

**CS/SB 290** by **CJ, Brandes (CO-INTRODUCERS) Bradley, Evers, Negrón**; (Similar to CS/CS/H 0493) Carrying a Concealed Weapon or a Concealed Firearm  
629724 A S RCS RC, Negrón Delete L.53: 03/12 04:20 PM

**SM 866** by **Flores (CO-INTRODUCERS) Garcia, Diaz de la Portilla**; (Similar to H 0727) Diplomatic Relations with Cuba

**CS/SB 594** by **CA, Stargel**; (Similar to CS/H 0569) Agritourism

**SB 7004** by **HE**; (Similar to H 7005) OGSR/Commission for Independent Education

**CS/SB 200** by **GO, Latvala**; (Similar to CS/H 0179) Public Records/E-mail Addresses/Tax Notices

**SB 462** by **Lee**; (Similar to CS/H 0503) Family Law

**CS/CS/SB 234** by **JU, BI, Montford**; (Similar to CS/H 4011) Motor Vehicle Insurance

**SB 7036** by **EE**; (Identical to H 7035) Presidential Preference Primary

**SB 7008** by **BI**; (Identical to H 7051) OGSR/Licensure Examination Questions/Board of Funeral, Cemetery, and Consumer Services

**SB 7010** by **BI**; (Similar to H 7053) OGSR/Examination Techniques or Procedures/Office of Financial Regulation

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

**RULES**  
**Senator Simmons, Chair**  
**Senator Soto, Vice Chair**

**MEETING DATE:** Thursday, March 12, 2015  
**TIME:** 9:00 —11:00 a.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Simmons, Chair; Senator Soto, Vice Chair; Senators Benacquisto, Diaz de la Portilla, Gaetz, Galvano, Gibson, Joyner, Latvala, Lee, Montford, Negron, and Richter

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 290</b> Criminal Justice / Brandes (Similar CS/H 493, Compare H 1273, S 822)	Carrying a Concealed Weapon or a Concealed Firearm; Providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when evacuating pursuant to a mandatory evacuation order during a declared state of emergency, etc.  CJ 02/16/2015 Fav/CS CA 03/04/2015 Favorable RC 03/12/2015 Fav/CS	Fav/CS Yeas 10 Nays 2
2	<b>SM 866</b> Flores (Similar HM 727, Compare HM 745)	Diplomatic Relations with Cuba; Expressing profound disagreement with the decision of the President to restore full diplomatic relations with Cuba, opposing the opening of a consulate or any diplomatic office in this state, and urging the upholding of the embargo, etc.  RC 03/12/2015 Favorable	Favorable Yeas 10 Nays 2
3	<b>CS/SB 594</b> Community Affairs / Stargel (Similar CS/H 569)	Agritourism; Prohibiting a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land, etc.  AG 02/16/2015 Favorable CA 03/04/2015 Fav/CS RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0
4	<b>SB 7004</b> Higher Education (Similar H 7005)	OGSR/Commission for Independent Education ; Amending provisions relating to exemptions from public records and meeting requirements for investigatory records held by and portions of meetings conducted by the Commission for Independent Education in disciplinary proceedings; saving the exemptions from repeal under the Open Government Sunset Review Act, etc.  GO 02/17/2015 Favorable RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Thursday, March 12, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>CS/SB 200</b> Governmental Oversight and Accountability / Latvala (Similar CS/H 179)	Public Records/E-mail Addresses/Tax Notices; Providing an exemption from public records requirements for e-mail addresses obtained by a tax collector for the purpose of electronically sending certain tax notices or obtaining the consent of a taxpayer for electronic transmission of certain tax notices; providing for future review and repeal of the exemption; providing a statement of public necessity, etc.  CA 02/03/2015 Favorable GO 02/17/2015 Fav/CS RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0
6	<b>SB 462</b> Lee (Similar CS/H 503)	Family Law; Providing that a collaborative law process commences when the parties enter into a collaborative law participation agreement; prohibiting a tribunal from ordering a party to participate in a collaborative law process over the party's objection; providing for confidentiality of communications made during the collaborative law process, etc.  JU 03/03/2015 Favorable RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0
7	<b>CS/CS/SB 234</b> Judiciary / Banking and Insurance / Montford (Similar CS/H 4011)	Motor Vehicle Insurance; Revising the definition of the term "motor vehicle insurance" to include a policy that insures more than four automobiles; revising the definition of the term "policy" to include a policy that insures more than four automobiles, etc.  BI 02/03/2015 Fav/CS JU 03/03/2015 Fav/CS RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0
8	<b>SB 7036</b> Ethics and Elections (Identical H 7035)	Presidential Preference Primary; Revising the date of the presidential preference primary, etc.  RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0
9	<b>SB 7008</b> Banking and Insurance (Identical H 7051)	OGSR/Licensure Examination Questions/Board of Funeral, Cemetery, and Consumer Services; Amending provisions relating to an exemption from public meeting requirements for portions of meetings of the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services at which licensure examination questions or answers are discussed; saving the exemption from repeal under the Open Government Sunset Review Act, etc.  GO 03/04/2015 Favorable RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Thursday, March 12, 2015, 9:00 —11:00 a.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 7010</b> Banking and Insurance (Similar H 7053)	OGSR/Examination Techniques or Procedures/Office of Financial Regulation; Amending provisions relating to an exemption from public records requirements for information that would reveal examination techniques or procedures used by the Office of Financial Regulation under the Florida Securities and Investor Protection Act; saving the exemption from repeal under the Open Government Sunshine Act, etc.  GO 03/04/2015 Favorable RC 03/12/2015 Favorable	Favorable Yeas 12 Nays 0

