

<b>Tab 1</b>	<b>SB 128</b> by <b>Wright</b> ; Public Records/Judicial Assistants					
355462	T	S	RCS	GO, Wright	In title, delete L.6:	10/14 04:52 PM

<b>Tab 2</b>	<b>SJR 142</b> by <b>Brandes (CO-INTRODUCERS) Mayfield, Hooper</b> ; (Similar to H 00301) Abolishing the Constitution Revision Commission					
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<b>Tab 3</b>	<b>SB 162</b> by <b>Perry</b> ; Public Records					
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<b>Tab 4</b>	<b>SB 246</b> by <b>Hooper</b> ; (Identical to H 00101) Public Construction					
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**

**Senator Hooper, Chair**  
**Senator Rader, Vice Chair**

**MEETING DATE:** Monday, October 14, 2019

**TIME:** 2:30—4:00 p.m.

**PLACE:** 301 Senate Building

**MEMBERS:** Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 128</b> Wright	Public Records/Judicial Assistants; Providing an exemption from public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children; providing a statement of public necessity, etc.  JU 09/17/2019 Favorable GO 10/14/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
2	<b>SJR 142</b> Brandes (Similar HJR 301, Compare H 303)	Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc.  JU 09/17/2019 Favorable GO 10/14/2019 Favorable RC	Favorable Yeas 5 Nays 0
3	<b>SB 162</b> Perry	Public Records; Requiring a court to assess the reasonable costs of enforcement against an agency upon the court's determination in an action for a declaratory judgment that certain records are not subject to a public records exemption, etc.  GO 10/14/2019 Favorable JU RC	Favorable Yeas 5 Nays 0
4	<b>SB 246</b> Hooper (Identical H 101)	Public Construction; Revising the amount of retainage that certain local governmental entities and contractors may withhold from progress payments for any construction services contract; revising the amounts of retainage that certain public entities and contractors may withhold from progress payments for any construction services contract, etc.  GO 10/14/2019 Fav/CS CA AP	Fav/CS Yeas 5 Nays 0

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.)

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

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BILL: CS/SB 128

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Wright

SUBJECT: Public Records/Judicial Assistants

DATE: October 14, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	<b>Favorable</b>
2.	Hackett	McVaney	GO	<b>Fav/CS</b>
3.			RC	

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 128 creates a public record exemption for specified information that may identify or locate current or former judicial assistants and their spouses and children. Judicial assistants provide administrative, secretarial, organizational, and clerical support to an assigned judge's office. They are employed in the county and circuit courts, district courts of appeal, and the Florida Supreme Court.

The bill exempts from public disclosure the following information that relates to a current or former judicial assistant:

- A judicial assistant's address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant's spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant's children.

This exemption applies to information held by an agency before, on, or after July 1, 2020.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2020.

## **II. Present Situation:**

### **Public Records Law**

#### ***Overview***

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> 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.<sup>2</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states:

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.<sup>4</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

#### ***Legislative and Judicial Records***

The Public Records Act does not apply to legislative or judicial records.<sup>5</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

#### ***Definition***

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted 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.”<sup>7</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

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

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

### ***Access***

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

### ***Exemptions***

The Legislature has the sole authority to create an exemption to public records requirements.<sup>10</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>11</sup> An exemption serves an identifiable purpose if it meets one of the following statutory purposes, the Legislature finds that the purpose of the exemption outweighs open government policy, *and* the purpose 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;<sup>12</sup>
- 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;<sup>13</sup> or
- It protects trade or business secrets.<sup>14</sup>

Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. Additionally, a bill enacting an exemption may not contain other substantive provisions<sup>15</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>16</sup>

### ***“Confidential and Exempt” or “Exempt” Designations***

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>17</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>18</sup>

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<sup>8</sup> Section 119.07(1)(a), F.S.

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

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Id.*

<sup>12</sup> Section 119.15(6)(b)1., F.S.

<sup>13</sup> Section 119.15(6)(b)2., F.S.

<sup>14</sup> Section 119.15(6)(b)3., F.S.

<sup>15</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>16</sup> FLA. CONST., art. I, s. 24(c) and FLA. CONST., art. X, s. 12(e).

<sup>17</sup> If the Legislature designates a record as confidential, the record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>18</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

## Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,<sup>19</sup> with specified exceptions.<sup>20</sup> It requires the automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>21</sup> The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.<sup>22</sup>

## General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee's (1) social security number, (2) medical information, and (3) personal identifying information of dependent children who are insured by an agency group insurance plan.<sup>23</sup>

### *(1) Social Security Numbers*

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.<sup>24</sup> An employing agency may only release social security numbers for the following reasons:

- It is required by law.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.<sup>25</sup>

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.<sup>26</sup> This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of

<sup>19</sup> Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

<sup>20</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>21</sup> Section 119.15(3), F.S.

<sup>22</sup> Section 119.15(6)(b), F.S. Section 119.15(6)(a), F.S., asks the Legislature to carefully question the purpose and necessity of reenacting the exemption, and specifically requires that the Legislature consider the following questions:

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

<sup>23</sup> Section 119.071(4)(a) and (b), F.S.

<sup>24</sup> Section 119.071(4)(a)1., F.S.

<sup>25</sup> Section 119.071(4)(a), F.S.

<sup>26</sup> Section 119.071(5)(a)5., F.S.

that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.<sup>27</sup>

### ***(2) Medical Information***

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current, and former employees.<sup>28</sup>

### ***(3) Personal Identifying Information***

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.<sup>29</sup>

## **Public Records Exemptions for Enumerated Personnel**

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.<sup>30</sup> Additionally, all of these exemptions have retroactive application.<sup>31</sup> In order to have such exemption applied to a court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.<sup>32</sup> Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.<sup>33</sup>

### ***Justices and Judges***

The state judiciary, as established in Article V of the State Constitution, is composed of the justices of the Supreme Court and the judges in Florida's five District Courts of Appeal, 20 Circuit Courts, and 67 County Courts.<sup>34</sup> When carrying out their official duties, the judges and justices often preside over matters that are emotionally charged, whether in a trial, appeal, criminal proceeding, dependency hearing, or domestic or family law matter.

In 1991, and in an effort to protect the members of the judiciary, the Legislature enacted a public records exemption for current justices and judges and their families. The exemption protected their home addresses and telephone numbers as well as the home addresses, telephone numbers, and places of employment of their spouses and children, and the names and locations of schools

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<sup>27</sup> Section 119.071(5)(a)5.f. and g., F.S.

<sup>28</sup> Section 119.071(4)(b)1., F.S.

<sup>29</sup> Section 119.071(4)(b)2., F.S.

<sup>30</sup> Section 119.071(4)(d)3., F.S.

<sup>31</sup> Section 119.071(4)(d)5., F.S.

<sup>32</sup> Section 119.0714(2)(f) and (3)(f), F.S.

<sup>33</sup> Section 119.071(4)(d)4., F.S.

