

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Brandes, Chair
Senator Gibson, Vice Chair

MEETING DATE: Monday, February 1, 2021**TIME:** 2:30—5:00 p.m.**PLACE:** Pat Thomas Committee Room, 412 Knott Building**MEMBERS:** Senator Brandes, Chair; Senator Gibson, Vice Chair; Senators Baxley, Boyd, Bradley, Broxson, Mayfield, Polsky, Rodrigues, Rouson, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	Presentation by the Office of Program Policy Analysis and Government Accountability: Several Factors Hinder Homeowner and Auto Glass Insurance Fraud Processing		Presented
2	Presentation by Retired Judge Greg Holder: Abusive Litigation Tactics, Attorney Fees, and Lawyer Discipline		Presented
3	SB 78 Rodrigues	Dues and Uniform Assessments; Requiring that a public employee who desires to join an employee organization sign a membership authorization form; requiring an employee organization to revoke an employee's membership upon receipt of the employee's request for revocation; providing that certain deductions commence upon the employer's receipt and confirmation of the employee's signed deduction authorization form; specifying the time period that an employee's authorization to deduct dues and uniform assessments remains in effect, etc. GO 01/27/2021 Favorable JU 02/01/2021 Temporarily Postponed RC	Temporarily Postponed
4	SB 88 Brodeur	Farming Operations; Prohibiting farms from being held liable for certain claims for tort liability except under certain circumstances; providing a burden of proof; prohibiting nuisance actions from being filed against farm operations unless specified conditions are met; providing requirements for and limitations on damages; providing that plaintiffs who bring nuisance actions against farm operations are liable for certain costs and expenses under certain conditions, etc. JU 02/01/2021 Fav/CS EN RC	Fav/CS Yeas 10 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Monday, February 1, 2021, 2:30—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 498 Gruters (Identical H 259)	Safety of Religious Institutions; Authorizing, for specified purposes, a concealed weapons or firearms licensee to carry a firearm on certain property of a church, a synagogue, or any other religious institution, etc. JU 02/01/2021 Favorable CJ RC	Favorable Yeas 7 Nays 4

Other Related Meeting Documents

Several Factors Hinder Homeowner and Auto Glass Insurance Fraud Processing

Preliminary Findings

Emily Leventhal, Staff Director for Government Operations



OPPAGA

Office of Program Policy Analysis and Government Accountability

FEBRUARY 1, 2021

Legislative Direction to OPPAGA

- Examine how effectively homeowner and auto glass insurance fraud is being handled in Florida
- Review factors that may be driving reports of fraud
- OPPAGA methodology
 - Analyzed six fiscal years of Department of Financial Services fraud data
 - Interviewed stakeholders
 - Surveyed state attorneys

Overview

- Background on fraud response
- Trends in reported fraud
- Department of Financial Services, Division of Investigative and Forensic Services (DIFS) fraud response process
- Fraud prosecution
- Options for legislative consideration



What Is Insurance Fraud?

- **Insurance fraud**: deliberate deception by parties in the claims process to obtain an illegitimate gain
- Insurance fraud can occur during the process of **buying, using, selling, or underwriting** insurance
- Common forms of fraud
 - Inflating claims
 - Submitting claims for injuries or damages that never occurred
 - Staging accidents



Multiple Entities Are Responsible for Reporting, Investigating, and Prosecuting Insurance Fraud

Insurance Company Special Investigative Units (SIUs)	Investigate and report possible insurance fraud to Department of Financial Services
Department of Financial Services, Division of Investigative and Forensic Services (DIFS)	Primary state entity <ul style="list-style-type: none">• Receives insurance fraud referrals (complaints)• Conducts investigations• Presents insurance fraud cases to prosecutors
Other Law Enforcement	<ul style="list-style-type: none">• Receives reports and investigates insurance fraud• Presents insurance fraud cases to prosecutors
Prosecutors	<ul style="list-style-type: none">• Collaborate and review criminal investigations• File formal charges• Present cases in court

Trends in Reported Fraud

Homeowner and Auto Glass Referrals Increased Between Fiscal Years 2014-15 and 2019-20

- Homeowner fraud referrals more than doubled across the review period
 - Total: 8,392 suspected homeowner fraud referrals
 - Range: 832 to 1,917
- Referrals generally concentrated in large population centers
 - Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, and Pinellas
- Typical fraud referrals
 - Non-storm water damage
 - Roofing/windstorm damage
 - Third party representatives
 - Assignment of benefits to auto glass repair shops

DIFS Fraud Response Process

Overview of DIFS Process

Referral (a tip or report of fraud)

- Fraud is reported via the website or hotline
- Staff reviews referrals
- Supervisors close referrals or initiate case investigations

Case investigations

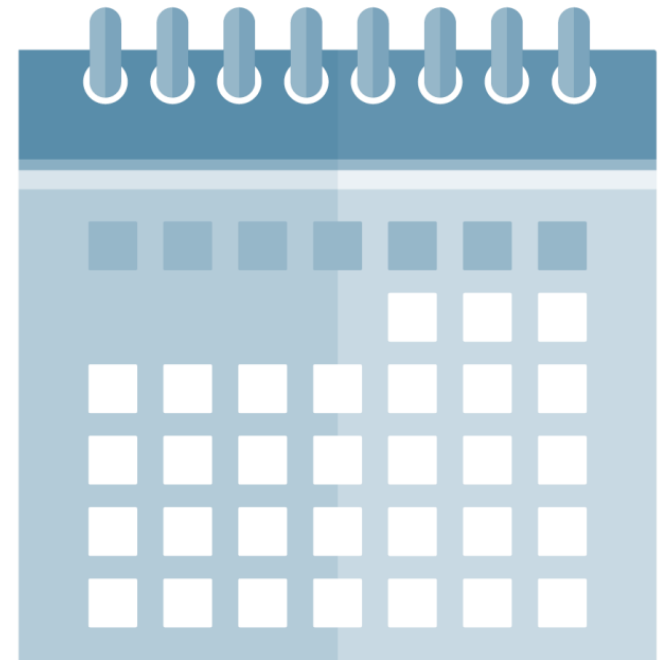
- Cases assigned to investigators
- Investigators conduct fieldwork
- Investigators close cases or present to a prosecutor

Presentation to prosecutors

- Requires sufficient evidence
- May result in arrests and prosecutions

DIFS Referral Evaluations Are Not Always Timely

- DIFS referral review process often exceeds timeline policies
- Cases assigned for review more than 180 days prior
 - 48% of open homeowner fraud referrals
 - 30% of open auto glass fraud referrals

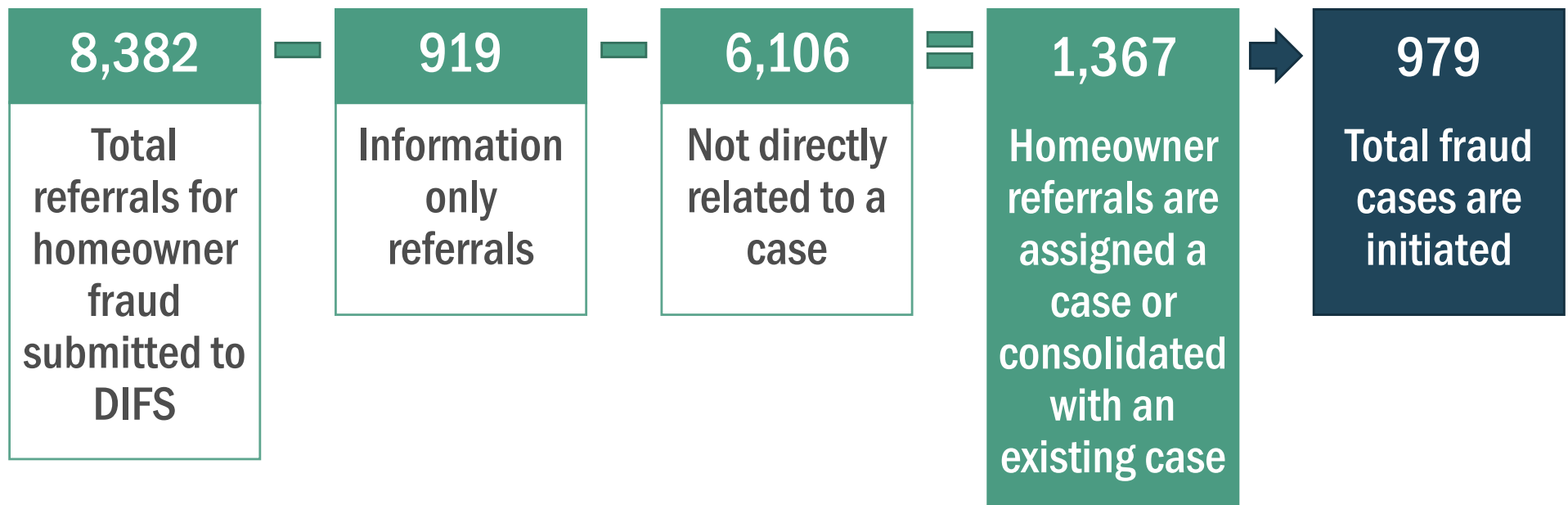


DIFS Dismissed Most Referrals Due to Evidence Concerns

- Lacked sufficient evidence
 - Limited investigative information provided by SIUs
 - Witnesses may be difficult to contact
- DIFS could not address all the factors needed to solve a case
 - Identifiable fraud
 - Availability of written/oral statements and sworn testimony
 - Jurisdiction