---

Other Related Meeting Documents

---

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

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

---

Prepared By: The Professional Staff of the Committee on Rules

---

BILL: CS/CS/SB 290

INTRODUCER: Rules Committee; Criminal Justice Committee; and Senator Brandes and others

SUBJECT: Carrying a Concealed Weapon or a Concealed Firearm

DATE: March 12, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	<u>Cellon</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 290 creates an exception to s. 790.01, F.S., which prohibits carrying a concealed weapon or firearm unless a person is licensed to do so or if the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes.

The exception provided in the bill allows a person to carry a concealed weapon or firearm while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S., regardless of the person's licensure status, so long as he or she may otherwise lawfully possess a firearm.

The bill provides a definition for "in the act of evacuating." It also sets forth a 48-hour period within which the exception to s. 790.01, F.S., is applicable, which may be extended by executive order.

The provisions of the bill will be effective upon becoming a law.

**II. Present Situation:**

Under current Florida law, it is lawful for a person to carry a concealed weapon without a concealed weapon license for purposes of lawful self-defense, so long as the weapon is limited to

self-defense chemical spray, a nonlethal stun gun, a dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.<sup>1</sup>

Without licensure, carrying a different type of concealed weapon,<sup>2</sup> electric weapon, or device other than one designed solely for defensive purposes is a first degree misdemeanor.<sup>3</sup> Carrying a concealed firearm without proper licensure is a third degree felony offense.<sup>4</sup>

It is lawful for a person to openly carry a self-defense chemical spray, nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.<sup>5</sup>

Certain persons under particular circumstances are exempt from the limitations on the open carry of weapons in s. 790.053, F.S., and the concealed firearm carry licensure requirements in s. 790.06, F.S., when the weapons and firearms are lawfully owned, possessed, and used. These persons and circumstances include:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the federal government who are carrying out official duties while in this state;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting,

---

<sup>1</sup> Section 790.01(4), F.S.

<sup>2</sup> A concealed weapon, under s. 790.001(3)(a), F.S., means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. The weapons listed in this definition require licensure to carry them in a concealed manner.

<sup>3</sup> Section 790.01(1), F.S.

<sup>4</sup> Section 790.01(2), F.S.

<sup>5</sup> Section 790.053, F.S.

while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;

- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;
- A person engaged 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;
- A person 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;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person 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;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; and
- Investigators employed by the public defenders and capital collateral regional counsel of the state, while actually carrying out official duties.<sup>6</sup>

### **Concealed Weapons and Firearm Licensure**

The Department of Agriculture and Consumer Services (DACCS) is authorized to issue concealed weapon and firearm licenses to those applicants that qualify.<sup>7</sup> Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.<sup>8</sup>

To obtain a concealed weapons or firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee.<sup>9</sup>

---

<sup>6</sup> Section 790.25(3), F.S.

<sup>7</sup> Section 790.06(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 790.06(1)-(5), F.S.

Additionally, the applicant must attest that he or she is in compliance with the criteria contained in subsections (2) and (3) of s. 790.06, F.S.

