~
 1511 consulting with the Executive Office of the Governor, the

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1512 Department of Financial Services, and all state awarding
 1513 agencies, the Auditor General shall periodically review the
 1514 threshold amount for requiring audits under this section and may
 1515 recommend any appropriate statutory change to revise the
 1516 threshold amount in the annual report submitted pursuant to s.
 1517 11.45(7) (h) to the Legislature ~~may adjust such threshold amount~~
 1518 ~~consistent with the purposes of this section.~~

1519 Section 23. Subsection (11) of section 215.985, Florida
 1520 Statutes, is amended to read:

1521 215.985 Transparency in government spending.-

1522 (11) Each water management district shall provide a monthly
 1523 financial statement in the form and manner prescribed by the
 1524 Department of Financial Services to the district's ~~its~~ governing
 1525 board and make such monthly financial statement available for
 1526 public access on its website.

1527 Section 24. Paragraph (d) of subsection (1) and subsection
 1528 (2) of section 218.32, Florida Statutes, are amended to read:

1529 218.32 Annual financial reports; local governmental
 1530 entities.-

1531 (1)

1532 (d) Each local governmental entity that is required to
 1533 provide for an audit under s. 218.39(1) must submit a copy of
 1534 the audit report and annual financial report to the department
 1535 within 45 days after the completion of the audit report but no
 1536 later than 9 months after the end of the fiscal year. In
 1537 conducting an audit of a local governmental entity pursuant to
 1538 s. 218.39, an independent certified public accountant shall
 1539 determine whether the entity's annual financial report is in
 1540 agreement with the audited financial statements. The

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1541 accountant's audit report must be supported by the same level of
 1542 detail as required for the annual financial report. If the
 1543 accountant's audit report is not in agreement with the annual
 1544 financial report, the accountant shall specify and explain the
 1545 significant differences that exist between the annual financial
 1546 report and the audit report.

1547 (2) The department shall annually by December 1 file a
 1548 verified report with the Governor, the Legislature, the Auditor
 1549 General, and the Special District Accountability Program of the
 1550 Department of Economic Opportunity showing the revenues, both
 1551 locally derived and derived from intergovernmental transfers,
 1552 and the expenditures of each local governmental entity, regional
 1553 planning council, local government finance commission, and
 1554 municipal power corporation that is required to submit an annual
 1555 financial report. In preparing the verified report, the
 1556 department may request additional information from the local
 1557 governmental entity. The information requested must be provided
 1558 to the department within 45 days after the request. If the local
 1559 governmental entity does not comply with the request, the
 1560 department shall notify the Legislative Auditing Committee,
 1561 which may take action pursuant to s. 11.40(2). The report must
 1562 include, but is not limited to:

1563 (a) The total revenues and expenditures of each local
 1564 governmental entity that is a component unit included in the
 1565 annual financial report of the reporting entity.

1566 (b) The amount of outstanding long-term debt by each local
 1567 governmental entity. For purposes of this paragraph, the term
 1568 "long-term debt" means any agreement or series of agreements to
 1569 pay money, which, at inception, contemplate terms of payment

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1570 exceeding 1 year in duration.

1571 Section 25. Present subsection (3) of section 218.33,
1572 Florida Statutes, is redesignated as subsection (4), and a new
1573 subsection (3) is added to that section, to read:

1574 218.33 Local governmental entities; establishment of
1575 uniform fiscal years and accounting practices and procedures.—

1576 (3) Each local governmental entity shall establish and
1577 maintain internal controls designed to:

1578 (a) Prevent and detect fraud, waste, and abuse.

1579 (b) Promote and encourage compliance with applicable laws,
1580 rules, contracts, grant agreements, and best practices.

1581 (c) Support economical and efficient operations.

1582 (d) Ensure reliability of financial records and reports.

1583 (e) Safeguard assets.

1584 Section 26. Present subsections (8) through (12) of section
1585 218.39, Florida Statutes, are redesignated as subsections (9)
1586 through (13), respectively, and a new subsection (8) is added to
1587 that section, to read:

1588 218.39 Annual financial audit reports.—

1589 (8) If the audit report includes a recommendation that was
1590 included in the preceding financial audit report but remains
1591 unaddressed, the governing body of the audited entity, within 60
1592 days after the delivery of the audit report to the governing
1593 body, shall indicate during a regularly scheduled public meeting
1594 whether it intends to take corrective action, the intended
1595 corrective action, and the timeframe for the corrective action.
1596 If the governing body indicates that it does not intend to take
1597 corrective action, it shall explain its decision at the public
1598 meeting.

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1599 Section 27. Subsection (2) of section 218.391, Florida
1600 Statutes, is amended, and subsection (9) is added to that
1601 section, to read:

1602 218.391 Auditor selection procedures.—

1603 (2) The governing body of a ~~charter~~ county, municipality,
1604 special district, district school board, charter school, or
1605 charter technical career center shall establish an audit
1606 committee.

1607 (a) The audit committee for a county ~~Each noncharter county~~
1608 ~~shall establish an audit committee that,~~ at a minimum, shall
1609 consist of each of the county officers elected pursuant to the
1610 county charter or s. 1(d), Art. VIII of the State Constitution—
1611 ~~or their respective designees a designee,~~ and one member of the
1612 board of county commissioners or its designee.

1613 (b) The audit committee for a municipality, special
1614 district, district school board, charter school, or charter
1615 technical career center shall consist of at least three members.
1616 One member of the audit committee must be a member of the
1617 governing body of an entity specified in this paragraph, who
1618 shall also serve as the chair of the committee.

1619 (c) An employee, chief executive officer, or chief
1620 financial officer of the county, municipality, special district,
1621 district school board, charter school, or charter technical
1622 career center may not serve as a member of an audit committee
1623 established under this subsection.

1624 (d) The primary purpose of the audit committee is to assist
1625 the governing body in selecting an auditor to conduct the annual
1626 financial audit required in s. 218.39; however, the audit
1627 committee may serve other audit oversight purposes as determined

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1628 by the entity's governing body. The public ~~may shall~~ not be
1629 excluded from the proceedings under this section.

1630 (9) An audit report submitted pursuant to s. 218.39 must
1631 include an affidavit executed by the chair of the audit
1632 committee affirming that the committee complied with the
1633 requirements of subsections (3)-(6) in selecting an auditor. If
1634 the Auditor General determines that an entity failed to comply
1635 with the requirements of subsections (3)-(6) in selecting an
1636 auditor, the entity shall select a replacement auditor in
1637 accordance with this section to conduct audits for subsequent
1638 fiscal years if the original audit was performed under a
1639 multiyear contract. If the replacement of an auditor would
1640 preclude the entity from timely completing the annual financial
1641 audit required by s. 218.39, the entity shall replace an auditor
1642 in accordance with this section for the subsequent annual
1643 financial audit. A multiyear contract between an entity or an
1644 auditor may not prohibit or restrict an entity from complying
1645 with this subsection.

1646 Section 28. Subsection (2) of section 286.0114, Florida
1647 Statutes, is amended to read:

1648 286.0114 Public meetings; reasonable opportunity to be
1649 heard; attorney fees.-

1650 (2) Members of the public shall be given a reasonable
1651 opportunity to be heard on a proposition before a board or
1652 commission. The opportunity to be heard need not occur at the
1653 same meeting at which the board or commission takes official
1654 action on the proposition if the opportunity occurs at a meeting
1655 that is during the decisionmaking process and is within
1656 reasonable proximity in time before the meeting at which the

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1657 board or commission takes the official action. A board or
1658 commission may not require a member of the public to provide an
1659 advance written copy of his or her testimony or comments as a
1660 precondition of being given the opportunity to be heard at a
1661 meeting. This section does not prohibit a board or commission
1662 from maintaining orderly conduct or proper decorum in a public
1663 meeting. The opportunity to be heard is subject to rules or
1664 policies adopted by the board or commission, as provided in
1665 subsection (4).

1666 Section 29. Paragraph (b) of subsection (2) of section
1667 288.92, Florida Statutes, is amended to read:

1668 288.92 Divisions of Enterprise Florida, Inc.-
1669 (2)

1670 (b)1. The following officers and board members are subject
1671 to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
1672 112.3143(2):

1673 a. Officers and members of the board of directors of the
1674 divisions of Enterprise Florida, Inc.

1675 b. Officers and members of the board of directors of
1676 subsidiaries of Enterprise Florida, Inc.

1677 c. Officers and members of the board of directors of
1678 corporations created to carry out the missions of Enterprise
1679 Florida, Inc.

1680 d. Officers and members of the board of directors of
1681 corporations with which a division is required by law to
1682 contract to carry out its missions.

1683 2. For a period of 2 years after retirement from or
1684 termination of service to a division, or for a period of 10
1685 years if removed or terminated for cause or for misconduct, as

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1686 defined in s. 443.036(29), the officers and board members
 1687 specified in subparagraph 1. may not represent another person or
 1688 entity for compensation before:

1689 a. Enterprise Florida, Inc.;

1690 b. A division, a subsidiary, or the board of directors of
 1691 corporations created to carry out the missions of Enterprise
 1692 Florida, Inc.; or

1693 c. A division with which Enterprise Florida, Inc., is
 1694 required by law to contract to carry out its missions.

1695 ~~3.2-~~ For purposes of applying ss. 112.313(1)-(8), (10),
 1696 (12), and (15); 112.3135; and 112.3143(2) to activities of the
 1697 officers and members of the board of directors specified in
 1698 subparagraph 1., those persons shall be considered public
 1699 officers or employees and the corporation shall be considered
 1700 their agency.

1701 ~~4.3-~~ It is not a violation of s. 112.3143(2) or (4) for the
 1702 officers or members of the board of directors of the Florida
 1703 Tourism Industry Marketing Corporation to:

1704 a. Vote on the 4-year marketing plan required under s.
 1705 288.923 or vote on any individual component of or amendment to
 1706 the plan.

1707 b. Participate in the establishment or calculation of
 1708 payments related to the private match requirements of s.
 1709 288.904(3). The officer or member must file an annual disclosure
 1710 describing the nature of his or her interests or the interests
 1711 of his or her principals, including corporate parents and
 1712 subsidiaries of his or her principal, in the private match
 1713 requirements. This annual disclosure requirement satisfies the
 1714 disclosure requirement of s. 112.3143(4). This disclosure must

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1715 be placed ~~either~~ on the Florida Tourism Industry Marketing
 1716 Corporation's website or included in the minutes of each meeting
 1717 of the Florida Tourism Industry Marketing Corporation's board of
 1718 directors at which the private match requirements are discussed
 1719 or voted upon.

1720 Section 30. Paragraph (a) of subsection (3) of section
 1721 288.9604, Florida Statutes, is amended to read:

1722 288.9604 Creation of the authority.—

1723 (3)(a)1. A director may not receive compensation for his or
 1724 her services, but is entitled to necessary expenses, including
 1725 travel expenses, incurred in the discharge of his or her duties.
 1726 Each director shall hold office until his or her successor has
 1727 been appointed.

1728 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
 1729 and (15); 112.3135; and 112.3143(2). For purposes of applying
 1730 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
 1731 112.3143(2) to activities of directors, directors shall be
 1732 considered public officers and the corporation shall be
 1733 considered their agency.

1734 3. A director of the corporation may not represent another
 1735 person or entity for compensation before the corporation for a
 1736 period of 2 years following his or her service on the board of
 1737 directors.

1738 Section 31. Paragraph (e) of subsection (4), paragraph (d)
 1739 of subsection (5), and paragraph (d) of subsection (6) of
 1740 section 373.536, Florida Statutes, are amended to read:

1741 373.536 District budget and hearing thereon.—

1742 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

1743 (e) ~~By September 1, 2012,~~ Each district shall provide a

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1744 monthly financial statement in the form and manner prescribed by
1745 the Department of Financial Services to the district's governing
1746 board and make such monthly financial statement available for
1747 public access on its website.

1748 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
1749 APPROVAL.—

1750 (d) Each district shall, by August 1 of each year, submit
1751 for review a tentative budget and a description of any
1752 significant changes from the preliminary budget submitted to the
1753 Legislature pursuant to s. 373.535 to the Governor, the
1754 President of the Senate, the Speaker of the House of
1755 Representatives, the chairs of all legislative committees and
1756 subcommittees having substantive or fiscal jurisdiction over
1757 water management districts, as determined by the President of
1758 the Senate or the Speaker of the House of Representatives, as
1759 applicable, the secretary of the department, and the governing
1760 body of each county in which the district has jurisdiction or
1761 derives any funds for the operations of the district. The
1762 tentative budget must be posted on the district's official
1763 website at least 2 days before budget hearings held pursuant to
1764 s. 200.065 or other law and must remain on the website for at
1765 least 45 days.

1766 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
1767 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1768 (d) The final adopted budget must be posted on the water
1769 management district's official website within 30 days after
1770 adoption and must remain on the website for at least 2 years.

1771 Section 32. Section 838.014, Florida Statutes, is amended
1772 to read:

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1773 838.014 Definitions.—As used in this chapter, the term:

1774 (1) "Benefit" means gain or advantage, or anything regarded
1775 by the person to be benefited as a gain or advantage, including
1776 the doing of an act beneficial to any person in whose welfare he
1777 or she is interested, including any commission, gift, gratuity,
1778 property, commercial interest, or any other thing of economic
1779 value not authorized by law.

1780 (2) "Bid" includes a response to an "invitation to bid,"
1781 "invitation to negotiate," "request for a quote," or "request
1782 for proposals" as those terms are defined in s. 287.012.

1783 (3) "Commodity" means any goods, merchandise, wares,
1784 produce, chose in action, land, article of commerce, or other
1785 tangible or intangible property, real, personal, or mixed, for
1786 use, consumption, production, enjoyment, or resale.

1787 (4) "Governmental entity" means an agency or entity of the
1788 state, a county, a municipality, or a special district or any
1789 other public entity created or authorized by law ~~"Corruptly" or~~
1790 ~~"with corrupt intent" means acting knowingly and dishonestly for~~
1791 ~~a wrongful purpose.~~

1792 (5) "Harm" means pecuniary or other loss, disadvantage, or
1793 injury to the person affected.

1794 (6) "Public contractor" means:

1795 (a) Any person, as defined in s. 1.01, who has entered into
1796 a contract with a governmental entity; or

1797 (b) Any officer or employee of a person, as defined in s.
1798 1.01, who has entered into a contract with a governmental
1799 entity.

1800 (7) "Public servant" means:

1801 (a) Any officer or employee of a governmental state,

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1802 ~~county, municipal, or special district agency or entity,~~
 1803 ~~including~~
 1804 ~~(b)~~ any executive, legislative, or judicial branch officer
 1805 or employee;
 1806 ~~(b)(c)~~ Any person, except a witness, who acts as a general
 1807 or special magistrate, receiver, auditor, arbitrator, umpire,
 1808 referee, consultant, or hearing officer while performing a
 1809 governmental function; or
 1810 ~~(c)(d)~~ A candidate for election or appointment to any of
 1811 the positions listed in this subsection, or an individual who
 1812 has been elected to, but has yet to officially assume the
 1813 responsibilities of, public office.
 1814 ~~(8)(7)~~ "Service" means any kind of activity performed in
 1815 whole or in part for economic benefit.
 1816 Section 33. Section 838.015, Florida Statutes, is amended
 1817 to read:
 1818 838.015 Bribery.-
 1819 (1) For purposes of this section, "bribery" means:
 1820 (a) ~~corruptly~~ To knowingly and intentionally give, offer,
 1821 or promise any pecuniary or other benefit not authorized by law
 1822 to any public servant, which is intended to influence the
 1823 performance of any act or omission which the person believes to
 1824 be, or the public servant represents as being, either within the
 1825 official discretion of the public servant, in violation of a
 1826 public duty, or in performance of a public duty; or
 1827 (b) If a public servant, ~~corruptly~~ to knowingly and
 1828 intentionally request, solicit, accept, or agree to accept for
 1829 himself or herself or another, any pecuniary or other benefit
 1830 not authorized by law which is given, offered, or promised with

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1831 an intent or a purpose to influence the performance of any act
 1832 or omission which the person believes to be, or the public
 1833 servant represents as being, either within the official
 1834 discretion of a public servant, in violation of a public duty,
 1835 or in performance of a public duty; or
 1836 (c) If a public contractor, to knowingly and intentionally
 1837 request, solicit, accept, or agree to accept for himself or
 1838 herself or another any pecuniary or other benefit not authorized
 1839 by law which is given, offered, or promised with an intent or a
 1840 purpose to influence the performance of any act or omission
 1841 which the person believes to be, or the public contractor
 1842 represents as being, either within the official discretion of
 1843 the public contractor as granted by the contract with the
 1844 governmental entity, in violation of a duty required by the
 1845 contract with the governmental entity, or in performance of a
 1846 duty required by the contract with the governmental entity.
 1847 (2) Prosecution under this section does ~~shall~~ not require
 1848 any allegation or proof that the public servant or public
 1849 contractor who ultimately sought to be unlawfully influenced was
 1850 qualified to act in the desired way, that the public servant had
 1851 assumed office, that the matter was properly pending before him
 1852 or her or might by law properly be brought before him or her,
 1853 that the public servant or public contractor possessed
 1854 jurisdiction over the matter, or that his or her official action
 1855 was necessary to achieve the person's purpose.
 1856 (3) Any person who commits bribery commits a felony of the
 1857 second degree, punishable as provided in s. 775.082, s. 775.083,
 1858 or s. 775.084.
 1859 Section 34. Section 838.016, Florida Statutes, is amended

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1860 to read:

1861 838.016 Unlawful compensation or reward for official
1862 behavior.-

1863 (1) It is unlawful for:

1864 (a) Any person ~~corruptly~~ to knowingly and intentionally
1865 give, offer, or promise to any public servant, ~~or, if a public~~
1866 ~~servant, corruptly to request, solicit, accept, or agree to~~
1867 ~~accept,~~ any pecuniary or other benefit not authorized by law,
1868 for the past, present, or future performance, nonperformance, or
1869 violation of any act or omission which the person believes to
1870 have been, or the public servant represents as having been,
1871 either within the official discretion of the public servant, in
1872 violation of a public duty, or in performance of a public duty.

1873 (b) Any public servant to knowingly and intentionally
1874 request, solicit, accept, or agree to accept any pecuniary or
1875 other benefit not authorized by law for the past, present, or
1876 future performance, nonperformance, or violation of any act or
1877 omission which the person believes to have been, or the public
1878 servant represents as having been, either within the official
1879 discretion of the public servant, in violation of a public duty,
1880 or in performance of a public duty.

1881 (c) Any public contractor to knowingly and intentionally
1882 request, solicit, accept, or agree to accept any pecuniary or
1883 other benefit not authorized by law for the past, present, or
1884 future performance, nonperformance, or violation of any act or
1885 omission which the person believes to have been, or the public
1886 contractor represents as having been, either within the official
1887 discretion of the public contractor as granted by the contract
1888 with the governmental entity, in violation of a duty required by

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1889 the contract with the governmental entity, or in performance of
1890 a duty required by the contract with the governmental entity.

1891

1892 ~~This subsection may not~~ ~~Nothing herein shall~~ be construed to
1893 preclude a public servant or public contractor from accepting
1894 rewards for services performed in apprehending any criminal.

1895 (2) It is unlawful for:

1896 (a) Any person ~~corruptly~~ to knowingly and intentionally
1897 give, offer, or promise to any public servant, ~~or, if a public~~
1898 ~~servant, corruptly to request, solicit, accept, or agree to~~
1899 ~~accept,~~ any pecuniary or other benefit not authorized by law for
1900 the past, present, or future exertion of any influence upon or
1901 with any other public servant regarding any act or omission
1902 which the person believes to have been, or which is represented
1903 to him or her as having been, either within the official
1904 discretion of the other public servant, in violation of a public
1905 duty, or in performance of a public duty.

1906 (b) Any public servant to request, solicit, accept, or
1907 agree to accept any pecuniary or other benefit not authorized by
1908 law for the past, present, or future exertion of any influence
1909 upon or with any other public servant regarding any act or
1910 omission which the person believes to have been, or which is
1911 represented to him or her as having been, either within the
1912 official discretion of the public servant, in violation of a
1913 public duty, or in performance of a public duty.

1914 (c) Any public contractor to request, solicit, accept, or
1915 agree to accept any pecuniary or other benefit not authorized by
1916 law for the past, present, or future exertion of any influence
1917 upon or with any other public contractor regarding any act or

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1918 omission which the person believes to have been, or which is
 1919 represented to him or her as having been, either within the
 1920 official discretion of the public contractor as granted by the
 1921 contract with the governmental entity, in violation of a duty
 1922 required by the contract with the governmental entity, or in
 1923 performance of a duty required by the contract with the
 1924 governmental entity.

1925 (3) Prosecution under this section ~~does shall~~ not require
 1926 that the exercise of influence or official discretion, ~~or~~
 1927 violation of a public duty or performance of a public duty, or a
 1928 public contractor's violation of a duty required by a contract
 1929 with a governmental entity or performance of a duty required by
 1930 a contract with a governmental entity for which a pecuniary or
 1931 other benefit was given, offered, promised, requested, or
 1932 solicited was accomplished or was within the influence, official
 1933 discretion, ~~or~~ public duty, or contractual duty of the public
 1934 servant or public contractor whose action or omission was sought
 1935 to be rewarded or compensated.

1936 (4) Whoever violates the provisions of this section commits
 1937 a felony of the second degree, punishable as provided in s.
 1938 775.082, s. 775.083, or s. 775.084.

1939 Section 35. Section 838.022, Florida Statutes, is amended
 1940 to read:

1941 838.022 Official misconduct.-

1942 (1) It is unlawful for a public servant or a public
 1943 contractor, ~~with corrupt intent~~ to knowingly and intentionally
 1944 obtain a benefit for any person or to cause unlawful harm to
 1945 another, ~~by~~ ~~to~~:

1946 (a) ~~Falsifying~~ Falsify, or causing ~~cause~~ another person to

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1947 falsify, any official record or official document;

1948 (b) Concealing, covering up, destroying, mutilating, or
 1949 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
 1950 official record or official document ~~except as authorized by law~~
 1951 or contract or causing ~~cause~~ another person to perform such an
 1952 act; or

1953 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
 1954 ~~or prevent~~ the communication of information relating to the
 1955 commission of a felony that directly involves or affects the
 1956 governmental ~~public agency or public~~ entity served by the public
 1957 servant or public contractor.

1958 (2) For the purposes of this section:

1959 (a) The term "public servant" does not include a candidate
 1960 who does not otherwise qualify as a public servant.

1961 (b) An official record or official document includes only
 1962 public records.

1963 (3) Any person who violates this section commits a felony
 1964 of the third degree, punishable as provided in s. 775.082, s.
 1965 775.083, or s. 775.084.

1966 Section 36. Section 838.22, Florida Statutes, is amended to
 1967 read:

1968 838.22 Unlawful influence of the competitive solicitation
 1969 process ~~Bid tampering~~.-

1970 (1) It is unlawful for a public servant or a public
 1971 contractor who has contracted with a governmental entity to
 1972 assist in a competitive procurement, ~~with corrupt intent~~ to
 1973 knowingly and intentionally influence or attempt to influence a
 1974 the competitive solicitation bidding process undertaken by any
 1975 governmental ~~state, county, municipal, or special district~~

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1976 agency, or any other public entity, for the procurement of
 1977 commodities or services, ~~by te~~:

1978 (a) ~~Disclosing, except as authorized by law, Disclose~~
 1979 material information concerning a vendor's response, any
 1980 evaluation results, bid or other aspects of the competitive
 1981 solicitation bidding process when such information is not
 1982 publicly disclosed.

1983 (b) ~~Altering or amending Alter or amend~~ a submitted
 1984 response bid, documents or other materials supporting a
 1985 submitted response bid, or any evaluation bid results relating
 1986 to the competitive solicitation for the purpose of intentionally
 1987 providing a competitive advantage to any person who submits a
 1988 response bid.

1989 (2) It is unlawful for a public servant or a public
 1990 contractor who has contracted with a governmental entity to
 1991 assist in a competitive procurement, with corrupt intent to
 1992 knowingly and intentionally obtain a benefit for any person or
 1993 to cause unlawful harm to another by circumventing, te
 1994 circumvent a competitive solicitation bidding process required
 1995 by law or rule through the use of by using a sole-source
 1996 contract for commodities or services.

1997 (3) It is unlawful for any person to knowingly agree,
 1998 conspire, combine, or confederate, directly or indirectly, with
 1999 a public servant or a public contractor to violate subsection
 2000 (1) or subsection (2).

2001 (4) It is unlawful for any person to knowingly enter into a
 2002 contract for commodities or services which was secured by a
 2003 public servant or a public contractor acting in violation of
 2004 subsection (1) or subsection (2).

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2005 (5) Any person who violates this section commits a felony
 2006 of the second degree, punishable as provided in s. 775.082, s.
 2007 775.083, or s. 775.084.

2008 Section 37. Paragraph (1) of subsection (12) of section
 2009 1001.42, Florida Statutes, is amended to read:
 2010 1001.42 Powers and duties of district school board.—The
 2011 district school board, acting as a board, shall exercise all
 2012 powers and perform all duties listed below:

2013 (12) FINANCE.—Take steps to assure students adequate
 2014 educational facilities through the financial procedure
 2015 authorized in chapters 1010 and 1011 and as prescribed below:

2016 (1) Internal auditor.—May employ an internal auditor to
 2017 perform ongoing financial verification of the financial records
 2018 of the school district and such other audits and reviews as the
 2019 district school board directs for the purpose of determining:

2020 1. The adequacy of internal controls designed to prevent
 2021 and detect fraud, waste, and abuse.

2022 2. Compliance with applicable laws, rules, contracts, grant
 2023 agreements, district school board-approved policies, and best
 2024 practices.

2025 3. The efficiency of operations.

2026 4. The reliability of financial records and reports.

2027 5. The safeguarding of assets.

2028

2029 The internal auditor shall report directly to the district
 2030 school board or its designee.

2031 Section 38. Paragraph (j) of subsection (9) of section
 2032 1002.33, Florida Statutes, is amended to read:
 2033 1002.33 Charter schools.—

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2034 (9) CHARTER SCHOOL REQUIREMENTS.-

2035 (j) The governing body of the charter school shall be

2036 responsible for:

2037 1. Establishing and maintaining internal controls designed

2038 to:

2039 a. Prevent and detect fraud, waste, and abuse.

2040 b. Promote and encourage compliance with applicable laws,

2041 rules, contracts, grant agreements, and best practices.

2042 c. Support economical and efficient operations.

2043 d. Ensure reliability of financial records and reports.

2044 e. Safeguard assets.

2045 ~~2.1-~~ Ensuring that the charter school has retained the

2046 services of a certified public accountant or auditor for the

2047 annual financial audit, pursuant to s. 1002.345(2), who shall

2048 submit the report to the governing body.

2049 ~~3.2-~~ Reviewing and approving the audit report, including

2050 audit findings and recommendations for the financial recovery

2051 plan.

2052 ~~4.a.3.a-~~ Performing the duties in s. 1002.345, including

2053 monitoring a corrective action plan.

2054 b. Monitoring a financial recovery plan in order to ensure

2055 compliance.

2056 ~~5.4-~~ Participating in governance training approved by the

2057 department which must include government in the sunshine,

2058 conflicts of interest, ethics, and financial responsibility.