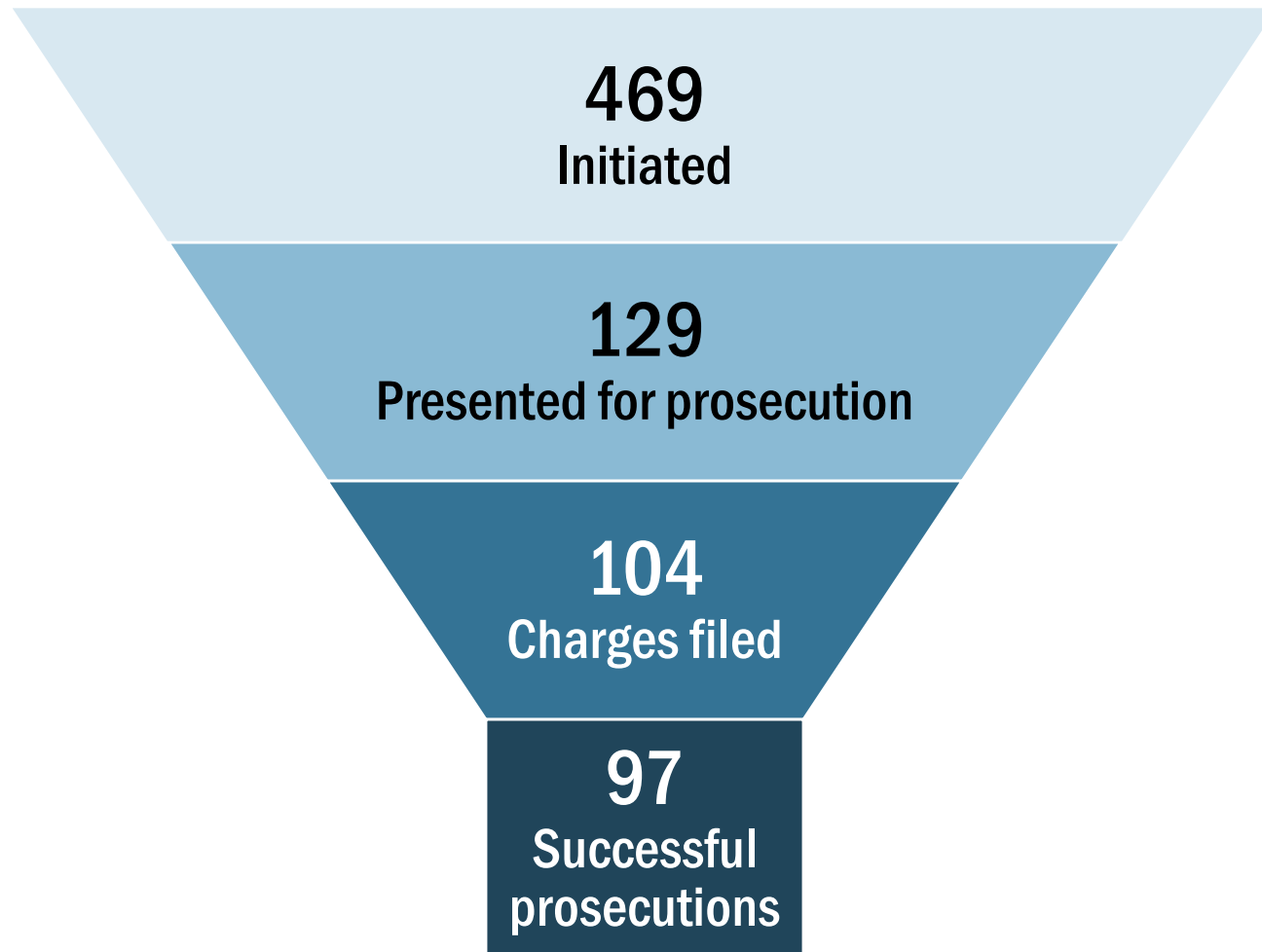
Few Homeowner Fraud Referrals Resulted in Fraud Case Investigations

From 2014-15 through 2019-20



Many Case Investigations Did Not Result in Presentations to Prosecutors

- Homeowner cases initiated in the first three years of our review



DIFS Reported That Staffing Issues Limit Its Ability to Investigate Complex Cases

- DIFS reports that recruitment and retention of skilled investigators is essential
- DIFS investigator staffing challenges
 - DIFS salaries are not competitive
 - DIFS is now hiring new police academy graduates



Prosecution

Majority of Homeowner Cases That Are Presented Are Successfully Prosecuted



- **75%** of homeowner fraud cases with a presentation for prosecution had at least one successful prosecution

State Attorneys Reported Barriers to Prosecuting Insurance Fraud Cases

- Quality of evidence is key
- DIFS cases are complete, thorough, and timely
- Reported barriers to prosecution
 - Insurance company investigations and evidence can be incomplete
 - Attributing fraud to a specific person can be difficult
- Homeowner insurance fraud cases are complex and take time

Options for Legislative Consideration

Options to Support DIFS Process by Improving Investigation Data Provided to DFS



Amend the required elements insurance companies must provide in fraud referrals



Establish DIFS capacity to audit insurance company investigative units

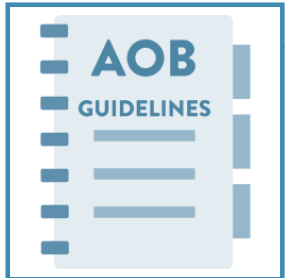


Modify the Anti-Fraud Reward Program

Options to Minimize Opportunities for Fraud



Modify fee provisions for attorneys



Amend assignment of benefits guidelines for auto glass insurance policies



Reduce the statute of limitations for hurricane/windstorm claims

Contact Information

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OPPAGA Staff Director for
Government Operations

 (850)717-0525

 leventhal.emily@oppaga.fl.gov

FLORIDA LEGISLATURE OFFICE OF PROGRAM POLICY ANALYSIS AND
GOVERNMENT ACCOUNTABILITY

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations.

NO MATERIALS AVAILABLE FOR THIS TAB

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 78

INTRODUCER: Senator Rodrigues

SUBJECT: Dues and Uniform Assessments

DATE: January 29, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 78 requires a public employee wanting to join a union to submit a signed membership authorization form that includes a specific statutory notice. The union must revoke the membership if the employee submits a signed request for revocation. The union may not require a reason for the employee's decision to revoke membership in the union.

The bill also requires a public employee to submit a signed dues deduction form before an employer may deduct union dues from an employee's pay. The employer must confirm with the employee that the employee authorized the deduction. Such authorization to deduct ends automatically when the members of the employee organization ratify a new collective bargaining agreement or after three years, whichever occurs earlier.

Public employers may experience an indeterminate, but likely insignificant, increase in workload and costs associated with the administration of the authorization and revocation of dues deductions.

The bill takes effect upon becoming a law.

II. Present Situation:

Collective Bargaining

Article 1, section 6 of the State Constitution guarantees that "the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." To implement this constitutional provision, the Legislature enacted ch. 447, F.S. Part II of the chapter, which part is solely applicable to public employees and public employee unions, provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and

uninterrupted operations and functions of government.¹ Through collective bargaining, public employees² may collectively negotiate with their public employer³ in the determination of the terms and conditions of their employment.⁴ The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.⁵

An “employee organization” is any “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.”⁶ When an employee organization is approved by the employees, recognized by the employer, and authorized to conduct collective bargaining, it is referred to as a certified bargaining agent, and becomes the exclusive representative of all employees in that unit.⁷

After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of wages, hours, and terms and conditions of employment of the employees.⁸ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.⁹ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁰ Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.¹¹

¹ Section 447.201, F.S.

² Section 447.203(3), F.S., defines the term “public employee” to mean any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
 - 1. Federal license requirement.
 - 2. Federal autonomy regarding investigation and disciplining of appointees.
 - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

³ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁴ Section 447.301(2), F.S.

⁵ Section 447.201(3), F.S.

⁶ Section 447.203(11), F.S.

⁷ Sections 447.203(12), 447.307(1), F.S.

⁸ Section 447.309(1), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 447.309(5), F.S.

Right-to-Work

The State Constitution forbids an employer from denying citizens the right to work based on membership or non-membership in any employee organization.¹² As such, public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.¹³

Union Dues and Deductions in Florida

Section 447.303, F.S., authorizes a certified bargaining agent, a union, to have its dues and uniform assessments collected by a public employer by deducting such payments from the salaries of those employees who choose to authorize the practice. The employee's authorization is revocable with 30 days written notice to the employer and union, but otherwise continues for the length of the union's duration as certified bargaining agent. The deductions commence upon the bargaining agent's written request to the employer. While employers may make salary deductions for dues and uniform assessments, employers are expressly prohibited from any involvement in collecting fines, penalties, or special assessments.

Section 110.114, F.S., governs all employee wage deductions for state employment. The state, its departments, bureaus, commissions, and officers are permitted to make deductions from employees' salaries when authorized and requested by the employee.¹⁴ All records of employee requests and employer authorizations for deductions from an employee's wage or salary, or the legal authority for the deduction, shall be maintained by each employing entity.¹⁵

According to the Department of Management Services, 72,356 state employees (excluding state university system employees) were represented by unions during Fiscal Year 2018-19. Of these employees, 8,998 paid union dues and assessments.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 447.301, F.S., to require a public employee wanting to join a union to sign a membership authorization form. The form must include the following acknowledgement:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

¹² FLA. CONST. art. 1, s. 6.

¹³ Section 447.301(1) and (2), F.S.

¹⁴ *Id.*

¹⁵ Section 110.114(4), F.S.

¹⁶ State Personnel System, *Annual Workforce Report for Fiscal Year 2018-2019*, page 26, [https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_\(FINAL\).pdf](https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_(FINAL).pdf) (last visited January 27, 2021).

Furthermore, the section requires an employee organization to revoke an employee's membership upon receipt of written request. Any form required to fulfill this request may not require the employee to disclose a reason for membership revocation.

Section 2 amends s. 447.303, F.S., to require that before an employer begins deducting union dues from an employee's pay, the employer must receive a signed authorization form from the bargaining agent and confirm such authorization with the employee. The section further provides that such authorization will end automatically when the employee organization ratifies a new collective bargaining agreement or after three years, whichever occurs first.