<sup>34</sup> FLA. CONST. art V. *See also* Florida Courts, <http://www.flcourts.org/florida-courts> (last visited Sept. 11, 2019).

and day care facilities attended by their children.<sup>35</sup> In 2012, the Legislature expanded this exemption to include the dates of birth of the enumerated personnel as well as their family members.<sup>36</sup> The public necessity statement provided that dates of birth can be used to perpetrate fraud and that releasing dates of birth can cause great financial harm to an individual. In addition, the Legislature expanded the exemption to include former justices and judges as well as their families. The public necessity statement for this expansion indicated that justices and judges as well as their family members can be targets of revenge and that risk continues after justices and judges complete their public service.<sup>37</sup>

In 2017, the Legislature expanded this exemption to also exempt from disclosure the names of the justices' or judges' spouses and children.<sup>38</sup>

### ***Judicial Assistants***

Judicial assistants are assigned to individual justices or judges to provide administrative, secretarial, and clerical support. At the trial court level in particular, the judicial assistant is generally responsible for: maintaining the judge's professional and personal calendar; coordinating with attorneys to schedule hearings and trials; prepare orders, notices, and other correspondence; and preparing financial disclosures and travel vouchers. Most significantly, trial court level judicial assistants interact "with attorneys and litigants and their family members to resolve problems such as scheduling conflicts or other case-related issues."<sup>39</sup>

Based on this type of interaction, several trial court judicial assistants have reported that attorneys, litigants, or a litigant's family members have held the judicial assistant responsible for an adverse decision made by the judge. These judicial assistants reported instances of a litigant or litigant's family members showing up at the judicial assistant's home, contacting the judicial assistant on his or her personal cell phone, making threats against the judicial assistant, or naming the judicial assistant in a civil law suit.<sup>40</sup>

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

**Section 1** amends s. 119.071(4)(d)2.e., F.S., to exempt certain information relating to judicial assistants from the public disclosure requirements of the public record laws. The following information for a current or former judicial assistant will be exempt:

- A judicial assistant's address, date of birth, and telephone numbers.

<sup>35</sup> Ch. 91-149, Laws of Fla. Because public necessity statements were not required for public records exemptions prior to the adoption of Article I, section 24, Florida Constitution, there is no public necessity statement explaining why the exemption was created.

<sup>36</sup> Ch. 2012-149, Laws of Fla.

<sup>37</sup> Ch. 2012-149, Laws of Fla.

<sup>38</sup> Ch. 2017-66, Laws of Fla.

<sup>39</sup> Florida State Courts System Class Specification, Class Title: Judicial Assistant – Circuit Court, *Examples of Work Performed*, available at <https://www.flcourts.org/content/download/217825/1972896/Judicial-Assistant-Circuit-Court-508.pdf>. For additional job descriptions of judicial assistants at the county court, district court, and Supreme Court levels, please see <https://www.flcourts.org/content/download/217827/1972908/Judicial-Assistant-County-Court-508.pdf>, <https://www.flcourts.org/content/download/217745/1972416/Appellate-Judicial-Assistant-District-Court-508-1.pdf>, and [https://www.flcourts.org/content/download/217748/1972434/Appellate\\_Judicial\\_Assistant\\_Supreme-Court\\_508.pdf](https://www.flcourts.org/content/download/217748/1972434/Appellate_Judicial_Assistant_Supreme-Court_508.pdf).

<sup>40</sup> See Judicial Assistants Association of Florida, *JA Threats* (2019) (on file with Senate Judiciary Committee).



- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant's spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant's children.

The exemption applies to information held by an agency before, on, or after July 1, 2020.

**Section 2** contains the public necessity statement which explains why the exemption is necessary. The public necessity statement provides that, because judicial assistants frequently create ill will with litigants, the accused, the convicted, and their associates, judicial assistants and their families are at risk. Judicial assistants can become targets of fraud or revenge by disgruntled litigants who know the judicial assistants' names, their personal information, and location. For these reasons, the identifying information of former and current judicial assistants and their family members should be exempt from public disclosure.

**Section 3** provides that the bill takes effect July 1, 2020.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

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

##### B. Public Records/Open Meetings Issues:

###### *Vote Requirement*

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of each house for final passage of a bill creating an exemption to the public records requirements.<sup>41</sup> Because this bill creates an exemption for certain information relating to current or former judicial assistants, it requires a two-thirds vote of each house to be enacted.

###### *Public Necessity Statement*

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

###### *Breadth of Exemption*

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

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<sup>41</sup> Article X, s. 12(e), of the State Constitution, Rules of Construction, states that a "Vote or other action of a legislative house . . . means the vote or action of a majority or other specified percentage of those members voting on the matter." Accordingly, this two-thirds vote requirement means a favorable two-thirds vote of the members present and voting for final passage.

The public necessity statement notes that judicial assistants can create ill will with litigants through the course of their work and having their personal identifying information available publicly puts them at risk for fraud or acts of revenge. For these reasons, the exemptions do not appear broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian without a signed waiver if the employee or the employee’s agency requests that the home address information be exempted.

C. Government Sector Impact:

The bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of judicial assistants because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. However, the costs would be absorbed as they are part of the day-to-day agency responsibilities.

Although the Office of the State Courts Administrator (OSCA) has not submitted a Judicial Impact Statement for this bill at this time, it did submit a Judicial Impact Statement for SB 746 in 2019, which is virtually identical to this bill. In the previous analysis, OSCA stated that it did not anticipate a judicial or court workload impact from creating public records exemptions for judicial assistants and their families.

Similarly, the Florida Court Clerks and Comptrollers have not submitted a bill analysis of this bill but did submit an analysis for SB 746 in 2019. The association did not anticipate any significant operational, policy, or fiscal impact from that bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the 4th year after enactment instead of the 5th year. It can be reasoned, however, that advancing the scheduled review and repeal by 1 year is not problematic because the Open Government Sunset Review Act does not apply to an exemption that applies solely to the State Court System. Additionally, the deviation from the schedule set forth in the Open Government Sunset Review Act is supported by the reasoning that a previous legislature cannot bind a future legislature.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

**CS by Governmental Oversight and Accountability on October 14, 2019:**

The CS amends the title to reflect that the public records exemption applies retroactively.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/14/2019	.	
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The Committee on Governmental Oversight and Accountability  
(Wright) recommended the following:

**Senate Amendment**

In title, delete line 6  
and insert:  
assistants and their spouses and children; providing  
for retroactive application of the exemption;  
providing a

By Senator Wright

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1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 119.071, F.S.; providing an exemption from public  
 4 records requirements for certain identifying and  
 5 location information of current and former judicial  
 6 assistants and their spouses and children; providing a  
 7 statement of public necessity; providing an effective  
 8 date.  
 9  
 10 Be It Enacted by the Legislature of the State of Florida:  
 11  
 12 Section 1. Paragraph (d) of subsection (4) of section  
 13 119.071, Florida Statutes, is amended to read:  
 14 119.071 General exemptions from inspection or copying of  
 15 public records.—  
 16 (4) AGENCY PERSONNEL INFORMATION.—  
 17 (d)1. For purposes of this paragraph, the term:  
 18 a. "Home addresses" means the dwelling location at which an  
 19 individual resides and includes the physical address, mailing  
 20 address, street address, parcel identification number, plot  
 21 identification number, legal property description, neighborhood  
 22 name and lot number, GPS coordinates, and any other descriptive  
 23 property information that may reveal the home address.  
 24 b. "Telephone numbers" includes home telephone numbers,  
 25 personal cellular telephone numbers, personal pager telephone  
 26 numbers, and telephone numbers associated with personal  
 27 communications devices.  
 28 2.a. The home addresses, telephone numbers, dates of birth,  
 29 and photographs of active or former sworn law enforcement