2059 Section 39. Present subsections (6) through (10) of section

2060 1002.37, Florida Statutes, are redesignated as subsections (7)

2061 through (11), respectively, a new subsection (6) is added to

2062 that section, and present subsections (6) and (11) of that

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2063 section are amended, to read:

2064 1002.37 The Florida Virtual School.-

2065 (6) The Florida Virtual School shall have an annual

2066 financial audit of its accounts and records conducted by an

2067 independent auditor who is a certified public accountant

2068 licensed under chapter 473. The independent auditor shall

2069 conduct the audit in accordance with rules adopted by the

2070 Auditor General pursuant to s. 11.45 and, upon completion of the

2071 audit, shall prepare an audit report in accordance with such

2072 rules. The audit report must include a written statement of the

2073 board of trustees describing corrective action to be taken in

2074 response to each of the recommendations of the independent

2075 auditor included in the audit report. The independent auditor

2076 shall submit the audit report to the board of trustees and the

2077 Auditor General no later than 9 months after the end of the

2078 preceding fiscal year.

2079 ~~(7)-(6)~~ The board of trustees shall annually submit to the

2080 Governor, the Legislature, the Commissioner of Education, and

2081 the State Board of Education the audit report prepared pursuant

2082 to subsection (6) and a complete and detailed report setting

2083 forth:

2084 (a) The operations and accomplishments of the Florida

2085 Virtual School within the state and those occurring outside the

2086 state as Florida Virtual School Global.

2087 (b) The marketing and operational plan for the Florida

2088 Virtual School and Florida Virtual School Global, including

2089 recommendations regarding methods for improving the delivery of

2090 education through the Internet and other distance learning

2091 technology.

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2092 (c) The assets and liabilities of the Florida Virtual
2093 School and Florida Virtual School Global at the end of the
2094 fiscal year.

2095 ~~(d) A copy of an annual financial audit of the accounts and~~
2096 ~~records of the Florida Virtual School and Florida Virtual School~~
2097 ~~Global, conducted by an independent certified public accountant~~
2098 ~~and performed in accordance with rules adopted by the Auditor~~
2099 ~~General.~~

2100 ~~(e)~~ Recommendations regarding the unit cost of providing
2101 services to students through the Florida Virtual School and
2102 Florida Virtual School Global. In order to most effectively
2103 develop public policy regarding any future funding of the
2104 Florida Virtual School, it is imperative that the cost of the
2105 program is accurately identified. The identified cost of the
2106 program must be based on reliable data.

2107 ~~(e)~~ Recommendations regarding an accountability
2108 mechanism to assess the effectiveness of the services provided
2109 by the Florida Virtual School and Florida Virtual School Global.

2110 ~~(11) The Auditor General shall conduct an operational audit~~
2111 ~~of the Florida Virtual School, including Florida Virtual School~~
2112 ~~Global. The scope of the audit shall include, but not be limited~~
2113 ~~to, the administration of responsibilities relating to~~
2114 ~~personnel; procurement and contracting; revenue production;~~
2115 ~~school funds, including internal funds; student enrollment~~
2116 ~~records; franchise agreements; information technology~~
2117 ~~utilization, assets, and security; performance measures and~~
2118 ~~standards; and accountability. The final report on the audit~~
2119 ~~shall be submitted to the President of the Senate and the~~
2120 ~~Speaker of the House of Representatives no later than January~~

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2121 ~~31, 2014.~~

2122 Section 40. Subsection (5) is added to section 1010.01,
2123 Florida Statutes, to read:

2124 1010.01 Uniform records and accounts.—

2125 (5) Each school district, Florida College System
2126 institution, and state university shall establish and maintain
2127 internal controls designed to:

2128 (a) Prevent and detect fraud, waste, and abuse.

2129 (b) Promote and encourage compliance with applicable laws,
2130 rules, contracts, grant agreements, and best practices.

2131 (c) Support economical and efficient operations.

2132 (d) Ensure reliability of financial records and reports.

2133 (e) Safeguard assets.

2134 Section 41. Subsection (2) of section 1010.30, Florida
2135 Statutes, is amended to read:

2136 1010.30 Audits required.—

2137 (2) If a school district, Florida College System
2138 institution, or university audit report includes a
2139 recommendation that was included in the preceding financial
2140 audit report but remains unaddressed, an audit contains a
2141 significant finding, the district school board, the Florida
2142 College System institution board of trustees, or the university
2143 board of trustees, within 60 days after the delivery of the
2144 audit report to the school district, Florida College System
2145 institution, or university, shall indicate ~~conduct an audit~~
2146 overview during a regularly scheduled public meeting whether it
2147 intends to take corrective action, the intended corrective
2148 action, and the timeframe for the corrective action. If the
2149 district school board, Florida College System institution board

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2150 of trustees, or university board of trustees indicates that it
 2151 does not intend to take corrective action, it shall explain its
 2152 decision at the public meeting.

2153 Section 42. Subsection (4) of section 11.0455, Florida
 2154 Statutes, is amended to read:

2155 11.0455 Electronic filing of compensation reports and other
 2156 information.—

2157 (4) Each report filed pursuant to this section is deemed to
 2158 meet the certification requirements of s. 11.045(3)(a)4., and as
 2159 such subjects the person responsible for filing and the lobbying
 2160 firm to the provisions of s. 11.045(8) and (9) ~~s. 11.045(7) and~~
 2161 ~~(8)~~. Persons given a secure sign-on to the electronic filing
 2162 system are responsible for protecting it from disclosure and are
 2163 responsible for all filings using such credentials, unless they
 2164 have notified the office that their credentials have been
 2165 compromised.

2166 Section 43. Subsection (2) of section 68.082, Florida
 2167 Statutes, is amended to read:

2168 68.082 False claims against the state; definitions;
 2169 liability.—

2170 (2) Any person who:

2171 (a) Knowingly presents or causes to be presented a false or
 2172 fraudulent claim for payment or approval;

2173 (b) Knowingly authorizes, approves, or receives payment of
 2174 prohibited compensation in violation of s. 215.425;

2175 (c) ~~(b)~~ Knowingly makes, uses, or causes to be made or used
 2176 a false record or statement material to a false or fraudulent
 2177 claim;

2178 (d) ~~(e)~~ Conspires to commit a violation of this subsection;

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2179 (e) ~~(d)~~ Has possession, custody, or control of property or
 2180 money used or to be used by the state and knowingly delivers or
 2181 causes to be delivered less than all of that money or property;

2182 (f) ~~(e)~~ Is authorized to make or deliver a document
 2183 certifying receipt of property used or to be used by the state
 2184 and, intending to defraud the state, makes or delivers the
 2185 receipt without knowing that the information on the receipt is
 2186 true;

2187 (g) ~~(f)~~ Knowingly buys or receives, as a pledge of an
 2188 obligation or a debt, public property from an officer or
 2189 employee of the state who may not sell or pledge the property;
 2190 or

2191 (h) ~~(g)~~ Knowingly makes, uses, or causes to be made or used
 2192 a false record or statement material to an obligation to pay or
 2193 transmit money or property to the state, or knowingly conceals
 2194 or knowingly and improperly avoids or decreases an obligation to
 2195 pay or transmit money or property to the state

2196
 2197 is liable to the state for a civil penalty of not less than
 2198 \$5,500 and not more than \$11,000 and for treble the amount of
 2199 damages the state sustains because of the act of that person.

2200 Section 44. Subsection (1) of section 68.083, Florida
 2201 Statutes, is amended to read:

2202 68.083 Civil actions for false claims.—

2203 (1) The department may diligently investigate a violation
 2204 under s. 68.082. If the department finds that a person has
 2205 violated or is violating s. 68.082, the department may bring a
 2206 civil action under the Florida False Claims Act against the
 2207 person. The Department of Financial Services may bring a civil

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2208 action under this section if the action arises from an
 2209 investigation by that department and the Department of Legal
 2210 Affairs has not filed an action under this act. For a violation
 2211 of s. 68.082 regarding prohibited compensation paid from state
 2212 funds, the Department of Financial Services may bring a civil
 2213 action under this section if the action arises from an
 2214 investigation by that department concerning a violation of s.
 2215 215.425 by the state and the Department of Legal Affairs has not
 2216 filed an action under this act.

2217 Section 45. Subsection (5) of section 99.061, Florida
 2218 Statutes, is amended to read:

2219 99.061 Method of qualifying for nomination or election to
 2220 federal, state, county, or district office.—

2221 (5) At the time of qualifying for office, each candidate
 2222 for a constitutional office or an elected municipal office shall
 2223 file a full and public disclosure of financial interests
 2224 pursuant to s. 8, Art. II of the State Constitution, which must
 2225 be verified under oath or affirmation pursuant to s.
 2226 92.525(1)(a), and a candidate for any other office, ~~including~~
 2227 ~~local elective office,~~ shall file a statement of financial
 2228 interests pursuant to s. 112.3145.

2229 Section 46. Subsection (3) of section 218.503, Florida
 2230 Statutes, is amended to read:

2231 218.503 Determination of financial emergency.—

2232 (3) Upon notification that one or more of the conditions in
 2233 subsection (1) have occurred or will occur if action is not
 2234 taken to assist the local governmental entity or district school
 2235 board, the Governor or his or her designee shall contact the
 2236 local governmental entity or the Commissioner of Education or

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2237 his or her designee shall contact the district school board, as
 2238 appropriate, to determine what actions have been taken by the
 2239 local governmental entity or the district school board to
 2240 resolve or prevent the condition. The information requested must
 2241 be provided within 45 days after the date of the request. If the
 2242 local governmental entity or the district school board does not
 2243 comply with the request, the Governor or his or her designee or
 2244 the Commissioner of Education or his or her designee shall
 2245 notify ~~the members of~~ the Legislative Auditing Committee, which
 2246 ~~he~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The
 2247 Governor or the Commissioner of Education, as appropriate, shall
 2248 determine whether the local governmental entity or the district
 2249 school board needs state assistance to resolve or prevent the
 2250 condition. If state assistance is needed, the local governmental
 2251 entity or district school board is considered to be in a state
 2252 of financial emergency. The Governor or the Commissioner of
 2253 Education, as appropriate, has the authority to implement
 2254 measures as set forth in ss. 218.50-218.504 to assist the local
 2255 governmental entity or district school board in resolving the
 2256 financial emergency. Such measures may include, but are not
 2257 limited to:

2258 (a) Requiring approval of the local governmental entity's
 2259 budget by the Governor or approval of the district school
 2260 board's budget by the Commissioner of Education.

2261 (b) Authorizing a state loan to a local governmental entity
 2262 and providing for repayment of same.

2263 (c) Prohibiting a local governmental entity or district
 2264 school board from issuing bonds, notes, certificates of
 2265 indebtedness, or any other form of debt until such time as it is

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2266 no longer subject to this section.

2267 (d) Making such inspections and reviews of records,
2268 information, reports, and assets of the local governmental
2269 entity or district school board as are needed. The appropriate
2270 local officials shall cooperate in such inspections and reviews.

2271 (e) Consulting with officials and auditors of the local
2272 governmental entity or the district school board and the
2273 appropriate state officials regarding any steps necessary to
2274 bring the books of account, accounting systems, financial
2275 procedures, and reports into compliance with state requirements.

2276 (f) Providing technical assistance to the local
2277 governmental entity or the district school board.

2278 (g)1. Establishing a financial emergency board to oversee
2279 the activities of the local governmental entity or the district
2280 school board. If a financial emergency board is established for
2281 a local governmental entity, the Governor shall appoint board
2282 members and select a chair. If a financial emergency board is
2283 established for a district school board, the State Board of
2284 Education shall appoint board members and select a chair. The
2285 financial emergency board shall adopt such rules as are
2286 necessary for conducting board business. The board may:

2287 a. Make such reviews of records, reports, and assets of the
2288 local governmental entity or the district school board as are
2289 needed.

2290 b. Consult with officials and auditors of the local
2291 governmental entity or the district school board and the
2292 appropriate state officials regarding any steps necessary to
2293 bring the books of account, accounting systems, financial
2294 procedures, and reports of the local governmental entity or the

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2295 district school board into compliance with state requirements.

2296 c. Review the operations, management, efficiency,
2297 productivity, and financing of functions and operations of the
2298 local governmental entity or the district school board.

2299 d. Consult with other governmental entities for the
2300 consolidation of all administrative direction and support
2301 services, including, but not limited to, services for asset
2302 sales, economic and community development, building inspections,
2303 parks and recreation, facilities management, engineering and
2304 construction, insurance coverage, risk management, planning and
2305 zoning, information systems, fleet management, and purchasing.

2306 2. The recommendations and reports made by the financial
2307 emergency board must be submitted to the Governor for local
2308 governmental entities or to the Commissioner of Education and
2309 the State Board of Education for district school boards for
2310 appropriate action.

2311 (h) Requiring and approving a plan, to be prepared by
2312 officials of the local governmental entity or the district
2313 school board in consultation with the appropriate state
2314 officials, prescribing actions that will cause the local
2315 governmental entity or district school board to no longer be
2316 subject to this section. The plan must include, but need not be
2317 limited to:

2318 1. Provision for payment in full of obligations outlined in
2319 subsection (1), designated as priority items, which are
2320 currently due or will come due.

2321 2. Establishment of priority budgeting or zero-based
2322 budgeting in order to eliminate items that are not affordable.

2323 3. The prohibition of a level of operations which can be

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2324 sustained only with nonrecurring revenues.
 2325 4. Provisions implementing the consolidation, sourcing, or
 2326 discontinuance of all administrative direction and support
 2327 services, including, but not limited to, services for asset
 2328 sales, economic and community development, building inspections,
 2329 parks and recreation, facilities management, engineering and
 2330 construction, insurance coverage, risk management, planning and
 2331 zoning, information systems, fleet management, and purchasing.
 2332 Section 47. Paragraph (g) of subsection (3) of section
 2333 921.0022, Florida Statutes, is amended to read:
 2334 921.0022 Criminal Punishment Code; offense severity ranking
 2335 chart.—
 2336 (3) OFFENSE SEVERITY RANKING CHART
 2337 (g) LEVEL 7
 2338

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton

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disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

2342 327.35(3)(c)2. 3rd Vessel BUI resulting in serious bodily injury.

2343 402.319(2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

2344 409.920 3rd Medicaid provider fraud; (2)(b)1.a. \$10,000 or less.

2345 409.920 2nd Medicaid provider fraud; (2)(b)1.b. more than \$10,000, but less than \$50,000.

2346 456.065(2) 3rd Practicing a health care profession without a license.

2347 456.065(2) 2nd Practicing a health care

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				profession without a license which results in serious bodily injury.
2348	458.327(1)	3rd		Practicing medicine without a license.
2349	459.013(1)	3rd		Practicing osteopathic medicine without a license.
2350	460.411(1)	3rd		Practicing chiropractic medicine without a license.
2351	461.012(1)	3rd		Practicing podiatric medicine without a license.
2352	462.17	3rd		Practicing naturopathy without a license.
2353	463.015(1)	3rd		Practicing optometry without a license.
2354	464.016(1)	3rd		Practicing nursing without a license.
2355	465.015(2)	3rd		Practicing pharmacy

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				without a license.
2356	466.026(1)	3rd		Practicing dentistry or dental hygiene without a license.
2357	467.201	3rd		Practicing midwifery without a license.
2358	468.366	3rd		Delivering respiratory care services without a license.
2359	483.828(1)	3rd		Practicing as clinical laboratory personnel without a license.
2360	483.901(9)	3rd		Practicing medical physics without a license.
2361	484.013(1)(c)	3rd		Preparing or dispensing optical devices without a prescription.
2362	484.053	3rd		Dispensing hearing aids without a license.
2363	494.0018(2)	1st		Conviction of any violation of chapter 494

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	582-02059-16		2016686c1		in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
2364	560.123(8)(b)1.	3rd			Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
2365	560.125(5)(a)	3rd			Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
2366	655.50(10)(b)1.	3rd			Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
2367	775.21(10)(a)	3rd			Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

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2368	775.21(10)(b)	3rd			Sexual predator working where children regularly congregate.
2369	775.21(10)(g)	3rd			Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
2370	782.051(3)	2nd			Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
2371	782.07(1)	2nd			Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
2372	782.071	2nd			Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
2373					

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	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
2374	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
2375	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
2376	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
2377	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
2378	784.048(7)	3rd	Aggravated stalking; violation of court order.
2379	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
2380	784.074(1)(a)	1st	Aggravated battery on sexually violent predators

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			facility staff.
2381	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
2382	784.081(1)	1st	Aggravated battery on specified official or employee.
2383	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
2384	784.083(1)	1st	Aggravated battery on code inspector.
2385	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
2386	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
2387	790.07(4)	1st	Specified weapons

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	582-02059-16		2016686c1	violation subsequent to previous conviction of s. 790.07(1) or (2).
2388	790.16(1)	1st		Discharge of a machine gun under specified circumstances.
2389	790.165(2)	2nd		Manufacture, sell, possess, or deliver hoax bomb.
2390	790.165(3)	2nd		Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
2391	790.166(3)	2nd		Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
2392	790.166(4)	2nd		Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

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2393	790.23	1st, PBL		Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
2394	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
2395	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.
2396	796.05(1)	1st		Live on earnings of a prostitute; 3rd and subsequent offense.
2397	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
2398	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but

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2399	800.04(5)(e)	1st		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
2400	806.01(2)	2nd		Maliciously damage structure by fire or explosive.
2401	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.
2402	810.02(3)(b)	2nd		Burglary of unoccupied dwelling; unarmed; no assault or battery.
2403	810.02(3)(d)	2nd		Burglary of occupied conveyance; unarmed; no assault or battery.
2404	810.02(3)(e)	2nd		Burglary of authorized

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2405	812.014(2)(a)1.	1st		Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
2406	812.014(2)(b)2.	2nd		Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
2407	812.014(2)(b)3.	2nd		Property stolen, emergency medical equipment; 2nd degree grand theft.
2408	812.014(2)(b)4.	2nd		Property stolen, law enforcement equipment from authorized emergency vehicle.
2409	812.0145(2)(a)	1st		Theft from person 65 years of age or older; \$50,000 or more.
2410				

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	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
2411	812.131(2)(a)	2nd	Robbery by sudden snatching.
2412	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
2413	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
2414	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
2415	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
2416	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
2417			

	582-02059-16		2016686c1
	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
2418	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
2419	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
2420	825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
2421	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
2422			

	Bill Number	Version	Description
	582-02059-16	2016686c1	
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
2423	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
2424	838.015	2nd	Bribery.
2425	838.016	2nd	Unlawful compensation or reward for official behavior.
2426	838.021(3)(a)	2nd	Unlawful harm to a public servant.
2427	838.22	2nd	<u>Unlawful influence of the competitive solicitation process</u> Bid tampering .
2428	843.0855(2)	3rd	Impersonation of a public officer or employee.
2429	843.0855(3)	3rd	Unlawful simulation of legal process.
2430			

Page 95 of 104

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

	Bill Number	Version	Description
	582-02059-16	2016686c1	
	843.0855(4)	3rd	Intimidation of a public officer or employee.
2431	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
2432	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
2433	872.06	2nd	Abuse of a dead human body.
2434	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
2435	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
2436	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other

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

	582-02059-16		2016686c1	drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
2437	893.13(1) (e)1.	1st		Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4., within 1,000 feet of property used for religious services or a specified business site.
2438	893.13(4) (a)	1st		Deliver to minor cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4. drugs).
2439	893.135(1) (a)1.	1st		Trafficking in cannabis,

	582-02059-16		2016686c1	more than 25 lbs., less than 2,000 lbs.
2440	893.135 (1) (b)1.a.	1st		Trafficking in cocaine, more than 28 grams, less than 200 grams.
2441	893.135 (1) (c)1.a.	1st		Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
2442	893.135 (1) (c)2.a.	1st		Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
2443	893.135 (1) (c)2.b.	1st		Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
2444	893.135 (1) (c)3.a.	1st		Trafficking in oxycodone, 7 grams or more, less than 14 grams.
2445	893.135 (1) (c)3.b.	1st		Trafficking in oxycodone, 14 grams or more, less than 25 grams.
2446	893.135(1) (d)1.	1st		Trafficking in phencyclidine, more than

	582-02059-16		2016686c1	
			28 grams, less than 200 grams.	
2447	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	
2448	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	
2449	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
2450	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	
2451	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.	
2452	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200	

	582-02059-16		2016686c1	
			grams.	
2453	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.	
2454	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.	
2455	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.	
2456	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.	
2457	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.	

	582-02059-16		2016686c1
2458	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
2459	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
2460	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2461	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
2462	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
2463	944.607 (12)	3rd	Failure to report or providing false information about a sexual

Page 101 of 104

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

	582-02059-16		2016686c1
			offender; harbor or conceal a sexual offender.
2464	944.607 (13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2465	985.4815 (10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
2466	985.4815 (12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
2467	985.4815 (13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2468			
2469			Section 48. Subsection (2) of section 1002.455, Florida
2470			Statutes, is amended to read:

Page 102 of 104

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

582-02059-16 2016686c1

2471 1002.455 Student eligibility for K-12 virtual instruction.-

2472 (2) A student is eligible to participate in virtual
2473 instruction if:

2474 (a) The student spent the prior school year in attendance
2475 at a public school in the state and was enrolled and reported by
2476 the school district for funding during October and February for
2477 purposes of the Florida Education Finance Program surveys;

2478 (b) The student is a dependent child of a member of the
2479 United States Armed Forces who was transferred within the last
2480 12 months to this state from another state or from a foreign
2481 country pursuant to a permanent change of station order;

2482 (c) The student was enrolled during the prior school year
2483 in a virtual instruction program under s. 1002.45 or a full-time
2484 Florida Virtual School program under s. 1002.37(9)(a) ~~s.~~
2485 ~~1002.37(8)(a)~~;

2486 (d) The student has a sibling who is currently enrolled in
2487 a virtual instruction program and the sibling was enrolled in
2488 that program at the end of the prior school year;

2489 (e) The student is eligible to enter kindergarten or first
2490 grade; or

2491 (f) The student is eligible to enter grades 2 through 5 and
2492 is enrolled full-time in a school district virtual instruction
2493 program, virtual charter school, or the Florida Virtual School.

2494 Section 49. For the purpose of incorporating the amendment
2495 made by this act to section 838.014, Florida Statutes, in a
2496 reference thereto, subsection (11) of section 817.568, Florida
2497 Statutes, is reenacted to read:

2498 817.568 Criminal use of personal identification
2499 information.-

582-02059-16 2016686c1

2500 (11) A person who willfully and without authorization
2501 fraudulently uses personal identification information concerning
2502 an individual who is 60 years of age or older; a disabled adult
2503 as defined in s. 825.101; a public servant as defined in s.
2504 838.014; a veteran as defined in s. 1.01; a first responder as
2505 defined in s. 125.01045; an individual who is employed by the
2506 State of Florida; or an individual who is employed by the
2507 Federal Government without first obtaining the consent of that
2508 individual commits a felony of the second degree, punishable as
2509 provided in s. 775.082, s. 775.083, or s. 775.084.

2510 Section 50. The Legislature finds that a proper and
2511 legitimate state purpose is served when internal controls are
2512 established to prevent and detect fraud, waste, and abuse and to
2513 safeguard and account for government funds and property.
2514 Therefore, the Legislature determines and declares that this act
2515 fulfills an important state interest.

2516 Section 51. This act shall take effect October 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Education, *Chair*
Appropriations
Education Pre-K - 12
Ethics and Elections
Health Policy
Higher Education
Rules

SENATOR DON GAETZ
1st District

Committee Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 27, 2016

I respectfully request that Senate Bill 686, Government Accountability, be placed on the agenda for the Committee on Governmental Oversight and Accountability at your convenience. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Don Gaetz", written in a cursive style.

Senator Don Gaetz

REPLY TO:

- 4300 Legendary Drive, Suite 230, Destin, FL 32541 (850) 897-5747 FAX: (888) 263-2259
- 420 Senate Office Building, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5001
- 5230 West U.S. Highway 98, Administration Building, 2nd Floor, Panama City, FL 32401 (850) 747-5856

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/14
Meeting Date

684
Bill Number (if applicable)

933068
Amendment Barcode (if applicable)

Topic Governmental Accountability

Name Wiley Horton

Job Title Member, FEA Comm'n on Ethics

Address 324 John Kuyper Rd
Street

Phone 850) 488-7864

TALLA, FL 32303
City State Zip

Email wiley@penningslaw.com

Speaking: For Against Information

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

Representing FEA Commission on Ethics

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 Governmental Oversight and Accountability

BILL: CS/SB 478

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Joyner

SUBJECT: State Employee Salaries

DATE: February 2, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 478 authorizes, effective July 1, 2016, a three percent increase on each eligible state employee’s base rate of pay as of June 30, 2016.

To be eligible for the pay increase, the “state employee” must:

- Hold a salaried position and work at least 20 hours per week; or
- Be paid from regular salary appropriations for 8 months’ employment.

State officers, including the Governor and Cabinet, judges, and various other positions whose annual salaries are fixed by law, are not eligible for the pay increase. Employees paid from the other-personal-services appropriations category (typically referred to as OPS employees) are not eligible for the pay increase.

The bill directs the Legislature to appropriate funds necessary to implement the pay increase.

The fiscal impact of this pay increase is estimated to be, on an annual basis, roughly \$172 million from the General Revenue Fund and \$91 million from various trust funds.

II. Present Situation:

As of June 30, 2014, the state workforce had approximately 159,300 positions. These positions participate in various pay plans. The table below shows the pay plans, the established positions,

and the reported average salaries.¹ For the most part, these employees are paid from the salaries and benefits appropriation categories in the General Appropriations Act.

Pay Plan	Positions	Average Salary
Career Service	80,564	\$35,564
Selected Exempt Service	17,007	\$55,098
Senior Management Service	582	\$110,853
Lottery	421	
Justice Administration System	10,245	
State Courts System	3,209	
Legislative Staff	1,543	
Executive Office of the Governor	286	
Florida School for the Deaf and Blind	231	
Florida National Guard	47	
State Universities	44,126	
TOTAL	159,360	

“Base rate of pay” is an employee’s salary excluding any approved pay additive, incentive pay, discretionary or non-discretionary bonus payment, and other legislatively approved agency specific pay additive.²

Employees paid from the “other personal services” appropriation categories are referred to as OPS employees. These employees typically are temporary employees. These employees are paid on an hourly basis and participate in Medicare and a FICA Alternative Plan in lieu of social security.³ During the 2013-14 fiscal year, there were approximately 8,900 individuals employed as OPS each month by state agencies⁴ (not including the judicial and legislative branches, the universities, the Department of Lottery and Executive Office of the Governor, the Justice Administration Commission, the Florida School for the Deaf and Blind, and the Florida National Guard).

III. Effect of Proposed Changes:

This bill authorizes, effective July 1, 2016, a three percent increase on each eligible state employee’s base rate of pay as of June 30, 2016.

The term “state employee” is defined to mean an employee of any branch of state government who holds a salaried position and who is expected to work at least 20 hours per week. This definition does not appear to include state officers, including the Governor and Cabinet, judges, and various other positions whose annual salaries are fixed by law.

¹ Fiscal Year 2013-14 Annual Workforce Report, pp.15 and 18. <http://www.dms.myflorida.com/content/download/113500/629140/file/FY%2013-14%20Annual%20Workforce%20Report.pdf> (last visited on January 20, 2016).

² Ch. 60L-32.0001(1), F.A.C.

³ Fiscal Year 2013-14 Annual Workforce Report, p 17. <http://www.dms.myflorida.com/content/download/113500/629140/file/FY%2013-14%20Annual%20Workforce%20Report.pdf> (last visited on January 20, 2016).

⁴ Id.

“State employee” also includes employees paid from regular salary appropriations for 8 months’ employment. This cohort of employees are not required to work 20 hours per week to be eligible for the pay increase.