Section 3 reenacts s. 110.114(3), F.S., in order to incorporate the changes made in section 1 of the bill.

Section 4 provides that the bill takes effect upon becoming a law.

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 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:

None.

B. Private Sector Impact:

To the extent to which the new requirements depress union membership or salary deductions for union dues or increase costs associated with the creation and use of membership authorization and dues deduction forms, public sector unions may experience a negative fiscal impact.

C. Government Sector Impact:

Public agencies may experience additional workload relating to administering the authorization and revocation of dues deductions for public employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 447.301 and 447.303.

This bill reenacts section 110.114, 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.



131790

LEGISLATIVE ACTION

Senate

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. .

House

The Committee on Judiciary (Rodrigues) recommended the following:

Senate Amendment

Delete line 69
and insert:
uniform assessments. The employer must make such confirmation
within 30 days after receiving the signed deduction
authorization form.

By Senator Rodrigues

27-00830A-21

202178__

A bill to be entitled
An act relating to dues and uniform assessments;
amending s. 447.301, F.S.; requiring that a public
employee who desires to join an employee organization
sign a membership authorization form; requiring that
the form include a specified acknowledgement;
requiring an employee organization to revoke an
employee's membership upon receipt of the employee's
request for revocation; requiring certain employees to
provide specified notice to his or her employer to
revoke certain deductions; providing that a revocation
form may not require an employee to state a reason for
the revocation; amending s. 447.303, F.S.; providing
that certain deductions commence upon the employer's
receipt and confirmation of the employee's signed
deduction authorization form; specifying the time
period that an employee's authorization to deduct dues
and uniform assessments remains in effect; reenacting
s. 110.114(3), F.S., relating to employee wage
deductions, to incorporate the amendment made to s.
447.303, F.S., in a reference thereto; providing an
effective date.

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

Section 1. Subsection (1) of section 447.301, Florida
Statutes, is amended to read:

447.301 Public employees' rights; organization and
representation.—

27-00830A-21

202178__

(1) (a) Public employees ~~shall~~ have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

(b)1. An employee who desires to join an employee organization must sign a membership authorization form with the bargaining agent. The membership authorization form must contain the following acknowledgment in bold letters and in at least a 14-point type:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

2. An employee organization must revoke an employee's membership upon receipt of his or her written request for revocation. However, an employee who has authorized the deduction of dues and uniform assessments by his or her employer must also submit notice to his or her employer as provided in s. 447.303 for the revocation of such deductions. If an employee must complete a form to request revocation from the employee organization, the form may not require a reason for the employee's decision to revoke his or her membership.

Section 2. Section 447.303, Florida Statutes, is amended to read:

27-00830A-21

202178__

447.303 Dues; deduction and collection.—

(1) ~~An~~ Any employee organization ~~that~~ which has been certified as a bargaining agent ~~has~~ shall have the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.

(2) (a) Deductions shall commence when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee, electronically or by other means, that he or she authorized the deduction of dues and uniform assessments.

(b) An employee's authorization to deduct dues and uniform assessments remains in effect until the members of the bargaining unit approve a new collective bargaining agreement with the public employer or for 3 years after the date on which the deduction begins, whichever is earlier.

(c) Notwithstanding paragraph (b), ~~However, such~~ authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. ~~Said deductions shall commence upon the bargaining agent's written request to the employer.~~

(3) Reasonable costs to the employer of said deductions is ~~shall be~~ a proper subject of collective bargaining.

(4) Such right to deduction, unless revoked under ~~pursuant~~ ~~to~~ s. 447.507, is ~~shall be~~ in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit.

(5) The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special

27-00830A-21

202178__

88 assessments.

89 Section 3. For the purpose of incorporating the amendment
90 made by this act to section 447.303, Florida Statutes, in a
91 reference thereto, subsection (3) of section 110.114, Florida
92 Statutes, is reenacted to read:

93 110.114 Employee wage deductions.—

94 (3) Notwithstanding the provisions of subsections (1) and
95 (2), the deduction of an employee's membership dues deductions
96 as defined in s. 447.203(15) for an employee organization as
97 defined in s. 447.203(11) shall be authorized or permitted only
98 for an organization that has been certified as the exclusive
99 bargaining agent pursuant to chapter 447 for a unit of state
100 employees in which the employee is included. Such deductions
101 shall be subject to the provisions of s. 447.303.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/20
Meeting Date

SB 78
Bill Number (if applicable)

Topic Union dues

Amendment Barcode (if applicable)

Name Dr. 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 AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/1/21

Meeting Date

SB 78

Bill Number (if applicable)

Topic SB 78

Amendment Barcode (if applicable)

Name Martin Balinsky

Job Title Professor, Science

Address 444 Appleyard Dr.

Street

Tln FL 32304

City

State

Zip

Phone

(850) 980-1949

Email

balinsky10@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing United Faculty of Fla.-Tallahassee Comm Coll.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/1/21

Meeting Date

70

Bill Number (if applicable)

Topic Dues & uniform Assurances

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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SB 78
Bill Number (if applicable)

Meeting Date _____

Topic GAU FSU

Amendment Barcode (if applicable) _____

Name Vincenza Berardo

Job Title Graduate Assistant

Address 803 Timberview Dr

Phone 407 7669049

Street

Tallahassee

FL

32308

City

State

Zip

Email vberardo21@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing UFF-FSU-GAU

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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Meeting Date _____

78
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name MATTHEW LATA

Job Title PROFESSOR

Address 3556 GARDENVIEW WAY
Street

Phone 850 322 1361

Tally FL 32309
City State Zip

Email mattnewlata@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/21
Meeting Date

SB 78
Bill Number (if applicable)

Topic Unions

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title Legislative & Political Specialist

Address 213 S. Adams Street
Street
Tallahassee FL 32301
City State Zip

Phone 850-320-4208

Email Stephanie.Kunkel@floridaea.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Education Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-1-21
Meeting Date

78
Bill Number (if applicable)

Topic Union Busting Bill

Amendment Barcode (if applicable)

Name Barbara De Vane

Job Title lobbyist

Address 625th E. Brevard St

Phone 850-251-4280

Tallahassee FL 32308
City State Zip

Email barbadevane1@gmail.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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-1-21

Meeting Date

178

Bill Number (if applicable)

Topic Union Busting Bill

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title State Secretary

Address 625 E. Brevard St

Phone 251-4280

Street

Tallahassee FL 32308

City

State

Zip

Email barbadevane7@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Alliance for Retired Americans

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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But not for FLARA
Volunteer with FLARA

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/21
Meeting Date

78
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 2051 Country Club Dr
Street

Phone 850-445-5367

Tallahassee FL 32301
City State Zip

Email tim.nungesser@fla.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NFIB

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/1/21

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0078

*Meeting Date**Bill Number (if applicable)*Topic Dues and Uniform Assessment*Amendment Barcode (if applicable)*Name Wayne "Bernie" BernoskaJob Title PresidentAddress 343 W. Madison StreetPhone 321-231-9116*Street*TallahasseeFlorida32301Email bernie@fpfp.org*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing Florida Professional FirefightersAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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

2/1/21

Meeting Date

78

Bill Number (if applicable)

Topic Dues and Uniform Assessments

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Street

Phone 224-7173

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

2/1/2021

Meeting Date

78

Bill Number (if applicable)

Topic Dues and Assessments

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard Street

Phone

Street

Tallahassee

Florida

32301

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/1/2021

Meeting Date

78

Bill Number (if applicable)

Topic Dues

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 130 S Bronough

Phone _____

Street

ICH

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2021
Meeting Date

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

78
Bill Number (if applicable)

Topic Dees & Uniform Assessments

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Legislative Director

Address _____ Phone _____
Street

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 88

INTRODUCER: Judiciary Committee and Senator Brodeur

SUBJECT: Right to Farm

DATE: February 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Fav/CS
2.			EN	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 88 amends the Florida Right to Farm Act. The general purpose of the act is to protect reasonable agricultural activities conducted on farm land from nuisance lawsuits. The bill provides stronger liability protections to farms that comply with best management practices and environmental regulations.

The definition of “farm operations” is expanded to add “agritourism” activities to the list of farm operations that receive limited legal protections in nuisance suits and other similar civil actions. The definition is further revised to include the generation of “particle emissions” to the list of conditions or activities that constitute farm operations.

The burden of proof that a plaintiff must meet in a nuisance action or similar legal action is raised to the clear and convincing evidence standard if the claim is based upon allegations that the defendant’s conduct did not comply with government environmental laws, regulations, or best management practices.

The bill limits those who may bring a nuisance action against a farm operation to people whose real property that is alleged to be damaged is located within one-half mile of the alleged source of the nuisance.

The bill limits compensatory damages in a private nuisance action to the reduction in the fair market value of the plaintiff’s property, which may not exceed the fair market value of the property.

The bill prohibits a plaintiff from recovering punitive damages for a farm operation in a private nuisance action unless the alleged nuisance is based on substantially the same conduct that resulted in either a criminal conviction or a civil enforcement action by a government environmental regulatory agency and the conviction or enforcement action occurred within 3 years of the first act forming the basis of the nuisance action.

A losing plaintiff is liable for a farm's litigation costs and expenses incurred defending a nuisance action if the farm operation has been in existence for 1 year or more before the legal action was instituted and the farm operation conforms to generally accepted agricultural and management practices or government environmental laws.

The bill takes effect July 1, 2021.