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

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30 personnel or of active or former civilian personnel employed by  
 31 a law enforcement agency, including correctional and  
 32 correctional probation officers, personnel of the Department of  
 33 Children and Families whose duties include the investigation of  
 34 abuse, neglect, exploitation, fraud, theft, or other criminal  
 35 activities, personnel of the Department of Health whose duties  
 36 are to support the investigation of child abuse or neglect, and  
 37 personnel of the Department of Revenue or local governments  
 38 whose responsibilities include revenue collection and  
 39 enforcement or child support enforcement; the names, home  
 40 addresses, telephone numbers, photographs, dates of birth, and  
 41 places of employment of the spouses and children of such  
 42 personnel; and the names and locations of schools and day care  
 43 facilities attended by the children of such personnel are exempt  
 44 from s. 119.07(1) and s. 24(a), Art. I of the State  
 45 Constitution.  
 46 b. The home addresses, telephone numbers, dates of birth,  
 47 and photographs of current or former nonsworn investigative  
 48 personnel of the Department of Financial Services whose duties  
 49 include the investigation of fraud, theft, workers' compensation  
 50 coverage requirements and compliance, other related criminal  
 51 activities, or state regulatory requirement violations; the  
 52 names, home addresses, telephone numbers, dates of birth, and  
 53 places of employment of the spouses and children of such  
 54 personnel; and the names and locations of schools and day care  
 55 facilities attended by the children of such personnel are exempt  
 56 from s. 119.07(1) and s. 24(a), Art. I of the State  
 57 Constitution.  
 58 c. The home addresses, telephone numbers, dates of birth,

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

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

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, ~~and~~ county court judges, and judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices, ~~and~~ judges, and judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices, ~~and~~ judges, and judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth,

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

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

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation

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officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

192 o. The home addresses, telephone numbers, dates of birth,  
 193 and photographs of current or former personnel of the Department  
 194 of Health whose duties include, or result in, the determination  
 195 or adjudication of eligibility for social security disability  
 196 benefits, the investigation or prosecution of complaints filed  
 197 against health care practitioners, or the inspection of health  
 198 care practitioners or health care facilities licensed by the  
 199 Department of Health; the names, home addresses, telephone  
 200 numbers, dates of birth, and places of employment of the spouses  
 201 and children of such personnel; and the names and locations of  
 202 schools and day care facilities attended by the children of such  
 203 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of

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

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204 the State Constitution.

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

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

227 r. The home addresses, telephone numbers, dates of birth,  
 228 and photographs of current or former personnel employed in an  
 229 agency's office of inspector general or internal audit  
 230 department whose duties include auditing or investigating waste,  
 231 fraud, abuse, theft, exploitation, or other activities that  
 232 could lead to criminal prosecution or administrative discipline;

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

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

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(1) and fulfills the screening requirement of s. 39.3035(2), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case

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review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party that is authorized to receive the information. Upon receipt of the written request, the custodial agency shall release the specified information to the party authorized to receive such information.

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

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal

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through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the home addresses, dates of birth, and telephone numbers of current or former judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such judicial assistants; and the names and locations of schools and day care facilities attended by the children of such judicial assistants be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Such identifying and location information can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial harm to the individual. In the course of assisting in making rulings, entering judgments, imposing sentences, or reviewing cases, judicial assistants frequently do not create good will with litigants, the accused, the convicted, and their associates and families, thus making the judicial assistants, and their spouses and children, targets for acts of revenge. This risk continues after judicial assistants complete their public service. Disgruntled individuals may wait to commit an act of revenge until the employment of a judicial assistant ends. If such identifying and location information is released, the safety of current or former judicial assistants and their spouses and children could be seriously jeopardized. For these reasons, the Legislature finds that it is a public necessity that such information be made exempt from public records requirements.

Section 3. This act shall take effect July 1, 2020.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs and Space, *Chair*  
Children, Families, and Elder Affairs  
Commerce and Tourism  
Environment and Natural Resources

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

**SENATOR TOM A. WRIGHT**  
14th District

September 17, 2019

The Honorable Ed Hooper  
326, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 128 – Public Records/Judicial Assistants

Dear Chair Hooper:

Senate Bill 128, relating to Public Records/Judicial Assistants has been referred to the Committee on Governmental Oversight and Accountability. I am requesting your consideration on placing SB 128 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Joe McVaney, Staff Director of the Committee on Governmental Oversight and Accountability  
Tamra Redig, Administrative Assistant of the Committee on Governmental Oversight and Accountability

### REPLY TO:

- ☐ 4806 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

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

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

10/14/19

Meeting Date

SB 128

Bill Number (if applicable)

Topic Public Records Exemption Act JAS

Amendment Barcode (if applicable)

Name Alison Dudley

Job Title President, AS Dudley ACS

Address P.O. Box 428

Street

Tall. Fl. 32302

City

State

Zip

Phone 850/559-1139

Email alison.dudley@dudleyandassociates.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Judicial Assistants Association 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

10/14/19  
Meeting Date

128  
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Snr. Government Consultant

Address 215 S. Monroe St. Ste 500  
Street

Phone 950.661.0829

TCH FL 32301  
City State Zip

Email sjenkins@carltonfields.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Southern Title Insurance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

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

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BILL: SJR 142

INTRODUCER: Senators Brandes and Mayfield

SUBJECT: Abolishing the Constitution Revision Commission

DATE: October 11, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	<b>Favorable</b>
2.	McVaney	McVaney	GO	<b>Favorable</b>
3.			RC	

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## **I. Summary:**

SJR 142 abolishes the Constitution Revision Commission by repealing provisions establishing it in the Florida Constitution. Currently, the Florida Constitution requires that a constitution revision commission be convened once every 20 years to examine the Florida Constitution and propose any amendments that it deems appropriate.

If this joint resolution is agreed to by three-fifths of the membership of each house of the legislature, the constitutional amendment proposed in the resolution will be placed on the 2020 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect January 5, 2021.

## **II. Present Situation:**

### **Overview**

The Florida Constitution requires that a constitution revision commission be established every 20 years and that it have the authority to propose to voters a revision of all or any part of the Florida Constitution. The most recent Commission convened in 2017-2018, and proposed seven amendments to the Florida Constitution which appeared on the 2018 General Election ballot.

### **Constitution Revision Commission**

#### ***Origin and History***

The Florida Constitution was revised extensively in 1968 by way of three joint resolutions proposed by the Legislature and approved by the voters. The revisions included the establishment of a constitution revision commission as a means of proposing constitutional revisions to the voters, and the requirement that it convene once every 20 years, beginning in

1977. Accordingly, three commissions have convened: in 1977-1978, 1997-1998, and most recently in 2017-2018.<sup>1</sup>

### ***Members***

The Constitution requires that the Commission be comprised of 37 members, and it provides guidelines for the selection of these members. The Attorney General must serve on the Commission, and the rest of the members must be chosen by the Governor (15), Speaker of the House (9), President of the Senate (9), and the Chief Justice of the Florida Supreme Court (3). Additionally, the Governor must appoint a chair from among the 37 members.<sup>2</sup>

### ***Task, Procedures, and Authority***

The Commission's task is to examine the Florida Constitution and decide which, if any, amendments to propose to the voters. The amendments must be submitted to the Secretary of State at least 180 days before the next general election.<sup>3</sup> In turn, the amendments must be submitted to the voters at the next general election held more than 90 days after submission to the Secretary of State. To become effective, an amendment must be approved by at least 60 percent of the votes cast on the measure.<sup>4</sup>

The constitutional provision giving rise to the Commission does little to prescribe how a Commission must go about its task. Indeed, it says only that the Commission must convene at the call of its chair, adopt rules of procedure, and "hold [an unspecified number of] public hearings."<sup>5</sup>

### **The Constitution May Be Amended Only through the Processes it Prescribes**

The Florida Constitution provides that it may be amended if the voters approve an amendment originating from one of five sources: the legislature, a constitution revision commission, a citizen initiative, a constitutional convention, or a taxation and budget reform commission.<sup>6</sup>

And the Florida Supreme Court has stated that these processes are the *only* ways by which it may be amended:

The Constitution is the charter of our liberties. It cannot be changed, modified or amended by [governmental] fiat. It provides within itself the only method for its amendment, and . . . When a constitution directs how a thing shall be done, that is in effect a prohibition to its being done in any other way.<sup>7</sup>

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<sup>1</sup> Constitution Revision Commission, *History*, <https://crc.law.fsu.edu/about/history.html> (last visited Sept. 11, 2019).