Subsection (2) of s. 790.06, F.S., requires DACS to issue the license to carry a concealed weapon, if all other requirements are met, and the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or 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 sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>10</sup>

---

<sup>10</sup> Section 790.06(2), F.S.



DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.<sup>11</sup>

DACS shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.<sup>12</sup>

DACS shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, 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 under this section, until final disposition of the case.<sup>13</sup> DACS shall 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.<sup>14</sup>

In addition, DACS is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S.;
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;
- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.<sup>15</sup>

Licensees must carry their license and valid identification any time they are in actual possession of a concealed weapon or firearm and display both documents upon demand by a law enforcement officer.<sup>16</sup> Failure to have proper documentation and display it upon demand is a second degree misdemeanor.<sup>17</sup>

---

<sup>11</sup> Section 790.06(3), F.S.

<sup>12</sup> *Id.*

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

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

<sup>15</sup> Section 790.06(10), F.S.

<sup>16</sup> Section 790.790.06(1), F.S.

<sup>17</sup> Section 790.06(1), F.S.

A concealed weapon or firearms license does not authorize a person to carry a weapon or firearm in a concealed manner into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- 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;
- 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 school administration building;
- 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 elementary or secondary school facility;
- Any career center;
- 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;
- Inside 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
- Any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any of the above-listed provisions commits a misdemeanor of the second degree.<sup>18</sup>

### **Firearms in Vehicles**

It is lawful for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. The same is true for a legal long gun, without the need for encasement, when it is carried in the private conveyance for a lawful purpose.<sup>19</sup>

“Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.<sup>20</sup> The term “readily accessible for

---

<sup>18</sup> Section 790.06(12), F.S.

<sup>19</sup> Section 790.25(5), F.S.

<sup>20</sup> Section 790.001(17), F.S.

immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.<sup>21</sup>

### **Reciprocity**

DACS provides an up-to-date list of the states that honor Florida concealed carry licenses.<sup>22</sup> It should be noted that travel with a concealed weapon or firearm into states that do not honor Florida’s concealed carry licenses, or when a person does not possess a concealed carry license subjects the person to the laws of that state.

### **Limitations on Purchase of a Firearm**

Florida law prohibits transfer of a firearm by a federally licensed firearm dealer to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23, F.S.;
- Has been convicted of a misdemeanor crime of domestic violence;
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred;
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited);
- Has had an injunction for protection against domestic violence entered against him or her under s. 741.30, F.S.;
- Has had an injunction for protection against repeat violence entered against him or her under s. 784.046, F.S.; or
- Has been arrested for a dangerous crime as specified under s. 907.041(4)(a), F.S., or the crimes listed in s. 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

### **Emergency Management Powers of the Governor**

Section 252.36(1), F.S., states that the Governor is responsible for meeting the dangers presented to this state and its people by emergencies. Under that authority the Governor can declare a state of emergency.

Section 252.36(2), F.S., provides that the state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency.

---

<sup>21</sup> Section 790.001(16), F.S.

<sup>22</sup> <http://www.freshfromflorida.com/content/download/7444/118465/ReciprocityList.pdf>.

In addition, pursuant to s. 252.36(5), F.S., the Governor may:

- Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state;<sup>23</sup> and
- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing contained in ss. 252.31-252.90, F.S., shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.<sup>24</sup>

### **Local States of Emergency for Overt Acts of Violence**

Section 870.043, F.S., authorizes sheriffs and designated city officials to declare a state of emergency if he or she determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof. The state of emergency commences upon its declaration and terminates 72 hours thereafter unless, prior to the end of the 72-hour period, the public official, Governor, county commission, or city council terminate it.<sup>25</sup>

Whenever a sheriff or city official declares a state of emergency, he or she may order and promulgate all or any of the following emergency measures, in whole or in part, with any limitations and conditions he or she deems appropriate:

- The establishment of curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing, and parking;
- The prohibition of the sale or distribution of any alcoholic beverage;
- The prohibition of the possession on any person in a public place of any portable container containing any alcoholic beverage;
- The closing of places of public assemblage with designated exceptions;
- The prohibition of the sale or other transfer of possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof; and
- The prohibition of the possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid.<sup>26</sup>

In addition to the above-described measures that a local public official has discretion to order, the following acts are prohibited during a state of emergency declared under ch. 870, F.S.:

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;

---

<sup>23</sup> Section 252.36(5)(e), F.S.