II. Present Situation:

Background

In the 1970s, states began to identify the potential conflicts between farmers and developers as urban sprawl crept into rural, agricultural areas. One of the initial concerns was that the relocation of city dwellers into the agricultural areas would result in a rash of very expensive nuisance lawsuits once the new neighbors were confronted with the sensory nature of farm life, complete with an inescapable array of odors, loud noises, dust, and other side-effects.¹

In an effort to protect farms and agricultural operations from the encroaching sprawl, states passed anti-nuisance laws that are referred to as "Right to Farm" laws. These laws, enacted in all 50 states, protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a "coming to the nuisance" defense theory. These laws provide a liability shield for pre-existing agricultural operations when changes are made to the use of nearby parcels, such that the plaintiffs are described as "coming to the nuisance."² The Florida Right to Farm Act was enacted in 1979.³

Nuisance

A nuisance is described as an activity, condition, or situation created by someone that significantly interferes with another person's use or enjoyment of his or her property. A private nuisance affects a person's private right that is not common to the public while a public nuisance is an interference that affects the general public, for example, a condition that is dangerous to health or community standards.⁴

¹ Alexia B. Borden and Thomas R. Head, III, *The "Right To Farm" In The Southeast – Does it Go Too Far?* 11 No. 1 ABA Agric. Mgmt. Committee Newsl. 8 (April, 2007).

² *Id.*

³ Chapter 79-61, ss. 1-2, Laws of Fla.

⁴ BLACK'S LAW DICTIONARY (11th ed. 2019).

The Florida Right to Farm Act

The Florida Right to Farm Act⁵ protects farm operations from nuisance lawsuits if the operations comply with generally accepted agricultural and management practices.

The Florida Right to Farm Act states that a farm operation cannot be classified as a public or private nuisance if the farm:

- Has been in operation for 1 year or more since its established date of operation;
- Was not a nuisance when it was established; and
- Conforms to generally accepted agricultural and management practices.⁶

However, the following four unsanitary conditions constitute evidence of a nuisance:

- The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.
- The presence of improperly built or improperly maintained septic tanks, water closets, or privies.
- The keeping of diseased animals which are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program.
- The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.⁷

Additionally, a farm operation cannot be classified as a public or private nuisance due to a change:

- In ownership,
- In the type of farm product that is produced,
- In conditions in or around the locality of the farm, or
- Made in compliance with Best Management Practices adopted by local, state or federal agencies.⁸

The Florida Right to Farm Act, however, may not be construed to permit an existing farm operation to increase to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing operation is adjacent to an established homestead or business on March 15, 1982.^{9,10}

Florida's Agricultural Landscape

According to the University of Florida Institute of Food and Agricultural Sciences, Florida had 47,590 farm operations covering 9.7 million acres of farmland in 2018, the most recent year for

⁵ Section 823.14, F.S.

⁶ Section 823.14(4)(a), F.S.

⁷ *Id.*

⁸ Section 823.14(4)(b), F.S.

⁹ Section 823.14(5), F.S.

¹⁰ In an effort to eliminate duplication of regulatory authority over farm operations, local governments may not adopt an ordinance or similar policy to prohibit or limit an activity of a bona fide farm operation on land that is classified as agricultural land in accordance with statute, where the activity is regulated through implemented best management practices or certain interim measures. The full text of this prohibition is contained in s. 823.14(6), F.S.

which this information is available. Agricultural land, which consists of cropland and ranchland, combined with forest land, comprises nearly two-thirds of the state's entire land.¹¹

Data provided by the U.S. Department of Agriculture notes that in 2019, Florida's cash receipts from the sale of agricultural commodities was \$7.67 billion, ranking 18th in the nation for total commodity sales. Florida leads the United States in the production of oranges, sugarcane, and watermelons. The state ranks second in the nation for the production of bell peppers, cucumbers, grapefruit, peanuts, strawberries, and tomatoes.¹²

Agritourism Activity

"Agritourism activity" is defined under "Agricultural Development" in chapter 570, F.S., the Department of Agriculture and Consumer Services chapter. It includes any agricultural related activity that is consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows the general public to view or enjoy its activities for recreational, entertainment, or educational purposes. These activities include farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the building of new or additional structures or facilities that are intended primarily to house, shelter, transport, or otherwise accommodate the general public. An activity is deemed to be an agritourism activity regardless of whether the participant paid to participate in the activity.¹³

Litigation

A federal class action lawsuit¹⁴ has been filed against sugarcane farmers in south Florida alleging that the pre-harvest burning of sugarcane has caused damages to nearby individuals and property. The defendants farm sugarcane on approximately 400,000 acres in areas south and southeast of Lake Okeechobee. The farmers burn the outer leaves of the sugarcane during a pre-harvest burn that takes place during a 6-month period from October through May each year. The plaintiffs allege that the burning has diminished their property values, caused long-term health issues, and prevented the area from growing economically.

Although the litigation is continuing through a series of pre-trial motions, the court has determined that pre-harvest burning of sugarcane is an acceptable agricultural practice protected by the Florida Right to Farm Act. However, the court has found that the act does not bar all of the plaintiffs' claims. The court ruled that the act did not protect the farmers from claims that pre-harvest burning released harmful pollutants.

¹¹University of Florida – IFAS, *Florida Agriculture & Natural Resource Facts* (July 2018) published by the UF/IFAS Economic Impact Analysis Program in 2019 and 2020.

¹² U.S. Department of Agriculture, National Agricultural Statistics Service, *Florida Agricultural Facts* (Sept. 2020), https://www.nass.usda.gov/Statistics_by_State/Florida/Publications/More_Features/FL2019.pdf.

¹³ Section 570.86(1), F.S.

¹⁴ *Coffie v. Florida Crystals Corporation*, 460 F. Supp. 3d 1297 (S.D. Fla. 2020).

III. Effect of Proposed Changes:

The Florida Right to Farm Act (Section 1)

Legislative Findings and Purpose; Adding Agritourism

The Florida Right to Farm Act contains a section of legislative findings and purposes that establish why reasonable agricultural activities conducted on farmland should be protected from nuisance lawsuits that can force the premature removal of farmland from agricultural use.¹⁵ The language notes, in part, that: agricultural production makes major contributions to the state economy; agricultural lands cannot be replaced; agricultural activities increase tourism; and that agriculture furthers the economic self-sufficiency of the people of the state and should be protected. The bill adds agritourism to this section of the act such that preservation of agricultural activities contributes to the increase of tourism and agritourism. Additionally, and as now amended, the purpose of the act protects reasonable agricultural and complementary agritourism activities conducted on farmland from nuisance suits and other similar lawsuits.

Changes to Definitions in the Florida Right to Farm Act

Agritourism Activity

The definitions section of the act is amended to add a definition of “agritourism activity” and then include it in the definition of what constitutes a farm operation. With this change, agritourism activities receive the nuisance protections that compliant farm operations receive under the terms of the act.

Farm Operation

The definition of a “farm operation” is expanded. The current definition states that a farm operation means all conditions or activities ... which occur on a farm and includes, but is not limited to, “the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise odors, dust, and fumes ...” The phrase “particle emissions” is added to the list of conditions and activities that constitute a farm operation.

Lawsuit Protections: Evidence Standard and Damages

New provisions are added to the Right to Farm Act to provide additional protections for farm operations from lawsuits.

Clear and Convincing Evidence

For a plaintiff to succeed in certain claims against a farm for conduct that is alleged to cause harm outside of the farm, the plaintiff must prove by “clear and convincing evidence” that the claim arises from conduct that did not comply with state and federal environmental laws, regulations, or best management practices. Those claims involve actions for:

- Public or private nuisance,
- Negligence,
- Trespass,
- Personal injury,

¹⁵ Section 823.14(2), F.S.

- Strict liability, or
- Another tort based on a farm operation.

“Clear and convincing evidence” is a standard or burden of proof which measures the level or degree to which an issue must be proved. In civil cases, two standards of proof generally apply: “the greater weight of the evidence standard” which applies most often in civil cases; or “the clear and convincing evidence standard” which applies less often, and is a higher standard of proof.

The clear and convincing standard requires that the evidence be credible and the facts which the witness testifies to must be remembered distinctly. The witness’s testimony “must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue.” The evidence must be so strong that it guides the trier of fact to a firm conviction, to which there is no hesitation, that the allegations are true.¹⁶

One-half Mile Distance Restrictions for Nuisance Claims

A physical distance restriction is placed on nuisance actions. Under the bill, a nuisance action may not be filed against a farm operation unless the real property affected by the alleged nuisance condition is located within one-half mile of the source of the activity or structure which is alleged to be a nuisance. If real property is not affected, it appears that there is no distance restriction on the action.

Compensatory Damages¹⁷ in a Nuisance Claim

If a plaintiff prevails in a private nuisance action and alleges that the nuisance emanated from a farm operation, the measure of compensatory damages is limited. The compensatory damages must be measured by the reduction in the fair market value of the plaintiff’s property caused by the nuisance. However, these damages may not exceed the fair market value of the property.

Punitive Damages¹⁸ in a Nuisance Claim

The bill generally limits the availability of punitive damages based on farm operations. A plaintiff may not recover punitive damages in a private nuisance action against a farm unless:

- The alleged nuisance is based on substantially the same conduct that resulted in a criminal conviction or a civil enforcement action by a state or federal environmental regulatory agency; and
- The conviction or enforcement action happened within 3 years of the first act forming the basis of the current nuisance action.

Costs and Expenses Awarded Against a Plaintiff

If a plaintiff does not prevail in a nuisance claim against a farm operation that has been in existence for 1 year or more before the date the claim was filed and the farm operation conforms with generally accepted agricultural and management practices or state and federal

¹⁶ *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

¹⁷ Compensatory damages are awarded to repay actual losses. BLACK’S LAW DICTIONARY (11th ed. 2019).

¹⁸ Punitive damages are awarded to punish a defendant and are awarded in addition to actual damages. They are awarded when the defendant acted in a reckless manner or with malice or deceit. BLACK’S LAW DICTIONARY (11th ed. 2019).

environmental laws, the plaintiff is liable to the farm for all costs and expenses incurred in defending the action.