<sup>2</sup> FLA. CONST. art. XI, s. 2.

<sup>3</sup> FLA. CONST. art. XI, s. 2.

<sup>4</sup> FLA. CONST. art. XI, s. 5.

<sup>5</sup> FLA. CONST. art. XI, s. 2.

<sup>6</sup> FLA. CONST. art. XI.

<sup>7</sup> *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations and quotations omitted); *accord State v. Florida State Imp. Com'n*, 60 So. 2d 747, 754 (Fla. 1952) (Terrell, J., and Adams, C.J., concurring) *abrogated on other grounds by Boschen v. City of Clearwater*, 777 So. 2d 958 (Fla. 2001).

## **Joint Resolution**

A joint resolution by the legislature is one of the ways in which an amendment to the Florida Constitution may originate.<sup>8</sup> Like a bill, it may begin in either house of the Legislature.

To be submitted to the voters, a joint resolution must be agreed to by three-fifths of the membership of each house.<sup>9</sup> Unless expedited by the legislature, the joint resolution is then submitted to the voters at the next general election. If the amendment proposed in the resolution is approved by at least 60 percent of the votes cast on the measure, it becomes effective in the January following the election unless otherwise specified in the amendment or in a revision of the constitution.<sup>10</sup>

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

SJR 142 proposes to amend the Florida Constitution to repeal the provisions that establish a constitution revision commission. The joint resolution also amends other constitutional provisions that reference a constitution revision commission. These changes effectively abolish the constitution revision commission and a commission's authority to propose constitutional amendments to be placed on the ballot for approval by the voters.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None identified.

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<sup>8</sup> FLA. CONST. art. XI. An amendment or revision may originate as a proposal by the legislature, a constitution revision commission, a constitutional convention, a taxation and budget reform commission, or the people directly, by way of an initiative.

<sup>9</sup> FLA. CONST. art. XI, s. 1.

<sup>10</sup> FLA. CONST. art XI, s. 5.



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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of State, Division of Elections, provided the following information regarding the cost of advertising the proposed amendment contained in the resolution:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$63,378.26, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Considering that a taxation and budget reform commission (TBRC) is substantially similar to a constitution revision commission, the Legislature may wish to consider proposing an amendment to the Florida Constitution to abolish the TBRC.

The TBRC, created by Article VI, s. 6 of the Florida Constitution, is comprised of appointees who have the power to propose constitutional amendments directly to the electors. These

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<sup>11</sup> Email from Brittany Dover, Director of Legislative Affairs, Florida Department of State (Sept. 12, 2019) (on file with the Senate Committee on Judiciary).

amendments may include a “revision of this constitution or any part of it dealing with taxation or the state budgetary process.”<sup>12</sup>

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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<sup>12</sup> FLA. CONST. art. XI, s. 6(e).

By Senator Brandes

24-00155-20

2020142\_\_

Senate Joint Resolution

A joint resolution proposing amendments to Section 5 of Article II and Section 5 of Article XI and the repeal of Section 2 of Article XI of the State Constitution to abolish the Constitution Revision Commission.

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

That the following amendments to Section 5 of Article II and Section 5 of Article XI and the repeal of Section 2 of Article XI of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE II

GENERAL PROVISIONS

SECTION 5. Public officers.—

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of the a ~~constitution revision commission~~, taxation and budget reform commission, a constitutional convention, or a statutory body having only advisory powers.

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

24-00155-20

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(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"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 ... (title of office) ... on which I am now about to enter. So help me God.",

and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies.

(c) The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.

ARTICLE XI

AMENDMENTS

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of a ~~revision commission~~, constitutional convention or the taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety

Page 2 of 4

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24-00155-20

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59 days after such filing.

60 (b) A proposed amendment or revision of this constitution,  
61 or any part of it, by initiative shall be submitted to the  
62 electors at the general election provided the initiative  
63 petition is filed with the custodian of state records no later  
64 than February 1 of the year in which the general election is  
65 held.

66 (c) The legislature shall provide by general law, prior to  
67 the holding of an election pursuant to this section, for the  
68 provision of a statement to the public regarding the probable  
69 financial impact of any amendment proposed by initiative  
70 pursuant to section 3.

71 (d) Once in the tenth week, and once in the sixth week  
72 immediately preceding the week in which the election is held,  
73 the proposed amendment or revision, with notice of the date of  
74 election at which it will be submitted to the electors, shall be  
75 published in one newspaper of general circulation in each county  
76 in which a newspaper is published.

77 (e) Unless otherwise specifically provided for elsewhere in  
78 this constitution, if the proposed amendment or revision is  
79 approved by vote of at least sixty percent of the electors  
80 voting on the measure, it shall be effective as an amendment to  
81 or revision of the constitution of the state on the first  
82 Tuesday after the first Monday in January following the  
83 election, or on such other date as may be specified in the  
84 amendment or revision.

85 BE IT FURTHER RESOLVED that the following statement be  
86 placed on the ballot:

87 CONSTITUTIONAL AMENDMENT

Page 3 of 4

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2020142\_\_

88 ARTICLE II, SECTION 5

89 ARTICLE XI, SECTIONS 2 AND 5

90 ABOLISHING THE CONSTITUTION REVISION COMMISSION.—Proposing  
91 an amendment to the State Constitution to abolish the  
92 Constitution Revision Commission, which meets at 20-year  
93 intervals and is scheduled to next convene in 2037, as a method  
94 of submitting proposed amendments or revisions to the State  
95 Constitution to electors of the state for approval. This  
96 amendment does not affect the ability to revise or amend the  
97 State Constitution through citizen initiative, constitutional  
98 convention, the Taxation and Budget Reform Commission, or  
99 legislative joint resolution.

Page 4 of 4

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The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper  
Committee on Governmental Oversight and  
Accountability

**Subject:** Committee Agenda Request

**Date:** October 8, 2019

---

I respectfully request that **Senate Bill #142**, relating to **Abolishing the Constitution Revision Commission**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24

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

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

Oct 14 '19

Meeting Date

SJR 142

Bill Number (if applicable)

Topic Abolishing Constitution Revision Commission

Amendment Barcode (if applicable)

Name Mary Adkins

Job Title Lecturer; Historian of Fla Constitution; Author

Address P.O. Box 511  
Street

Phone 352 316-3693

MELROSE  
City

FL  
State

32666  
Zip

Email adkinsm@law.ufl.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.