<sup>24</sup> Section 252.36(5)(h), F.S.

<sup>25</sup> Section 870.047, F.S.

<sup>26</sup> Section 870.045, F.S.

- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.<sup>27</sup>

A violation of any of the above-described provisions is a first degree misdemeanor.

### III. Effect of Proposed Changes:

**Section 1** creates an exception to s. 790.01, F.S., which prohibits carrying a concealed weapon or firearm unless a person is licensed to do so. If the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes, a person may carry it concealed without a license.

The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S., so long as the person may lawfully possess a firearm.

The bill defines the term “in the act of evacuating” as the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. It provides that the 48-hour period may be extended by order of the Governor.

**Section 2** provides the bill will be effective upon becoming a law.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

---

<sup>27</sup> Section 870.044, F.S.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference considered this bill on March 11, 2015 and determined that the bill will likely have an insignificant reduction in prison bed impact.

**VI. Technical Deficiencies:**

Section 870.044(3), F.S., prohibits a person from intentionally possessing a firearm in a public place during a state of emergency declared by a local authority. This provision appears to conflict with the bill, which allows a person to carry a concealed weapon or firearm while complying with a mandatory evacuation order issued during a state of emergency declared by a local authority. This apparent conflict may be resolved with a notwithstanding clause.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 790.01 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/CS by Rules on March 12, 2015:**

Provides that the bill will be effective upon becoming a law.

**CS by Criminal Justice on February 16, 2015:**

Provides a definition for the term “in the act of evacuating.” It sets forth a 48 hour timeframe within which the exception to s. 790.01, F.S., is applicable. The 48 hours may be extended by an order issued by the Governor.

**B. Amendments:**

None.



629724

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2015	.	
	.	
	.	
	.	

---

The Committee on Rules (Negron) recommended the following:

**Senate Amendment**

Delete line 53  
and insert:  
Section 2. This act shall take effect upon becoming a law.

By the Committee on Criminal Justice; and Senators Brandes,  
Bradley, Evers, and Negron

591-01635-15

2015290c1

A bill to be entitled

An act relating to carrying a concealed weapon or a  
concealed firearm; amending s. 790.01, F.S.; providing  
an exemption from criminal penalties for carrying a  
concealed weapon or a concealed firearm when  
evacuating pursuant to a mandatory evacuation order  
during a declared state of emergency; defining the  
term "in the act of evacuating"; providing an  
effective date.

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

Section 1. Section 790.01, Florida Statutes, is amended to  
read:

790.01 Unlicensed carrying of concealed weapons or  
concealed firearms.—

(1) Except as provided in subsection (3) (4), a person who  
is not licensed under s. 790.06 and who carries a concealed  
weapon or electric weapon or device on or about his or her  
person commits a misdemeanor of the first degree, punishable as  
provided in s. 775.082 or s. 775.083.

(2) Except as provided in subsection (3), a person who is  
not licensed under s. 790.06 and who carries a concealed firearm  
on or about his or her person commits a felony of the third  
degree, punishable as provided in s. 775.082, s. 775.083, or s.  
775.084.

(3) This section does not apply to: ~~a person licensed to  
carry a concealed weapon or a concealed firearm pursuant to the  
provisions of s. 790.06.~~

Page 1 of 2

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

591-01635-15

2015290c1

(a) A person who carries a concealed weapon, or a person  
who may lawfully possess a firearm and who carries a concealed  
firearm, on or about his or her person while in the act of  
evacuating during a mandatory evacuation order issued during a  
state of emergency declared by the Governor pursuant to chapter  
252 or declared by a local authority pursuant to chapter 870. As  
used in this subsection, the term "in the act of evacuating"  
means the immediate and urgent movement of a person away from  
the evacuation zone within 48 hours after a mandatory evacuation  
is ordered. The 48 hours may be extended by an order issued by  
the Governor.

(b) (4) ~~It is not a violation of this section for A person  
who carries to carry~~ for purposes of lawful self-defense, in a  
concealed manner:

1. (a) A self-defense chemical spray.

2. (b) A nonlethal stun gun or dart-firing stun gun or other  
nonlethal electric weapon or device that is designed solely for  
defensive purposes.