Sections 2, 3, 4, 5, 6, 7, 8, and 9

These sections do not create any substantive changes to the Florida Right to Farm Act. They are necessary changes made by the Senate Bill Drafting Office to correct cross-references, reenact provisions, or incorporate amendments made by changes in the substance of the bill.

Section 10 - Effective Date

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may reduce litigation costs faced by farms based on nuisance-type lawsuits. On the other hand, persons adversely affected by a farm operation will have more difficulties in obtaining redress. At least in some cases, plaintiffs will need to prove that the farm operation was in violation of environmental laws.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 823.14 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 Judiciary on February 1, 2021:

The punitive damages section of the bill is amended for clarification. It now states that a plaintiff may not recover punitive damages in a private nuisance action against a farm unless the alleged nuisance is based on substantially the same conduct that resulted in a criminal conviction or a civil enforcement action by a state or federal environmental regulatory agency and that conviction or enforcement action occurred within 3 years of the first act that forms the basis of the nuisance action.

B. Amendments:

None.

By Senator Brodeur

9-00357E-21

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A bill to be entitled

An act relating to farming operations; amending s. 823.14, F.S.; revising legislative findings; defining the term "agritourism activity"; revising the definition of the term "farm operation"; prohibiting farms from being held liable for certain claims for tort liability except under certain circumstances; providing a burden of proof; prohibiting nuisance actions from being filed against farm operations unless specified conditions are met; providing requirements for and limitations on damages; providing that plaintiffs who bring nuisance actions against farm operations are liable for certain costs and expenses under certain conditions; amending ss. 193.4517, 316.5501, 633.202, and 812.015, F.S.; conforming cross-references; reenacting ss. 163.3162(2)(b), 163.3163(3)(b), 403.9337(4), and 570.86(4), F.S., relating to agricultural lands and practices, applications for development permits and disclosure and acknowledgment of contiguous sustainable agricultural land, Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, and definitions relating to agritourism, respectively, to incorporate the amendments made by this act to s. 823.14, F.S., in references thereto; providing an effective date.

WHEREAS, all 50 U.S. states have enacted "Right to Farm" laws that protect farmers and ranchers from nuisance lawsuits

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30 filed by individuals who move into a rural area where normal
31 farming operations exist and then use legal actions to stop or
32 interfere with ongoing farming operations, and

33 WHEREAS, Florida's Right to Farm legislation was enacted in
34 1979 to protect agricultural operations from these types of
35 actions and is in need of updating, and

36 WHEREAS, as our state continues to experience unprecedented
37 growth and as residential development continues to encroach upon
38 our rural areas, there is a possibility for increased complaints
39 regarding farming practices approved by the Department of
40 Environmental Protection and the Department of Agriculture and
41 Consumer Services, such as harvesting, transporting crops, and
42 conducting controlled burning, despite the use of best
43 management practices, and

44 WHEREAS, because of the COVID-19 pandemic, there is an
45 increasing exodus from more densely populated areas from both
46 within and outside this state into our rural communities,
47 potentially creating conflicts with existing legal farming
48 activities and their complementary agritourism activities, and

49 WHEREAS, there is a longstanding tradition of using
50 agritourism activities, such as hayrides, corn mazes, winery
51 tours, and farm festivals, to supplement income received from
52 growing crops and raising farm animals, and

53 WHEREAS, ensuring the potential for revenues from
54 agritourism activities is necessary to preserve farms and the
55 rural character of many areas in the face of rising costs and
56 foreign competition and the many uncertainties associated with
57 growing crops and raising farm animals, and

58 WHEREAS, it is timely and prudent to modernize the Florida

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Right to Farm Act by clarifying definitions, standing, and procedures in order to ensure that the original intent of Florida's Right to Farm law is preserved and a viable agricultural industry in this state can continue, NOW, THEREFORE,

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

Section 1. Subsections (2), (3), and (4) of section 823.14, Florida Statutes, are amended, and subsections (7), (8), and (9) are added to that section, to read:

823.14 Florida Right to Farm Act.—

(2) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, including agritourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the state. The Legislature further finds that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of the farm land from agricultural use. It is the purpose of this act to protect reasonable agricultural and complementary agritourism activities conducted

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on farm land from nuisance suits and other similar lawsuits.

(3) DEFINITIONS.—As used in this section:

(a) "Agritourism activity" has the same meaning as provided in s. 570.86.

(b) "Farm" means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(c) ~~(b)~~ "Farm operation" means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products or in connection with complementary agritourism activities. These conditions and activities include, but are ~~and includes, but is~~ not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, fumes, and particle emissions ~~and fumes~~; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; agritourism activities; and the employment and use of labor.

(d) ~~(c)~~ "Farm product" means any plant, as defined in s. 581.011, or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

(e) ~~(d)~~ "Established date of operation" means the date the farm operation commenced. If the farm operation is subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion shall also be considered as the date the original farm operation commenced. If the land boundaries of the farm are subsequently expanded, the

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established date of operation for each expansion is deemed to be a separate and independent established date of operation. The expanded operation shall not divest the farm operation of a previous established date of operation.

(4) FARM OPERATIONS; NUISANCE ~~FARM OPERATION NOT TO BE OR BECOME A NUISANCE.~~—

(a) No farm operation which has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices, except that the following conditions shall constitute evidence of a nuisance:

1. The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.

2. The presence of improperly built or improperly maintained septic tanks, water closets, or privies.

3. The keeping of diseased animals which are dangerous to human health, unless such animals are kept in accordance with a current state or federal disease control program.

4. The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.

(b) No farm operation shall become a public or private nuisance as a result of a change in ownership, a change in the type of farm product being produced, a change in conditions in or around the locality of the farm, or a change brought about to comply with best management practices adopted by local, state,

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or federal agencies if such farm has been in operation for 1 year or more since its established date of operation and if it was not a nuisance at the time of its established date of operation.

(c) A farm may not be held liable for a claim involving public or private nuisance, negligence, trespass, personal injury, strict liability, or other tort based on a farm operation that is alleged to cause harm outside of the farm unless the plaintiff proves by clear and convincing evidence that the claim arises out of conduct that did not comply with state and federal environmental laws, regulations, or best management practices.

(d) A nuisance action may not be filed against a farm operation unless the real property affected by the conditions alleged to be a nuisance is located within one-half mile of the source of the activity or structure alleged to be a nuisance.

(7) COMPENSATORY DAMAGES.—When the alleged nuisance emanated from a farm operation, the compensatory damages that may be awarded to a plaintiff for a private nuisance action must be measured by the reduction in the fair market value of the plaintiff's property caused by the nuisance, but may not exceed the fair market value of the property.

(8) PUNITIVE DAMAGES.—When the alleged nuisance emanated from a farm operation that has not been subject to a criminal conviction or to a civil enforcement action taken by a state or federal environmental regulatory agency pursuant to a notice of violation, a plaintiff may not recover punitive damages for a private nuisance action for the conduct alleged to be the source of the nuisance within the 3 years before the first act on which

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the nuisance action is based.

(9) NUISANCE ACTIONS BASED ON EXISTING FARM OPERATIONS.—A plaintiff who fails to prevail in a nuisance action based on a farm operation that has been in existence for 1 year or more before the date that the action was instituted and that conforms with generally accepted agricultural and management practices or state and federal environmental laws is liable to the farm for all costs and expenses incurred in defense of the action.

Section 2. Paragraphs (a) and (b) of subsection (1) of section 193.4517, Florida Statutes, are amended to read:

193.4517 Assessment of agricultural equipment rendered unable to be used due to Hurricane Michael.—

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

(a) "Farm" has the same meaning as provided in s. ~~823.14(3)(b)~~ s. 823.14(3)(a).

(b) "Farm operation" has the same meaning as provided in s. ~~823.14(3)(c)~~ s. 823.14(3)(b).

Section 3. Subsection (1) of section 316.5501, Florida Statutes, is amended to read:

316.5501 Permitting program for combination truck tractor, semitrailer, and trailer combination coupled as a single unit subject to certain requirements.—

(1) By no later than January 1, 2020, the Department of Transportation in conjunction with the Department of Highway Safety and Motor Vehicles shall develop a permitting program that, notwithstanding any other provision of law except conflicting federal law and applicable provisions of s. 316.550, prescribes the operation of any combination of truck tractor, semitrailer, and trailer combination coupled together so as to

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operate as a single unit in which the semitrailer and the trailer unit may each be up to 48 feet in length, but not less than 28 feet in length, if such truck tractor, semitrailer, and trailer combination is:

(a) Being used for the primary purpose of transporting farm products as defined in s. 823.14(3)(d) ~~s. 823.14(3)(e)~~ on a prescribed route within the boundary of the Everglades Agricultural Area as described in s. 373.4592(15);

(b) Traveling on a prescribed route that has been submitted to and approved by the Department of Transportation for public safety purposes having taken into account, at a minimum, the point of origin, destination, traffic and pedestrian volume on the route, turning radius at intersections along the route, and potential for damage to roadways or bridges on the route;

(c) Operating only on state or local roadways within a radius of 60 miles from where such truck tractor, semitrailer, and trailer combination was loaded; however, travel is not authorized on the Interstate Highway System; and

(d) Meeting the following weight limitations:

1. The maximum gross weight of the truck tractor and the first trailer shall not exceed 88,000 pounds.

2. The maximum gross weight of the dolly and second trailer shall not exceed 67,000 pounds.

3. The maximum overall gross weight of the truck tractor-semitrailer-trailer combination shall not exceed 155,000 pounds.

Section 4. Paragraph (b) of subsection (16) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(16)

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(b) Notwithstanding any other provision of law:

1. A nonresidential farm building in which the occupancy is limited by the property owner to no more than 35 persons is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference.