The term “state employees” does not include employees paid from the other-personal-services appropriations category.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The annual costs associated with a three percent increase for employees within the various pay plans are noted in the table below. These costs include both the increase to the employees’ salaries as well as the other employer-paid contributions associated with federal employment taxes, FRS contributions, and contributions for disability insurance. These amounts noted in the table below may overstate the fiscal impact of the legislation because the amounts include pay adjustments for vacant positions as well as positions filled by employees working less than 20 hours per week

Pay Plans	General Revenue	Trust Funds	Total
Career Service	\$54,552,011	\$60,661,462	\$115,213,473
Selected Exempt Service	9,953,522	23,416,331	33,369,853
Senior Management Service	877,927	1,637,118	2,515,045
Lottery	0	629,194	629,194

Justice Administration System	15,381,558	2,990,051	18,371,609
State Courts System	4,092,836	1,401,554	5,494,390
Legislative Staff	3,010,872	0	3,010,872
Executive Office of the Governor	301,468	158,007	459,475
Florida School for the Deaf and Blind	403,439	22,399	425,838
Florida National Guard	44,279	37,838	82,117
State Universities	82,968,933	91,369	83,060,302
TOTAL	\$171,586,845	\$91,045,323	\$262,632,168

VI. Technical Deficiencies:

There are two definitions for state employee. The first definition requires the employee to hold a salaried position in state government and work (or be expected to work) at least 20 hours per week to be eligible. This definition covers those employees in state agencies, the universities and the Florida School for the Deaf and Blind who work at least 20 hours per week.

The second definition only requires the employee to be paid from “regular salary appropriations for 8 months’ employment.” Eligibility under this definition is not limited to salaried position or by a threshold work requirement. It is unclear what cohort of employees this definition is intended to make eligible for the pay increase.

If this definition is intended to expand the pool of eligible employees to include those who do not work at least 20 hours per work but are paid from “regular salary appropriations”, part-time employees (working less than 20 hours of work) could be eligible. If this is the intent, a modification to the first definition to remove or reduce the threshold work requirement of 20 hours per week may be appropriate to clarify the eligibility of part-time employees.

If this definition is intended to expand the pool of eligible employees to include certain university personnel who work under 8 month contracts, this definition needs to be revised because the funding for universities in the General Appropriations Act is typically not made from “regular salary appropriations” but rather from an “Aid to Local Governments –Grants and Aids – Education and General Activities” category.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on February 1, 2016:

The CS changed the definition of “state employee” to reduce the number of hours an employee is expected to work to be eligible for the pay adjustment from 30 hours per

week to 20 hours per week. With this change, more state employees will be eligible to receive the competitive pay adjustment authorized by this act.

B. Amendments:

None.

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



308680

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Bullard) recommended the following:

Senate Amendment

Delete line 15
and insert:
at least 20 hours per week or employees paid from regular salary

By Senator Joyner

19-00350-16

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A bill to be entitled

An act relating to state employee salaries; defining the term "state employee"; requiring a competitive pay adjustment for state employees as of a specified date; requiring an appropriation; providing an effective date.

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

Section 1. Competitive pay adjustment for state employees.-

(1) For purposes of this section, the term "state employee" means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 hours per week or employees paid from regular salary appropriations for 8 months' employment. The term does not include employees who are paid from other-personal-services funds.

(2) Effective July 1, 2016, each state employee shall receive a competitive pay adjustment increase of 3 percent on the employee's June 30, 2016, base rate of pay.

(3) The Legislature shall appropriate funds necessary to implement this section.

Section 2. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER

Democratic Leader
19th District

October 21, 2015

Senator Jeremy Ring, Chair
Senate Committee on Governmental Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chair:

This is to request that Senate Bill 478, State Employee Salaries, be placed on the agenda for the Committee on Governmental Oversight and Accountability. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

478

Meeting Date

Bill Number (if applicable)

Topic State Employee Salaries

Amendment Barcode (if applicable)

Name Blair Payne

Job Title Public Defender, 3rd Circuit

Address 173 N.E. Hernando Avenue, Suite 115

Phone 386.362.7235

Street

Lake City

Florida

32055

Email mbp@pd3.coj.net

City

State

Zip

Speaking: For Against Information

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

Representing Florida Public Defender Association, 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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2/11/2014

Meeting Date

478

Bill Number (if applicable)

Topic State Employee Salaries

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Police Benevolent 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

7-1-14
Meeting Date

SB 978
Bill Number (if applicable)

Topic STATE EMPLOYEE SALARIES

Amendment Barcode (if applicable)

Name BILL CERUONE

Job Title STATE ATTORNEY & CIR

Address 120 W UNIVERSITY
Street

Phone 352-374-3686

Gainesville FL 32601
City State Zip

Email ceruonew@flbar.org

Speaking: For Against Information

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

Representing FLA PROSECUTOR ATTYS 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

478
Bill Number (if applicable)

Topic State Employee Salaries

Amendment Barcode (if applicable)

Name Judge Olin Shinholser

Job Title Circuit Judge, 10th Judicial Circuit

Address 403 S. Commerce St.
Street

Phone 863-402-6565

Sebring FL 33870
City State Zip

Email _____

Speaking: For Against Information

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

Representing Conference of Circuit Judges

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/01/16

Meeting Date

#478

Bill Number (if applicable)

Topic Public Sector wages

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone 850-224-6926

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida AFL-CIO

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

SB 478

Bill Number (if applicable)

Topic State Employee Pay Raises

Amendment Barcode (if applicable)

Name DOUG WATLER

Job Title Firefighter

Address 345 W MADISON ST

Phone 561-488-1403

Tallahassee, FL

Email WATFORV@YALOO.COM

City

State

Zip

Speaking: For Against Information

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

Representing Florida Professional Firefighters

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016
Meeting Date

Topic _____

Bill Number 928
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/2011)

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 Governmental Oversight and Accountability

BILL: SB 724

INTRODUCER: Senator Joyner

SUBJECT: Public Records

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	McVaney	GO	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 724 makes the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including attorney fees, if a court finds the agency or custodian:

- Unlawfully refused to permit a public record to be inspected or copied; and
- Knowingly asserted a claim or defense that was not supported by facts.

The bill becomes law on July 1, 2016.

II. Present Situation:

Public Records

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

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

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

Custodian of Public Records

Pursuant to s. 119.011(5), F.S., a custodian of public records is “the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.”

A custodian of public records is required to perform statutorily required duties such as maintaining records in fireproof vaults, repairing records and comply with retention schedules set by the Department of State.⁸ In addition, s. 119.07, F.S., provides that public records custodian has additional duties which include:

- Acknowledging a public records request and responding to those requests in good faith;⁹
- Producing records after redacting exempt information or provide the statutory citation for an exemption if the entire document is exempt;¹⁰
- Maintaining records which are the subject of public records litigation;¹¹
- If public records are provided by remote electronic means, a records custodian must ensure that those records are secure;¹²
- Provide supervision if someone wishes to photograph records;¹³ and
- Provide certified copies of public records upon payment of a fee.¹⁴

Public records custodians are also responsible for supervising the production of records by all agency personnel. Section 119.07(1)(a), F.S., provides that that “[e]very person who has custody of a public record shall permit the record to be inspected and copied ... at any reasonable time, under reasonable conditions, and under reasonable supervision by the custodian of the public records.”

⁵ Section 119.01(1), F.S.

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

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

⁸ Section 119.021, F.S.

⁹ Section 119.07(1)(c), F.S.

¹⁰ Section 119.07(1)(d)-(f), F.S.

¹¹ Section 119.07(1)(g)-(i), F.S.

¹² Section 119.07(2), F.S.

¹³ Section 119.07(3), F.S.

¹⁴ Section 119.07(4), F.S.

An agency may not place any conditions upon responding to a public records request other than what is specifically laid out in the law. For example, an agency may not require a person seeking a public record reveal his or her background.¹⁵ Nor may an agency require an individual to put his or her request in writing as a condition of production.¹⁶ In addition, a request must be honored whether it is made by phone, in writing, or in person.¹⁷

Enforcing Public Records Laws and Attorney Fees

Section 119.11, F.S., provides that a court may award a plaintiff attorney fees if a plaintiff files a civil suit to enforce the provisions of ch. 119, F.S., and the court determines that the agency refused to permit inspection or copying of a public record.

Whenever an action is filed to enforce the provisions of ch. 119, F.S., the court must set an immediate hearing, giving the case priority over other pending cases.¹⁸ If the court finds that the agency unlawfully refused access to a public record, the court will order the public agency to pay the plaintiff's costs and attorney fees.¹⁹ A delay in turning over public records is considered an unlawful refusal, and a court will award attorney fees even if the delay was not willful or was due to incompetence.²⁰

Enforcement lawsuits are composed of two parts: the request for production of a record and the assessment of fees. The assessment of attorney fees is a legal consequence independent of the public records request.²¹ Once an enforcement action has been filed, a court will require a public agency to pay the plaintiff's attorney fees even after the agency has produced the records.²²

The public policy behind awarding attorney fees is to encourage people to pursue their right to access government records after an initial denial.²³ In addition, granting attorney fees also makes it more likely that public agencies will comply with public records laws and deters improper denials of requests.²⁴

Personal Liability for Violating the Public Records Act

Violation of the Public Records Act may result in civil and criminal liability pursuant to s. 119.10, F.S. A public officer who violates any provision of the Public Records Act commits a

¹⁵ *Bevan v. Wanichka*, 505 So. 2d 1116, 1118 (Fla. 2d DCA Fla. 1987).

¹⁶ *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302 n.1 (Fla. 3d DCA 2001). Op. Att'y Gen. Informal Opinion dated December 16, 2003.

¹⁷ Op. Att'y Gen. Fla. 80-57 (1980).

¹⁸ Section 119.11(1), F.S.

¹⁹ Section 119.12, F.S.

²⁰ *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 225 (Fla. 5th DCA 1996).

²¹ *Mazer v. Orange County*, 811 So. 2d 857, 859 (Fla. 5th DCA 2002). *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014).

²² *Mazer v. Orange County*, 811 So. 2d 857, 860 (Fla. 5th DCA 2002). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 224 (Fla. 5th DCA 1996). *Althouse v. Palm Beach County Sheriff's Office*, 92 So. 3d 899, 902 (Fla. 4th DCA 2012). Attorney fee provisions for violation of open meetings laws can be found in s. 286.011(4), F.S.

²³ *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So. 2d 27, 29 (Fla. 1993).

²⁴ *Id.*

civil infraction and may be fined up to \$500.²⁵ A public officer who violates a provision of s. 119.071(1), F.S., which addresses the rights of the public to inspect and copy public records, is may be suspended, removed from office or impeached. In addition a public officer who violates s. 119.07(1), F.S., commits a first degree misdemeanor.

The punishment for a first degree misdemeanor includes imprisonment for up to one year²⁶ and a \$1000 fine.²⁷ A court may sentence an individual to pay a fine in addition to or in lieu of imprisonment.²⁸

Section 119.10, F.S., also provides that any person, not just public officers, can be held liable for violating the Public Records Act. Section 119.10(2), F.S. states that any person who willfully and knowingly violates any provision of the Public Records Act commits a first degree misdemeanor. In addition, any person who willfully and knowingly violates s. 119.105, F.S., commits a third degree felony. Section 119.105, F.S., provides confidential or exempt information contained in police reports may not be used for commercial solicitation of victims or their relatives of crimes or accidents.

A third degree felony is punishable by imprisonment for up to five years²⁹ or a fine of up to \$5000.³⁰ A court may sentence an individual to pay the fine in addition to or in lieu of imprisonment.³¹

Limitations of Liability of Governmental Employees

Governmental employees cannot be held personally liable for tort action, or named as defendants “in any action for any injury or damage suffered as a result of any act, event or omission of action in the scope of her or his employment or function” unless the employee acted in bad faith, malicious purpose or with wanton and willful disregard of human rights, safety or property, pursuant to s. 768.28(9)(a), F.S. Instead, a plaintiff must sue the employing governmental entity.³²

III. Effect of Proposed Changes:

The bill allows a court to hold the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including reasonable attorney fees. Attorney fees may be awarded if the following conditions are met:

- The agency or the custodian unlawfully refused to permit a public record to be inspected or copied; and
- The agency or the custodian knowingly asserted a claim or defense which the agency or the custodian knew was not supported by material facts.

²⁵ Section 119.10(1)(a), F.S.

²⁶ Section 775.082(4)(a), F.S.

²⁷ Section 775.083(1)(d), F.S.

²⁸ Section 775.083(1), F.S.

²⁹ Section 775.082(3)(e), F.S.

³⁰ Section 775.083(1)(c), F.S.

³¹ Section 775.083(1), F.S.

³² Section 768.28(9)(a), F.S.

The bill will take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Unknown.

C. Government Sector Impact:

Unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Usually, an employing agency will defend the agency (and therefore the employee or officer) in a public records case and the associated attorney fee lawsuit. This bill may create a situation where the interest of the agency and the interests of the public records custodian may conflict, and independent attorneys may be required. If independent attorneys are required, it is not clear who will pay those costs.

VIII. Statutes Affected:

This bill substantially amends section 119.12 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Joyner

19-00715-16

2016724__

1 A bill to be entitled
2 An act relating to public records; amending s. 119.12,
3 F.S.; authorizing a court to hold a custodian of a
4 public record personally liable for the reasonable
5 costs of enforcement, including attorney fees, in a
6 civil action to enforce ch. 119, F.S., if certain
7 conditions exist; providing an effective date.
8

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

10

11 Section 1. Section 119.12, Florida Statutes, is amended to
12 read:

13

119.12 ~~Attorney~~ Attorney's fees.—

14

15 (1) If a civil action is filed against an agency to enforce
16 the provisions of this chapter and if the court determines that
17 the ~~such~~ agency unlawfully refused to permit a public record to
18 be inspected or copied, the court shall assess and award,
19 against ~~such agency the agency responsible,~~ the reasonable costs
20 of enforcement, including reasonable ~~attorney~~ attorney's fees.

21

22 (2) The court, on motion by the party who filed the civil
23 action or in its own discretion, may hold the custodian of the
24 public record that is the subject matter of such civil action
25 personally liable for the reasonable costs of enforcement,
26 including reasonable attorney fees, if the court finds that:

27

28 (a) The agency or the custodian of the public record
29 unlawfully refused to permit a public record to be inspected or
copied; and

28

29 (b) The agency or the custodian of the public record has
asserted any claim or defense during the pendency of the civil

Page 1 of 2

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

19-00715-16

2016724__

30 action which the agency or the custodian knew was not supported
31 by the material facts necessary to establish such a claim or
32 defense.

33

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER

Democratic Leader
19th District

November 18, 2015

Senator Jeremy Ring, Chair
Senate Committee on Governmental Oversight and Accountability
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chair:

This is to request that Senate Bill 724, Public Records, be placed on the agenda for the Committee on Governmental Oversight and Accountability. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/16
Meeting Date

SB 724
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Bronough
Street

Phone 222 9684

Tall FL 32301
City State Zip

Email Kconn@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

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.

3.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number 724

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

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 Governmental Oversight and Accountability

BILL: CS/SB 762

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Abruzzo

SUBJECT: Public Records/Involuntary Assessment and Stabilization Petition

DATE: February 3, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.	Kim	McVaney	GO	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 762 amends s. 397.6815, F.S., to create a public records exemption for records related to the involuntary assessment and stabilization of a person impaired due to substance abuse under the Marchman Act. The exemption makes confidential and exempt from public disclosure requirements petitions, court orders, and related records, as well as personal identifying information on a docket, relating to Marchman Act Proceedings.

The confidential and exempt information may be released:

- With the approval of the respondent, or other specified individuals, if necessary to ensure continuity of the respondent's health care.
- Upon the court's order for good cause.
- To the Department of Corrections if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

The bill includes a public necessity statement and provides for retroactive application of the public records exemption.

Because this bill creates a new public records exemption, a two-thirds vote by both chambers is required for passage.

The bill has an effective date of July 1, 2016.

II. Present Situation:

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

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “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.”

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

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

The Marchman Act

Section 397.301, F.S., creates the Hal. S. Marchman Alcohol and Other Drug Services Act (the “Marchman Act”). This act was created by the Legislature to provide assistance to substance abuse impaired persons through health and rehabilitative services. Currently, s. 397.6811, F.S., allows a petition for involuntary assessment and stabilization to be filed by a person’s spouse or guardian, any relative, a private practitioner, the director of a licensed service provider or any three adults who have personal knowledge of the person’s substance abuse impairment.

III. Effect of Proposed Changes:

Section 1 amends s. 397.6815, F.S., to provide that petitions for involuntary assessment and stabilization, court orders, and related documents filed with the court under this part are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. In addition, the bill makes personal identifying information on a docket held pursuant to the Marchman Act confidential and exempt from public disclosure. Petitions, orders, related documents and personal identifying information must be released under the following circumstances:

- With the approval of the respondent, or other specified individuals, if necessary to ensure continuity of the respondent’s health care.
- Upon the court’s order for good cause.
- To the Department of Corrections if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

The bill also provides that a copy of the petition and notice of hearing may be released to a guardian advocate,¹⁵ which current law does not permit.

The bill provides for retroactive application of the public records exemption.¹⁶

important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ A guardian advocate is a person who has been appointed by a circuit court for a person with developmental disabilities if that person lacks some decision making skills necessary for his or her care. In addition, a guardian advocate may also be appointed by voluntary petition. Section 393.12(2), F.S.

¹⁶ The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively. *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d 373 (Fla.2001).

Section 2 provides a statement of public necessary as required by the State Constitution.¹⁷ The public necessity statement provides the justification for making petitions, orders, related records, and personal identifying information on a docket confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution. The bill states that the news media have published details about people's struggles with substance abuse after obtaining Marchman Act records. The bill provides that the exemption is necessary because it protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation. Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek or comply with treatment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because clerks of the court may incur additional costs relating to redacting information made confidential and exempt under this bill. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

B. Public Records/Open Meetings Issues:

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The State Constitution requires the exemption to be no broader than necessary to accomplish the stated purpose of the law. The exemption is no broader than the public necessity statement. The public necessity statement appears to support the public policy for the exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

¹⁷ Section 24(c), Art. I of the State Constitution.

C. **Government Sector Impact:**

Indeterminate. Clerks of court may incur additional costs associated with training court personnel and performing more redactions of personal identifying information from dockets. It is anticipated that these costs will be absorbed within the existing resources of the offices of the clerks of court.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 397.6815 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS by Governmental Oversight and Accountability on February 1, 2016:

The CS makes the following changes:

- Removes references to the Open Government in the Sunshine Review Act (OGSR), as the OGSR is not required for records held solely by the State Court System pursuant to s. 119.15(2)(b), F.S.;¹⁸
- Expands the exemption to include court orders, related records, and personal identifying information will include information about the proceedings; and
- Modifies and strengthens the public necessity statement to conform to the exemption.

B. **Amendments:**

None.

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

¹⁸ The Open Government Sunset Review Act, s. 119.15, F.S., prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions. The act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment, unless the exemption is continued by the Legislature.



886576

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Bullard) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 397.6815, Florida Statutes, is amended
to read:

397.6815 Involuntary assessment and stabilization;
exemption; procedure.-

(1) Petitions for involuntary assessment and stabilization,
court orders, and related records filed with or by the court



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11 under this part are confidential and exempt from s. 119.07(1)
12 and s. 24(a), Art. I of the State Constitution.

13 (2) Personal identifying information in a docket held under
14 this part is confidential and exempt from s. 119.07(1) and s.
15 24(a), Art. I of the State Constitution.

16 (3) Petitions, court orders, related documents and personal
17 identifying information shall be released, in addition to the
18 persons identified in paragraph (4) (a):

19 (a) To appropriate persons if necessary to ensure the
20 continuity of the respondent's health care, upon approval by the
21 respondent, the respondent's guardian, or, in the case of a
22 minor, by the respondent's parent, guardian, legal custodian, or
23 guardian advocate.

24 (b) To an agency or individual who has obtained a court
25 order finding good cause for releasing the petition, order,
26 related records or personal identifying information. In
27 determining whether there is good cause for disclosure, the
28 court shall weigh the need for the information to be disclosed
29 against the possible harm of disclosure to the respondent.

30 (c) To the Department of Corrections, without charge, upon
31 request if the respondent is committed or is to be returned to
32 the custody of the Department of Corrections from the Department
33 of Children and Families.

34 (4) Upon receipt and filing of the petition for the
35 involuntary assessment and stabilization of a substance abuse
36 impaired person by the clerk of the court, the court shall
37 ascertain whether the respondent is represented by an attorney,
38 and if not, whether, on the basis of the petition, an attorney
39 should be appointed; and shall:



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40 (a)~~(1)~~ Provide a copy of the petition and notice of hearing
41 to the respondent; the respondent's parent, guardian, ~~or~~ legal
42 custodian, or guardian advocate, in the case of a minor; the
43 respondent's attorney, ~~if known~~; the petitioner; the
44 respondent's spouse or guardian, if applicable; and such other
45 persons as the court may direct pursuant to paragraph (3) (b),
46 and have such petition and notice personally delivered to the
47 respondent if he or she is a minor. The court shall also issue a
48 summons to the person whose admission is sought and conduct a
49 hearing within 10 days; or

50 (b)~~(2)~~ Without the appointment of an attorney and, relying
51 solely on the contents of the petition, enter an ex parte order
52 authorizing the involuntary assessment and stabilization of the
53 respondent. The court may order a law enforcement officer or
54 other designated agent of the court to take the respondent into
55 custody and deliver him or her to the nearest appropriate
56 licensed service provider.

57 (5) This exemption shall be given retroactive application.

58 Section 2. The Legislature finds that it is a public
59 necessity that petitions for involuntary assessment and
60 stabilization of a person impaired by substance abuse, court
61 orders, and related records which are filed with or by a court
62 pursuant to chapter 397, Florida Statutes, and personal
63 identifying information in a court docket held pursuant to
64 chapter 397, Florida Statutes, be confidential and exempt from
65 disclosure under s. 119.07(1), Florida Statutes, and s. 24(a),
66 Article I of the State Constitution. The personal health of an
67 individual and his or her actual or alleged impairment by
68 substance abuse are intensely private matters. The media have



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69 obtained Marchman Act records and have published details about
70 people's struggles with substance abuse on the Internet. The
71 content of such a record or personal identifying information
72 should not be made public merely because the record or personal
73 identifying information is filed with or by a court or placed on
74 a docket. Making these records and identifying information
75 confidential and exempt from disclosure will protect information
76 of a sensitive personal nature, the release of which could cause
77 unwarranted damage to the reputation of an individual, as well
78 as his or her family. Publication of personal identifying
79 information on a physical or virtual docket, even if no other
80 record were published, would defeat the purpose of the
81 protection afforded by this exemption because a record of an
82 individual's substance abuse proceedings would be available to
83 the public. Further, the knowledge that sensitive personal
84 information is subject to disclosure could have a chilling
85 effect on the willingness of individuals to seek and comply with
86 substance abuse treatment services.

87 Section 3. This act shall take effect July 1, 2016.

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete everything before the enacting clause
92 and insert:

93 A bill to be entitled
94 An act relating to public records; amending s.
95 397.6815, F.S.; providing an exemption from public
96 records requirements for a petition for involuntary
97 assessment and stabilization of a substance abuse



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98 impaired person, court orders, and related records;
99 providing exceptions; providing retroactive
100 application; providing for future legislative review
101 and repeal of the exemption under the Open Government
102 Sunset Review Act; providing for release of a petition
103 to a guardian advocate; providing a statement of
104 public necessity; providing an effective date.

By Senator Abruzzo

25-00545-16

2016762__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 397.6815, F.S.; providing an exemption from public
 4 records requirements for a petition for involuntary
 5 assessment and stabilization of a substance abuse
 6 impaired person; providing exceptions; providing
 7 retroactive application; providing for future
 8 legislative review and repeal of the exemption under
 9 the Open Government Sunset Review Act; providing for
 10 release of a petition to a guardian advocate;
 11 providing a statement of public necessity; providing
 12 an effective date.

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

16 Section 1. Section 397.6815, Florida Statutes, is amended
 17 to read:

18 397.6815 Involuntary assessment and stabilization;
 19 exemption; procedure.-

20 (1) A petition for involuntary assessment and stabilization
 21 filed with the court under this part is confidential and exempt
 22 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 23 and shall be released, in addition to the persons identified in
 24 paragraph (2) (a):

25 (a) To appropriate persons if necessary to ensure the
 26 continuity of the respondent's health care, upon approval by the
 27 respondent, the respondent's guardian, or, in the case of a
 28 minor, by the respondent's parent, guardian, legal custodian, or
 29 guardian advocate.

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

25-00545-16

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30 (b) Upon court order for good cause. In determining whether
 31 there is good cause for disclosure, the court shall weigh the
 32 need for the information to be disclosed against the possible
 33 harm of disclosure to the respondent.

34 (c) To the Department of Corrections, without charge, upon
 35 request if the respondent is committed or is to be returned to
 36 the custody of the Department of Corrections from the Department
 37 of Children and Families.

38
 39 The exemption under this subsection applies to petitions filed
 40 with a court before, on, or after July 1, 2016. This subsection
 41 is subject to the Open Government Sunset Review Act in
 42 accordance with s. 119.15 and shall stand repealed on October 2,
 43 2021, unless reviewed and saved from repeal through reenactment
 44 by the Legislature.

45 (2) Upon receipt and filing of the petition for the
 46 involuntary assessment and stabilization of a substance abuse
 47 impaired person by the clerk of the court, the court shall
 48 ascertain whether the respondent is represented by an attorney,
 49 and if not, whether, on the basis of the petition, an attorney
 50 should be appointed; and shall:

51 (a) ~~(1)~~ Provide a copy of the petition and notice of hearing
 52 to the respondent; the respondent's parent, guardian, ~~or~~ legal
 53 custodian, or guardian advocate, in the case of a minor; the
 54 respondent's attorney, ~~if known~~; the petitioner; the
 55 respondent's spouse or guardian, if applicable; and such other
 56 persons as the court may direct pursuant to paragraph (1) (b),
 57 and have such petition and notice personally delivered to the
 58 respondent if he or she is a minor. The court shall also issue a

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

25-00545-16

2016762__

59 summons to the person whose admission is sought and conduct a
60 hearing within 10 days; or

61 ~~(b)(2)~~ Without the appointment of an attorney and, relying
62 solely on the contents of the petition, enter an ex parte order
63 authorizing the involuntary assessment and stabilization of the
64 respondent. The court may order a law enforcement officer or
65 other designated agent of the court to take the respondent into
66 custody and deliver him or her to the nearest appropriate
67 licensed service provider.

68 Section 2. The Legislature finds that it is a public
69 necessity that a petition for involuntary assessment and
70 stabilization of a person impaired by substance abuse which is
71 filed pursuant to chapter 397, Florida Statutes, be confidential
72 and exempt from disclosure under s. 119.07(1), Florida Statutes,
73 and s. 24(a), Article I of the State Constitution. The personal
74 health of an individual and his or her alleged impairment by
75 substance abuse are intensely private matters. The content of
76 such a petition should not be made public merely because the
77 petition is filed with the court. Protecting the petition is
78 necessary to ensure the health care privacy rights of all
79 individuals. Making these petitions confidential and exempt from
80 disclosure will protect information of a sensitive personal
81 nature, the release of which could cause unwarranted damage to
82 the reputation of an individual. Further, the knowledge that
83 sensitive personal information is subject to disclosure could
84 have a chilling effect on the willingness of individuals to seek
85 substance abuse treatment services.

86 Section 3. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

January 20th, 2016

The Honorable Jeremy Ring

405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

I respectfully request **Senate Bill 762, Public Records/Involuntary Assessment and Stabilization Petition**, be considered for placement on the Government Oversight and Accountability committee agenda. This piece of legislation provides an exemption from public records requirements for a petition for involuntary assessment and stabilization of a substance abuse impaired person.