(4) (5) This section does not preclude any prosecution for  
the use of an electric weapon or device, a dart-firing stun gun,  
or a self-defense chemical spray during the commission of any  
criminal offense under s. 790.07, s. 790.10, s. 790.23, or s.  
790.235, or for any other criminal offense.

Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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



TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3/12/15

Topic FIREARMS - Mandate by EVANGELION

Bill Number SB-290

(if applicable)

Name MARION P. HAMMER

Amendment Barcode \_\_\_\_\_

(if applicable)

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

Address P.O. Box 1387

Phone 850-222-9518

Street TALHAHSEE State FL Zip 32322  
City

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) United Statesmen of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date March 12, 2015

Amendment Barcode (if applicable)

Bill Number (if applicable) SB 290

Topic Carrying a Concealed Weapon or Firearm

Name Stephan Dembinsky

Job Title Director, Daytona Beach Shores Police Department

Address 3050 South Atlantic Avenue

Street Daytona Beach Shores, FL 32118  
City State Zip

Phone 386-763-5334

Email

Speaking:  For  Against  Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator David Simmons, Chair  
Committee on Rules

**Subject:** Committee Agenda Request

**Date:** March 4, 2015

---

I respectfully request that **Senate Bill #290**, relating to **Carrying a Concealed Weapon or a Concealed Firearm**, be placed on the:

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

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

Senator Jeff Brandes  
Florida Senate, District 22

**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 Rules

---

BILL: SM 866

INTRODUCER: Senator Flores and others

SUBJECT: Diplomatic Relations with Cuba

DATE: March 9, 2015

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

---

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cantella	Phelps	RC	<b>Favorable</b>

---

**I. Summary:**

SM 866 expresses profound disagreement with the decision of the President to restore full diplomatic relations with Cuba, opposes the opening of a consulate or any diplomatic office in this state, and urges the continuation of the embargo.

**II. Present Situation:**

In 1960, the U.S. imposed an embargo on exports to Cuba, and in 1961 officially severed diplomatic relations with the Cuban government.<sup>1</sup> The embargo included commercial, economic, and financial restrictions.

On December 17, 2014, President Obama announced diplomatic and economic changes to the relationship between the U.S. and Cuba. Some of the changes include, but are not limited to:<sup>2</sup>

- Allowing travel to Cuba for authorized purposes;
- Authorizing U.S. travelers to Cuba to import up to \$400 worth of goods for personal use;
- Raising the limits on and authorizing certain categories of remittances to Cuba;
- Allowing U.S. financial institutions to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions;
- Allowing activities related to telecommunications, financial services, trade and shipping; and
- Reestablishment of an embassy in Havana in the coming months.

---

<sup>1</sup> U.S. Department of State Background Notes on Cuba, November 2011, *available at* <http://www.state.gov/outofdate/bgn/cuba/191090.htm> (last visited March 9, 2015)

<sup>2</sup> U.S. Department of the Treasury Fact Sheet on the Regulatory Amendment to the Cuba Sanctions, *available at* <http://www.treasury.gov/press-center/press-releases/Pages/j19740.aspx> (last visited March 9, 2015)

**III. Effect of Proposed Changes:**

SM 860 expresses profound disagreement with the decision of the President to restore full diplomatic relations with Cuba, opposes the opening of a consulate or any diplomatic office in this state, and urges the continuation of the embargo.

Copies of the memorial are to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and members of the Florida delegation to the United States Congress.

Memorials have no force of law and are not subject to the Governor's approval or veto power. They are mechanisms for formally petitioning the Federal Government to act on a particular matter.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

---

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

---

By Senators Flores, Garcia, and Diaz de la Portilla

37-00789B-15

2015866\_\_

## Senate Memorial

A memorial to the President of the United States and the Congress of the United States expressing profound disagreement with the decision of the President to restore full diplomatic relations with Cuba, opposing the opening of a consulate or any diplomatic office in this state, and urging the upholding of the embargo.