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

S-001 (10/14/14)

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

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

10/14/19  
Meeting Date

SB 142  
Bill Number (if applicable)

Topic CR C

Amendment Barcode (if applicable)

Name Rich Templin

Job Title \_\_\_\_\_

Address 135 S. Monroe

Phone 850 224 6926

Street

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 AF2 - 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.*

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

10-14-14  
Meeting Date

142  
Bill Number (if applicable)

Topic Holuby CRG

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title MS

Address 625 E. Broadway St

Phone 850-257-4280

Tallahassee FL 32308  
City State Zip

Email barbadevane1@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

10/14/19

Meeting Date

142

Bill Number (if applicable)

Topic Abolishing the Constitution Revision Commission

Amendment Barcode (if applicable)

Name ~~Philip S. ...~~ CESAR GRAJALES

Job Title Policy Director

Address 200 W. College Avenue

Phone \_\_\_\_\_

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

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

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BILL: SB 162

INTRODUCER: Senator Perry

SUBJECT: Public Records

DATE: October 11, 2019

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hackett	McVaney	GO	<b>Favorable</b>
2. _____	_____	JU	_____
3. _____	_____	RC	_____

---

**I. Summary:**

SB 162 amends s. 119.07, F.S., regarding public records. The bill requires a court to assess the costs of litigation for the named respondent against a government agency if the agency files a declaratory judgment action seeking a court determination of whether certain public records are exempt or confidential and exempt, and the court finds that the records are neither.

The bill takes effect July 1, 2020.

**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.<sup>1</sup> 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.<sup>2</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states that

[i]t 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.<sup>4</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

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

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>5</sup> 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.”<sup>6</sup>

Section 119.011(2), F.S., broadly 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 Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

### **Making a Public Records Request**

Section 119.07, F.S., sets out an orderly process for a citizen to request a public record:

1. The requestor contacts the agency in writing or orally to request to inspect or copy certain records.
2. The custodian or designee must acknowledge the request and respond to it in good faith.
3. The agency may then provide the records subject to exemptions and confidentiality, or deny the request and state the basis for its denial.

In cases where the agency is uncertain whether the requested documents are subject to a public records exemption, the agency may:

- Refuse to release the requested documents and risk having suit brought against the agency by any number of plaintiffs for the release of the documents;
- Release the requested documents, assuming any risk of having unlawfully released confidential documents;
- Seek voluntary mediation of the dispute using the Attorney General’s public records mediation program pursuant to s. 16.60, F.S.;<sup>9</sup>

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<sup>5</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

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

<sup>9</sup> The Attorney General’s Office mediates approximately 100 such cases each year, which is a free and non-binding process.

- Seek an Attorney General Opinion; or
- Bring suit in its local court seeking a declaratory judgment on the uncertainty.

If a request is denied, the requestor has the option to work with the agency in an effort to refine or alter its request so that the agency might disclose the information if the request is clarified, presented differently, or modified. The requestor may also:

- File a civil lawsuit alleging that the agency's action is a violation of public records law;
- File a complaint with the local state attorney; or
- Seek voluntary mediation of the dispute using the Attorney General's public records mediation program pursuant to s. 16.60, F.S.<sup>10</sup>

### **Criminal and Noncriminal Penalties**

If a person willfully and knowingly violates public records laws either by failing to release unprotected information or by releasing exempt or confidential information, that employee may be subject to criminal prosecution for a first degree misdemeanor, which carries a sentence of imprisonment up to one year and a fine of up to \$1000.<sup>11</sup> Additionally, knowing and willful failure to protect the public records of victims of crimes or accidents under s. 119.105, F.S., constitutes a third degree felony, punishable by a sentence of imprisonment up to five years and a fine of up to \$5,000.<sup>12</sup>

Reasonable attorney's fees will be assessed against an agency found to have violated public records law.<sup>13</sup>

### **Florida Attorney General Advisory Legal Opinions**

The Attorney General must respond to requests for opinions from the Governor, members of the Cabinet, the head of an executive branch department, or certain members of the Florida Legislature. They are authorized, but not required, to respond to requests for opinions from members of the Legislature, other state officers, and officers of a county, municipality, other unit of local government, or political subdivision.<sup>14</sup> Private companies contracting with local governments may be subject to public records laws but may not request Attorney General Opinions.

In order to request an Attorney General Opinion, attorneys for the public entity requesting an opinion must produce a legal memorandum to supply with their request. In 2018, the Attorney General issued six formal opinions.<sup>15</sup>

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<sup>10</sup> The Attorney General's Office mediates approximately 100 such cases each year, which is a free and non-binding process.

<sup>11</sup> Section 119.10(2)(a), F.S.

<sup>12</sup> Section 119.10(2)(b), F.S.

<sup>13</sup> Section 286.011(4), F.S.

<sup>14</sup> Section 16.01(3), F.S.

<sup>15</sup> The Attorney General's Office filed 6 formal opinions in 2018, 8 in 2017, 18 in 2016, 14 in 2015, and 13 in 2014, <http://myfloridalegal.com/ago.nsf/Opinions>.

### **Florida Attorney General Open Government Mediation**

Section 16.60, F.S., creates the public records mediation program within the Office of the Attorney General. It tasks that office with employing mediators to mediate disputes involving access to public records.

The open government mediation program is voluntary. Both sides to a dispute must agree to consider mediation if the program is to be utilized. The process is nonbinding, and decision-making authority remains with the parties.<sup>16</sup>

### **Declaratory Judgments**

When an agency is uncertain whether a document is a record that must be disclosed to the public or is otherwise protected from disclosure, the agency may seek guidance from a court by filing a complaint against the requestor for declaratory judgment.<sup>17</sup> Declaratory judgment actions are used to resolve legal uncertainties for the parties. A declaratory judgment is a binding decision by which a court establishes the rights of the parties.

Section 86.081, F.S., provides that the court may award costs as are equitable. Generally, each party bears its own costs and attorney fees. A court is required, however, to award attorney fees to the requestor if they determine that an agency unlawfully refused access to a public record.<sup>18</sup> If a court determines that the requestor made their request or filed suit for an improper purpose (e.g., harassment), the court awards attorney fees to the agency.<sup>19</sup>

Because attorney fees are granted to a prevailing requestor, it is sometimes prudent for an agency or local government to bring suit immediately for clarification of the public records dispute in order to reduce fees at stake. Additionally, an agency facing harassing or otherwise improper requests has the option to bring suit to seek a determination that they do not need to respond to such requests.

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

**Section 1** amends s. 119.07, F.S., to provide that the costs of litigation of the named respondent will be assessed against a government agency where the agency files for declaratory judgment for a declaration that certain public records are exempt or confidential and exempt, and the court finds that the records are neither.

**Section 2** provides that the bill takes effect July 1, 2020.

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<sup>16</sup> Section 16.60, F.S.

<sup>17</sup> See *Butler v. City of Hallandale Beach*, 68 So. 3d 278, 279 (Fla. 4th DCA 2011).

<sup>18</sup> Section 119.12, F.S.

<sup>19</sup> Section 119.12(3), F.S.

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

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill may have a positive fiscal impact on the private sector to the extent an agency is required to reimburse legal costs and fees incurred for participation in a declaratory action filed by an agency.