Please feel free to notify me if I can provide you with any additional information. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "JA".

Joseph Abruzzo

Cc: Joe McVane, *Staff Director*

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/2016
Meeting Date

7102
Bill Number (if applicable)

Topic Marchman Act

Name Paul Lowell

Amendment Barcode (if applicable)

Job Title Public Affairs Director, Foley & Lardner LLP

Address 106 E. College Ave, Suite 900

Phone 850-222-6106

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Palm Beach County

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)

2/1/2016

Meeting Date

Topic _____

Bill Number 762

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/16

Meeting Date

762

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo Fla. 33773

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Saving Families

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 Governmental Oversight and Accountability

BILL: SB 914

INTRODUCER: Senator Detert

SUBJECT: Public Records/Identifying Medical and Personal Information

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.	Kim	McVaney	GO	Favorable
3.			RC	

I. Summary:

SB 914 makes medical and personal identifying information of an applicant for, or a recipient of, the property tax exemption for totally and permanently disabled persons confidential and exempt from the public record disclosure and copying requirements of Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S.

This exemption applies to such information held by a property appraiser, the Department of Revenue, the tax collector, the Auditor General, or the Office of Program Policy Analysis and Government Accountability. This exemption has retroactive application.

The information may be released with the express written consent of the applicant or recipient or the legally authorized representative of such person, by court order upon showing of good cause, or to another agency in the performance of its duties.

The bill requires a two-thirds vote from each chamber for passage.

The bill becomes effective upon becoming law.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean 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.”

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

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act¹⁵

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁶ The OGSR provides that an exemption automatically repeals on October 2 of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁷ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁸

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

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁹ If the exemption is reenacted without substantive changes or if the exemption is 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 otherwise provided for by law.²⁰

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S.

¹⁶ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁷ Section 119.15(3), F.S.

¹⁸ Section 119.15(6)(a), F.S.

¹⁹ FLA. CONST., art. I, s. 24(c).

²⁰ Section 119.15(7), F.S.

Statutory Exemptions from Public Records Law

Section 119.07(1)(a), F.S., provides that any person is permitted to inspect and copy any public record unless the record falls under an exemption to the general rule. Among the general exemptions set forth in s. 119.071(5), F.S., are exemptions for social security numbers,²¹ bank account numbers,²² and the identities of recipients of paratransit services.²³

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.²⁴ The property appraiser annually determines the “just value”²⁵ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”²⁶ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,²⁷ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.²⁸

The Florida Constitution authorizes the Legislature to provide an exemption for certain real estate owned by totally and permanently disabled persons.²⁹

Property Tax Exemption for Totally and Permanently Disabled Persons³⁰

Section 196.101, F.S., provides that real estate used and owned as a homestead by a totally and permanently disabled person is exempt from taxation. To receive an exemption, persons must apply with their county property appraiser.³¹ If filing for the first time, a certificate of total and

²¹ Section 119.071(5)(a), F.S.

²² Section 119.071(5)(b), F.S.

²³ Section 119.071(5)(h), F.S.

²⁴ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

²⁵ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

²⁶ *See* s. 192.001(2) and (16), F.S.

²⁷ FLA. CONST. art. VII, s. 1(a)

²⁸ *See* FLA. CONST. art. VII, s. 4.

²⁹ FLA. CONST. art. VII, s. 3(b).

³⁰ Section 196.101, F.S.

³¹ Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

permanent disability (Form DR-416)³² from two licensed doctors of this state or from the United States Department of Veterans Affairs is required.³³ For the legally blind, one of the two may be a certificate from a Florida-licensed optometrist (Form DR-416B).^{34,35} Real estate used and owned as a homestead by a quadriplegic, less any portion used for commercial purposes, is exempt from all ad valorem taxation.³⁶

Real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person, who must use a wheelchair for mobility or who is legally blind, is exempt from taxation if the gross household income is below the current gross income limit of \$27,732.^{37,38} Gross income is the income, including veterans' and social security benefits, of all persons residing in the homestead.³⁹

Confidentiality of Returns

Section 193.074, F.S., states:

All returns of property and returns required by former s. 201.022 submitted by the taxpayer pursuant to law shall be deemed to be confidential in the hands of the property appraiser, the clerk of the circuit court, the department, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability, and their employees and persons acting under their supervision and control, except upon court order or order of an administrative body having quasi-judicial powers in ad valorem tax matters, and such returns are exempt from the provisions of s. 119.07(1).

III. Effect of Proposed Changes:

Section 1 makes confidential and exempt from public disclosure medical and personal identifying information of an applicant for or a recipient of the property tax exemption for totally and permanently disabled persons under s. 196.101, F.S., which is held by the property appraiser, the Department of Revenue, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability. The applicant or recipient of the tax exemption must make reasonable efforts to protect such information from being accessible through other means available to the public.

³² Florida Department of Revenue, *Physician's Certification of Total and Permanent Disability*, <http://dor.myflorida.com/dor/property/forms/current/dr416.pdf> (last visited January 6, 2016).

³³ Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

³⁴ Florida Department of Revenue, *Optometrist's Certification of Total and Permanent Disability*, <http://dor.myflorida.com/dor/property/forms/current/dr416b.pdf> (last visited January 6, 2016).

³⁵ Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited January 8, 2016).

³⁹ Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

Information made confidential and exempt by this paragraph shall be disclosed with the express written consent of the applicant or recipient or the legally authorized representative of such person, by court order upon showing of good cause, or to another agency in the performance of its duties. The information disclosed to another agency will remain confidential and exempt.

This exemption has retroactive application.

This section is subject to the OGSR and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal by the Legislature.

Section 2 establishes the Legislature's purpose for enacting the new exemption, finding that it is a public necessity to exempt the medical and personal identifying information of an applicant for or a recipient of a property tax exemption for totally and permanently disabled persons under s. 196.101, F.S., from public records requirements. The release of an applicant's or recipient's medical or personal identifying information allows the public to gain knowledge of sensitive medical information, and could be used to harass or target these individuals in a negative way. The harm that may result from the release of this private information outweighs any public benefit that may be derived from disclosure of the information.

Section 3 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because county tax collectors and county property appraisers may incur additional costs relating to redacting information made confidential and exempt under this bill. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

B. Public Records/Open Meetings Issues:

Pursuant to Article I, s. 24(c) of the State Constitution, all public records exemptions require a two-thirds vote by both the Senate and the House. The public necessity statement sufficiently supports the breadth of the exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. The property appraiser, the Department of Revenue, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability will have to spend resources for training its staff and redacting information, however, these costs can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Detert

28-00315A-16

2016914__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; creating an exemption from public
 4 records requirements for medical and personal
 5 identifying information of an applicant for or a
 6 recipient of the property tax exemption for totally
 7 and permanently disabled persons; providing for
 8 retroactive application; authorizing disclosure of
 9 such information under certain conditions; providing
 10 for future legislative review and repeal of the
 11 exemption; providing a statement of public necessity;
 12 providing an effective date.

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

15
 16 Section 1. Paragraph (1) is added to subsection (5) of
 17 section 119.071, Florida Statutes, to read:

18 119.071 General exemptions from inspection or copying of
 19 public records.—

20 (5) OTHER PERSONAL INFORMATION.—

21 (1)1. Medical and personal identifying information of an
 22 applicant for or a recipient of the property tax exemption for
 23 totally and permanently disabled persons under s. 196.101, which
 24 is held by the property appraiser, the Department of Revenue,
 25 the tax collector, the Auditor General, and the Office of
 26 Program Policy Analysis and Government Accountability is
 27 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 28 of the State Constitution, if the applicant or recipient has
 29 made reasonable efforts to protect such information from being

Page 1 of 3

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

28-00315A-16

2016914__

30 accessible through other means available to the public.

31 2. The exemption in this paragraph applies to information
 32 held by the property appraiser, the Department of Revenue, the
 33 tax collector, the Auditor General, and the Office of Program
 34 Policy Analysis and Government Accountability before, on, or
 35 after the effective date of this exemption.

36 3. Information made confidential and exempt by this
 37 paragraph shall be disclosed:

38 a. With the express written consent of the applicant or
 39 recipient or the legally authorized representative of such
 40 applicant or recipient;

41 b. By court order upon showing of good cause; or

42 c. To another agency in the performance of its duties and
 43 responsibilities. If disclosed to another agency, the
 44 information shall retain its confidential and exempt status.

45 4. This paragraph is subject to the Open Government Sunset
 46 Review Act in accordance with s. 119.15 and shall stand repealed
 47 on October 2, 2021, unless reviewed and saved from repeal
 48 through reenactment by the Legislature.

49 Section 2. The Legislature finds that it is a public
 50 necessity that medical and personal identifying information of
 51 an applicant for or a recipient of a property tax exemption for
 52 totally and permanently disabled persons under s. 196.101,
 53 Florida Statutes, which is held by the property appraiser, the
 54 Department of Revenue, the tax collector, the Auditor General,
 55 and the Office of Program Policy Analysis and Government
 56 Accountability, be made confidential and exempt from public
 57 records requirements. A totally and permanently disabled person
 58 is required to file an application containing medical and

Page 2 of 3

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

28-00315A-16

2016914__

59 personal identifying information and a certification of his or
60 her disability in order to claim a property tax exemption. The
61 exemption is granted only to those who have a severe physical or
62 mental disability. The Legislature finds that the release of an
63 applicant's or a recipient's medical or personal identifying
64 information allows the public to gain knowledge of sensitive,
65 personal medical information that might be used to harass,
66 embarrass, or humiliate the individual based on his or her
67 disability. In addition, the release of an applicant's or a
68 recipient's medical or personal identifying information would
69 enable nefarious characters to gain knowledge of the applicant's
70 or recipient's vulnerabilities, and such knowledge could result
71 in these individuals becoming targets of acts of violence and
72 other crimes. The Legislature further finds that the harm that
73 may result from the release of such medical and personal
74 identifying information outweighs any public benefit that may be
75 derived from disclosure of the information.

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



The Florida Senate

Committee Agenda Request

To: Senator Jeremy Ring, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 19, 2016

I respectfully request that **Senate Bill #914**, relating to Public Records/Identifying Medical and Person Information, be placed on the:

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

A handwritten signature in black ink, reading "Nancy C. Detert", written over a light blue rectangular background.

Senator Nancy C. Detert
Florida Senate, District 28

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 Governmental Oversight and Accountability

BILL: SB 1054

INTRODUCER: Senators Dean and Grimsley

SUBJECT: Historic and Archaeological Artifacts

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	McVaney	GO	Pre-meeting
2.			ATD	
3.			FP	

I. Summary:

SB 1054 requires the Department of State (DOS) to implement a program which will issue permits to the public performing excavations on sovereignty submerged lands. The permit will require the permitholder to report all discoveries and removed artifacts to the DOS. The program will:

- Permit the DOS to inspect the artifacts;
- Limit the types of tools which may be used to extract artifacts from a packed matrix in a river or lake bottom;
- Require DOS to provide a map of areas that are excluded from excavation activities; and
- Transfer ownership rights from the State to the permitholder.

The bill imposes a \$100 fee for the annual permit. The bill requires DOS to establish penalties for violations of the program requirements, including an administrative fine of up to \$1,000 and forfeiture of the permit and ownership rights for any artifacts discovered under the program.

The bill takes effect on July 1, 2016.

II. Present Situation:

Sovereignty Lands

The ownership of land, including land which is underwater, is described in Article 10, Section 11 of the Florida Constitution, which provides:

The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private

use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

In addition, s. 253.12(1), F.S., provides that submerged lands belong to the State:

Title to tidal lands vested in state.—

Except submerged lands heretofore conveyed by deed or statute, the title to all sovereignty tidal and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board of Trustees of the Internal Improvement Trust Fund. For purposes of fixing bulkhead lines, restrictions on filling land and dredging beyond bulkhead lines, and permits required for filling and dredging, the board shall exercise the same authority over submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams as it does over submerged lands otherwise defined in this subsection.

Section 253.12(2)(a), F.S., provides that the “Board of Trustees of the Internal Improvement Trust Fund may sell and convey such islands and submerged lands if determined by the board to be in the public interest” as long as marine life is taken into consideration.

State Policy

Florida law provides that “the rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations.”¹ Florida law provides further that “the destruction of these nonrenewable historical resources will engender a significant loss to the state’s quality of life, economy, and cultural environment.”²

Accordingly, Florida has adopted a state policy to lead, assist, administer, and encourage public entities and private citizens to preserve the state’s historic environment and resources.³ Florida has also adopted the state policy that

all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereto vested in the Division of Historical Resources of the Department of State for the purposes of administration and protection.⁴

Under Florida law, “historic property” or “historic resource” means “any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or

¹ Section 267.061(1)(a), F.S.

² *Id.*

³ *Id.*

⁴ Section 267.061(1)(b), F.S.

archaeological value, and folklife resources.” Such properties or resources may include, but are not limited to, the following:

- Monuments;
- Memorials;
- Indian habitations;
- Ceremonial sites;
- Abandoned settlements;
- Sunken or abandoned ships;
- Engineering works;
- Treasure trove;
- Artifacts; or
- Other objects with intrinsic historical or archaeological value, relating to the history, government, and culture of the state.⁵

The Florida Department of State, Division of Historical Resources

In order to carry out the state policy mentioned above, Florida law bestows upon the Division of Historical Resources (Division) particular powers and responsibilities.⁶ The Division’s duties include:

- Cooperating with federal, state and local governments, private organizations and citizens to direct and conducting a statewide survey of historic resources and to maintain an inventory of such resources;⁷
- Developing a statewide historic preservation plan;⁸
- Ensuring that historic resources are taken into consideration at all levels of planning and development;⁹
- Advising and assisting, as appropriate, federal and state agencies, local governments, organizations, and individuals in carrying out and developing historic preservation responsibilities and programs;
- Providing public information, education, and technical assistance relating to historic preservation programs;
- Carrying out on behalf of the state the programs of the National Historic Preservation Act of 1966, as amended;
- Establishing professional standards for the preservation, exclusive of acquisition, of historic resources in state ownership or control;¹⁰
- Protecting historical resources abandoned on state-owned lands or on state-owned sovereignty submerged lands;¹¹

⁵ Section 267.021(3), F.S.

⁶ Section 267.031(5), F.S.

⁷ Section 267.031(5)(a), F.S. The Division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is \$500 or more and a sample inventory of such objects the value or cost of which is less than \$500. Section 267.115(1), F.S.

⁸ Section 267.031(5)(b), F.S.

⁹ Section 267.031(5)(d), F.S.

¹⁰ Section 267.031(5)(k), F.S.

¹¹ Section 267.031(5)(n), F.S.

- Advising and assisting, as appropriate, federal and state agencies, local governments, and organizations and individuals in the recognition, protection, and preservation of Florida's archaeological sites and artifacts;¹² and
- Taking other actions necessary or appropriate to promote the location, acquisition, protection, preservation, operation, and interpretation of historic resources to foster an appreciation of Florida history and culture.¹³

The Division may make and enter into all contracts and agreements with other agencies, organizations, associations, corporations and individuals, or federal agencies as it may determine are necessary, expedient, or incidental to the performance of its duties or the execution of its powers.¹⁴

Further, Florida law authorizes and directs all law enforcement agencies and offices to assist the Division in carrying out its duties.¹⁵

Permits

The Division may issue permits for the following activities:

- Survey, exploration, excavation, and salvage activities to identify or recover historical property;
- Archaeological excavation for scientific or educational purposes on state-owned lands or on state-owned sovereignty submerged lands;¹⁶ and
- Exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands.¹⁷

Florida law requires the Division to adopt rules to administer the issuance of permits for all such activities.¹⁸ Additionally, the Division must adopt rules to administer the transfer of objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.¹⁹

Criminal Penalties for Violations

Florida law provides that any person that removes or attempts to remove or defaces, destroys, or otherwise alters historical resources on state land without a permit must forfeit all objects or materials collected from the land and is subject to criminal penalties.²⁰ Any person who conducts

¹² Section 267.031(5)(o), F.S.

¹³ Section 267.031(5), F.S.

¹⁴ Section 267.031(2), F.S.

¹⁵ Section 267.031(4), F.S.

¹⁶ Section 267.031(5)(n), F.S.; *see also* s. 267.12, F.S., regarding research permits.

¹⁷ Section 267.031(5)(n), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *See* s. 267.13(1)(a),(b), F.S.

such action by means “other than” excavation²¹ commits a misdemeanor in the first degree.²² Any person who knowingly and willfully conducts such action by means of excavation commits a felony in the third degree.²³

Moreover, any person who offers for sale or exchange any object or material with knowledge that it has previously been collected or excavated in violation of law without the express consent of the Division, commits a felony of the third degree.²⁴

Maps of Locations of Archaeological Sites

Any information identifying the location of an archaeological site that is held by the Division of Historical Resources is exempt from public disclosure if the Division finds that the disclosure of such information would result in substantial harm, theft or destruction of the archaeological site.²⁵

The public necessity for the exemption provides:²⁶

- (1) The Legislature finds that it is a public necessity that information identifying the location of archaeological sites be exempt from public records requirements because the state has a serious problem with archaeological looting. The exact location of an archaeological site should be exempt from disclosure if the Division of Historical Resources determines that disclosure of the site location will create a substantial risk of harm, theft, or destruction at the site.
- (2) The Legislature also finds that the lack of protection for sensitive sites puts the federal government in a difficult position. The Federal Government is mandated to share site-specific information with the Florida State Historic Preservation Officer to comply with section 106 of the National Historic Preservation Act of 1966, as amended. However, section 304 of the National Historic Preservation Act of 1966, as amended,²⁷ protects specific information concerning the location and character of

²¹ “Excavation” means any manmade cut, cavity, trench, or depression in the earth’s surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, as defined in s. 373.019(22), F.S. Section 556.102(6), F.S.

²² Section 267.13(1)(a), F.S.

²³ Section 267.13(1)(b), F.S.

²⁴ Section 267.13(1)(c), F.S.

²⁵ Section 267.135, F.S.

²⁶ Ch. 2001-162, s. 2, Laws of Fla.

²⁷ Section 304 USC 4702-3 provides:

(a) Authority to Withhold from Disclosure.-The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may (1) cause a significant invasion of privacy; (2) risk harm to the historic resource; or (3) impede the use of a traditional religious site by practitioners.

(b) Access Determination.-When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

(c) Consultation with Council.-When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).

cultural resources, which includes archaeological sites, when sharing that information could place them in jeopardy.

- (3) The Legislature also finds that new implementation guidelines for the National Historic Preservation Act of 1966, as amended, require increased consultation with federally recognized tribes. The Legislature finds that managing information concerning Native American sacred sites and sites of cultural patrimony requires this exemption, because credible stewardship in this area necessitates the ability to protect sensitive information from public dissemination.

III. Effect of Proposed Changes:

The bill requires the Division to implement a program to administer the discovery of isolated historic or archaeological artifacts from sovereignty submerged lands. The program must, at a minimum, include the following:

- An application for an annual permit and an application fee of \$100;
- A written agreement to report all discovered and removed artifacts to the Division within 14 days after the discovery and removal, along with a map indicating the location of the discovery and photographs of the artifacts, and to allow the Division to inspect, analyze, and photograph any such artifacts;
- A requirement that tools may not be used for the excavation of any isolated artifacts, except that a trowel or hand-held implement may be used to extract exposed artifacts from a packed matrix in a river or lake bottom;
- A map, that must be provided to an applicant with the issuance of a permit, of clearly defined areas and sites that are excluded from excavation activities;
- Authorization to transfer ownership rights for discovered artifacts to the permit-holder;
- Penalties for violations of program requirements, including, but not limited to, an administrative fine of up to \$1,000 and forfeiture of the permit and ownership rights for any artifacts discovered under the program.

The bill removes the discretion of DOS to retain possession of artifacts. It also removes the current requirement that the state may exchange information about the artifacts for ownership rights.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

The bill requires the DOS to provide maps of areas which are excluded from excavation activities. Any information identifying the location of an archaeological site that is held by the Division of Historical Resources. Such information is exempt from public disclosure if the Division finds that the disclosure of such information would result in substantial harm, theft or destruction of the archaeological site.²⁸ The bill appears to contravene the intent of the Legislature when it enacted the exemption, and may conflict with federal law.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Those members of the public wishing to participate in the program will be required to pay a \$100 annual application fee to hold a permit. People in violation of the law will be subject to a fine of \$1000.

C. Government Sector Impact:

The fiscal impact relating to the revenues generated by the application is unknown.

According to the DOS, three full-time equivalent (FTE) positions will be needed to administer the program. The estimated annual cost for salaries of these positions is \$126,445. Presumably, this estimated cost does not include the nonrecurring costs associated with new positions. In addition, DOS will need to develop a software program for the new program, the cost of which is currently unknown.²⁹

VI. Technical Deficiencies:

The bill does not define “packed matrix.”

The bill specifies that certain equipment must be used in river or lake bottoms, but does not address if such equipment should also be used on seashores.

²⁸ Section 267.135, F.S.

²⁹ Department of State Bill Analysis for HB 803, Dated January 6, 2016.

VII. Related Issues:

As noted in the Present Situation above, section 267.135, F.S., makes any information identifying the location of an archaeological site held by the Division exempt from public disclosure if the Division finds such disclosure will create a substantial risk of harm, theft, or destruction of the site.

This bill requires the Division to provide a map to each permit holder showing the areas that are excluded from excavation activities. The requirement under this bill may be in conflict with the Division's current duty to protect such information.

VIII. Statutes Affected:

This bill substantially amends section 267.115 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.



592026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 22 - 49
and insert:

(9)(a) The division shall ~~may~~ implement a program to
administer the discovery finds of isolated historic or
archaeological artifacts from sovereignty submerged lands. The
program shall include, at a minimum:

1. An application for an annual permit and an application
fee of \$100.



592026

11 2. A written agreement to report all discovered and removed
12 artifacts to the division within 14 days after the discovery and
13 removal, along with a map indicating the location of the
14 discovery and photographs of the artifacts, and to allow the
15 division to inspect, analyze, and photograph any such artifacts.

16 3. A requirement that tools may not be used for the
17 excavation of any isolated artifacts, except that a trowel or
18 hand-held implement may be used to extract exposed artifacts
19 from a packed matrix in a river or lake bottom.

20 4. A map of clearly defined areas and sites that are
21 excluded from excavation activities. The map must be provided to
22 the applicant with the issuance of a permit.

23 5. Authorization to transfer ownership rights for
24 discovered artifacts to the permitholder.

25 6. Penalties for violations of program requirements,
26 including, but not limited to, an administrative fine of up to
27 \$1,000 and forfeiture of the permit and ownership rights for any
28 artifacts discovered under the program ~~state-owned river bottoms~~
29 ~~whereby the division may transfer ownership of such artifacts to~~
30 ~~the finder in exchange for information about the artifacts and~~
31 ~~the circumstances and location of their discovery.~~

32 (b) This subsection may not be construed to abrogate or
33 preempt federal law.

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

36 And the title is amended as follows:

37 Delete line 8

38 and insert:

39 for construction; providing an effective date.

By Senator Dean

5-01591-16

20161054__

A bill to be entitled

An act relating to historic and archaeological artifacts; amending s. 267.115, F.S.; directing the Division of Historical Resources of the Department of State to implement a program to administer the discovery of certain historic and archaeological artifacts; providing program requirements; providing an effective date.

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

Section 1. Subsection (9) of section 267.115, Florida Statutes, is amended to read:

267.115 Objects of historical or archaeological value.—The division shall acquire, maintain, preserve, interpret, exhibit, and make available for study objects which have intrinsic historical or archaeological value relating to the history, government, or culture of the state. Such objects may include tangible personal property of historical or archaeological value. Objects acquired under this section belong to the state, and title to such objects is vested in the division.

(9) The division ~~shall~~ may implement a program to administer ~~the discovery finds~~ of isolated historic or archaeological artifacts from sovereignty submerged lands. The program shall include, at a minimum:

(a) An application for an annual permit and an application fee of \$100.

(b) A written agreement to report all discovered and removed artifacts to the division within 14 days after the

Page 1 of 2

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5-01591-16

20161054__

discovery and removal, along with a map indicating the location of the discovery and photographs of the artifacts, and to allow the division to inspect, analyze, and photograph any such artifacts.

(c) A requirement that tools may not be used for the excavation of any isolated artifacts, except that a trowel or hand-held implement may be used to extract exposed artifacts from a packed matrix in a river or lake bottom.

(d) A map of clearly defined areas and sites that are excluded from excavation activities. The map must be provided to the applicant with the issuance of a permit.

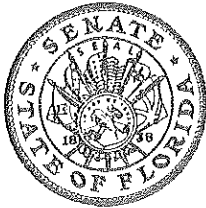
(e) Authorization to transfer ownership rights for discovered artifacts to the permitholder.

(f) Penalties for violations of program requirements, including, but not limited to, an administrative fine of up to \$1,000 and forfeiture of the permit and ownership rights for any artifacts discovered under the program ~~state-owned river bottoms~~ whereby the division may transfer ownership of such artifacts to the finder in exchange for information about the artifacts and the circumstances and location of their discovery.

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and
Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Community Affairs
Ethics and Elections

SENATOR CHARLES S. DEAN, SR.
5th District

January 15, 2016

The Honorable Jeremy Ring
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Ring,

I respectfully request you place Senate Bill 1054, relating to Historic and Archaeological Artifacts, on your Government Oversight and Accountability Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Joe McVaney, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

16
Date

SB 1054
Bill Number (if applicable)

Amendment Barcode (if applicable)

SB 1054

Name Michael Mesler

Job Title Retired - PAST Member

Address 2811 KilKierane Dr.
Street

Phone 850 668-1335

Tallahassee FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing Panhandle Archeology Society

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.

THE FLORIDA SENATE

APPEARANCE RECORD

Feb 1, 2016
Meeting Date

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

SB 1054
Bill Number (if applicable)

Topic Artifact permit

Amendment Barcode (if applicable)

Name Ryan Means

Job Title Director

(850)

Address 1313 Milton St.

Phone 544-5661

Tallahassee FL 32303
City State Zip

Email ryan@remotefootprints.org

Speaking: For Against Information

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

Representing Myself

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Artifacts

Amendment Barcode (if applicable)

Name Barbara Purdy

Job Title Professor Emerita

Address 1519 NW 25th St

Phone _____

Gainesville Fl. 32605
City State Zip

Email bpurdy@ufl.edu

Speaking: For Against Information

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

Representing Amateur Arch.

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/11/14
Meeting Date

1054
Bill Number (if applicable)

Topic APPEAL

Amendment Barcode (if applicable)

Name RIVERS A BINFORD III

Job Title N/A

Address 7201 CONY, RMC
Street

Phone 850-566-9119

TALLAHASSEE FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing NOBODY

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

1054
Bill Number (if applicable)

Topic Bill 1054

Amendment Barcode (if applicable)

Name Cameron Forfar, Ph.D.

Job Title _____

Address 4921 Annette Dr.
Street

Phone (850) 274-3801

Tallahassee FL 32303
City State Zip

Email iamcam2011@yahoo.com

Speaking: For Against Information

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

Representing Panhandle Archeological Society

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

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

2/1/16

Meeting Date

SB1054

Bill Number (if applicable)

Topic SB1054 (ARTIFACT PERMIT)

Amendment Barcode (if applicable)

Name THORNTON N. DYLE

Job Title BUSINESS OWNER (CITIZEN)

Address 2750 N.E. 108TH PL.