2. An agricultural pole barn is exempt from the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

3. Except for an agricultural pole barn, a structure on a farm, as defined in s. 823.14(3)(b) ~~s. 823.14(3)(a)~~, which is used by an owner for agritourism activity, as defined in s. 570.86, for which the owner receives consideration must be classified in one of the following classes:

a. Class 1: A nonresidential farm building that is used by the owner 12 or fewer times per year for agritourism activity with up to 100 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.

b. Class 2: A nonresidential farm building that is used by the owner for agritourism activity with up to 300 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.

c. Class 3: A structure or facility that is used primarily

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for housing, sheltering, or otherwise accommodating members of the general public. A structure or facility in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is subject to the Florida Fire Prevention Code.

Section 5. Paragraph (g) of subsection (1) of section 812.015, Florida Statutes, is amended to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(g) "Farm theft" means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(d) ~~s. 823.14(3)(e)~~.

Section 6. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 163.3162, Florida Statutes, is reenacted to read:

163.3162 Agricultural Lands and Practices.—

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

(b) "Farm operation" has the same meaning as provided in s. 823.14.

Section 7. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section

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202188__

163.3163, Florida Statutes, is reenacted to read:

163.3163 Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.—

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

(b) "Farm operation" has the same meaning as defined in s. 823.14.

Section 8. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, subsection (4) of section 403.9337, Florida Statutes, is reenacted to read:

403.9337 Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.—

(4) This section does not apply to the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.

Section 9. For the purpose of incorporating the amendments made by this act to section 823.14, Florida Statutes, in a reference thereto, subsection (4) of section 570.86, Florida Statutes, is reenacted to read:

570.86 Definitions.—As used in ss. 570.85-570.89, the term:

(4) "Farm operation" has the same meaning as in s. 823.14.

Section 10. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 25, 2021

I respectfully request that **Senate Bill 88**, relating to Farming Operations, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/21
Meeting Date

88
Bill Number (if applicable)

Topic Farming Activities

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title _____

Address 1195 Monroe Street
Street

Phone 850-228-1296

TALLAHASSEE FL 32301
City State Zip

Email Jim@magrolicstrategiesllc.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA Forestry Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2021

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Legislative Director

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2021

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Rebecca O'Hara

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Address P.O. Box 1757

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32301

Email rohara@flcities.com

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida League of Cities, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/21
Meeting Date

88
Bill Number (if applicable)

Topic FARMING

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE VICE PRESIDENT

Address _____

Phone 850 445 1607

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Tallahassee

FL

City

State

Zip

Email nancy@nstephens.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA POULTRY FEDERATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/1/2021

Meeting Date

SB 88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name William Cotterall

Job Title General Counsel

Address 218 S. Monroe St.

Phone 850-224-9403

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32301

Email wcotterall@myfja.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/21
Meeting Date

88
Bill Number (if applicable)

Topic Rt. to Farm

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Legislative Counsel

Address 119 S. Monroe St Suite 300
Street

Phone 222-7500

Tallahassee 32301
City State Zip

Email garyh@hgsllaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Fruit & Vegetable Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/21
Meeting Date

88
Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Director, Legislative Affairs

Address 310 W College Ave
Street

Phone 850-222-2557

Tallahassee FL 32301
City State Zip

Email adam.basford@FLBF.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Farm Bureau

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

02-01-2021

Meeting Date

SB 88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Howard E. "Gene" Adams

Job Title Attorney, Pennington P.A.

Address 215 South Monroe Street, Second Floor

Phone 850-222-3533

Street

Tallahassee

Fla.

32301

Email gene@penningtonlaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Feed Association, the Manufacturers of Livestock Feeds

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

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Tallahassee

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32301

Email bbevis@aif.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/1/21 (Jud A3 2:30)

Meeting Date

88

Bill Number (if applicable)

Topic Farm Operations

Amendment Barcode (if applicable)

Name David Cullen

Job Title _____

Address 1934 Shelby Ct

Phone 941-323-2404

Street

Tallahassee

FL

32308

Email cullenasea@aol.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Sierra Club Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/1/2021

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286

Phone 9545934449

Street

Tallahassee

FL

32301

Email jwebber@fcvoters.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conservation Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/1/21

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough Street

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FL

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32301

Zip

Phone 850-521-1200

Email cjohnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

FEB 1st 2021

Meeting Date

SB89

Bill Number (if applicable)

Topic

Farming Operations/Prohibit Liability

Amendment Barcode (if applicable)

Name

DAVID SARDAR (SIR-DAR)

Job Title

Retired Commercial Cleaner wife of a Farmer

Address

66 WINTERGREEN DR 4/5 MARY FARMS

Phone

Street

City

Ortland Park FL 34731

State

Zip

Email

gottendave1955@gmail.com

Speaking:

☐

For

☐

Against

☒

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Self & Farm Friends

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

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THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2021

Meeting Date

88

Bill Number (if applicable)

Topic Farming Operations

Amendment Barcode (if applicable)

Name Lena Juarez

Job Title Executive Director

Address P.O. Box 15878

Phone 8502128330

Street

Tallahassee

FL

32317

City

State

Zip

Email visitfloridafarms@gr

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Agritourism Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 498

INTRODUCER: Senator Gruters and others

SUBJECT: Safety of Religious Institutions

DATE: February 1, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2. _____	_____	<u>CJ</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 498 addresses the application of the concealed weapons laws in situations in which the property of a religious institution, including a church or synagogue, also includes a school. Under existing law, a person who has a concealed weapons license is generally allowed to possess a concealed firearm on the property of a religious institution. However, the person is generally prohibited from having a concealed firearm on the property if the property also includes a school.

Under the bill, religious institutions with and without a school have the same authority to regulate the possession of concealed weapons or firearms on their property by persons having a concealed weapons license. A religious institution may prohibit concealed weapons by posting a policy specifically prohibiting concealed weapons or firearms on their property.

The bill takes effect upon becoming law.

II. Present Situation:

Concealed Weapon and Firearm Licenses

Florida is known as a “shall issue”¹ state for applications for concealed weapon and firearm licenses.² The Department of Agriculture and Consumer Services must review and either issue or deny a license within 90 days of receiving an application.³

Denial of a license can only be based on an applicant who:

- Is not a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is not 21 years of age or older;
- Suffers from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has been convicted of a felony;
- Has been found guilty of a controlled substances crime within the previous 3 years;
- Has been committed for the abuse of a controlled substance;⁴
- Suffers from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;⁵
- Does not intend to carry a concealed weapon or firearm for lawful self-defense;
- Fails to demonstrate competency with a firearm;⁶
- Has been adjudicated as an incapacitated person;
- Has been committed to a mental institution;⁷
- Has had an adjudication of guilt withheld or a suspended sentence on a felony unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;

¹ Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a “shall issue,” or “may issue” basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law. New York may deny a license, for example, if the applicant fails to demonstrate “proper cause” or lacks “good moral character” as determined by a judge reviewing the application. N.Y. Penal Law § 400.00.

² Section 790.06(2), F.S.

³ Section 790.06(6)(c), F.S.

⁴ An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d, F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.

⁵ The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a 3-year period of preceding the date which the application is submitted.

⁶ There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services.

⁷ An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.

- Has had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; or
- Is prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.⁸

Additionally, the Department shall *suspend* a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.⁹ The Department is also required to *suspend* a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹⁰

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.¹¹ According to s. 790.061(12)(a), F.S., the license, however, “does not authorize any person to carry a concealed weapon or firearm into:”

- Any place of nuisance;¹²
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;¹³
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;¹⁴
- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.¹⁵

⁸ Section 790.01(2), F.S.

⁹ Section 790.06(3), F.S.

¹⁰ *Id.*

¹¹ Section 790.06(1), F.S.

¹² See s. 823.05, F.S., for an extensive description of places of nuisance.

¹³ Judges, however, may carry a concealed weapon and may allow others to do so within their courtroom.

Section 790.06(12)(a)5., F.S.

¹⁴ However, a “student, employee, or faculty member” may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.

¹⁵ Section 790.06(12)(a)15., F.S.

Importantly, the wording of s. 790.06(12)(a) that a license “does not authorize any person . . . to carry a concealed weapon or firearm into [specified places]” indicates that despite the limitations of the license, an individual might be authorized to carry a concealed weapon in a non-authorized area, such as a school, if he or she has different source of authorization. This is the case with law enforcement officers¹⁶ and school guardians acting under the Coach Aaron Feis Guardian Program,¹⁷ who are authorized to carry concealed weapons in a school, for example, through separate sections of state law.

Lawful gun ownership

While a concealed weapons license is generally needed when carrying a concealed firearm, there are instances where an individual may legally possess or carry a firearm without a license, so long as they are not a prohibited possessor.¹⁸ These instances include an individual:

- Fishing, camping, or hunting or going to or returning from fishing, camping, or hunting;
- Who is in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- Firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- Traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession; or
- At his or her home or place of business.¹⁹

Importantly, the “place of business” provision has been interpreted to indicate that a concealed weapon or firearm license is not needed in order for an employee to carry a firearm within the establishment he or she is employed.²⁰ This does not, however, allow individuals to carry a firearm to every “place of business” because there are some places such as schools where possession of a firearm is generally prohibited by law.

Property owners have the right to refuse the possession of concealed weapons or firearms on their property.²¹ A private property owner, for example, may have a policy in place forbidding concealed firearms. If someone were not in compliance with that policy, the property owner

¹⁶ Section 790.115(3)(a), F.S.; s. 790.06(12)(a), F.S.

¹⁷ Section 1006.12, F.S.

¹⁸ Those prohibited from possessing a firearm include convicted felons whose civil rights have not been restored. Section 790.23, F.S.

¹⁹ Section 790.25(3), F.S.

²⁰ This authority to carry a concealed firearm without a license broadly applies to where “business is transacted,” and is not limited to employees of businesses or organizations. *State v. Little*, 104 So. 3d 1263 (Fla. 4th DCA 2013) (Finding that a labor union official could not be charged with carrying a concealed firearm while at the union hall because the union hall was his place of business).