**C. Government Sector Impact:**

No agency bill analysis has been reported at this time projecting how this bill may affect an agency. However, the bill will have a negative fiscal impact on any agency who has legal fees assessed against it in a declaratory judgment action regarding public records.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.07 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

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

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By Senator Perry

8-00230-20

2020162\_\_

A bill to be entitled

An act relating to public records; amending s. 119.07, F.S.; requiring a court to assess the reasonable costs of enforcement against an agency upon the court's determination in an action for a declaratory judgment that certain records are not subject to a public records exemption; providing an effective date.

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

Section 1. Subsection (9) is added to section 119.07, Florida Statutes, to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(9) If an agency files an action for declaratory judgment for a declaration that certain public records are exempt, or confidential and exempt, from subsection (1) and s. 24(a), Art. I of the State Constitution, and the court determines that the records are either not exempt or not confidential and exempt, the court must assess the reasonable costs of enforcement, including reasonable attorney fees, against the responsible agency for the benefit of the named respondent.

Section 2. This act shall take effect July 1, 2020.



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

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

10/14/19

Meeting Date

162

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name ~~Philip S. Serrano~~ CESAR GRAJALES

Job Title Policy Director

Address 200 W. College Ave.

Phone \_\_\_\_\_

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

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

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BILL: CS/SB 246

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hooper

SUBJECT: Public Construction

DATE: October 14, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Fav/CS
2.			CA	
3.			AP	

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 246 reduces the amount (referred to as retainage<sup>1</sup>) a state or local governmental entity may withhold from payment to a contractor for any contract for construction services from 10 percent to 5 percent throughout the term of the contract. This change will have a positive fiscal impact on the private sector contractors who will receive a higher percentage of payment as work is completed for construction services.

The bill also removes the discretion of a contractor to present to the public entity a payment request for up to one-half of the retainage held by that entity after 50 percent of the project is completed.

The bill revises the requirements for the Department of Management Services' rules governing certain contracts to align with the reduced retainage cap.

The bill provides that the act does not apply to any contract for construction services entered into or pending approval by a public entity or local government, or to any construction services project advertised for bid by the public entity or local government, on or before October 1, 2020. Additionally, the provisions of the bill do not apply to Florida Department of Transportation construction projects authorized under ch. 337, F.S.

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<sup>1</sup> The term "retainage" means a "percentage of what a landowner pays a contractor, withheld until the construction has been satisfactorily completed and all mechanic's liens are released or have expired." BLACK'S LAW DICTIONARY (10th ed. 2014).

The state may incur additional costs as a result of the reduced retainage cap if a contractor or subcontractor fails to adequately perform construction services as contracted.

The bill takes effect October 1, 2020.

## **II. Present Situation:**

### **Public Construction Project Bonds**

Section 255.05, F.S., requires that any person contracting with the state or local government or other public authority for construction or repair of a public building must provide a payment and performance bond. The bond is conditioned upon the contractor's timely performance and prompt payment to all subcontractors or materialmen.<sup>2</sup> The section was created to afford protection to the laborers and materialmen who cannot perfect a mechanic's lien on public property.<sup>3</sup> The public, who is, in effect, the owner of the public works project, is also protected by the payment and performance bond requirements. The payment portion of the bond provides the surety insurer's undertaking to guarantee prompt payment to all subcontractors and materialmen, and the performance bond ensures full performance.<sup>4</sup>

Contracts for construction services with the state in the amount of \$100,000 or less are specifically exempted from the requirement of a payment and performance bond.<sup>5</sup> Additionally, the Secretary of Management Services may delegate authority to state agencies to exempt payment and performance bond for projects more than \$100,000 but not more than \$200,000.<sup>6</sup> When the construction services are for a county, city, political subdivision, or public authority, the official or board awarding the contract for \$200,000 or less has the discretion to exempt such project from the execution of the payment and performance bond.<sup>7</sup>

The Department of Management Services is charged with adopting rules with respect to all contracts in the amount of \$200,000 or less, to provide procedures for retainage of each request for payment submitted by a contractor for the first half of the contract and procedures for determining disbursements from the retainage for claims made by subcontractors or materialmen.<sup>8</sup>

Section 337.18, F.S., requires a successful bidder for a Department of Transportation construction or maintenance contract to obtain a surety. This section also provides for department project bonds. Section 337.18(1)(f), F.S., specifies that s. 255.05, F.S., is not applicable to the statutory bonds issued pursuant to this section.

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<sup>2</sup> Section 255.05(1)(c), F.S.

<sup>3</sup> *American Home Assurance Co. v. Plaza Materials Corp.*, 908 So. 2d 360, 363 (Fla. 2005) (citation omitted).

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

<sup>5</sup> Section 255.05(1)(d), F.S.

<sup>6</sup> *Id.*; See Rule 60D-50041, F.A.C.

<sup>7</sup> Section 255.05(1)(d), F.S.

<sup>8</sup> Section 255.05(1)(f), F.S.

## **The Florida Prompt Payment Act and the Local Government Prompt Payment Act**

Sections 255.0705 through 255.078, F.S., known as the Florida Prompt Payment Act, govern the timely payment for construction services by the state.<sup>9</sup> Local governmental entities as defined under s. 218.72, F.S., are specifically excluded from the application of those sections.

Additionally, contracts or work performed for the Department of Transportation are specifically excluded from the definition of “construction services” under the Florida Prompt Payment Act.<sup>10</sup>

Part VII of ch. 218, F.S., is known as the Local Government Prompt Payment Act and governs local governmental entities<sup>11</sup> in contracting for public construction projects. The stated purpose of the Local Government Prompt Payment Act is to provide for the prompt payments by local governmental entities, interest on late payments, and a dispute resolution process.<sup>12</sup> The Local Government Prompt Payment Act states that it is the policy of this state that “payment for all purchases by local governmental entities be made in a timely manner.”<sup>13</sup>

## **Public Construction Retainage**

Retainage is a common construction contracting practice whereby a certain percentage of payment is withheld by the project owner from the general contractor and, in turn, by the general contractor from the subcontractors, to ensure satisfactory completion of the project.<sup>14</sup> Both the Florida Prompt Payment Act and Local Government Prompt Payment Act (collectively, the “Prompt Payment Acts”) provide caps on the amount of retainage that may be withheld by a state and local governmental entity. Under the Prompt Payment Acts, up to 10 percent may be withheld by the state or local governmental entity from each progress payment made to the contractor until 50-percent completion of the services.<sup>15</sup> After 50-percent completion, the amount of retainage withheld by the state or local governmental entity may not exceed 5 percent.<sup>16</sup> The term “50-percent completion” has the meaning provided by contract between the state and the contractor, or, if not defined by contract, the point at which the state has expended 50 percent of the total cost of the construction services purchased.<sup>17</sup>

The Prompt Payment Acts specifically provide that state and local governmental entities are not prohibited from contracting with a contractor to withhold a retainage of less than 10 percent of each progress payment, from incrementally reducing the retainage amount, or from releasing, at

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<sup>9</sup> Section 255.073, F.S., defines public entity to mean “the state, or any office, board, bureau, commission, department, branch, division, or institution thereof.”

<sup>10</sup> Section 255.072(2), F.S.

<sup>11</sup> Section 218.72, F.S., for purposes of the Local Prompt Payment Act, defines “local governmental entity” as a “county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof.”

<sup>12</sup> Section 218.71, F.S.