Phone 386.935.2117

BRANFORD FL 32008

Email DR.GOMER@ATT.NEY

Speaking: [X] For [] Against [] Information

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

Representing TRI STATE ARCHAEOLOGICAL SOCIETY

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

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

2/1

Meeting Date

SB 1054

Bill Number (if applicable)

Topic Artifact Permit

Amendment Barcode (if applicable)

Name Teben Pyles

Job Title President Tri States Archaeological Society

Address 203 N Palmetto Ave

Phone 904-315-7527

Green Cove Springs FL

Email teben@dogamer.com

City State Zip

Speaking: For Against Information

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

Representing Tri States Archaeological Society

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic ARTIFACT PERMIT

Amendment Barcode (if applicable)

Name KENNETH J. PYLES

Job Title CITIZEN

Address 2750 N.E. 108TH. PL.

Phone 386.935.2117

Street

BRANFORD

City

FL

State

32008

Zip

Email _____

Speaking: For Against Information

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

Representing TRI STATE ARCH SOCIETY

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

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

2/1/16

Meeting Date

S-1054

Bill Number (if applicable)

Topic "ISOLATED" FIVES

Amendment Barcode (if applicable)

Name CHARLES W. GONAWAY

Job Title _____

Address 3202 ADWOOD CT.

Phone (850)385-2481

Street

TALLAHASSEE

FL

32312

City

State

Zip

Email ccgonaway@amedu

Speaking: For Against Information

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

Representing _____

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

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

2/1/16
Meeting Date

SB1054
Bill Number (if applicable)

Topic Artifact Collecting

Amendment Barcode (if applicable)

Name Fred Gaske

Job Title 1129

Address ~~1129~~ Winifred Drive

Phone (850) 514-1391

Tallahassee FL 32308
City State Zip

Email fgaske@hotmail.com

Speaking: For Against Information

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

Representing _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-2-2016

Meeting Date

SB 1054

Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name ROY B. STANLEY

Job Title Retired Tribal Elder

Address 7500 S. JEFF ST

Phone 850 997 1001

Street

LAMONT

City

FL

State

32336

Zip

Email _____

Speaking: For Against Information

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

Representing P.A.S.T.

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

SB 1054

Bill Number (if applicable)

Topic Artifact Permit

Name Don Munroe

Job Title avocational archaeologist

Address 11211 SW 67th ST

Street

Gainesville FL

City

State

32608

Zip

Phone 352 665 0668

Email dmunroe@ehs.ufl.edu

Speaking: For Against Information

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

Representing myself

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

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

2-17-16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic SB 1054 (Grave Rob)

Amendment Barcode (if applicable)

Name John Bob Carlos (Evergladesgallery.com)

Job Title Artist, Conservation, Activist

Address 1318 SW 181 Ave

Phone 305-506 5574

Street

Pembroke Pines FL 33029

City

State

Zip

Email pmstcfernandez@gmail.com

Speaking: For Against Information

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

Representing Self

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

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

Feb 1
Meeting Date

1054
Bill Number (if applicable)

Topic Archaeology

Amendment Barcode (if applicable)

Name LONNIE MANN

Job Title Ret.

Address 1120 E Windward Way
Street

Phone _____

Talk FL 32311
City State Zip

Email _____

Speaking: For Against Information

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

Representing Panhandle Archaeological Society

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

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

2-1-16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Artifacts

Amendment Barcode (if applicable)

Name JEFF GRANQUAN

Job Title Ret

Address P.O. Box
Street

Phone _____

WACUSSA FLA 32361
City State Zip

Email _____

Speaking: For Against Information

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

Representing _____

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

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

2-1-14

Meeting Date

1054

Bill Number (if applicable)

ic Bill 1054

Amendment Barcode (if applicable)

ie Bobby C. Billie, A CLAN LEADER AND SPIRITUAL LEADER

Title COUNCIL OF THE ORIGINAL MICOOSALKEE SIMANOLKE NATION ABORIGINAL PEOPLES

ess P.O. Box 1452

Street

Phone 904 654-0200

LAKE PLACID, FL 33862

City

State

Zip

Email NONE

Speaking: For Against Information

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

Representing COUNCIL OF THE ORIGINAL MICOOSALKEE SIMANOLKE NATION

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

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

2/11/14
Meeting Date

SB 1054
Bill Number (if applicable)

Topic HB 803 SB 1054

Amendment Barcode (if applicable)

Name JIMMY ISAACS

Job Title Retired

Address 5440 E. HARBOR DRIVE

Phone _____

Street

FRUITLAND PARK FL

City

State

Zip

Email jisaacs@live.com

Speaking: For Against Information

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

Representing TSA S

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

1054
Bill Number (if applicable)

Topic Archaeology Bill 10 54

Amendment Barcode (if applicable)

Name John Regan

Job Title City Manager

Address 25 75 King St.

Phone (904) 669-1873

Street St. Augustine
City State Zip

Email j.regan@citystaug.com

Speaking: For Against Information

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

Representing City of St. Augustine

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.

CSRS (02/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic SB1054 Historic and Archaeological Artifacts Amendment Barcode (if applicable)

Name Betty Osceola

Job Title Selfemployed-Indigenous Activist

Address 57070 Tamiami Trl E
Street

Phone 786-385-6743

Ochopee Florida
City State Zip

Email Ochopee@aol.com

Speaking: For Against Information

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

Representing Self-Miccosukee Indian

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

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

1 FEB 2016
Meeting Date

SB1054
Bill Number (if applicable)

Topic Historic & Archaeological Artifacts

Amendment Barcode (if applicable)

Name Chuck Meide

Job Title Director (of a professional underwater archaeology institute)

Address 46 MENENDEZ RD
Street

Phone 904 808 7218

ST. AUGUSTINE FL 32080
City State Zip

Email chuckmeide@gmail.com

Speaking: For Against Information

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

Representing LAMP

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

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

2/1/16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Archaeological Artifacts

Amendment Barcode (if applicable)

Name Malinda Horton

Job Title Executive Director

Address PO Box 10951

Phone 850-933-3066

Street

Tall.

City

FL

State

32302

Zip

Email fam@flamuseums.org

Speaking: For Against Information

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

Representing FL Assn. of Museums

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

1054
Bill Number (if applicable)

Topic PUBLIC ARCHAEOLOGY

Amendment Barcode (if applicable)

Name NANCY SIKES KLINE

Job Title COMMISSIONER

Address 75 KING STREET
Street

Phone 904 825 1005

ST AUGUSTINE FL 32084
City State Zip

Email nsikeskline@costaug.org

Speaking: For Against Information

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

Representing CITY OF ST. AUGUSTINE

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

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

2-1-2016

Meeting Date

SB 1054

Bill Number (if applicable)

Topic Historic + Archaeological Artifacts

Amendment Barcode (if applicable)

Name Wade Bailey

Job Title Retired Volunteer

Address 308 Moseley Ave

Phone 859 203 7991

Palatka FL 32177

Email Wade859@gmail

Speaking: [] For [X] Against [] Information

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

Representing _____

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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

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

Feb. 1, 2016
Meeting Date

SB-1054
Bill Number (if applicable)

Topic SB-1054

Amendment Barcode (if applicable)

Name Dr. Sam Turner

Job Title Nautical Archaeologist/Historian

Address 1462 N. Whitney St.
Street
St. Augustine FL 32084
City State Zip

Phone (904) 826-2894

Email

Speaking: For Against Information

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

Representing St. Augustine Maritime Heritage 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.

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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)

01 FEB 2016
Meeting Date

SB 1054
Bill Number (if applicable)

Topic SB 1054 ISOLATED FINDS PROGRAM

Amendment Barcode (if applicable)

Name P. BRENDAN BURKE

Job Title MARITIME HISTORIAN/ARCHAEOLOGIST

Address 919 LEW BLVD
Street

Phone 904-838-8813

ST. AUGUSTINE FL 32080
City State Zip

Email bburke30@hotmail.com

Speaking: For Against Information

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

Representing ST. AUGUSTINE ARCHAEOLOGICAL 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.

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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)

2/1/16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Historic and Archaeological Artifacts

Amendment Barcode (if applicable)

Name Andrew Thomson

Job Title Archaeological Conservator

Address 6 E San Carlos Ave

Phone 406-249-0596

St. Augustine FL 32084
City State Zip

Email thomson1044@gmail.com

Speaking: For Against Information

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

Representing L.A.M.P.

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

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

2/1/2016

Meeting Date

1054

Bill Number (if applicable)

Topic Historical & Archeological Artifacts

Amendment Barcode (if applicable)

Name Melanie Bastick

Job Title Vice President, Liberty Partners

Address P.O. Box 390

Phone (850) 688-3183

Street

Tallahassee

FL

32301

City

State

Zip

Email melanie@libertypartnersfl.com

Speaking: For Against Information

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

Representing Florida Attractions 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.

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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)

2-1-16

Meeting Date

1054

Bill Number (if applicable)

Topic Bill 1054

Amendment Barcode (if applicable)

Name SHANNON LARSEN

Job Title CO-FOUNDER

Address PO BOX 1452

Phone 904 654-0200

Street

LAKE PLACID, FL 33862

Email ANCIENTTREES@hotmail.com

City

State

Zip

Speaking: For Against Information

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

Representing ANCIENT TREES

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16

Meeting Date

1054

Bill Number (if applicable)

Topic SB 1054 - Artifacts

Amendment Barcode (if applicable)

Name Dr. Bob Knight

Job Title Scientist

Address 2821 NW 161 CT

Phone 386-462-1003

Street

Gainesville FL

City

State

Zip

Email

Speaking: For Against Information

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

Representing Sunshine State Archaeological Society

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016
Meeting Date

SB1054
Bill Number (if applicable)

Topic Proposed "citizen archaeology" bill

Amendment Barcode (if applicable)

Name Dr. Willet A. Doye, III

Job Title Archaeologist

Address 611 SE 9th Ave, #33
Street

Phone 352 613 0828
land of the firsts

Ocala FL 34471
City State Zip

Email hotmail.com

Speaking: For Against Information

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

Representing —

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

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

02/01/2016

Meeting Date

SB1054

Bill Number (if applicable)

Topic SB1054 - Historic and Archaeological Artifacts

Amendment Barcode (if applicable)

Name Jeffrey Shanks

Job Title Archeologist

Address 270 Deer Ridge Circle

Phone 850-694-8600

Street

Havana

FL

32333

Email jhshanks@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing

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

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

2/1/16
Meeting Date

SB1054
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Daniel Foxworth

Job Title _____

Address 955 Chase Creek Cir
Street

Phone 407-756-3681

Tallahassee FL 32311
City State Zip

Email df143@my.fsu.edu

Speaking: For Against Information

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

Representing Yield to Mr. Boyer

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

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

2/1/16

Meeting Date

SB1054

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Devin Gerace

Job Title Student + Teacher's Assistant

Address 2308 Claremont Ln

Phone 850-586-5751

Street

Tallahassee

FL

32301

City

State

Zip

Email deg10c@my.fsu.edu

Speaking: For Against Information

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

Representing

Yield^{xo} Mr. Boyer

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

SB1054
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Thomas Chiodini

Job Title Teacher's Assistant

Address 2915 Shaver Rd APT 1212
Street

Phone 321-506-7259

Tallahassee
City

FL
State

32312
Zip

Email Tac146@my.fsu.edu

Speaking: For Against Information

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

Representing Yield to Mr. Boyel

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)

2/1/16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Historical Archaeology + ARTIFACTS

Amendment Barcode (if applicable)

Name Claude Kenneson

Job Title Researcher

Address 1323 N.M.L. King Jr. Blvd.
Street

Phone (850) 933-6441

Tallahassee, FL 32303
City State Zip

Email claudj.kenneson@flhca.com

Speaking: For Against Information

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

Representing _____

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

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

2/1/16
Meeting Date

SB1054
Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name Jirye Kang

Job Title Student

Address 725 Arkansas
Street

Phone 917-728-9795

Tallahassee FL 32304
City State Zip

Email jk14w@my.fsu.edu

Speaking: For Against Information

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

Representing Yield to Mr. Boyer

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

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

2-1-2016

Meeting Date

1054
Bill Number (if applicable)

Topic SB1054

Amendment Barcode (if applicable)

Name Doran, Glen H.

Job Title Archaeologist

Address 1117 Azalea Dr

Phone 850 509 3115

Tallahassee
City State Zip

Email ghdorn@gmail.com

Speaking: For Against Information

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

Representing self

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

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

1 Feb 2016
Meeting Date

1054
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name James S. Dunbar

Job Title Archaeologist Retired

Address 141 Old Still Road
Street

Phone 850 510 3978

Crawfordville FL 32327
City State Zip

Email jsdunbar@earthlink.net

Speaking: For Against Information

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

Representing SEFI

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

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

2/1/16

Meeting Date

Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name Susan Anderson

Job Title Community Elder

Address 7500 S. Jefferson St.

Phone 850-997-1001

Street

Lamont

City

FL

State

32336

Zip

Email _____

Speaking: For Against Information

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

Representing _____

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 1, 2016
Meeting Date

1054
Bill Number (if applicable)

Topic Archaeology + Historical Artifacts

Amendment Barcode (if applicable)

Name Jim MILLER

Job Title Archaeologist, Planner

Address 1544 Cristobal Dr
Street

Phone 850-445-5042

Tallahassee FL 32303
City State Zip

Email jim@jimmillr.com

Speaking: For Against Information

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

Representing self

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

1054

Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name GRAYAL FARR

Job Title ARCHAEOLOGIST

Address 3315 READING LAKE

Phone (850) 544-1169

Street

TALLAHASSEE FL 32312

City

State

Zip

Email grayalfarr@gmail.com

Speaking: For Against Information

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

Representing PAUHONIE ARCHAEOLOGY SOCIETY AT TALLAHASSEE

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)

THE FLORIDA SENATE
APPEARANCE RECORD

01 Feb 2016

Meeting Date

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

SB 1054

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Nicholas Kynast

Job Title Student (Florida State University)

Address 5107 Brynne DR Bradenton

Phone (941) 301 1217

Street

Bradenton

City

FL

State

Zip

Email nk1501@my.fsu.edu

Speaking: For Against Information

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

Representing Florida State Department of Anthropology

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 February 2016
Meeting Date

SB 1054
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Nkechi N'gnessan Emetuche

Job Title Student

Address 4863 Flint Road
Street

Phone 206-398-9392

Windermere FL 34786
City State Zip

Email nne15@my.fsu.edu

Speaking: For Against Information

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

Representing Florida State Department of Anthropology

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

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

2-1-2016
Meeting Date

SB1054
Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name Carlos TATUM

Job Title Freight Broker

Address 16604 Forest Park Dr.
Street

Phone 813-944-8500

Lutz FL 33549
City State Zip

Email carlostatum@gmail.com

Speaking: For Against Information

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

Representing Self

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

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

2/01/2016
Meeting Date

SB1054
Bill Number (if applicable)

Topic Historical Archeological Artifacts

Amendment Barcode (if applicable)

Name Joseph Bradley Cooley

Job Title As

Address PO Box 11
Street

Phone 850 997-4686

Lamont, FL 32336
City State Zip

Email bradley@bronzebycooley.com

Speaking: For Against Information

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

Representing _____

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

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

2/01/2016
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Historical Archeological Artifacts

Amendment Barcode (if applicable)

Name Linda S. Cooley

Job Title manager

Address P.O. Box 11
Street

Phone 850 997-4686

Lamont, FL FL
City State Zip

Email bradley@bronzebycooley.com

Speaking: For Against Information

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

Representing _____

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

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

FEB 15 2016

Meeting Date

1054

Bill Number (if applicable)

Topic ISOLATED FUNDS

Amendment Barcode (if applicable)

Name GUY MARWICK

Job Title _____

Address 12950 N 1ST RD.

Phone 352-625-2692

Street

SILVER SPRINGS FL 34488

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing SELF

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

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

2-1-16

Meeting Date

SB 1054

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRETT STEWART

Job Title FIELD SERVICE ENG.

Address 240 BELFAIR DR.

Phone (386) 795-5132

Street

ELLERSLIE

GA.

31807

Email STEWART5906@HOTMAIL.COM

City

State

Zip

Speaking: For Against Information

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

Representing SELF

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)

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2016 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Historical & Archaeological Artifacts Amendment Barcode (if applicable)

Name Greg Antonoplos

Job Title Certified nurse anesthetist

Address 7371 Skipper Ln. Phone 850 322 0606
Street

Tallahassee FL 32317
City State Zip

Email antonoplog@yahoo.com

Speaking: For Against Information

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

Representing Citizens of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

2/1/2016
Meeting Date

Bill Number (if applicable)

Topic SB 10 SUBMERGED SITES

Amendment Barcode (if applicable)

Name MICHAEL FAUGHT

Job Title PERIOD INVESTIGATORS

Address 703 TRUETT DR
Street

Phone 850 274 9145

TALLAHASSEE FL 32303
City State Zip

Email mfaught@comcast.net

Speaking: For Against Information

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

Representing SEARCH, 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.

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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)

2/1/2016

Meeting Date

SB1054

Bill Number (if applicable)

Topic ARCHAEOLOGICAL PERMIT FOR CITIZENS

Amendment Barcode (if applicable)

Name ROBERT C. DANIELS

Job Title RETIRED STATE L.E. OFFICER

Address P.O. BOX 936
Street

Phone _____

MONTICELLO FL 32345
City State Zip

Email _____

Speaking: For Against Information

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

Representing AVOCATIONAL ARCHAEOLOGY

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 FEB 2016

Meeting Date

SB 1054

Bill Number (if applicable)

Topic SB 1054 CONFLICTS W/ EXISTING LAW

Amendment Barcode (if applicable)

Name RAMIE GONGEON

Job Title ASSISTANT PROF. UNIV. WEST FLORIDA

Address 1415 E JORDAN ST

Phone 850 474 2831

Street

PENSACOLA

City

FL

State

32503

Zip

Email rgongeon@unf.edu

Speaking: For Against Information

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

Representing SELF

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-1-2016

Meeting Date

1054

Bill Number (if applicable)

Topic ARCHAEOLOGICAL & HISTORICAL ARTIFACT

Amendment Barcode (if applicable)

Name WILLIAM LEEB

Job Title

Address 207 EAST MAIN ST

Street

Phone 850-293-4492

PENSACOLA

FL

32503

City

State

Zip

Email WLEEB@UWF.EDU

Speaking: For Against Information

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

Representing FLORIDA PUBLIC ARCHAEOLOGY NETWORK

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

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

1 February 2016
Meeting Date

1054
Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name Tristan Havenstein

Job Title Public Archaeology Coordinator

Address 1022 De Soto Park Dr.
Street

Phone (850) 877-2206

Tallahassee FL 32301
City State Zip

Email thavenstein@unf.edu

Speaking: For Against Information

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

Representing The Florida Public Archaeology Network

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

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

2/1/16

Meeting Date

1054

Bill Number (if applicable)

Topic SB1054

Amendment Barcode (if applicable)

Name Barbara Clark

Job Title Director

Address 1022 DeSoto Park Dr.

Phone 850/877-2200

Street

Tallahassee FL 32301

Email BarbaraClark@wvf.edu

City

State

Zip

Speaking: For Against Information

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

Representing Florida Public Archaeology Network

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

1054
Bill Number (if applicable)

Topic SB 1054

Amendment Barcode (if applicable)

Name Emily Jane Murray

Job Title Public Archaeologist

Address 142 Doeg Rd
Street

Phone 904-392-7874

St. Augustine FL 32086
City State Zip

Email emurray@flagler.edu

Speaking: For Against Information

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

Representing Flagler College

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

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

2/1/16

Meeting Date

1054

Bill Number (if applicable)

Topic Architect Permit - 1054

Amendment Barcode (if applicable)

Name Todd Lewis

Job Title _____

Address 302 Johns Dr.

Street

Phone (727) 644-8445

Tallahassee, FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Tristate Archeological Society

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

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

02/01/2016

Meeting Date

SB 1054

Bill Number (if applicable)

Topic Historic and Archaeological Artifacts

Amendment Barcode (if applicable)

Name Ms. Sarah Miller

Job Title Northeast/East Central Regional Director

Address 74 King Street

Street

St. Augustine

City

FL

State

32085

Zip

Phone 904-669-3265

Email semiller@flagler.edu

Speaking: For Against Information

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

Representing Florida Public Archaeology Network hosted by Flagler College

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

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

2-1-16

Meeting Date

1054

Bill Number (if applicable)

Topic ARTIFACT PERMIT

Amendment Barcode (if applicable)

Name TOMMY GOODWIN JR.

Job Title INVESTIGATOR SHERIFFS OFFICE

Address _____ Phone _____

Street

LEESBURG

City

GA

State

31703

Zip

Email brellik58112@yahoo.com

Speaking: For Against Information

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

Representing COURTES OF GEORGIA

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16
Meeting Date

SB1054
Bill Number (if applicable)

Topic Historical & Archeological Artifacts

Amendment Barcode (if applicable)

Name Jonathan Kees

Job Title Registered Nurse

Address 1900 Centre Pointe Blvd. Apt #251

Phone 850-556-8189

Tallahassee FL 32308
City State Zip

Email JKeesRN@gmail.com

Speaking: For Against Information

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

Representing Citizens 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16

Meeting Date

1054

Bill Number (if applicable)

Topic 1054

Amendment Barcode (if applicable)

Name REGGIE D. RACHALS

Job Title SHERIFF

Address _____

Phone _____

Street

LEESBURG

City

GA.

State

31763

Zip

Email _____

Speaking: For Against Information

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

Representing _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic HISTORICAL & ARCHAEOLOGICAL ARTIFACTS

Amendment Barcode (if applicable)

Name JOHN SWAP

Job Title RETIRED PLANT MANAGER BREWCO

Address 11775 SE 108TH TERR RD

Phone 352-817-3373

Belleair FL 34420
City State Zip

Email WA-Who28at.com

Speaking: For Against Information

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

Representing CITIZENS OF FL.

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.

THE FLORIDA SENATE
APPEARANCE RECORD

2-1-16

Meeting Date

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

SB 1854

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Laton Bare

Job Title Retired

Address 4900 102 PL

Phone 352 322 8735

Belleview FL 34420
City State Zip

Email LatonBare@yahoo.com

Speaking: For Against Information

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

Representing _____ *LB*

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016
Meeting Date

SB 1054
Bill Number (if applicable)

Topic Arch. Artifacts

Amendment Barcode (if applicable)

Name Richard Olson

Job Title Soils Tech

Address 1312 NE 35 St.
Street

Phone 352-239-1533

Ocala Fl. 34479
City State Zip

Email SHORTWB@GMAIL.COM

Speaking: For Against Information

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

Representing CITIZENS OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

2-1-2016

Meeting Date

1054

Bill Number (if applicable)

Topic Artifact Permits

Amendment Barcode (if applicable)

Name Harleigh Allen Texter

Job Title Lowes Installer

Address 656 Alligator Jr.
Street

Phone 850-228-5442

Alligator Point, Florida 32346
City State Zip

Email harleightexter@aol.com

Speaking: For Against Information

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

Representing _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

SB 1054

Bill Number (if applicable)

Topic

Historical & Archaeological Artifact

Amendment Barcode (if applicable)

Name

ROGER SWOOP

Job Title

President Trident Roofing @ FF114

Address

6328 SE Cedar Rd

Phone

352-245-6692

Street

Belleair FL 34620

Email

TAZMAY0861@AOL.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

SELF

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

1054
Bill Number (if applicable)

Topic Oversight + accountability

Amendment Barcode (if applicable)

Name Cameron Lewis Barton

Job Title Teacher

Address 302 Buteo Ct

Phone 5672420

TLH FL 32312

City State Zip

Email cbarton@maday.org

Speaking: For Against Information

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

Representing Pro citizen science efforts

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/16
Meeting Date

SB 1054
Bill Number (if applicable)

Topic SB 1054 Leg. Action

Amendment Barcode (if applicable)

Name Curtis Brown

Job Title Director FWC

Address 620 S. Meriden St

257-7204
Phone (950) 410-0656

Tallahassee FL 32399
City State Zip

Email Curtis.Brown@myFWC.com

Speaking: For Against Information

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

Representing FWC

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)

2/1/2016
Meeting Date

SB 1054
Bill Number (if applicable)

Topic ARCHAEOLOGICAL FINDS

Amendment Barcode (if applicable)

Name MARK BERIBAN

Job Title OWNER - APPLIED AQUACULTURE LLC

Address 2916 ROYAL DAKE DR.

Phone 850 264 6805

TALLAHASSEE FL 32309
City State Zip

Email appliedaquaculture@gmail.com

Speaking: For Against Information

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

Representing _____

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)

2/1/16

Meeting Date

1005⁴

Bill Number (if applicable)

Topic Artifact Permit

Amendment Barcode (if applicable)

Name Jona Dan Lammers

Job Title _____

Address 3164 Lakeshore Dr.

Phone _____

Street

Tallahassee FL 32312

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing _____

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.

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 Governmental Oversight and Accountability

BILL: SB 1206
INTRODUCER: Senator Abruzzo
SUBJECT: Auditor General
DATE: January 29, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 1206 amends s. 11.45, F.S., to require the Auditor General to conduct annually a performance audit of a randomly selected state agency.

The bill provides for an effective date of July 1, 2016.

II. Present Situation:

Background

Auditor General

The position of Auditor General is established by s. 2, Art. III of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.¹ The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.²

The Auditor General, before entering upon the duties of the office, must take the oath of office required of state officers by the State Constitution.³ At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and must have no less than 10 years' experience in an accounting or auditing related field.⁴

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.42(4), F.S.

⁴ Section 11.42(2), F.S.

To carry out his or her duties, the Auditor General must make all spending decisions within the annual operating budget approved by the President of the Senate and the Speaker of the House of Representatives.⁵ The Auditor General must employ qualified persons necessary for the efficient operation of the Auditor General's office and must fix their duties and compensation and, with the approval of the President of the Senate and Speaker of the House of Representatives, must adopt and administer a uniform personnel, job classification, and pay plan for employees.⁶

The headquarters of the Auditor General are at the state capital, but to facilitate auditing and to eliminate unnecessary traveling, the Auditor General may establish field offices located outside the state capital. The Auditor General must be provided with adequate quarters to carry out the position's functions in the state capital and in other areas of the state.⁷

All payrolls and vouchers for the operations of the Auditor General's office must be submitted to the Chief Financial Officer for payment.⁸ The Auditor General may make and enforce reasonable rules and regulations necessary to facilitate authorized audits.⁹

The Auditor General must:¹⁰

- Conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee;
- Annually conduct a financial audit of state government;
- Annually conduct financial audits of all state universities and state colleges;
- Annually conduct financial audits of all accounts and records of all district school boards in counties with populations of fewer than 150,000, according to the most recent federal decennial statewide census;
- Once every three years, conduct financial audits of the accounts and records of all district school boards in counties that have populations of 150,000 or more, according to the most recent federal decennial statewide census;
- At least every three years, conduct operational audits of the accounts and records of state agencies, state universities, state colleges, district school boards, and Florida Clerks of Court Operations, water management districts, and the Florida School of Deaf and the Blind;
- At least every three years, conduct a performance audit of the local government financial reporting system, which means any statutory provision related to local government financial reporting;
- At least every three years, conduct a performance audit of the Department of Revenue's administration of the ad valorem tax laws;
- Once every three years, review a sample of internal audit reports at each state agency¹¹ to determine compliance with the current Standards for Professional Practice of Internal Auditing or, if appropriate, government auditing standards;

⁵ Section 11.42(3)(a), F.S.

⁶ *Id.*

⁷ Section 11.42(6)(a), F.S.

⁸ Section 11.42(6)(b), F.S.

⁹ Section 11.42(7), F.S.

¹⁰ Section 11.45(2), F.S.