WHEREAS, on December 17, 2014, the President of the United States announced that this country would restore full diplomatic relations with the nation of Cuba after more than 50 years of unconcealed hostility, and

WHEREAS, Cuba has been under the crushing oppression of a brutal communist dictatorship since 1959, led first by Fidel Castro and more recently by his brother Raul, and

WHEREAS, the actions of the Castro brothers have resulted in the impoverishment of the Cuban people and a complete and blatant disregard for human rights and democratic principles by the government of that nation, and

WHEREAS, under the Castro brothers, Cuba has been an active and ominous threat to the vital interests of the United States and all peace-loving nations, as members of Cuba's military and diplomatic corps have worked assiduously to promote violent, anti-democratic revolutions across the globe, and

WHEREAS, the diplomatic initiative announced by the President involved the release of U.S. government subcontractor Alan Gross by Cuba after 5 years of detention due to the absurd and unfounded allegation of the Cuban government that he was a

Page 1 of 3

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

37-00789B-15

2015866\_\_

spy, and the release by the United States of three Cuban spies convicted in the United States of conspiracy to commit espionage and conspiracy to commit murder, including the murder of at least three United States citizens, and linked to terrorist activities in this country, and

WHEREAS, numerous respected public officials, both Democratic and Republican, at the federal and state levels, have denounced this restoration of diplomatic relations and strongly believe that it will do nothing to free the Cuban people from the poverty and injustice they have suffered for more than a half century and that it will only serve to support a tottering, bankrupt dictatorship, and

WHEREAS, the residents of this state are all too familiar with the viciousness of the Castro regime due to the presence of millions of Cuban-born men and women who fled from a regime intent on stealing their property and putting them at the service of a brutal military government, as they outlawed religious expression, and indoctrinated children to engage in espionage against their own family members, and

WHEREAS, these men and women are heartbroken over how the Castro brothers have destroyed the culture and economic vitality of their beloved island homeland, and

WHEREAS, it is fitting and proper for the members of the Florida Senate and the Florida House of Representatives to express profound disagreement with the decision of the President of the United States to restore full diplomatic relations with Cuba, NOW, THEREFORE,

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

Page 2 of 3

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

37-00789B-15

2015866\_\_

59

60

61

62

63

64

65

66

67

68

69

70

71

That we express profound disagreement with the decision of the President of the United States to restore full diplomatic relations with Cuba, oppose the opening of a Cuban consulate or any diplomatic office in this state, and urge the Congress of the United States to uphold the embargo until such a time when this arcane dictatorship is no longer in power and the most basic human and civil rights are once again recognized in Cuba.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of the Florida delegation to the United States Congress.





The Florida Senate

## Committee Agenda Request

**To:** Senator David Simmons, Chair  
Committee on Rules

**Subject:** Committee Agenda Request

**Date:** February 24, 2015

---

I respectfully request that **Senate Bill #866**, relating to Diplomatic Relations with Cuba, be placed on the:

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

*Anitere Flores*

---

Senator Anitere Flores  
Florida Senate, District 37

**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 Rules

---

BILL: CS/SB 594

INTRODUCER: Community Affairs Committee and Senator Stargel

SUBJECT: Agritourism

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	<u>Becker</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

---

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 594 prohibits a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land.

**II. Present Situation:**

**Agricultural Property Classification**

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."<sup>1</sup> Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.<sup>2</sup>

Property appraisers are required to reclassify lands as nonagricultural when:

- The land is diverted from an agricultural to a nonagricultural use;
- The land is no longer being utilized for agricultural purposes;

---

<sup>1</sup> Section 193.461(3)(b), F.S.

<sup>2</sup> Section 193.461(5), F.S.

- The land has been zoned to a nonagricultural use at the request of the owner.<sup>3</sup>

A county commission may reclassify lands from agricultural to nonagricultural when there is contiguous urban or metropolitan development and the county commission finds that the continued use of the lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.<sup>4</sup>

### **Agritourism**

When farmers open their lands to the general public for the purposes of agriculture-related education and entertainment, they put their lands to a new beneficial use that may increase their farms' economic viability.<sup>5</sup> Responding to concerns over local regulation and burdensome liability, the Florida Legislature enacted legislation in 2013 to define and encourage agritourism.<sup>6</sup> Section 570.86(1), F.S., defines "agritourism activity" as:

any agricultural related activity consistent with a bona fide farm or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions.

Local governments may not enact a regulation, rule, or policy that would limit an agritourism activity on land classified as agricultural land under s. 193.461, F.S.<sup>7</sup>

### **Protection from Liability**

So long as an agritourism operator<sup>8</sup> complies with the posting and notification requirements of s. 570.89, F.S., the owner of the land, the agritourism operator, and employer or employees are provided limited liability protection against injury, death, or damage to participants.<sup>9</sup> Liability is not limited or prevented if the owner, operator, employer, or employees:<sup>10</sup>

- commit an act that constitutes gross negligence or willful or wanton disregard for the safety of the participant, or
- intentionally injure the participant.