²¹ FLA CONST., art. I, s. 2, (a person has the right to acquire, possess, and protect property); *Nollan v. California Coastal Com’n*, 483 U.S. 825 (1987) (The right to exclude others is one of the most essential sticks in the bundle of rights that are commonly characterized as property).

could order that individual to leave, and if the person refuses, they could be arrested for trespassing.²²

Firearms and Religious Institutions

In response to several violent incidents targeting religious institutions, some churches have opted to form “security teams” for the purpose of keeping their congregation safe during services.²³ These security teams are often comprised of individuals having concealed weapons licenses who carry concealed firearms during service on a voluntary basis.

Florida law does not generally prohibit a licensee from carrying a concealed firearm inside a church. However, some churches share property with, or congregate at, a school or college campus, where concealed firearms are expressly prohibited regardless of a concealed weapons license.²⁴ This makes it more difficult for these religious institutions to implement a security team because the religious institution would be limited to individuals who are authorized to carry on these properties, such as law enforcements officers.²⁵

III Effect of Proposed Changes:

Under the bill, a person having a concealed weapons license may carry a concealed weapon or firearm on the property of a religious institution, such as a church or a synagogue, which is co-located with a school, unless the institution posts a policy prohibiting licensees from possessing concealed weapons. As a result, religious institutions co-located with a school will have the same authority to regulate the possession of concealed weapons and firearms on their property as religious institutions that are not co-located with a school.

Specifically, the bill authorizes a person having a concealed weapons license to “carry a firearm on property owned, rented, leased, borrowed, or lawfully used by a church, a synagogue, or any other religious institution unless the church, synagogue, or other religious institution has a posted policy specifically prohibiting persons who are lawfully licensed under this section from carrying a firearm on such property.”

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²² “Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is *warned by the owner or lessee of the premises*, or by a person authorized by the owner or lessee, *to depart and refuses to do so*, commits the offense of trespass in a structure or conveyance.” Emphasis added. Section 810.08(1), F.S.

²³ Nichole Manna, *After shooting, how can Texas churches keep members safe and still welcome all people?*, FORT WORTH STAR TELEGRAM (Dec. 31, 2019), <https://www.star-telegram.com/news/state/texas/article238834258.html> .

²⁴ Section 790.115(2)(a), F.S.; s. 790.06(12)(a), F.S.

²⁵ Section 790.025, F.S.; s. 790.115(3), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill may be cost effective for religious institutions. Churches on school grounds, for example, may use volunteers having concealed weapons licenses within their church membership in lieu of hiring off-duty law enforcement officers to provide security.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section 790.06, Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Gruters

23-00481A-21

2021498__

A bill to be entitled
An act relating to the safety of religious
institutions; amending s. 790.06, F.S.; authorizing,
for specified purposes, a concealed weapons or
firearms licensee to carry a firearm on certain
property of a church, a synagogue, or any other
religious institution; providing an exception;
providing an effective date.

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

Section 1. Subsection (12) of section 790.06, Florida
Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(12) (a) A license issued under this section does not
authorize any person to openly carry a handgun or carry a
concealed weapon or firearm into:

1. Any place of nuisance as defined in s. 823.05;
2. Any police, sheriff, or highway patrol station;
3. Any detention facility, prison, or jail;
4. Any courthouse;
5. Any courtroom, except that nothing in this section would
preclude a judge from carrying a concealed weapon or determining
who will carry a concealed weapon in his or her courtroom;
6. Any polling place;
7. Any meeting of the governing body of a county, public
school district, municipality, or special district;
8. Any meeting of the Legislature or a committee thereof;
9. Any school, college, or professional athletic event not

23-00481A-21

2021498__

related to firearms;

10. Any elementary or secondary school facility or administration building;

11. Any career center;

12. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;

13. Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;

14. The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or

15. Any place where the carrying of firearms is prohibited by federal law.

(b) A person licensed under this section may ~~shall~~ not be prohibited from carrying or storing a firearm in a vehicle for lawful purposes.

(c) Notwithstanding any other law, for the purposes of safety, security, personal protection, or any other lawful purpose, a person licensed under this section to carry a concealed weapon or firearm may carry a firearm on property owned, rented, leased, borrowed, or lawfully used by a church, a synagogue, or any other religious institution unless the church,

23-00481A-21

2021498__

59 synagogue, or other religious institution has a posted policy
60 specifically prohibiting persons who are lawfully licensed under
61 this section from carrying a firearm on such property.

62 (d)~~(e)~~ This section does not modify the terms or conditions
63 of s. 790.251(7).

64 (e)~~(d)~~ Any person who knowingly and willfully violates ~~any~~
65 ~~provision of~~ this subsection commits a misdemeanor of the second
66 degree, punishable as provided in s. 775.082 or s. 775.083.

67 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 22, 2021

I respectfully request that **Senate Bill #498**, relating to Safety of Religious Institutions, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant
Celia Georgiades, Committee Administrative Assistant

YOU MUST PRINT AND DELIVER THIS FORM TO THE COMMITTEE MEETING

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2021

Meeting Date

SB-498

Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Marion P. Hammer

Job Title _____

Address PO BOX 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NRA & Unified Sportsmen of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2021
Meeting Date

SB 498
Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane
Street
Tally FL 32303
City State Zip

Phone 850 322 3317
Email trish@lwvfl.gov

Speaking: ☐ For ☒ Against ☐ Information

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

Representing League of Women Voters

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)

2/1/21

Meeting Date

498

Bill Number (if applicable)

Topic Religious inst

Amendment Barcode (if applicable)

Name Angie Gallo

Job Title CO-CHAIR

Address 14842 Barry Lane

Phone 407-718-9925

Street

Email Angie@alliance4public.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Coalition to prevent Gun Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

THE FLORIDA SENATE
APPEARANCE RECORD

1 Feb 21

Meeting Date

SB 498

Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Philip H Tritschler

Job Title Chief, Safety Team (Crosspoint Church--Niceville)

Address 4317 Hidden Lakes Dr E

Phone (850) 543-1533

Street

Niceville

FL

32578

City

State

Zip

Email philtrit@cox.net

COX.NET

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)

2-1-2021

Meeting Date

SB 498

Bill Number (if applicable)

Topic Safety

Amendment Barcode (if applicable)

Name Dawn Steward

Job Title Florida PTA Legis

Address 2130 Blossom Lane

Street

Winter Park FL 32789

City

State

Zip

Phone 407-645-0273

Email stu21300 Ad-con

Speaking: ☒ For ☒ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE COMMITTEE MEETING

THE FLORIDA SENATE

APPEARANCE RECORD

Monday, February 1, 2021

Meeting Date

SB 498

Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Luis Valdes

Job Title State Director for Gun Owners of America

Address 8001 Forbes Place - Suite 202

Phone 703-321-8585

Street

Springfield

VA

22151

Email Luis.Valdes@gunowners.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Gun Owners of America, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-21

Meeting Date

498

Bill Number (if applicable)

Topic Safety of Religion Facilities

Amendment Barcode (if applicable)

Name Barbara Delane

Job Title Lobbyist

Address 625 E. Brevard St
Street

Phone 251-4280

Email barbaradelane1@yahoo.com

City

State

Zip

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)

FEB 13th 2021
Meeting Date

SB498
Bill Number (if applicable)

Topic Safety of Religious Inst.'s Amendment Barcode (if applicable)

Name DAVID M. SENDER (SIR-DAR)

Job Title Retired Christian Soldier Many Church's

Address 161 Wintergreen Dr Phone I GO TO -
Street Fruitland Park FL 34731 352 805659
City State Zip Email goldendave1955@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Self and Many Ministers & Church's

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 2/1/2021 2:31:53 PM

Ends: 2/1/2021 5:00:25 PM Length: 02:28:33

2:31:51 PM Meeting called to order by Chair Brandes
2:31:54 PM Roll call by CAA, Celia Georgiades
2:32:05 PM Quorum present
2:32:18 PM Comments from Chair Brandes
2:33:00 PM Introduction of Tab 1, Several Factors Hinder Homeowner and Auto Glass by Chair Brandes
2:33:59 PM Presentation by Dr. Emily Leventhal, OPPAGA Staff Director for Government Operations
2:40:22 PM Question from Chair Brandes
2:40:28 PM Response from Dr. Leventhal
2:41:01 PM Question from Senator Thurston
2:41:07 PM Response from Dr. Leventhal
2:41:37 PM Follow-up question from Senator Thurston
2:41:52 PM Response from Dr. Leventhal
2:42:21 PM Question from Senator Mayfield
2:42:28 PM Response from Dr. Leventhal
2:43:25 PM Follow-up question from Senator Mayfield
2:43:32 PM Response from Dr. Leventhal
2:44:01 PM Follow-up question from Senator Mayfield
2:44:10 PM Response from Dr. Leventhal
2:44:29 PM Continued presentation by Dr. Leventhal
2:45:19 PM Question from Senator Gibson
2:45:24 PM Response from Dr. Leventhal
2:46:42 PM Follow-up question from Senator Gibson
2:46:50 PM Response from Dr. Leventhal
2:47:32 PM Question from Senator Polsky
2:47:45 PM Response from Dr. Leventhal
2:48:18 PM Continued presentation by Dr. Leventhal
2:54:09 PM Question from Senator Gibson
2:54:21 PM Response from Dr. Leventhal
2:55:37 PM Question from Senator Thurston
2:55:57 PM Response from Dr. Leventhal
2:56:15 PM Follow-up question from Senator Thurston
2:56:22 PM Response from Dr. Leventhal
2:57:22 PM Follow-up question from Senator Thurston
2:57:29 PM Response from Dr. Leventhal
2:58:17 PM Follow-up question from Senator Thurston
2:58:31 PM Response from Dr. Leventhal
2:58:53 PM Question from Senator Boyd
2:59:14 PM Response from Dr. Leventhal
3:00:00 PM Question from Senator Broxson
3:00:22 PM Response from Dr. Leventhal