¹¹ Section 20.055(1), F.S., defines "state agency" as each department created pursuant to chapter 20, F.S., and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial

- Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law; and
- Annually conduct operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations receiving eligible contributions under the Florida Tax Credit Scholarship Program,¹² including any contracts for services with related entities, to determine compliance with the provisions of that program.

The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:¹³

- The accounts and records of any governmental entity created or established by law;
- The information technology programs, activities, functions, or systems of any governmental entity created or established by law;
- The accounts and records of any charter school created or established by law;
- The accounts and records of any direct-support organization or citizen support organization created or established by law;
- The public records associated with any appropriation made by the Legislature to a nongovernmental agency, corporation, or person;
- State financial assistance provided to any nonstate entity;¹⁴
- The Tobacco Settlement Financing Corporation;
- Any purchases of federal surplus lands for use as sites for correctional facilities;
- Enterprise Florida, Inc., including any of its boards, advisory committees, or similar groups created by Enterprise Florida, Inc., and programs;
- The Florida Development Finance Corporation or the capital development board or the programs or entities created by the board;
- The records pertaining to the use of funds from voluntary contributions on a motor vehicle registration application or on a driver's license application;
- The records pertaining to the use of funds from the sale of specialty license plates;
- The acquisition and divestitures related to the Florida Communities Trust Program;
- The Florida Water Pollution Control Financing Corporation;
- The school readiness program, including the early learning coalitions;
- CareerSource Florida, Inc., or other programs or entities created by Career Source Florida, Inc.;
- The corporation under contract with the Department of Business and Professional Regulation to provide administrative, investigative, examination, licensing, and prosecutorial support services;
- The Florida Engineers Management Corporation;
- The books and records of any permit holder that conducts race meetings or jai alai exhibitions;

Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, The Agency for State Technology, the Office of Early Learning, and the state courts system.

¹² Section 1002.395, F.S.

¹³ Section 11.45(3), F.S.

¹⁴ Section 215.97, F.S., defines "nonstate entity" as a local government entity, nonprofit organization, or for-profit organization that receives state financial assistance.

- The corporation known as the Prison Rehabilitative Industries and Diversified Enterprise, Inc., or PRIDE Enterprises;
- The Florida Virtual School;
- Virtual education providers receiving state funds or funds from local ad valorem taxes; and
- The accounts and records of a nonprofit scholarship-funding organization participating in a state sponsored scholarship program authorized by ch. 1002, F.S.

Auditor General Reports

Various provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.¹⁵ The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee an annual report by December 1; such report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.¹⁶ In addition, the Auditor General must transmit recommendations at other times during the year when the information would be timely and useful to the Legislature.¹⁷

Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC Program) provides scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides or developmental research laboratory school.¹⁸ The FTC Program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine, and spirits.¹⁹ The tax credit is equal to 100 percent of the eligible contributions made.²⁰

The Department of Education (DOE) must annually verify the eligibility of expenditures for scholarships under the FTC Program using specified audit requirements.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 11.45, F.S., to require the Auditor General to annually conduct a performance audit of a randomly selected state agency.

¹⁵ Section 11.45(7)(f), F.S.

¹⁶ Section 11.45(7)(h), F.S.

¹⁷ *Id.*

¹⁸ Section 1002.395(3), (5), and (6)(d), F.S.

¹⁹ Section 1002.395(1) and (5), F.S.

²⁰ Sections 220.1875 and 1002.395(5), F.S.

²¹ Section 1002.395(9)(d), F.S.

Section 2 amends s. 1002.395, F.S., to conform a cross-reference regarding the DOE's obligation to verify eligibility of expenditures for scholarships under the Florida Tax Credit Scholarship Program using specified audit requirements.

Section 3 provides and effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Minimal. The Auditor General has indicated that the bill will have no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 11.45 and 1002.395 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Abruzzo

25-01312-16

20161206__

1 A bill to be entitled
2 An act relating to the Auditor General; amending s.
3 11.45, F.S.; requiring the Auditor General to annually
4 conduct a performance audit of a randomly selected
5 state agency; amending s. 1002.395, F.S.; conforming a
6 cross-reference; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Present paragraphs (g) through (k) of subsection
11 (2) of section 11.45, Florida Statutes, are redesignated as
12 paragraphs (h) through (l), respectively, and a new paragraph
13 (g) is added to that subsection, to read:

14 11.45 Definitions; duties; authorities; reports; rules.—
15 (2) DUTIES.—The Auditor General shall:
16 (g) Annually conduct a performance audit of a randomly
17 selected state agency.

18
19 The Auditor General shall perform his or her duties
20 independently but under the general policies established by the
21 Legislative Auditing Committee. This subsection does not limit
22 the Auditor General's discretionary authority to conduct other
23 audits or engagements of governmental entities as authorized in
24 subsection (3).

25 Section 2. Paragraph (d) of subsection (9) of section
26 1002.395, Florida Statutes, is amended to read:

27 1002.395 Florida Tax Credit Scholarship Program.—
28 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
29 Education shall:

30 (d) Annually verify the eligibility of expenditures as
31 provided in paragraph (6) (d) using the audit required by
32 paragraph (6) (m) and s. 11.45(2)(l) ~~11.45(2)(k)~~.

Page 1 of 2

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

25-01312-16

20161206__

33 Section 3. This act shall take effect July 1, 2016.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

January 11th, 2016

The Honorable Jeremy Ring

405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Ring:

I respectfully request Senate Bill 1206, Auditor General, be considered for placement on the Governmental Oversight and Accountability committee agenda. This piece of legislation will require the Auditor General to conduct a performance audit of a randomly selected state agency annually.

Thank you in advance for your consideration. Please let me know if I can provide you with any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "JA".

Joseph Abruzzo

Cc: Joe McVaney, *Staff Director*

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

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 Governmental Oversight and Accountability

BILL: SB 7048

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Client Records and Donor Information Collected by Regional Autism Centers

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Crosier</u>	<u>Hendon</u>		CF Submitted as Committee Bill
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 7048 continues the public records exemption for Florida's seven regional autism centers by removing the October 2, 2016 repeal date. The exemption provides that all records relating to a client of an autism center and the client's family are confidential and exempt from public record requirements. The exemption also provides that the personal identifying information of donors or prospective donors who wish to be anonymous is confidential and exempt.

Since the bill does not expand or create an exemption to public records law, the bill requires a majority vote of each chamber for passage.

The bill takes effect on October 1, 2016.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean 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.”

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

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁷

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

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is 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 otherwise provided for by law.¹⁹

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

Regional Autism Centers

In 2002, the Legislature established six regional autism centers²⁰ (center) throughout the state, adding a seventh in 2005.²¹ The seven centers are located at the:

- College of Medicine at Florida State University;²²
- College of Medicine at the University of Florida;²³
- University of Florida Health Science Center at Jacksonville;²⁴
- Louis de la Parte Florida Mental Health Institute at the University of South Florida;²⁵
- Mailman Center for Child Development and the Department of Psychology at the University of Miami;²⁶
- College of Health and Public Affairs at the University of Central Florida;²⁷ and
- Department of Exceptional Student Education at Florida Atlantic University.²⁸

Current law requires the centers to provide nonresidential resources and training services to persons of all ages and all levels of intellectual functioning who have autism,²⁹ an autistic-like disability, a dual sensory impairment, a sensory impairment with other handicapping conditions, or a pervasive developmental disorder that is not otherwise specified.³⁰ Each center must be operationally and fiscally independent and provide services within its geographical region of the state.³¹ Additionally, each center must coordinate services within and between state agencies, local agencies, and school districts. However, services offered by the center may not be duplicative of those offered by the agencies or school districts.³²

Each center must provide expertise in autism, autistic-like behaviors, and sensory impairments; individual and direct family assistance; technical assistance and consultation services;

²⁰ Chapter 2002-387, s.202, Laws of Fla.

²¹ Chapter 2005-49, s.1, Laws of Fla.

²² The College of Medicine at Florida State University serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties. Section 1004.55(1)(a), F.S.

²³ The College of Medicine at the University of Florida serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties. Section 1004.55(1)(b), F.S.

²⁴ The University of Florida Health Science Center at Jacksonville serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties. Section 1004.55(1)(c), F.S.

²⁵ The Louis de la Parte Florida Mental Health Institute at the University of South Florida serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. Section 1004.55(1)(d), F.S.

²⁶ The Mailman Center for Child Development and the Department of Psychology at the University of Miami services Broward, Miami-Dade, and Monroe Counties, Section 1004.55(1)(e), F.S.

²⁷ The College of Health and Public Affairs at the University of Central Florida services Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties. Section 1004.55(1)(f), F.S.

²⁸ The Department of Exceptional Student Education at Florida Atlantic University services Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties. Section 1004.55(1)(g), F.S.

²⁹ Section 393.063(3), F.S., defines “autism” as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

³⁰ Section 1004.55(1), F.S.

³¹ *Id.*

³² *Id.*

professional training programs; public education programs; coordination and dissemination of local and regional information regarding available resources; and support to state agencies in the development of training for early child care providers and educators with respect to developmental disabilities.³³

Public Record Exemptions under Review

In 2011, the Legislature created public record exemptions for the centers.³⁴ All records that relate to the client of a center who receives the center's services or participates in center activities are confidential and exempt from public record requirements. The public record exemption also applies to records that relate to the client's family. In addition, personal identifying information of a donor or prospective donor to a center who desires to remain anonymous is confidential and exempt from public record requirements.³⁵

Upon request, the center must provide a copy of the client's individual record to the client, if he or she is competent, or to the client's parent or legal guardian, if he or she is incompetent.³⁶

A center may release the confidential and exempt records relating to a client or the client's family as follows:

- To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.³⁷
- In response to a subpoena or to persons authorized by order of the court.³⁸
- To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of a client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

The center may release information contained in the confidential and exempt records in the following instances, provided that personal identifying information of the client or the client's family is removed:

- To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the center, maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential and exempt information obtained.³⁹
- By the director of the center or the director's designee for statistical and research purposes provided that any confidential and exempt information is removed in the reporting of such statistical or research data.⁴⁰

³³ Section 1004.55(4), F.S.

³⁴ Chapter 2011-221, Laws of Fla.; codified as s. 1004.55(6), F.S.

³⁵ Section 1004.55(6)(a)1, F.S.

³⁶ Section 1004.55(6)(b), F.S.

³⁷ Section 1004.55(6)(a)2., F.S.

³⁸ Section 1004.55(6)(a)3.a., F.S.

³⁹ Section 1004.55(6)(a)3.b., F.S.

⁴⁰ Section 1004.55(6)(a)3.a., F.S.

The 2011 public necessity statement provides that the public record exemption for records relating to a client or the client's family is a public necessity because:

Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. For these reasons, the individual's expectation of and right to privacy in all matters regarding his or her personal health necessitates this exemption.⁴¹

The public necessity statement further provides that release of records relating to a client or the client's family could be defamatory or could cause unwarranted damage to the name or reputation of the client or the client's family. It also provides that:

Protecting such records ensures an environment in which the discussion of the condition of autism or related disorders can be conducted in a free and open manner, thus enabling individuals with autism and their families to receive appropriate diagnostic and treatment information and cope more effectively with the enormous challenges posed by neurodevelopmental disorders and sensory impairments.⁴²

With regard to the public record exemption for personal identifying information of a donor or prospective donor to the center, the 2011 public necessity statement provides that:

If the identity of a prospective or actual donor who desires to remain anonymous is subject to disclosure, there is a chilling effect on donations because donors are concerned about disclosure of personal information leading to theft and, in particular, identity theft, including personal safety and security.⁴³

Pursuant to the Open Government Sunset Review Act, the public record exemptions will repeal on October 2, 2016, unless reenacted by the Legislature.⁴⁴

Staff Review of the Exemptions

During the 2015 interim, professional staff of the Senate Children, Families and Elder Affairs Committee sent questionnaires to each center as part of the Open Government Sunset Review process. All respondents recommended reenactment of the exemption without changes.⁴⁵ The centers indicated that the public record exemption for records relating to a client or the client's family provides the clients of the centers with the security of knowing that sensitive information about themselves or their child is protected from a public records request. This ensures the integrity of the relationship between the client and the center.⁴⁶ In addition, a center's response

⁴¹ Section 1004.55(6)(a)4.a., F.S.

⁴² Section 1004.55(6)(a)4.b., F.S.

⁴³ Ch. 2011-221, s. 2, Laws of Fla.

⁴⁴ *Id.*

⁴⁵ The surveys are on file with the Senate Committee on Children, Families, and Elder Affairs.

⁴⁶ *Id.* at question 11.

provided that the public record exemption for donor information is important because many of the donors are clients or are family member of clients.⁴⁷

III. Effect of Proposed Changes:

Section 1 amends s. 1004.55, F.S., to save from repeal the public record exemptions for regional autism centers. The bill removes the scheduled repeal of the public records exemptions, thereby continuing:

- The public record exemption for all records relating to a client of the center or the client's family; and
- The public record exemption for personal identifying information of a donor or prospective donor to the center who desires to remain anonymous.

Section 2 provides an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

⁴⁷ *Id.* at question 12.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1004.55(6), 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 the Committee on Children, Families, and Elder Affairs

586-02131-16

20167048__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 1004.55, F.S., which
 4 provides an exemption from public records requirements
 5 for information relating to client records and donor
 6 information collected by regional autism centers;
 7 removing the scheduled repeal of the exemption;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (6) of section 1004.55, Florida
 13 Statutes, is amended to read:
 14 1004.55 Regional autism centers; public record exemptions.—
 15 (6) (a) *Client records*.—
 16 1. All records that relate to a client of a regional autism
 17 center who receives the services of a center or participates in
 18 center activities, and all records that relate to the client's
 19 family, are confidential and exempt from s. 119.07(1) and s.
 20 24(a), Art. I of the State Constitution.
 21 2. A client who receives the services of a center, if
 22 competent, or the client's parent or legal guardian if the
 23 client is incompetent, shall be provided with a copy of the
 24 client's individual record upon request.
 25 3. A regional autism center may release the confidential
 26 and exempt records as follows:
 27 a. To physicians, attorneys, or governmental entities
 28 having need of the confidential and exempt information to aid a
 29 client, as authorized by the client, if competent, or the
 30 client's parent or legal guardian if the client is incompetent.
 31 b. In response to a subpoena or to persons authorized by
 32 order of court.

Page 1 of 2

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

586-02131-16

20167048__

33 c. To the State Board of Education or the Board of
 34 Governors of the State University System when the director of
 35 the center deems it necessary for the treatment of the client,
 36 maintenance of adequate records, compilation of treatment data,
 37 or evaluation of programs.
 38 4. Provided that personal identifying information of a
 39 client or the client's family has been removed, a regional
 40 autism center may release information contained in the
 41 confidential and exempt records ~~as follows~~:
 42 a. to a person engaged in bona fide research if that person
 43 agrees to sign a confidentiality agreement with the regional
 44 autism center, agrees to maintain the confidentiality of the
 45 information received, and, to the extent permitted by law and
 46 after the research has concluded, destroy any confidential
 47 information obtained.
 48 5.b. The director of the center or his or her designee may
 49 release information for statistical and research purposes ~~by the~~
 50 ~~director of the center or designee~~, provided that any
 51 confidential and exempt information is removed in the reporting
 52 of such statistical or research data.
 53 (b) *Donor information*.—Personal identifying information of
 54 a donor or prospective donor to a regional autism center who
 55 desires to remain anonymous is confidential and exempt from s.
 56 119.07(1) and s. 24(a), Art. I of the State Constitution.
 57 ~~(c) Review and repeal. This subsection is subject to the~~
 58 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
 59 ~~and shall stand repealed on October 2, 2016, unless reviewed and~~
 60 ~~saved from repeal through reenactment by the Legislature.~~
 61 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health
and Human Services

SENATOR ELEANOR SOBEL

33rd District

February 1, 2016

Senator Jeremy Ring
Chair of the Committee on Community Affairs
405 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Ring,

This letter is to request that you allow my Legislative Aide, Matthew Alford, to present SB 7048 on my behalf in the Committee on Governmental Oversight and Accountability. I am needed for a quorum in the Committee on Health Policy.

Thank you for your consideration of this request.

Respectfully,



Eleanor Sobel
State Senator, 33rd District

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

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ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

in 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)

2/11/2016

Meeting Date

Topic _____

Bill Number 7048
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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.

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 Governmental Oversight and Accountability

BILL: SB 864

INTRODUCER: Senator Smith

SUBJECT: State Contracts

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 864 requires that any state agency contract for services exceeding \$35,000 must specify that all call-center services provided pursuant to the contract must be staffed by persons located within the United States.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Chapter 287, F.S., governs the public procurement of personal property and services. The Florida Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and commodity and contractual services needed to support agency activities.¹ The Division of State Purchasing, in the DMS, establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.²

Contracts for commodities or contractual services in excess of \$35,000 must be procured through a competitive solicitation process.³ Section 287.058, F.S., outlines the provisions and conditions that must be present in contractual agreements for competitively procured services. The section also provides that a contract may be renewed for a period of time upon satisfactory performance evaluations by the agency and subject to the availability of funds.⁴

¹ See ss. 287.032 and 287.042, F.S.

² Division of Purchasing rules are published under Chapter 60A of the Florida Administrative Code.

³ Section 287.057(1), F.S., requires a competitive solicitation process for contracts that exceed the Category Two threshold. Category thresholds are listed in s. 287.017, F.S., which identifies contracts exceeding \$35,000 as Category Two.

⁴ Section 287.058(h), F.S.

Federal law also regulates procurement activities. The most well-known international agreements are the World Trade Organization Government Procurement Agreement (GPA), the North American Free Trade Agreement (NAFTA), and numerous other bilateral free trade agreements (FTA).⁵ The expansion of international trade between the United States and foreign governments has resulted in many agreements that contain mutually beneficial government procurement obligations. In the spirit of promoting trade relations, governments have agreed to require that each party's goods and services be given the same treatment as domestic goods and services. As such, a government is prohibited from arbitrarily giving preferential treatment to domestic goods at the expense of foreign goods originating from a country where there is an enforceable and standing trade agreement espousing mutually beneficial government obligations.

World Trade Organization Government Procurement Agreement (GPA)

The agreement that established the World Trade Organization (WTO) came as a result of the Uruguay Rounds of Multilateral Trade Negotiations, which also produced a series of other international agreements, including the GPA.⁶ As enumerated in the preamble, the GPA's objective is the expansion of world trade through three primary measures:

- Prohibition on discrimination based on national origin;
- Establishment of clear, transparent laws, regulations, procedures, and practices regarding governmental procurement; and
- Application of competitive procedural requirements related to notification, tendering (bidding), contract award, tender (bid) protest, etc.⁷

With respect to discrimination on the basis of national origin, Article III of the agreement expressly forbids the application of less favorable treatment to the products, services, and suppliers of other foreign parties than that which would be accorded to domestic products, services, and suppliers.⁸ The agreement further provides that all parties will ensure that the laws, regulations, procedures, and practice regulating government procurement in their home state will be executed in a nondiscriminatory manner.⁹

⁵ A list of the federal government's current procurement obligations under international agreements is available at <https://ustr.gov/issue-areas/government-procurement> (last visited Jan. 13, 2016).

⁶ Signatory countries: Armenia, Canada, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia, Bulgaria, Romania, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, and Chinese Taipei.

⁷ 1994 Uruguay Round Agreement on Government Procurement, April 15, 1994, WTO Agreement, Annex 4(b) (hereinafter "GPA"), *and see* GPA Appendix I (United States), Annex 2 (discusses sub-central government entities, such as Florida), both available at https://www.wto.org/english/docs_e/legal_e/legal_e.htm (last visited Jan. 13, 2016).

⁸ *Id.*

⁹ *Id.*

The State of Florida was one of 37 states to agree to procure in accordance with the GPA.¹⁰ Presently, Florida's executive branch is covered under the GPA¹¹ for purchases that exceed \$552,000 for commodities and services and \$7,777,000 for construction services.¹²

Free Trade Agreements

In addition to the GPA, the United States has also entered into several bilateral free trade agreements¹³ and two multilateral free trade agreements,¹⁴ with the most highly recognized being NAFTA. Similar to the GPA, these agreements contain provisions that call for fair and non-discriminatory treatment of products, goods, and services by all state parties. When necessary, the United States has issued waivers to protect parties from discriminatory purchasing requirements found under existing law that would be contrary to the covenants embodied in such international agreements.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 287.058, F.S., to require state agency contracts for services in excess of \$35,000 to include a provision in the contractual document, stating that any call center services provided pursuant to the contract must be staffed by persons located within the United States.

Section 2 provides that the bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ In a letter dated November 7, 1991, Governor Lawton Chiles authorized coverage of Florida under the GATT/WTO Government Procurement Agreement.

¹¹ See Annex 2 (Sub-Central Government Entities), *supra*, note 7.

¹² 76 F.R. 76808-01, December 8, 2011.

¹³ The United States has entered bilateral free trade agreements with the following countries: Australia, Bahrain, Canada, Chile, Israel, Morocco, Oman, Peru, and Singapore. This information is available at <http://www.ustr.gov/trade-topics/government-procurement/ftas-government-procurement-obligations> (last visited Jan. 13, 2016).

¹⁴ NAFTA (member countries: United States, Mexico, and Canada) and DR-CAFTA (El Salvador, Dominican Republic, Guatemala, Honduras, Nicaragua, and Costa Rica). This information is available at <https://ustr.gov/trade-agreements/free-trade-agreements> (last visited Jan. 13, 2016).

¹⁵ See 19 U.S.C. ss. 2511(a), 2532, 2533; see also Exec. Order No. 12260, available at <http://www.archives.gov/federal-register/codification/executive-order/12260.html> (last visited Jan. 13, 2016).

D. Other Constitutional Issues:

Requiring call-center services provided pursuant to a contract for services to be staffed by persons within the United States may potentially implicate the Supremacy Clause and the Commerce Clause of the U.S. Constitution.

The Federal Commerce Clause and Market Participant Exception

The Commerce Clause states that Congress shall have the power “to regulate commerce with foreign Nations, and among the several States.”¹⁶ This clause speaks to Congress’ power to regulate both interstate and foreign commerce and acts as a negative constraint upon the states.¹⁷

The standard for determining whether state action violates the Commerce Clause requires courts to consider whether the state law facially discriminates against foreign commerce, whether the law interferes with the ability of the federal government to speak with one voice, or whether the law attempts to regulate conduct beyond its borders. For this reason, state laws affecting interstate and foreign commerce are reviewed with heightened scrutiny.¹⁸

The market participant exception may allow state laws to withstand such judicial review under particular circumstances. The exception permits a state to permissibly discriminate against non-residents so long as the state is acting as a “market participant,” rather than a “market regulator.”¹⁹ A state is considered to be a “market participant” when it is acting as an economic actor, such as a purchaser of goods and services.²⁰

However, the law is unsettled regarding the applicability of the market participant exception to the Commerce Clause. Under the market participant exception, the United States Court of Appeals for the First Circuit upheld the validity of a Pennsylvania procurement statute that required suppliers contracting with a public agency for public works projects to provide products made of American steel.²¹ Conversely, the United States Court of Appeals for the Third Circuit refused to extend the market participant exception and invalidated a Massachusetts law that placed restrictions on the ability of state agencies and authorities to purchase goods or services from individuals or companies that engaged in business with Burma.²²

¹⁶ U.S. Const. Art. I, s. 8, c. 3.

¹⁷ The constraint is often referred to as the dormant Commerce Clause. *See Gibbons v. Ogden*, 22 U.S. 1 (1824).

¹⁸ *Japan Line, Ltd. v. County of Los Angeles*, 441 U.S. 434, 446 (1970) (“When construing Congress’ power to ‘regulate commerce with foreign Nations,’ a more extensive constitutional inquiry is required.”).

¹⁹ *See White v. Massachusetts Council of Constr. Employers, Inc.*, 460 U.S. 204, 208 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).

²⁰ *Id.*

²¹ *Trojan Techs., Inc. v. Pennsylvania*, 916 F. 2d 903, 912 (3d Cir. 1990), *cert denied*, 501 U.S. 1212 (1991).

²² *National Foreign Trade Council v. Natsios*, 181 F.3d 38, 60 (1st Cir. 1999), *cert granted*, 528 U.S. 1018 (1999).

The Supremacy Clause

The Supremacy Clause grants Congress the power to preempt state law by deeming the United States Constitution and the laws of the United States as the “Law of the Land.”²³ Preemption may occur under three primary circumstances: when Congress expressly preempts the state legislation, when Congress intends to occupy the field, or when a state law is in conflict with federal law.²⁴

In *Crosby v. National Foreign Trade Council*, the United States Supreme Court unanimously concluded that a Massachusetts’ law prohibiting state agencies from buying goods or services from companies doing business with Burma was unconstitutional.²⁵ At the time, the federal government was reassessing its foreign relations status with Burma and Congress had enacted a statute that imposed a set of mandatory and conditional sanctions on Burma. The existence of both the federal and state law created a direct conflict since the Massachusetts law banned all contracts between the state and companies doing business with Burma.

In 2013, using the formula prescribed under *Crosby*, the United States Court of Appeals for the 11th Circuit upheld a challenge to the constitutionality of an amendment to a provision under ch. 287, F.S.²⁶ The challenged law in *Odebrecht* required a company entering into a procurement contract for goods or services exceeding \$1 million to certify that it did not have business operations in Cuba.²⁷ The Court held that federal law preempted the state law under the circumstances because the state law swept more broadly than federal legislation.²⁸

Similarly, SB 864 may implicate foreign relations by requiring that state agency contracts in excess of \$35,000 include a provision that all call-center services must be staffed by persons located within the United States. Notably different from the courts’ reasoning in *Crosby* and *Odebrecht*, is that the language of this bill does not appear to be in direct conflict with any federal law. However, federal treaties and executive agreements supporting free trade may still provide a basis for preemption.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 864 could limit the number of private companies qualified to enter into procurement contracts with the state.

²³ U.S. Const. art. VI, s. 1, c.2.

²⁴ *Crosby v. Nat’l Foreign Trade Council*, 530 U.S. 363, 372-73 (2000).

²⁵ *Id.* at 366.

²⁶ *Odebrecht Constr. v. Sec’y, Fla. DOT*, 715 F.3d 1268 (11th Cir. 2013).

²⁷ Section 287.135(5), F.S. (2012). *See also Odebrecht*, 715 F.3d at 1272.

²⁸ *Id.* at 1281.