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

<sup>14</sup> See OPPAGA *Special Review: Inflexibility in Contracting and Retainage Practices Could Hurt Construction Industry*, Report No. 00-26, December 2000. Available online at <http://www.oppaga.state.fl.us/reports/pdf/0026rpt.pdf>. (Last visited September 24, 2019.)

<sup>15</sup> Sections 278.078(1) and 218.735(8)(a), F.S.

<sup>16</sup> Sections 255.078(2) and 218.735(8)(b), F.S.

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

any point, any portion of retainage held that is attributable to labor, services, or materials supplied for the project.<sup>18</sup>

In accordance with bond requirements found in s. 255.05(1)(f), F.S., Department of Management Services Rule 60D-50041(2), FAC., provides for procedures in instances where a payment and performance bond are not required for a public construction project and requires, in a case where the contractor defaults, the claims made for unpaid bills by laborers, materialmen, and subcontractors of the project be paid from the ten percent (10%) retainage on a pro rata basis.

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

The bill modifies the retainage cap for public construction projects.

**Section 1** amends s. 218.735, F.S., to reduce the retainage cap a local governmental entity may withhold from payment for construction services from 10 percent to 5 percent throughout the entire term of contract for construction services and makes conforming changes. Additionally, this bill eliminates provisions governing retainage after 50 percent completion of the services and removes the discretion of a contractor to present to the public entity a payment request for up to one-half of the retainage held by that entity after 50 percent completion of the services.

**Section 2** amends s. 255.05, F.S., to align with the new lower retainage amounts provided in section 4 of the bill. The change in the retainage cap revises requirements for the Department of Management Services' rules for contracts less than \$200,000.

**Section 3** amends s. 255.077, F.S., to update a cross-reference consistent with the changes included in section 4.

**Section 4** amends s. 255.078, F.S., to reduce the retainage cap the state may withhold from payment for construction services from 10 percent to 5 percent throughout the entire term of the contract.

**Section 5** specifies that the act does not apply to any contract which is entered into or pending approval by a public entity or local government, or to any construction services project advertised for bid by the public entity or local government, on or before October 1, 2020. This section also provides that the changes made in ss. 255.05 and 255.078, F.S., by this act do not apply to contracts executed under ch. 337, F.S.

**Section 6** provides that the bill takes effect October 1, 2020.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

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<sup>18</sup> Sections 255.078(5) and 218.735(8)(e), F.S.

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

The bill does not impose, authorize, or raise a state tax or fee.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

This bill does not impact state or local taxes or fees.

**B. Private Sector Impact:**

The reduction in the retainage cap will likely provide a positive fiscal impact for contractors and subcontractors because it provides a more timely payment of a larger percentage of work performed and invoiced.

**C. Government Sector Impact:**

The state or local governmental entity may incur additional costs as a result of the reduced retainage cap if a contractor or subcontractor fails to adequately perform construction services as contracted. The state or local governmental entity is not required to withhold retainage for construction services; rather, retainage, in most instances, functions as a secondary security device, supplementing the payment and performance bond. For construction services contracts where a payment or performance bond is not required, the lowered retainage cap potentially may not provide adequate leverage to protect the investment by the state or local governmental entity.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 218.735, 255.05, 255.077, and 255.078.

**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 October 14, 2019:**

The CS corrects a scrivener's error on line 68.

- B. **Amendments:**

None.

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

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932648

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/14/2019	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 68  
and insert:  
~~withhold retainage in an amount not exceeding 10 percent of~~



By Senator Hooper

16-00533-20

2020246\_\_

A bill to be entitled

An act relating to public construction; amending s. 218.735, F.S.; revising the amount of retainage that certain local governmental entities and contractors may withhold from progress payments for any construction services contract; conforming a provision to changes made by the act; amending s. 255.05, F.S.; revising requirements for Department of Management Services rules governing certain contracts; amending s. 255.077, F.S.; conforming a cross-reference; amending s. 255.078, F.S.; revising the amounts of retainage that certain public entities and contractors may withhold from progress payments for any construction services contract; conforming a provision to changes made by the act; providing applicability; providing an effective date.

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

Section 1. Paragraph (i) of subsection (7) and subsection (8) of section 218.735, Florida Statutes, are amended to read:  
218.735 Timely payment for purchases of construction services.—

(7) Each contract for construction services between a local governmental entity and a contractor must provide for the development of a single list of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity.

(i) If a local governmental entity fails to comply with its

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responsibilities to develop the list required under paragraph (a) or paragraph (b) within the time limitations provided in paragraph (a), the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section; and payment of any remaining undisputed contract amount, less any amount withheld pursuant to the contract for incomplete or uncorrected work, must be paid within 20 business days after receipt of a proper invoice or payment request. If the local governmental entity has provided written notice to the contractor specifying the failure of the contractor to meet contract requirements in the development of the list of items to be completed, the local governmental entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the local governmental entity in the development of the list or to perform its contractual responsibilities, if any, with regard to the development of the list or if paragraph (8) (c) ~~(8) (f)~~ applies.

(8) (a) With regard to any contract for construction services, a local governmental entity may withhold from each progress payment made to the contractor an amount not exceeding 5 ~~10~~ percent of the payment as retainage ~~until 50-percent completion of such services.~~

~~(b) After 50-percent completion of the construction services purchased pursuant to the contract, the local governmental entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this subsection, the term "50-percent completion" has the meaning set forth in the contract~~

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between the local governmental entity and the contractor or, if not defined in the contract, the point at which the local governmental entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract. However, notwithstanding this subsection, a municipality having a population of 25,000 or fewer, or a county having a population of 100,000 or fewer, may withhold retainage in an amount not exceeding 5 10 percent of each progress payment made to the contractor until final completion and acceptance of the project by the local governmental entity.

(c) After 50 percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the local governmental entity.

(d) After 50 percent completion of the construction services purchased pursuant to the contract, the contractor may present to the local governmental entity a payment request for

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up to one-half of the retainage held by the local governmental entity. The local governmental entity shall promptly make payment to the contractor, unless the local governmental entity has grounds, pursuant to paragraph (f), for withholding the payment of retainage. If the local governmental entity makes payment of retainage to the contractor under this paragraph which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(b)(e) This section does not prohibit a local governmental entity from withholding retainage at a rate less than 5 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the local governmental entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a local governmental entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor must ~~shall~~ timely remit payment of such retainage to those subcontractors and suppliers.

(c)(f) This section does not require the local governmental entity to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, or otherwise the subject of a claim or demand by the local governmental entity or contractor.

(d)(g) The time limitations set forth in this section for

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payment of payment requests apply to any payment request for retainage made pursuant to this section.

~~(e) (h)~~ Paragraph (a) does ~~Paragraphs (a) - (d)~~ do not apply to construction services purchased by a local governmental entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act.

~~(f) (i)~~ This subsection does not apply to any construction services purchased by a local governmental entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.

Section 2. Paragraph (f) of subsection (1) of section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by claimants.—

(1) A person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority or private entity, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute 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. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company.

(f) The Department of Management Services shall adopt rules

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with respect to all contracts for \$200,000 or less, to provide:

1. Procedures for retaining up to 5 ~~10~~ percent of each request for payment submitted by a contractor and procedures for determining disbursements from the amount retained on a pro rata basis to laborers, materialmen, and subcontractors, as defined in s. 713.01.