3:00:24 PM Follow-up question from Senator Broxson
3:00:33 PM Response from Dr. Leventhal
3:00:41 PM Follow-up question from Senator Broxson
3:00:50 PM Response from Dr. Leventhal
3:01:04 PM Follow-up question from Senator Broxson
3:01:11 PM Response from Dr. Leventhal
3:01:19 PM Follow-up question from Senator Broxson
3:01:29 PM Response from Dr. Leventhal
3:02:29 PM Follow-up question from Senator Broxson
3:02:37 PM Response from Dr. Leventhal
3:03:20 PM Follow-up question from Senator Broxson
3:03:30 PM Response from Dr. Leventhal
3:04:40 PM Follow-up question from Senator Broxson
3:04:51 PM Response from Dr. Leventhal
3:05:38 PM Comments from Senator Broxson
3:06:07 PM Question from Senator Rodrigues
3:06:59 PM Response from Dr. Leventhal
3:08:27 PM Follow-up question from Senator Rodrigues
3:08:37 PM Response from Dr. Leventhal
3:08:56 PM Comments from Chair Brandes
3:09:05 PM Question from Senator Rouson
3:09:17 PM Response from Dr. Leventhal
3:09:45 PM Follow-up question from Senator Rouson
3:09:56 PM Response from Dr. Leventhal
3:10:04 PM Question from Senator Rouson
3:10:09 PM Response from Dr. Leventhal
3:10:15 PM Follow-up question from Senator Rouson
3:10:23 PM Response from Dr. Leventhal
3:11:10 PM Follow-up question from Senator Rouson
3:11:22 PM Response from Dr. Leventhal
3:11:46 PM Follow-up question from Senator Rouson
3:11:54 PM Response from Dr. Leventhal
3:12:21 PM Follow-up question from Senator Rouson
3:12:29 PM Response from Dr. Leventhal
3:12:51 PM Comments from Chair Brandes
3:13:16 PM Introduction of Tab 2, Abusive Litigation Tactics, Attorney Fees, and lawyer Discipline
by Chair Brandes
3:13:58 PM Presentation by retired Judge Greg Holder
3:19:55 PM Question from Chair Brandes
3:20:13 PM Response from Retired Judge Holder
3:22:49 PM Question from Senator Thurston
3:23:00 PM Response from Retired Judge Holder
3:25:58 PM Follow-up question from Senator Thurston
3:26:13 PM Response from Retired Judge Holder
3:27:26 PM Follow-up question from Senator Thurston
3:27:35 PM Response from Retired Judge Holder
3:28:06 PM Follow-up question from Senator Thurston
3:28:21 PM Response from Retired Judge Holder
3:28:52 PM Continued presentation by Retired Judge Holder
3:32:52 PM Question from Senator Polsky
3:34:06 PM Response from Retired Judge Holder
3:36:31 PM Comments from Chair Brandes

3:36:46 PM Introduction of Tab 4, SB 78 by Chair Brandes
3:37:05 PM Explanation of SB 88, Farming Operations by Senator Brodeur
3:39:32 PM Introduction of Late-filed Amendment Barcode Number 896598 by Chair Brandes
3:39:48 PM Explanation of Amendment by Senator Brodeur
3:40:04 PM Amendment adopted
3:40:14 PM Question from Senator Gibson
3:40:23 PM Response from Senator Brodeur
3:41:35 PM Follow-up question from Senator Gibson
3:41:45 PM Response from Senator Brodeur
3:42:51 PM Additional question from Senator Gibson
3:42:57 PM Response from Senator Brodeur
3:43:43 PM Follow-up question from Senator Gibson
3:43:51 PM Response from Senator Brodeur
3:44:27 PM Follow-up question from Senator Gibson
3:44:38 PM Response from Senator Brodeur
3:45:24 PM Follow-up question from Senator Gibson
3:45:38 PM Response from Senator Brodeur
3:46:34 PM Follow-up question from Senator Gibson
3:46:47 PM Response from Senator Brodeur
3:48:08 PM Question from Senator Thurston
3:48:15 PM Response from Senator Brodeur
3:50:28 PM Follow-up question from Senator Thurston
3:50:36 PM Response from Senator Brodeur
3:50:54 PM Follow-up question from Senator Thurston
3:51:13 PM Response from Senator Brodeur
3:51:57 PM Follow-up question from Senator Thurston
3:52:06 PM Response from Senator Brodeur
3:52:45 PM Speaker Jim Spratt, Florida Forestry Association in support
3:55:20 PM Speaker Ida Eskamani, Florida Rising in opposition
3:56:43 PM Speaker Rebecca O'Hara, Florida League of Cities, Inc. for information
4:00:08 PM Speaker Nancy Stephens, Florida Poultry Federation in support
4:01:00 PM Speaker William Cotterall, Florida Justice Association in opposition
4:03:50 PM Question from Senator Thurston
4:04:00 PM Response from Mr. Cotterall
4:04:28 PM Follow-up question from Senator Thurston
4:04:38 PM Response from Mr. Cotterall
4:05:12 PM Speaker Lena Juarez, Florida Agritourism Association
4:05:45 PM Speaker Gary Hunter, Florida Fruit & Vegetable Association in support
4:08:22 PM Speaker Adam Basford, Florida Farm Bureau in support
4:09:27 PM Howard Adams, Florida Feed Association, the Manufacturers of Livestock Feeds waives in support
4:09:33 PM Brewster Bevis, Associated Industries of Florida waives in support
4:09:36 PM David Cullen, Sierra Club Florida waives in opposition
4:09:39 PM Jonathan Webber, Florida Conservation Voters waives in opposition
4:09:43 PM Carolyn Johnson, Florida Chamber of Commerce waives in support
4:09:49 PM David Serdan waives in support
4:10:04 PM Senator Gibson in debate
4:12:26 PM Senator Thurston in debate
4:14:04 PM Senator Rouson in debate
4:15:11 PM Senator Baxley in debate
4:15:35 PM Senator Brodeur in closure
4:15:41 PM Roll call by CAA

4:15:48 PM CS/SB 88 reported favorably
4:16:13 PM Introduction of Tab 2, SB 498 by Chair Brandes
4:16:43 PM Explanation of SB 498, Safety of Religious Institutions by Senator Gruters
4:17:47 PM Question from Senator Polsky
4:18:07 PM Response from Senator Gruters
4:18:45 PM Follow-up question from Senator Polsky
4:18:54 PM Response from Senator Gruters
4:20:04 PM Question from Senator Rouson
4:20:10 PM Response from Senator Gruters
4:20:56 PM Follow-up question from Senator Rouson
4:21:08 PM Response from Senator Gruters
4:21:33 PM Question from Senator Gibson
4:21:41 PM Response from Senator Gruters
4:22:13 PM Response from Senator Gruters
4:22:14 PM Follow-up question from Senator Gibson
4:22:21 PM Response from Senator Gruters
4:22:45 PM Question from Senator Polsky
4:22:53 PM Response from Senator Gruters
4:24:04 PM Speaker Marion Hammer, NRA & Unified Sportsmen of Florida in support
4:26:16 PM Speaker Trish Neely, Florida League of Women Voters in opposition
4:27:52 PM Speaker Angie Gallo, Florida Coalition to Prevent Gun Violence in opposition
4:28:58 PM Speaker Philip Tritschler, Chief, Safety Team (Crosspoint Church - Niceville) in support
4:30:31 PM Speaker Dawn Steward, Florida PTA in opposition
4:31:34 PM Speaker Luis Valdes, Gun Owners of America, Inc. in support
4:33:16 PM Speaker Barbara DeVane, FL NOW in opposition
4:33:44 PM David Serdan waives in support
4:34:07 PM Senator Polsky in debate
4:36:50 PM Senator Gruters in closure
4:37:44 PM Roll call by CAA
4:37:50 PM SB 498 reported favorably
4:38:14 PM Introduction of Tab 3, SB 78 by Chair Brandes
4:38:37 PM Explanation of SB 78, Dues and Uniform Assessments by Senator Rodrigues
4:41:21 PM Question from Senator Thurston
4:41:32 PM Response from Senator Rodrigues
4:41:59 PM Follow-up question from Senator Thurston
4:42:13 PM Response from Senator Rodrigues
4:42:59 PM Question from Senator Polsky
4:43:07 PM Response from Senator Rodrigues
4:43:24 PM Follow-up question from Senator Polsky
4:43:37 PM Response from Senator Rodrigues
4:44:31 PM Speaker Dr. Rich Templin, Florida AFL-CIO in opposition
4:46:29 PM Speaker Martin Balinsky, United Faculty of Florida-Tallahassee Community College in opposition
4:49:08 PM Speaker Phillip Suderman, Americans for Prosperity in support
4:50:57 PM Speaker Vincenza Barardo, UFF - FSU - GAU in opposition
4:53:04 PM Speaker Matthew Lata, United Faculty of Florida in opposition
4:55:24 PM Speaker Stephanie Kunkel, Florida Education Association in opposition
4:57:34 PM Barbara DeVane, Florida Alliance for Retired Americans and FL NOW waives in opposition
4:57:43 PM Tim Nungesser, NFIB waives in support
4:57:48 PM Wayne Bernoska, Florida Professional Firefighters waives in opposition
4:57:53 PM Brewster Bevis, Associated Industries of Florida waives in support

4:57:56 PM Matt Puckett, Florida Police Benevolent Association waives in opposition
4:57:59 PM Christopher Emmanuel, Florida Chamber of Commerce waives in support
4:58:01 PM Ida Eskamani, Florida Rising waives in opposition
4:58:12 PM Senator Gibson in debate
4:59:27 PM Senator Polsky in debate
5:00:06 PM SB 78 temporary postponed per Chair Brandes
5:00:11 PM Meeting adjourned