C. **Government Sector Impact:**

SB 864 could have fiscal implications if the cost of domestic labor is higher than the cost of labor in foreign markets.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.058 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 Smith

31-00934-16

2016864__

1 A bill to be entitled
 2 An act relating to state contracts; amending s.
 3 287.058, F.S.; requiring all state contracts in excess
 4 of a certain amount to require that call-center
 5 services be staffed by persons located within the
 6 United States; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (1) of section 287.058, Florida
 11 Statutes, is amended to read:
 12 287.058 Contract document.—
 13 (1) A ~~Every~~ procurement of contractual services in excess
 14 of the threshold amount provided under ~~in~~ s. 287.017 for
 15 CATEGORY TWO, except for ~~the providing of~~ health and mental
 16 health services or drugs in the examination, diagnosis, or
 17 treatment of sick or injured state employees or ~~the providing of~~
 18 other benefits as required by chapter 440, must ~~shall~~ be
 19 evidenced by a written agreement embodying all provisions and
 20 conditions for ~~of~~ the procurement of such services. As
 21 ~~applicable, the agreement must, which shall, where applicable,~~
 22 include, but need not be limited to, a provision:
 23 (a) Requiring that bills for fees or other compensation for
 24 services or expenses be submitted in detail sufficient for a
 25 proper preaudit and postaudit ~~thereof~~.
 26 (b) Requiring that bills for any travel expenses be
 27 submitted in accordance with s. 112.061. A state agency may
 28 establish rates lower than the maximum provided in s. 112.061.
 29 (c) Requiring all call-center services provided pursuant to

Page 1 of 3

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31-00934-16

2016864__

30 the contract to be staffed by persons located within the United
 31 States. This requirement also applies to all call-center
 32 services performed by a subcontractor pursuant to the contract.
 33 ~~(d)(e)~~ Allowing unilateral cancellation by the agency for
 34 refusal by the contractor to allow public access to all
 35 documents, papers, letters, or other material made or received
 36 by the contractor in conjunction with the contract, unless the
 37 records are exempt from s. 24(a) of Art. I of the State
 38 Constitution and s. 119.07(1).
 39 ~~(e)(d)~~ Specifying a scope of work which ~~that~~ clearly
 40 establishes all tasks the contractor is required to perform.
 41 ~~(f)(e)~~ Dividing the contract into quantifiable, measurable,
 42 and verifiable units of deliverables which ~~that~~ must be received
 43 and accepted in writing by the contract manager before payment.
 44 Each deliverable must be directly related to the scope of work
 45 and specify a performance measure. As used in this paragraph,
 46 the term "performance measure" means the required minimum
 47 acceptable level of service to be performed and criteria for
 48 evaluating the successful completion of each deliverable.
 49 ~~(g)(f)~~ Specifying the criteria and the final date by which
 50 such criteria must be met for completion of the contract.
 51 ~~(h)(g)~~ Specifying that the contract may be renewed for up
 52 ~~to a period that may not exceed~~ 3 years or the term of the
 53 original contract, whichever is longer, specifying the renewal
 54 price for the contractual service as set forth in the bid,
 55 proposal, or reply, specifying that costs for the renewal may
 56 not be charged, and specifying that renewals are contingent upon
 57 satisfactory performance evaluations by the agency and subject
 58 to the availability of funds. Exceptional purchase contracts

Page 2 of 3

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31-00934-16

2016864__

59 pursuant to s. 287.057(3)(a) and (c) may not be renewed.

60 ~~(i)-(h)~~ Specifying the financial consequences that the
61 agency must apply if the contractor fails to perform in
62 accordance with the contract.

63 ~~(j)-(i)~~ Addressing the property rights of any intellectual
64 property related to the contract and the specific rights of the
65 state regarding the intellectual property if the contractor
66 fails to provide the services or is no longer providing
67 services.

68

69 In lieu of a written agreement, the agency may authorize the use
70 of a purchase order for classes of contractual services if the
71 provisions of paragraphs (a)-(j) ~~(a)-(i)~~ are included in the
72 purchase order or solicitation. The purchase order must include,
73 but need not be limited to, an adequate description of the
74 services, the contract period, and the method of payment. In
75 lieu of printing the provisions of paragraphs (a)-(d) ~~(a)-(e)~~
76 and (h) ~~(g)~~ in the contract document or purchase order, agencies
77 may incorporate the requirements of those paragraphs ~~(a)-(e)~~ and
78 ~~(g)~~ by reference.

79 Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 11 2016

Meeting Date

Topic _____

Name BRIAN PITTS

Bill Number 864

(if applicable)

Job Title TRUSTEE

Amendment Barcode _____

(if applicable)

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

SB 864
Bill Number (if applicable)

Topic CONTRACTS

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO Box 1766

Phone 954 850 4056

POMPANO BCH FLA 33061
City State Zip

Email workingjerk@hotmail.com

Speaking: For Against Information

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

Representing COMMUNICATIONS WORKERS of AMERICA COUNCIL 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
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 Governmental Oversight and Accountability

BILL: CS/SB 1004

INTRODUCER: Community Affairs Committee and Senator Hays

SUBJECT: Security System Plans

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Kim	McVaney	GO	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1004 provides additional circumstances under which information regarding security system plans which is otherwise confidential and exempt may be disclosed. Such information may now be disclosed to the property owner or leaseholder; in furtherance of the official duties and responsibilities of the agency holding the information; to another local, state, or federal agency in the furtherance of that agency's official duties and responsibilities; or upon a showing of good cause before a court of competent jurisdiction.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “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.”

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

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Security System Exemptions from Public Access or Disclosure

Exemptions for security systems and surveillance techniques are governed by ss. 281.301 and 119.071, F.S.

Section 281.301, F.S., provides that:

Information relating to the security systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security systems for any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information, and all meetings relating directly to or that would reveal such systems or information are confidential and exempt from ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure. This information can be disclosed to the owner, leaseholder or to a government agency to fight terrorism.

Section 119.071(3)(a)2., F.S., provides that:

(3) SECURITY.—

2. A security system plan or portion thereof for:

Any property owned by or leased to the state or any of its political subdivisions; or

Any privately owned or leased property

held by any agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

As used in s. 119.071(3)(a), F.S., the term “security system plan” includes “all... records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems.”¹⁵ Security system plans also include threat assessments and response plans; evacuation and sheltering plans and training manuals.¹⁶

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.071(3)(a)1.a., F.S.

¹⁶ Section 119.071(3)(a)1., F.S.

Statutory Interpretation by the Courts and the Attorney General

The Attorney General and the courts have both weighed in on the issues relating to exemptions for security systems. The Attorney General concluded that the names and addresses of applicants for permits to install security systems would be information that would reveal the existence of a security system, and, therefore would be exempt from public disclosure.¹⁷ Furthermore, the Second District Court of Appeal, in *Critical Intervention Services, Inc. v. City of Clearwater*, cited with approval the discussion in that Attorney General Opinion finding that the identity of residential and business alarm permit holders was exempt from public disclosure.¹⁸ The court found that the plain language of ss. 281.301 and 119.071, F.S., makes confidential all records revealing a security system and stated that disclosure of such information “would imperil the safety of persons and property.”¹⁹

The Fifth District Court of Appeal in *Central Florida Regional Transportation Authority d/b/a Lynx v. Post-Newsweek Stations, Orlando, Inc.*, considered whether security tapes from cameras installed on transit authority buses were confidential as revealing the security system.²⁰ Citing to s. 281.301, F.S., which states that records that directly relate to or reveal information about security systems are confidential, the court concluded that the video footage captured by the bus camera “directly relates to and reveals information about a security system.”²¹ The court found that the videos “which are records, reveal the capabilities—and as a corollary, the vulnerabilities—of the current system” and therefore, are confidential and exempt from public inspection.²²

In similar fashion, the Attorney General opined that surveillance tapes that are made by a security system are confidential and exempt from the disclosure requirements of the public records law under ss. 281.301 and 119.071, F.S.²³

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to expand the circumstances under which an agency may disclose information regarding security system plans. Information made confidential and exempt under paragraph (a) may now be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

¹⁷ Op. Atty Gen. Fla. 2004-08 (2004).

¹⁸ *Critical Intervention Services, Inc. v. City of Clearwater*, 908 So. 2d 1195 (Fla. 2d DCA 2005).

¹⁹ *Id.* at 1197.

²⁰ *Cent. Florida Reg’l Transp. Auth. V. Post-Newsweek Stations, Orlando, Inc.*, 157 So. 3d. 401 (Fla. 5th DCA 2015), reh’g denied (Feb. 26, 2015).

²¹ *Id.* at 405.

²² *Id.*

²³ Op. Atty Gen. Fla. 2015-06 (2015).

Section 2 amends s. 281.301, F.S., to expand the circumstances under which information relating to the security systems for any property owned by or leased to the state or any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), F.S., may be disclosed. Such information may be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

Section 3 provides that the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.071 and 281.301 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on January 19, 2016:

Removes language that expanded the public records exemption for security plans to include video or audio recordings from a security system camera. The corresponding public necessity statement and OGSR language related to the expanded exemption are also removed.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Hays

578-02303A-16

20161004c1

1 A bill to be entitled
 2 An act relating to security system plans; amending s.
 3 119.071, F.S.; revising exceptions to a public records
 4 exemption; amending s. 281.301, F.S.; providing
 5 exceptions to a public records exemption; providing an
 6 effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraph (a) of subsection (3) of section
 11 119.071, Florida Statutes, is amended to read:
 12 119.071 General exemptions from inspection or copying of
 13 public records.—
 14 (3) SECURITY.—
 15 (a)1. As used in this paragraph, the term "security system
 16 plan" includes all:
 17 a. Records, information, photographs, audio and visual
 18 presentations, schematic diagrams, surveys, recommendations, or
 19 consultations or portions thereof relating directly to the
 20 physical security of the facility or revealing security systems;
 21 b. Threat assessments conducted by any agency or any
 22 private entity;
 23 c. Threat response plans;
 24 d. Emergency evacuation plans;
 25 e. Sheltering arrangements; or
 26 f. Manuals for security personnel, emergency equipment, or
 27 security training.
 28 2. A security system plan or portion thereof for:
 29 a. Any property owned by or leased to the state or any of
 30 its political subdivisions; or
 31 b. Any privately owned or leased property
 32

Page 1 of 3

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

578-02303A-16

20161004c1

33 held by an agency is confidential and exempt from s. 119.07(1)
 34 and s. 24(a), Art. I of the State Constitution. This exemption
 35 is remedial in nature, and it is the intent of the Legislature
 36 that this exemption apply to security system plans held by an
 37 agency before, on, or after the effective date of this
 38 paragraph.
 39 3. Information made confidential and exempt by this
 40 paragraph may be disclosed ~~by the custodian of public records~~
 41 ~~to:~~
 42 a. To the property owner or leaseholder; or
 43 b. In furtherance of the official duties and
 44 responsibilities of the agency holding the information; Another
 45 state or federal agency to prevent, detect, guard against,
 46 respond to, investigate, or manage the consequences of any
 47 attempted or actual act of terrorism, or to prosecute those
 48 persons who are responsible for such attempts or acts
 49 c. To another local, state, or federal agency in
 50 furtherance of that agency's official duties and
 51 responsibilities; or
 52 d. Upon a showing of good cause before a court of competent
 53 jurisdiction.
 54 Section 2. Section 281.301, Florida Statutes, is amended,
 55 to read:
 56 281.301 Security systems; records and meetings exempt from
 57 public access or disclosure.—
 58 (1) Information relating to the security systems for any
 59 property owned by or leased to the state or any of its political
 60 subdivisions, and information relating to the security systems
 61 for any privately owned or leased property which is in the

Page 2 of 3

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

578-02303A-16

20161004c1

62 possession of any agency as defined in s. 119.011(2), including
63 all records, information, photographs, audio and visual
64 presentations, schematic diagrams, surveys, recommendations, or
65 consultations or portions thereof relating directly to or
66 revealing such systems or information, and all meetings relating
67 directly to or that would reveal such systems or information are
68 confidential and exempt from ss. 119.07(1) and 286.011 and other
69 laws and rules requiring public access or disclosure.

70 (2) Information made confidential and exempt by this
71 section may be disclosed:

72 (a) To the property owner or leaseholder;

73 (b) In furtherance of the official duties and
74 responsibilities of the agency holding the information;

75 (c) To another local, state, or federal agency in
76 furtherance of that agency's official duties and
77 responsibilities; or

78 (d) Upon a showing of good cause before a court of
79 competent jurisdiction.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS
11th District

MEMORANDUM

To: Senator Jeremy Ring, Chair
Governmental Oversight and Accountability
CC: Joe McVaney, Staff Director
Allison Rudd, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB1004 Public Records/Video and Audio Recordings

Date: January 19, 2016

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/16
Meeting Date

1004
Bill Number (if applicable)

Topic Security System Video

Amendment Barcode (if applicable)

Name Electra Bustle

Job Title

Address 123 S. Adams St.
Street

Phone

City State Zip

Email

Speaking: For Against Information

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

Representing Florida Sheriffs Assoc

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

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

2.1.16

Meeting Date

1004

Bill Number (if applicable)

Topic Public Records/oversight

Amendment Barcode (if applicable)

Name Randy Lewis

Job Title Principle Architect, MLD Architects

Address 145 Royster Dr.

Phone 850 524-2598

Street

Crawfordville FL

32327

Email randymld@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Tall-Trust for Historic Preservation

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)

02-01-16

Meeting Date

1004

Bill Number (if applicable)

Topic Public Records / Audio, Video

Amendment Barcode (if applicable)

Name VICKI WOOLDRIDGE

Job Title GOV. AFFRS. MGR.

Address 800 NW 33rd St.

Phone 954-213-8690

Street

POMPANO BCH FL 33064

City

State

Zip

Email wooldridgev@state.fl.gov

Speaking: For Against Information

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

Representing South Florida Regional Transportation Authority

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)

2/1/16
Meeting Date

1004
Bill Number (if applicable)

Topic Audio/Video Public Records

Amendment Barcode (if applicable)

Name Lisa Bacot

Job Title Exec. Director

Address PO Box 10158

Phone 408-8329

Street

Talley

FL
State

32817
Zip

Email lisabacot@pwrta.org

Speaking: For Against Information

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

Representing Florida Public Transportation 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.

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 Governmental Oversight and Accountability

BILL: CS/CS/SB 1278

INTRODUCER: Governmental Oversight and Accountability Committee, Judiciary Committee and Senator Ring

SUBJECT: Public Records/Petitions to Determine Incapacity

DATE: February 3, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1278 creates new exemptions from the public records inspection and access requirements of Art. 1, s. 24(a) of the State Constitution and s. 119.07(1), F.S. This bill makes confidential and exempt pleadings, orders, and personal identifying information on a docket relating to Baker Act proceedings. The information may be disclosed upon request to certain enumerated persons involved in the proceedings or when directed by the court.

The exemptions will be repealed on October 2, 2021, unless reviewed and reenacted by the Legislature before that date. The bill also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The bill takes effect on July 1, 2016.

II. Present Situation:

Public Records Law

The Florida Constitution

Under the State Constitution, the public is guaranteed the right of access to government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, unless the record is exempted or specifically made confidential.¹ This right of access to records and meetings specifically includes the legislative, executive, and judicial branches of government, their agencies and departments, local governmental entities, and any person acting on behalf of the government.²

The Florida Statutes

Similarly, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. Chapter 119, F.S., which is known as the Public Records Act, provides that the public may access legislative and executive branch records.³ According to the Public Records Act, a public record includes most any document, recording, or other material, regardless of its physical form or characteristics or how it is transmitted.⁴ Anyone who violates the Public Records Act may be punished by civil or criminal penalties or suspension and removal or impeachment from office.⁵

The Legislature may create an exemption to public records or open meetings requirements.⁶ An exemption must specifically state the public necessity justifying the exemption and must be tailored narrowly to accomplish the stated purpose of the law.⁷ Additionally, the exemption must pass by two-thirds vote of the House and Senate.⁸ An exemption that does not meet these criteria may be held unconstitutional.⁹

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.

⁴ 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." Section 119.011(2), F.S., defines "agency" to mean "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."

⁵ Section 119.10, F.S.

⁶ FLA. CONST., art. I, s. 24(c).

⁷ *Id.*

⁸ *Id.*

⁹ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (1999). In this case the Florida Supreme Court determined that a public meeting exemption was unconstitutional because the statement of public necessity did not define essential terms and the exemption was written too broadly. The Court also decided that it could not move into the legislature's realm to narrow the exemption to save the statute.

When the Legislature creates a public records exemption, it may classify the record as “confidential and exempt” or “exempt.” When designated as “confidential and exempt,” the record may be released by the records custodian only under the limited circumstances defined by the Legislature. When a record is designated as “exempt,” it may be released at the discretion of the records custodian.

The Florida Mental Health Act, also known as The Baker Act

The Legislature adopted the Florida Mental Health Act, also known as The Baker Act, in 1971.¹⁰ It is designed to help people receive treatment who are suffering with mental, emotional, and behavioral disorders. Baker Act proceedings provide people with emergency services, sometimes through temporary detention, to obtain a mental health evaluation and treatment. The treatment may be voluntary or involuntary. The Baker Act requires that programs offer comprehensive services to people who need intensive short-term treatment and continued treatment to aid in their recovery. The Baker Act also provides protections and rights for people examined or treated for mental illness. Legal procedures are established for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Confidentiality of Records under the Baker Act

The concern has been expressed that while “clinical records”¹¹ under the Baker Act are designated and maintained as confidential by the clerk of the court, it is not clear whether other Baker Act records are open to the public for review.¹² There appears to be a difference of opinion among various clerks of court as to what is and what is not exempt from disclosure. If the petitions, orders, and identifying information in this bill were all classified as confidential and exempt, then there would be uniformity among the clerks of the court in administering these provisions statewide.

III. Effect of Proposed Changes:

Newly Created Public Records Exemptions in the Baker Act

CS/CS/SB 1278 provides a public records exemption for pleadings, orders, related records, and personal identifying information contained on a docket held pursuant to the Baker Act, which would include involuntary examinations,¹³ involuntary outpatient placement,¹⁴ and involuntary

¹⁰ Chapter 71-131, s. 1, Laws of Fla. The Baker Act is contained in Part I of chapter 394, Florida Statutes.

¹¹ Section 394.4615, F.S., states that “[a] clinical record is confidential and exempt from the provisions of s. 119.07(1).” The Judicial Administration Rules also provide for the confidentiality of clinical records under the Baker Act. Fla. R. Jud. Admin. 2.420(d)(1)(B)(viii).

¹² Section 394.455(3), F.S. Clinical records are defined as being all parts of the record required to be maintained, including medical records, progress notes, charts, admission and discharge data, and other information recorded by the facility that pertains to the patient’s hospitalization or treatment. In lay terms, this is often characterized as records requiring a medical signature.

¹³ Section 394.463, F.S.

¹⁴ Section 394.4655, F.S.

inpatient placement.¹⁵ This exemption also applies to voluntary admissions, if judicial involvement were necessary.¹⁶

The bill makes confidential and exempt from public inspection and copying those pleadings, orders, and related records, and personal information contained on a docket, held pursuant to the Baker Act.

A clerk of court may release the confidential and exempt record or information to the following people, upon request:

- The petitioner or the petitioner’s attorney;
- The respondent or the respondent’s attorney;
- The respondent’s guardian or guardian advocate;
- The respondent’s parent, guardian, custodian, or guardian advocate¹⁷ if the respondent is a minor;
- The respondent’s health care practitioner;
- The respondent’s patient representative;¹⁸ or
- An agency or person who is authorized to receive clinical records.

In addition, a clerk may release confidential and exempt records or information to a person who is authorized to view records and who has obtained a court order finding that there is good cause to release the records. In order to determine if there is good cause, a court must use a balancing test to weigh the need for the information to be disclosed against the harm to the respondent.

The bill provides that anyone who receives Baker Act records or personal identifying information must maintain its confidential and exempt status.

The bill has retroactive application.

The bill also includes a public necessity statement, as required by s. 24(c), Art. I of the State Constitution. The public necessity statement of the bill provides that Baker Act records and personal identifying information should be confidential and exempt from public disclosure in order to preserve the privacy of a person who has or is alleged to have mental illness. A person’s health and mental health are intensely private matters, and the exemption will protect sensitive personal information which may cause unwarranted damage to an individual reputation if it is

¹⁵ Section 394.467, F.S.

¹⁶ Section 394.4625, F.S.

¹⁷ A guardian advocate is a person who has been appointed by a circuit court for a person with developmental disabilities if that person lacks some decision making skills necessary for his or her care. In addition, a guardian advocate may also be appointed by voluntary petition. Section 393.12(2), F.S.

¹⁸ Section 408.051, F.S., provides that patient representative “means a parent of a minor patient, a court-appointed guardian for the patient, a health care surrogate, or a person holding a power of attorney or notarized consent appropriately executed by the patient granting permission to a health care facility or health care provider to disclose the patient’s health care information to that person. In the case of a deceased patient, the term also means the personal representative of the estate of the deceased patient; the deceased patient’s surviving spouse, surviving parent, or surviving adult child; the parent or guardian of a surviving minor child of the deceased patient; the attorney for the patient’s surviving spouse, parent, or adult child; or the attorney for the parent or guardian of a surviving minor child.”

released. In addition, the public necessity statement provides that publication of a docket containing personal identifying information is confidential and exempt because it is a record of a Baker Act proceeding and should also be protected. Finally, the public necessity statement provides that public dissemination of sensitive personal information would have a chilling effect on people who may wish to seek or comply with mental health treatment.

This bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because clerks of the court may incur additional costs relating to redacting information made confidential and exempt under this bill. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

B. Public Records/Open Meetings Issues:

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The State Constitution requires the exemption to be no broader than necessary to accomplish the stated purpose of the law. The exemption is no broader than the public necessity statement. The public necessity statement appears to support the public policy for the exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. Clerks of court may incur additional costs associated with training court personnel and performing more redactions of personal identifying information from dockets. It is anticipated that these costs will be absorbed within the existing resources of the offices of the clerks of court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section 394.4615 of the Florida Statutes.

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

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

CS/CS by Governmental Oversight and Accountability on February 1, 2016:

The CS/CS makes the following changes:

- Consolidates three exemptions into one central location for the entire Baker Act;
- Removes referenced to the Open Government in the Sunshine Review Act (OGSR), as the OGSR is not required for records held solely by the State Court System pursuant to s. 119.15(2)(b), F.S.;¹⁹
- Expands the exemption to include pleading other than the petition, so that responses filed the person who is being Baker Acted are not public, and any supplementary pleadings are included in the exemption;
- Expands the exemption to include related records, such as recording of the proceeding or any notes taken by a clerk;
- Provides that the clerk of court may release court records to the petitioner; the petitioner’s counsel; the respondent’s guardian advocate; a minor’s parents, guardians, legal custodian, or guardian advocate;
- Provides a ‘good cause’ standard for release of records;
- Provides that personal identifying information on a docket relating to a Baker Act proceeding is confidential and exempt;
- Modifies and strengthens the public necessity statement to conform to the exemption; and,
- Provides for retroactive application of the exemption.

CS by Judiciary on January 20, 2016:

The committee substitute makes technical changes to ss. 394.4655(3)(d) and 394.467(3)(b), F.S. by adding the phrase “under this section.” The court has not been mentioned at this time in the chronology of the sections, so for clarity, the sentence is

¹⁹ The Open Government Sunset Review Act, s. 119.15, F.S., prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions. The act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment, unless the exemption is continued by the Legislature.

rephrased to state that “The petition and any order entered by the court *under this section* are confidential and exempt . . .”

Also, the singular verb “is” is replaced with the plural verb “are” for correct subject-verb agreement in the first sentence of s. 394.467(3)(b), F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 394.4615, Florida Statutes, is amended
to read:

394.4615 ~~Clinical records~~; Confidentiality.—

(1) CLINICAL RECORDS.—

(a) ~~(1)~~ A clinical record shall be maintained for each
patient. The record shall include data pertaining to admission



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11 and such other information as may be required under rules of the
12 department. A clinical record is confidential and exempt from
13 ~~the provisions of~~ s. 119.07(1). Unless waived by express and
14 informed consent, by the patient or the patient's guardian or
15 guardian advocate or, if the patient is deceased, by the
16 patient's personal representative or the family member who
17 stands next in line of intestate succession, the confidential
18 status of the clinical record shall not be lost by either
19 authorized or unauthorized disclosure to any person,
20 organization, or agency.

21 ~~(b)(2)~~ The clinical record shall be released when:

22 1.~~(a)~~ The patient or the patient's guardian authorizes the
23 release. The guardian or guardian advocate shall be provided
24 access to the appropriate clinical records of the patient. The
25 patient or the patient's guardian or guardian advocate may
26 authorize the release of information and clinical records to
27 appropriate persons to ensure the continuity of the patient's
28 health care or mental health care.

29 2.~~(b)~~ The patient is represented by counsel and the records
30 are needed by the patient's counsel for adequate representation.

31 3.~~(c)~~ The court orders such release. In determining whether
32 there is good cause for disclosure, the court shall weigh the
33 need for the information to be disclosed against the possible
34 harm of disclosure to the person to whom such information
35 pertains.

36 4.~~(d)~~ The patient is committed to, or is to be returned to,
37 the Department of Corrections from the Department of Children
38 and Families, and the Department of Corrections requests such
39 records. These records shall be furnished without charge to the



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40 Department of Corrections.

41 ~~(c)(3)~~ Information from the clinical record may be released
42 in the following circumstances:

43 1.~~(a)~~ When a patient has declared an intention to harm
44 other persons. When such declaration has been made, the
45 administrator may authorize the release of sufficient
46 information to provide adequate warning to the person threatened
47 with harm by the patient.

48 2.~~(b)~~ When the administrator of the facility or secretary
49 of the department deems release to a qualified researcher as
50 defined in administrative rule, an aftercare treatment provider,
51 or an employee or agent of the department is necessary for
52 treatment of the patient, maintenance of adequate records,
53 compilation of treatment data, aftercare planning, or evaluation
54 of programs.

55
56 For the purpose of determining whether a person meets the
57 criteria for involuntary outpatient placement or for preparing
58 the proposed treatment plan pursuant to s. 394.4655, the
59 clinical record may be released to the state attorney, the
60 public defender or the patient's private legal counsel, the
61 court, and to the appropriate mental health professionals,
62 including the service provider identified in s.
63 394.4655(6)(b)2., in accordance with state and federal law.

64 (d)~~(4)~~ Information from clinical records may be used for
65 statistical and research purposes if the information is
66 abstracted in such a way as to protect the identity of
67 individuals.

68 (e)~~(5)~~ Information from clinical records may be used by the



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69 Agency for Health Care Administration, the department, and the
70 Florida advocacy councils for the purpose of monitoring facility
71 activity and complaints concerning facilities.

72 ~~(f)(6)~~ Clinical records relating to a Medicaid recipient
73 shall be furnished to the Medicaid Fraud Control Unit in the
74 Department of Legal Affairs, upon request.

75 ~~(g)(7)~~ Any person, agency, or entity receiving information
76 pursuant to this subsection ~~section~~ shall maintain such
77 information as confidential and exempt from the provisions of s.
78 119.07(1).

79 ~~(h)(8)~~ Any facility or private mental health practitioner
80 who acts in good faith in releasing information pursuant to this
81 subsection ~~section~~ is not subject to civil or criminal liability
82 for such release.

83 ~~(i)(9)~~ ~~Nothing in~~ This subsection does not ~~section is~~
84 ~~intended to prohibit~~ a ~~the~~ parent or next of kin of a person who
85 is held in or treated under a mental health facility or program
86 from requesting and receiving information limited to a summary
87 of that person's treatment plan and current physical and mental
88 condition. Release of such information shall be in accordance
89 with the code of ethics of the profession involved.

90 ~~(j)(10)~~ Patients shall have reasonable access to their
91 clinical records, unless such access is determined by the
92 patient's physician to be harmful to the patient. If the
93 patient's right to inspect his or her clinical record is
94 restricted by the facility, written notice of such restriction
95 shall be given to the patient and the patient's guardian,
96 guardian advocate, attorney, and representative. In addition,
97 the restriction shall be recorded in the clinical record,



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98 together with the reasons for it. The restriction of a patient's
99 right to inspect his or her clinical record shall expire after 7
100 days but may be renewed, after review, for subsequent 7-day
101 periods.

102 (k) ~~(11)~~ A Any person who fraudulently alters, defaces, or
103 falsifies the clinical record of a any person receiving mental
104 health services in a facility subject to this part, or causes or
105 procures any of these offenses to be committed, commits a
106 misdemeanor of the second degree, punishable as provided in s.
107 775.082 or s. 775.083.

108 (2) COURT RECORDS.-

109 (a) All pleadings, orders, and related records, and
110 personal identifying information on a docket, held pursuant to
111 this part are confidential and exempt from s. 119.07(1) and s.
112 24(a), Art. I of the State Constitution.