2. Procedures for requiring certification from laborers, materialmen, and subcontractors, as defined in s. 713.01, before final payment to the contractor that such laborers, materialmen, and subcontractors have no claims against the contractor resulting from the completion of the work provided for in the contract.

The state is not liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

Section 3. Subsection (8) of section 255.077, Florida Statutes, is amended to read:

255.077 Project closeout and payment of retainage.—

(8) If a public entity fails to comply with its responsibilities to develop the list required under subsection (1) or subsection (2), as defined in the contract, within the time limitations provided in subsection (1), the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078. The public entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the public entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to

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the development of the list or if s. 255.078(3) ~~s. 255.078(6)~~ applies.

Section 4. Section 255.078, Florida Statutes, is amended to read:

255.078 Public construction retainage.—

(1) With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 5 ~~10~~ percent of the payment as retainage until ~~50-percent completion of such~~ services.

~~(2) After 50-percent completion of the construction services purchased pursuant to the contract, the public entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this section, the term "50-percent completion" has the meaning set forth in the contract between the public entity and the contractor or, if not defined in the contract, the point at which the public entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract.~~

~~(3) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue,~~

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~~and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the public entity.~~

~~(4) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public entity. The public entity shall promptly make payment to the contractor, unless the public entity has grounds, pursuant to subsection (6), for withholding the payment of retainage. If the public entity makes payment of retainage to the contractor under this subsection which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.~~

(2)(5) Neither This section and nor s. 255.077 do not prohibit ~~prohibits~~ a public entity from withholding retainage at a rate less than 5 ~~10~~ percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the public entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a public entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more

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subcontractors or suppliers, the contractor ~~must~~ shall timely  
 remit payment of such retainage to those subcontractors and  
 suppliers.

~~(3)(6)~~ Neither This section and ~~nor~~ s. 255.077 ~~do not~~  
~~require~~ requires the public entity to pay or release any amounts  
 that are the subject of a good faith dispute, the subject of a  
 claim brought pursuant to s. 255.05, or otherwise the subject of  
 a claim or demand by the public entity or contractor.

~~(4)(7)~~ The same time limits for payment of a payment  
 request apply regardless of whether the payment request is for,  
 or includes, retainage.

~~(5)(8)~~ Subsection (1) does ~~Subsections (1) (4) do~~ not apply  
 to construction services purchased by a public entity which are  
 paid for, in whole or in part, with federal funds and are  
 subject to federal grantor laws and regulations or requirements  
 that are contrary to any provision of the Florida Prompt Payment  
 Act.

~~(6)(9)~~ This section does not apply to any construction  
 services purchased by a public entity if the total cost of the  
 construction services purchased as identified in the contract is  
 \$200,000 or less.

Section 5. (1) This act does not apply to any contract for  
construction services which is entered into or is pending  
approval by a public entity, as defined in s. 255.072, Florida  
Statutes, or by a local governmental entity, as defined in s.  
218.72, Florida Statutes, or to any construction services  
project advertised for bid by the public entity or local  
governmental entity, on or before October 1, 2020.

(2) The amendments made to ss. 255.05 and 255.078, Florida

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Statutes, by this act do not apply to contracts executed under  
chapter 337, Florida Statutes.

Section 6. This act shall take effect October 1, 2020.

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THE FLORIDA SENATE

APPEARANCE RECORD

10-14-19

Meeting Date

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

SB 246

Bill Number (if applicable)

Topic

Retention

Amendment Barcode (if applicable)

Name

MARI HEBRANK

Job Title

Address

215 S. Monroe St.

Phone

850-566-1824

Street

TALLAHASSEE FL 32301

Email

hebrank@calbfields.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FLORIDA HOME BUILDERS, NWA FL, PGT

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

10/14/14  
Meeting Date

246  
Bill Number (if applicable)

Topic Public Construction

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Pkwy, Ste 200  
Street

Phone (954) 465-6811

Coconut Creek, FL 33066  
City State Zip

Email cbowen@abusaflorida.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders & Contractors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

10/14/19

Meeting Date

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

SB-246

Bill Number (if applicable)

Topic Public Construction

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title

Address 231 West Bay Ave

Street

Longwood

City

FL

State

32750

Zip

Phone 407 788 5570

Email RBKershner@att.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NACM Improved Construction Practices Committee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



# CourtSmart Tag Report

**Room:** SB 301

**Case No.:**

**Caption:** Governmental Oversight and Accountability

**Type:**

**Judge:**

**Started:** 10/14/2019 2:30:07 PM

**Ends:** 10/14/2019 3:07:37 PM

**Length:** 00:37:31

2:30:06 PM Meeting called to order  
2:30:49 PM Tab 3 - SB 162 Public Records (Senator Perry)  
2:31:57 PM Cesar Grajales waiving in support  
2:32:25 PM Roll Call on SB 162  
2:32:44 PM Tab 2 - SJR 142 Constitution Revision Commission (Senator Brandes)  
2:33:25 PM Senator Rader for a question to Senator Brandes  
2:34:54 PM Follow up question Senator Rader  
2:35:26 PM Senator Brandes to respond  
2:35:38 PM Senator Torres for a question  
2:36:03 PM Senator Brandes responds  
2:36:37 PM Mary Adkins, Lecturer, Historian of Florida Constitution, Author  
2:41:17 PM Senator Bean question to Mary Adkins  
2:42:38 PM Mary Adkins to respond  
2:43:05 PM Senator Torres question to Mary Adkins  
2:43:25 PM Mary Adkins to respond  
2:45:08 PM Rich Templin, Florida AFL-CIO  
2:49:28 PM Barbara DeVane, FLNOW, waive in support  
2:50:06 PM Cesar Grajales waive in support  
2:50:23 PM Debate  
2:50:25 PM Senator Torres  
2:51:21 PM Senator Brandes to close  
2:52:56 PM Roll Call on SJR 142  
2:53:59 PM Tab 1 - SB 128 Public Records/Judicial Assistants (Senator Wright)  
2:54:51 PM Amendment 355462  
2:55:34 PM Back on the bill as amended  
2:56:00 PM Alison Dudley, The Judicial Assistants Association of FL, waive in support  
2:56:12 PM Scott Jenkins, Southern Title Insurance  
2:57:15 PM Debate on the bill  
2:57:26 PM Chair Hooper  
2:57:54 PM Close on the bill  
2:57:57 PM Roll Call on CS/SB 128  
2:58:18 PM Turn chair over to Senator Rader  
2:58:37 PM Tab 4 - SB 246 Public Construction (Senator Hooper)  
3:00:16 PM Amendment 932648  
3:00:27 PM Back on the bill as amended  
3:01:15 PM Carol Bowen, Associated Builders and Contractors  
3:01:45 PM Senator Torres for a question  
3:02:28 PM Carol Bowen to respond  
3:02:48 PM Senator Torres follow-up  
3:03:50 PM Carol Bowen to respond  
3:04:22 PM Bruce Kershner, NACM Improved Construction Practices Committee waives in support  
3:04:50 PM Kari Hebrank, Florida Home Builders  
3:05:33 PM Debate  
3:05:36 PM Close on the bill  
3:06:19 PM Roll Call on CS/SB 246  
3:06:34 PM Senator Bean, motion to be shown in the affirmative on SB 162  
3:07:10 PM Chair comments  
3:07:17 PM Senator Bean moves we adjourn  
3:07:18 PM With no objections, meeting is adjourned