113 (b) Pleadings, orders, and related records, and personal
114 identifying information on a docket, made confidential and
115 exempt by this subsection may be disclosed by the clerk of the
116 court, upon request, to:

117 1. The petitioner.

118 2. The petitioner's attorney.

119 3. The respondent.

120 4. The respondent's attorney.

121 5. The respondent's guardian or guardian advocate, if
122 applicable.

123 6. In the case of a minor respondent, the respondent's
124 parent, guardian, legal custodian, or guardian advocate.

125 7. The respondent's treating health care practitioner.

126 8. The respondent's health care surrogate or proxy.



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127 9. The respondent's patient representative.

128 10. A person or an entity authorized to view records and
129 who has obtained a court order finding that there is good cause
130 to release the records. In determining whether there is good
131 cause for disclosure, the court shall weigh the need for the
132 information to be disclosed against the possible harm of
133 disclosure to the respondent.

134 11. An agency or a person authorized to receive clinical
135 records pursuant to paragraphs (1)(b) and (1)(c).

136 (c) The exemption under this subsection applies
137 retroactively.

138 (d) A person, an agency, or an entity receiving information
139 pursuant to this subsection shall maintain such information as
140 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
141 of the State Constitution.

142 Section 2. The Legislature finds that it is a public
143 necessity to make confidential and exempt from s. 119.07(1),
144 Florida Statutes, and s. 24(a), Article I of the State
145 Constitution, all pleadings, orders, and related records, and
146 personal identifying information on a docket, held pursuant to
147 part I of chapter 394, Florida Statutes, in order to preserve
148 the privacy of the individual who is or who is alleged to have a
149 mental illness. An individual's personal health and mental
150 health are intensely private matters. Making the pleadings,
151 orders, and related records, and personal identifying
152 information on a docket, of an individual who is subject to part
153 I of chapter 394, Florida Statutes, confidential and exempt from
154 disclosure will protect information of a sensitive personal
155 nature, the release of which could cause unwarranted damage to



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156 the individual's reputation. Publication of personal identifying
157 information of such an individual on a physical or virtual
158 docket, even if no other records were published, would defeat
159 the purpose and protections afforded by this exemption because a
160 record of the individual's mental health proceedings would be
161 available to the public. The Legislature further finds that the
162 public disclosure of such pleadings, orders, and related
163 records, and personal identifying information on a docket, would
164 produce undue harm to an individual who has a mental illness or
165 is alleged to have a mental illness. Furthermore, the knowledge
166 that sensitive personal information is subject to public
167 dissemination would have a chilling effect on the willingness of
168 individuals to seek or comply with mental health treatment.

169 Section 3. This act shall take effect July 1, 2016.

170
171 ===== T I T L E A M E N D M E N T =====

172 And the title is amended as follows:

173 Delete everything before the enacting clause
174 and insert:

175 A bill to be entitled
176 An act relating to public records; amending s.
177 394.4615, F.S.; providing an exemption from public
178 records requirements for pleadings, orders, and
179 related records, and personal identifying information
180 on a docket, held pursuant to part I of ch. 394, F.S.,
181 relating to mental health services; authorizing the
182 clerk of the court to disclose the records and
183 information to specified persons upon request;
184 providing for retroactive application; requiring a



185 person, an agency, or an entity that receives certain
186 information to maintain it as confidential and exempt;
187 providing a statement of public necessity; providing
188 an effective date.

By the Committee on Judiciary; and Senator Ring

590-02354-16

20161278c1

1 A bill to be entitled
 2 An act relating to public records; amending ss.
 3 394.463, 394.4655, 394.467, and 394.4615, F.S.;
 4 providing exemptions from public records requirements
 5 for petitions to determine incapacity; listing persons
 6 to whom the clerk of the court shall allow access to
 7 the petition; providing for future legislative review
 8 and repeal of the exemptions; providing a statement of
 9 public necessity; providing an effective date.
 10
 11 Be It Enacted by the Legislature of the State of Florida:
 12
 13 Section 1. Paragraph (a) of subsection (2) of section
 14 394.463, Florida Statutes, is amended to read:
 15 394.463 Involuntary examination.—
 16 (2) INVOLUNTARY EXAMINATION.—
 17 (a) An involuntary examination may be initiated by any one
 18 of the following means:
 19 1.a. A court may enter an ex parte order stating that a
 20 person appears to meet the criteria for involuntary examination,
 21 giving the findings on which that conclusion is based. The ex
 22 parte order for involuntary examination must be based on sworn
 23 testimony, written or oral. If other less restrictive means are
 24 not available, such as voluntary appearance for outpatient
 25 evaluation, a law enforcement officer, or other designated agent
 26 of the court, shall take the person into custody and deliver him
 27 or her to the nearest receiving facility for involuntary
 28 examination. The order of the court shall be made a part of the
 29 patient's clinical record. No fee shall be charged for the
 30 filing of an order under this subsection. Any receiving facility
 31 accepting the patient based on this order must send a copy of
 32 the order to the Agency for Health Care Administration on the

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33 next working day. The order shall be valid only until executed
 34 or, if not executed, for the period specified in the order
 35 itself. If no time limit is specified in the order, the order
 36 shall be valid for 7 days after the date that the order was
 37 signed.
 38 b. The petition and any ex parte order entered by the court
 39 under this subparagraph are confidential and exempt from s.
 40 119.07(1) and s. 24(a), Art. I of the State Constitution. A
 41 petition made confidential and exempt by this sub-subparagraph
 42 shall be disclosed by the clerk of the court, upon request, to a
 43 judge of the circuit, the respondent, a guardian, a health care
 44 surrogate or proxy, an attorney of record for the respondent,
 45 and to any other person as directed by order of the court. This
 46 sub-subparagraph is subject to the Open Government Sunset Review
 47 Act in accordance with s. 119.15 and shall stand repealed on
 48 October 2, 2021, unless reviewed and saved from repeal through
 49 reenactment by the Legislature.
 50 2. A law enforcement officer shall take a person who
 51 appears to meet the criteria for involuntary examination into
 52 custody and deliver the person or have him or her delivered to
 53 the nearest receiving facility for examination. The officer
 54 shall execute a written report detailing the circumstances under
 55 which the person was taken into custody, and the report shall be
 56 made a part of the patient's clinical record. Any receiving
 57 facility accepting the patient based on this report must send a
 58 copy of the report to the Agency for Health Care Administration
 59 on the next working day.
 60 3. A physician, clinical psychologist, psychiatric nurse,
 61 mental health counselor, marriage and family therapist, or

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 62 clinical social worker may execute a certificate stating that he
 63 or she has examined a person within the preceding 48 hours and
 64 finds that the person appears to meet the criteria for
 65 involuntary examination and stating the observations upon which
 66 that conclusion is based. If other less restrictive means are
 67 not available, such as voluntary appearance for outpatient
 68 evaluation, a law enforcement officer shall take the person
 69 named in the certificate into custody and deliver him or her to
 70 the nearest receiving facility for involuntary examination. The
 71 law enforcement officer shall execute a written report detailing
 72 the circumstances under which the person was taken into custody.
 73 The report and certificate shall be made a part of the patient's
 74 clinical record. Any receiving facility accepting the patient
 75 based on this certificate must send a copy of the certificate to
 76 the Agency for Health Care Administration on the next working
 77 day.

78 Section 2. Paragraph (d) is added to subsection (3) of
 79 section 394.4655, Florida Statutes, to read:

80 394.4655 Involuntary outpatient placement.—

81 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

82 (d) The petition and any order entered by the court under
 83 this section are confidential and exempt from s. 119.07(1) and
 84 s. 24(a), Art. I of the State Constitution. A petition made
 85 confidential and exempt by this paragraph shall be disclosed by
 86 the clerk of the court, upon request, to a judge of the circuit,
 87 the respondent, a guardian, a health care surrogate or proxy, an
 88 attorney of record for the respondent, and to any other person
 89 as directed by order of the court. The clerk of the court may
 90 not post any personal identifying information on the docket or

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 91 in publicly accessible files. This paragraph is subject to the
 92 Open Government Sunset Review Act in accordance with s. 119.15
 93 and shall stand repealed on October 2, 2021, unless reviewed and
 94 saved from repeal through reenactment by the Legislature.

95 Section 3. Subsection (3) of section 394.467, Florida
 96 Statutes, is amended to read:

97 394.467 Involuntary inpatient placement.—

98 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

99 (a) The administrator of the facility shall file a petition
 100 for involuntary inpatient placement in the court in the county
 101 where the patient is located. Upon filing, the clerk of the
 102 court shall provide copies to the department, the patient, the
 103 patient's guardian or representative, and the state attorney and
 104 public defender of the judicial circuit in which the patient is
 105 located. No fee shall be charged for the filing of a petition
 106 under this subsection.

107 (b) The petition and any order entered by the court under
 108 this section are confidential and exempt from s. 119.07(1) and
 109 s. 24(a), Art. I of the State Constitution. A petition made
 110 confidential and exempt by this paragraph shall be disclosed by
 111 the clerk of the court, upon request, to a judge of the circuit,
 112 the respondent, a guardian, a health care surrogate or proxy, an
 113 attorney of record for the respondent, and to any other person
 114 as directed by order of the court. The clerk of the court may
 115 not post any personal identifying information on the docket or
 116 in publicly accessible files. This paragraph is subject to the
 117 Open Government Sunset Review Act in accordance with s. 119.15
 118 and shall stand repealed on October 2, 2021, unless reviewed and
 119 saved from repeal through reenactment by the Legislature.

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120 Section 4. Subsection (12) is added to section 394.4615,
 121 Florida Statutes, to read:
 122 394.4615 Clinical records; confidentiality.-
 123 (12) All personal identifying information about an
 124 individual for whom a petition is filed or order entered by a
 125 judge pursuant to part I of chapter 394, and filed with the
 126 clerk of the court is confidential and exempt from s. 119.07(1)
 127 and s. 24(a), Art. I of the State Constitution. A petition or
 128 order made confidential and exempt by this subsection shall be
 129 disclosed by the clerk of the court, upon request, to a judge of
 130 the circuit, the respondent, a guardian, a health care surrogate
 131 or proxy, an attorney of record for the respondent, and to any
 132 other person as directed by order of the court. The clerk of the
 133 court may not post any personal identifying information on the
 134 docket or in publicly accessible files. This subsection is
 135 subject to the Open Government Sunset Review Act in accordance
 136 with s. 119.15 and shall stand repealed on October 2, 2021,
 137 unless reviewed and saved from repeal through reenactment by the
 138 Legislature.

139 Section 5. The Legislature finds that it is a public
 140 necessity to exempt from s. 119.07(1), Florida Statutes, and s.
 141 24(a), Article I of the State Constitution all personal
 142 identifying information about an individual for whom a petition
 143 is filed or order entered by a judge pursuant to part I of
 144 chapter 394, Florida Statutes, that is contained in such
 145 petitions or orders, or dockets concerning them, whether
 146 initial, amended, or supplementary, in order to preserve the
 147 privacy of the person by preserving the privacy of information
 148 in the petition or order or docket that would otherwise be

Page 5 of 6

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

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20161278c1

149 accessible to the public. The Legislature finds that the public
 150 disclosure of such information in the petition or order or
 151 docket would produce undue harm to an individual alleged to have
 152 a mental illness.

153 Section 6. This act shall take effect July 1, 2016.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

Topic _____

Name BRIAN PITTS

Bill Number 1278

(if applicable)

Job Title TRUSTEE

Amendment Barcode _____

(if applicable)

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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.

Amended

A black and white copy of this document is not official

#1280

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Charles E. Cobb

is duly appointed a member of the

Investment Advisory Council

for a term beginning on the
Thirteenth day of December, A.D., 2015,
until the Twelfth day of December, A.D., 2019
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eighth day of January, A.D., 2016.*

Ken Detzner

Secretary of State



DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11 document.

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Charles E. Cobb
Investment Advisory Council

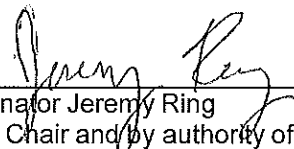
NOTICE OF HEARING

TO: Mr. Charles E. Cobb

YOU ARE HEREBY NOTIFIED that the Committee on Governmental Oversight and Accountability of the Florida Senate will conduct a hearing on your executive appointment on Monday, February 01, 2016, in the James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 27th day of January, 2016

Committee on Governmental Oversight and
Accountability



Senator Jeremy Ring
As Chair and by authority of the committee

cc: Members, Committee on Governmental Oversight and Accountability
Office of the Sergeant at Arms

Amended



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January 20, 2016

Ms. Inez Williams
Division of Elections
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399

RE: Investment Advisory Council Reappointment – Ambassador Chuck Cobb

Dear Ms. Williams:

Please refer to my letter of January 8, 2016 regarding Ambassador Chuck Cobb's reappointment to the Investment Advisory Council. I included the following documents with the January 8th letter.

- Cabinet Transcript of the December 8, 2015 Meeting.
- Bio for Ambassador Chuck Cobb.
- Original Questionnaire for Senate Confirmation, along with the Oath of Office/Acceptance Forms.

Please note the corrected term dates for Ambassador Cobb will be **December 13, 2015 through December 12, 2019**. Please reissue the certificate to reflect these dates and send over to Lygia Tisdale.

Please let me know if additional information is required.

Sincerely,

Diane Bruce
Executive Assistant

Attachments
cc: Lygia Tisdale

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Dade

RECEIVED
16 JAN -8 PM 3:41

DIVISION OF ELECTIONS
SECRETARY OF STATE

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Investment Advisory Council

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me this 24 day of November, 2015.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Mercede Perdomo
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

P.O. Box 14-4200

Street or Post Office Box

Coral Gables, FL 33114-4200

City, State, Zip Code

Charles E. Cobb

Print name as you desire commission issued

[Signature]
Signature



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG

17th District

Legg.John.web@FLSenate.gov

February 1, 2016

The Honorable Jeremy Ring
Committee on Governmental Oversight and Accountability, Chair
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: Excused Absence

Dear Chair Ring:

I am unable to attend the Committee on Governmental Oversight and Accountability on Monday, February 1, 2016, and I respectfully request that this absence be excused. My mother has suffered a critical health incident, and my presence is needed at home. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg", written over a horizontal line.

John Legg
State Senator, District 17

cc: Joe McVaney, Staff Director
Allison Rudd, Administrative Assistant

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 2/1/2016 1:34:16 PM

Ends: 2/1/2016 3:13:53 PM Length: 01:39:38

1:34:15 PM Roll Call
1:34:26 PM Tab 10 SB 1054
1:35:25 PM Dean speaking
1:36:22 PM Ring announces amendment by Hayes
1:36:49 PM Ring questions on amendment
1:37:33 PM Ring limits public comment to 1 minute
1:37:53 PM Latvala speaking
1:38:10 PM Hays speaking
1:39:04 PM Ring speaking
1:39:18 PM Latvala speaking
1:39:22 PM Ring asks staff difference
1:39:31 PM Staff speaking
1:40:12 PM Latvala speaking asking Dean questions
1:40:21 PM Dean refers to staff
1:40:44 PM Latvala questions
1:41:13 PM Dean speaking answering
1:41:38 PM Latvala speaking
1:41:55 PM Dean speaking
1:42:15 PM Latvala speaking
1:42:18 PM Dean speaking
1:42:30 PM Latvala speaking
1:42:34 PM Dean speaking
1:43:02 PM Latvala speaking
1:43:09 PM Dean speaking
1:43:37 PM Latvala speaking
1:43:51 PM Dean speaking
1:44:11 PM Latvala speaking
1:44:39 PM Ring speaking
1:44:46 PM Latvala speaking
1:44:53 PM Ring speaking
1:45:16 PM Latvala speaking
1:45:22 PM Dean speaking
1:45:43 PM Latvala speaking
1:46:16 PM Ring speaking
1:46:23 PM Dean speaking
1:47:01 PM Curtis Brown speaking
1:47:42 PM Curtis Brown speaking
1:47:44 PM Latvala speaking
1:48:15 PM Curtis Brown speaking
1:48:51 PM Latvala speaking
1:48:55 PM Curtis Brown speaking
1:49:21 PM Latvala speaking
1:49:40 PM Ring speaking
1:49:55 PM Latvala speaking
1:49:59 PM Ring speaking
1:50:05 PM Ring goes to public speakers
1:50:36 PM Ryan Means speaking
1:51:42 PM Ring speaking
1:51:47 PM Latvala speaking
1:52:03 PM Ryan Means speaking
1:52:25 PM Latvala speaking
1:52:28 PM Ryan Means speaking

1:52:56 PM Ring speaking
1:53:07 PM Michael Messor waives in opposition
1:53:18 PM Barbara Purdy speaking
1:54:40 PM Ring Speaking
1:54:43 PM Cameron F. waives in opposition
1:54:54 PM Latvala speaking
1:55:12 PM Rivers Buford speaking
1:58:03 PM Latvala speaking
1:58:20 PM Rivers Buford speaking
1:58:48 PM Latvala speaking
1:58:56 PM Rivers Buford speakig
1:59:37 PM Ring speaking
1:59:39 PM Latvala speaking
1:59:44 PM Rivers Buford speaking
2:01:08 PM Latvala speaking
2:01:21 PM Rivers Buford speaking
2:01:27 PM Latvala speaking
2:01:35 PM Rivers Buford ends speaking opposed
2:01:50 PM Ring speaking
2:02:02 PM Teeman Piles speaking
2:02:33 PM Toben Pyles speaking
2:02:49 PM Ring speaking
2:02:53 PM Greg Gasky speaking
2:03:19 PM Fred Gaske speaking
2:03:54 PM Ring speaking
2:03:58 PM Thorton Pyle waives in support
2:04:07 PM Ring speaking
2:04:10 PM Charles Conway waives in opposition
2:04:34 PM Ring speaking
2:04:37 PM Kenneth Pyles waives in support
2:04:43 PM Ring speaking
2:04:46 PM Roy Stanley waives in opposition
2:04:57 PM Ring speaking
2:04:59 PM Jeff Granger waives in support
2:05:11 PM Ring speaking
2:05:13 PM Lonnie Mann yields time
2:05:26 PM John Carolos waives in opposition
2:05:38 PM John Carlos speaking
2:06:36 PM Ring speaking
2:06:51 PM Don Monroe speaking
2:07:30 PM Ring speaking
2:07:32 PM Jimmy Isaacs waives in support
2:07:47 PM Ring speaking
2:07:49 PM Bobby C. Billy speaking
2:08:47 PM Bobbie C. Billie speaking
2:09:22 PM Ring speaking
2:09:25 PM Bett Osceola speaking
2:10:41 PM Ring speaking
2:10:45 PM John Reagan waives in opposition
2:10:58 PM Nancy Sikes Klein speaking
2:11:21 PM Nancy Sikes Kline speaking
2:12:12 PM Ring speaking
2:12:15 PM Melinda Horton speaking
2:12:28 PM Malinda Horton speaking
2:12:51 PM Ring speaking
2:12:55 PM Hays speaking
2:13:27 PM Latvala speaking
2:13:50 PM Hays move to have vote at 2:30
2:14:01 PM Chuck Need speaking
2:15:08 PM Chuck Meide speaking
2:15:15 PM Ring speaking
2:15:25 PM Wade Bailey speaking

2:15:56 PM Ring speaking
2:15:58 PM Dr. Sam Turner speaking
2:16:13 PM Ring speaking
2:16:16 PM P. Brendan Burke speaking
2:17:05 PM Ring speaking
2:17:08 PM Andrew Thomson speaking
2:18:12 PM Ring speaking
2:18:15 PM Dr. Bob Knight speaking
2:19:05 PM Ring speaking
2:19:08 PM Shannon Martin speaking
2:19:28 PM Shannon Larsen speaking
2:20:30 PM Ring speaking
2:20:34 PM Melanie Bostick waives in opposition
2:20:42 PM Ring speaking
2:20:43 PM Jeffrey Shanks speaking
2:21:55 PM Ring speaking
2:22:08 PM Devon Guarache against
2:22:16 PM Daniel Foxworth
2:22:20 PM Thomas Fiudini against
2:22:23 PM Claude kennison agains
2:22:29 PM Doren Glen against
2:22:32 PM Susan anderson against
2:22:37 PM James dunbar against
2:22:39 PM James Miller against
2:22:44 PM Nicholas Kysant against
2:22:54 PM Carlos Tatum in support
2:23:00 PM Joseph cooley in support
2:23:07 PM Linda Cooley in support
2:23:09 PM Gary Marwick in support
2:23:14 PM Greg Antinopolis in support
2:23:21 PM Robert Daniels in support
2:23:33 PM Michael Farut in opposition
2:23:51 PM William Lee for information
2:24:01 PM Barabara Clarke for information
2:24:07 PM Murray Information
2:24:10 PM Miller information
2:24:14 PM Todd Lewis in support
2:24:19 PM Tommy Goodwin in support
2:24:25 PM Reggie Rachels in support
2:24:33 PM John Keyes in support
2:24:37 PM John Swope in support
2:24:43 PM Clayton in support
2:24:46 PM Richard Olsen in support
2:24:49 PM Carly Allen Texter in support
2:24:55 PM Roger in support
2:25:00 PM Cameron Lewis in support
2:25:05 PM Mark Berigan in support
2:25:14 PM Ring opens floor for debate
2:25:21 PM Ring motions to adopt amendment
2:25:27 PM Amendment adopted
2:25:36 PM Latvala speaking in debate
2:27:14 PM Ring speaking
2:27:59 PM Senator Bullard speaking in debate
2:28:32 PM Latvala moves to TP the bill
2:28:39 PM Senator Dean speaking
2:29:56 PM Ring adopts motion to tp the bill
2:30:07 PM Tab 2 by Simmons SB 1428 State Investments
2:30:35 PM Senator Simmons speaking
2:32:07 PM Ring speaking
2:32:14 PM Senator Simmons speaking
2:32:19 PM Ring speaking
2:32:32 PM Brian Pitts speaking

2:33:42 PM Ring speaking
2:33:53 PM Simmons waives close
2:33:55 PM Ring calls for role
2:34:02 PM SB 1428 reported favorable
2:34:08 PM Tab 3 by Evers SB 124
2:34:23 PM Senator Evers speaking
2:34:55 PM Ring speaking on amendment
2:35:12 PM Ring shows amendment adopted
2:35:41 PM Bryan Pitts speaking
2:37:25 PM Ring Speaking
2:37:29 PM Richard Watson waives in support
2:37:35 PM David Cruz waives in support
2:37:39 PM Evers waives close
2:37:45 PM Role call
2:37:54 PM SB 124 reported favorable
2:38:02 PM Tab 4 by Evers SB 126
2:38:10 PM Evers introducing
2:38:39 PM Ring speaking on amendment by Senator Hays
2:38:50 PM Ring speaking amendment adopted
2:38:57 PM Brian Pitts speaking
2:39:49 PM Richard Watson waives in support
2:39:55 PM Ring speaking evers waives close
2:40:03 PM Role Call
2:40:06 PM SB 126 reported favorable
2:40:12 PM Tab 5 CS/SB 686 TP
2:40:39 PM Tab 9 by Detert SB 914
2:40:54 PM Detert speaking
2:41:34 PM Ring speaking
2:41:37 PM Detert waives close
2:41:42 PM Role Call
2:41:47 PM SB 914 reported favorably
2:42:05 PM SB 724 TP'd
2:42:33 PM Tab 6 by Joyner SB 478 State Employee Salaries
2:43:04 PM Tab 6 temporarily postponed
2:43:31 PM Tab 14 by Smith SB 864 State Contracts
2:43:45 PM Smith speaking
2:43:48 PM Ring speaking
2:44:01 PM Terry waives in support
2:44:20 PM Waives close
2:44:31 PM Brian Pitts speaking on SB 864
2:45:41 PM Role Call
2:45:46 PM SB 864 reported favorable
2:45:56 PM Tab 6 by Joyner SB 478
2:46:07 PM Representative for Joyner speaking
2:46:11 PM Ring speaking
2:46:21 PM Representative for Joyner speaking on amendment
2:46:36 PM amendment adopted
2:46:39 PM Ring speaking
2:46:53 PM Judge Owen Schifholder waives in support
2:47:00 PM Bill Corvone waives in support
2:47:17 PM Doug Watler waives in support
2:47:39 PM Role Call
2:47:44 PM SB 478 reported favorable
2:47:55 PM Tab 8 SB 762
2:48:38 PM Representative speaking
2:48:55 PM Tab 1 SB 1150 by Bean
2:49:06 PM Representative speaking
2:49:11 PM Ring speaking on amendment
2:49:23 PM Representative speaking on amendment
2:49:38 PM Ring speaking
2:49:44 PM Senator Latvala speaking
2:50:30 PM House Member speaking

2:51:04 PM Latvala speaking
2:51:35 PM House Representative speaking
2:52:09 PM Latvala speaking
2:52:44 PM House Representative speaking
2:53:30 PM Latvala speaking
2:55:01 PM Ring speaking
2:55:33 PM Tab 1 SB 1150 temporarily postponed
2:56:00 PM Tab8 by Abruzzo SB 762
2:56:37 PM Representative for Abruzzo speaking
2:56:43 PM Ring speaking
2:56:51 PM Ring speaking on strike all amendment
2:56:56 PM Representative for Abruzzo speaking
2:57:36 PM Ring speaking
2:57:39 PM Latvala speaking
2:57:57 PM Representative for Abruzzo speaking
2:58:41 PM Ring speaking
2:58:51 PM Motion adopted
2:58:57 PM Brian Pitts speaking
3:00:27 PM Paul Lowell speaking
3:01:17 PM Ring speaking
3:01:25 PM Waives Close
3:01:29 PM Role Call
3:01:34 PM CS/SB 762 reported favorable
3:02:03 PM Tab 11 by Abruzzo SB 1206 Auditor General
3:02:15 PM Representative for Abruzzo speaking
3:02:35 PM Ring speaking
3:02:38 PM Representative for Abruzzo speaking
3:02:48 PM Ring speaking
3:02:49 PM Representative for Abruzzo speaking
3:03:15 PM Ring speaking
3:03:19 PM representative for Abruzzo speaking
3:03:27 PM Ring speaking
3:03:29 PM Ring speaking
3:03:46 PM Role Call
3:03:54 PM SB 1206 reported favorable
3:04:01 PM Tab 12 SB 7048
3:04:12 PM Representative for Sobel speaking
3:04:30 PM Ring speaking
3:04:36 PM Bryan Pitts speaking
3:07:19 PM Ring speaking
3:07:20 PM Role Call
3:07:26 PM SB 748 reported favorably
3:07:32 PM Tab 14 CS/SB 1004 reported favorable
3:08:16 PM Tab 14 CS/SB 1004 by Hays
3:08:27 PM Hays speaking
3:08:47 PM Electra Bustle waives in support
3:09:04 PM Randy Lewis waives against
3:09:12 PM Vicki Woolridge waives in support
3:09:21 PM Lisa Bacot waives in support
3:09:25 PM role call
3:09:27 PM CS/SB 1004 reported favorable
3:09:34 PM Tab 15 CS/SB 1278 Peitions to detrimine incapacity
3:10:00 PM Ring speaking
3:10:38 PM Hays speaking on amendment
3:10:44 PM Ring speaking on amendment
3:10:57 PM Hays speaking
3:11:07 PM Hays show amendment adopted without objection
3:11:16 PM Brian Pitts speaking
3:12:29 PM Ring waives close
3:12:32 PM Role Call
3:12:37 PM CS/SB 1278 reported favorable
3:12:47 PM Tab 16

3:13:05 PM Ring motions
3:13:07 PM Hays speaking
3:13:13 PM Role Call
3:13:24 PM Tab 16 recommended favorable