### **Protection from Local Government Regulation**

Section 570.85, F.S., provides that in accordance with the legislative intent to "eliminate duplication of regulatory authority over agritourism," a local government may not adopt an ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an

---

<sup>3</sup> Section 193.461(4)(a), F.S.

<sup>4</sup> Section 193.461(4)(b), F.S.

<sup>5</sup> Florida Farm Bureau, Agritourism, *available at* <http://www.floridafarmbureau.org/files/resources/AgritourismBookletPrint.pdf> (last visited Feb. 23, 2015).

<sup>6</sup> Chapter 2013-179, Laws of Fla.; SB 1106 (2013).

<sup>7</sup> Section 570.85, F.S.

<sup>8</sup> Section 570.86(2), F.S.

<sup>9</sup> Section 570.88(1), F.S.

<sup>10</sup> Section 570.88(2), F.S.

agritourism activity. This prohibition on local governments primarily pertains to ordinances to restrict hours of operation, number of participants, or parking for agritourism activities. The statutory prohibition addresses adoption of ordinances by local governments, but is silent as to enforcement of any such ordinances existing at the time of enactment.

The prohibition does not extend to enactment of new local government ordinances related to construction of new or additional structures intended primarily to accommodate members of the general public, which would still be subject to all building and zoning laws.<sup>11</sup> Furthermore, the prohibition does not limit the powers and duties of a local government to address an emergency as provided in ch. 252, F.S.<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** prohibits a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land.

**Section 2** provides that this act shall take effect July 1, 2015.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

To the extent that the bill prevents local governments from enforcing any ordinances which would limit agritourism activity, farms may be able to supplement their revenues with additional revenue from agritourism.

---

<sup>11</sup> Section 570.86(1), F.S.

<sup>12</sup> Section 570.85(1), F.S.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 570.85 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 Community Affairs on March 4, 2015:**

Added a missing word.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Stargel

578-01930A-15

2015594c1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A bill to be entitled

An act relating to agritourism; amending s. 570.85, F.S.; prohibiting a local government from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land; providing an effective date.

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

Section 1. Subsection (1) of section 570.85, Florida Statutes, is amended to read:

570.85 Agritourism.—

(1) It is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism as expressed in this section. Except as otherwise provided for in this section, and notwithstanding any other provision of law, a local government may not adopt or enforce any local ~~an~~ ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under s. 193.461. This subsection does not limit the powers and duties of a local government to address an emergency as provided in chapter 252.

Section 2. This act shall take effect July 1, 2015.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Higher Education, *Chair*  
Appropriations Subcommittee on Education  
Fiscal Policy  
Judiciary  
Military and Veterans Affairs, Space, and Domestic  
Security  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR KELLI STARGEL**  
15th District

March 5, 2015

The Honorable David Simmons  
Senate Rules Committee, Chair  
400 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Simmons:

I am respectfully requesting that SB 594, related to *Agritourism*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 15

Cc: John Phelps/ Staff Director  
Cissy DuBose/ AA

### REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/12/15  
Meeting Date

SR 594  
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Agritourism

Name Jonathan Rees

Job Title Deputy Director

Address 400 S. Monroe St.

Street Tallahassee State FL Zip 32379

Phone (850)617-7700

Email Jonathan.Rees@freshfromflorida.com

Speaking:  For  Against  Information

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

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date 3/12/15

Bill Number (if applicable) 594

Amendment Barcode (if applicable) \_\_\_\_\_

Topic Agritourism  
Name Lena Suarez

Job Title \_\_\_\_\_ Phone 850 212 8330

Address P.O. Box 10390  
Tallahassee FL 32302  
Street City State Zip  
Email lenaej@assoc.com

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.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date 3/12/15

Bill Number (if applicable) 594

Amendment Barcode (if applicable) \_\_\_\_\_

Topic AGRI TOURISM  
Name LANCE DIERCE  
Job Title ASST. DIRECTOR, STATE LEGISLATIVE AFFAIRS  
Address 315 S. CARBON ST Phone 222-2857  
Street TRUANTSSOE State FL Zip 32301 Email \_\_\_\_\_  
City \_\_\_\_\_  
Speaking:  For  Against  Information  
Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA FARM BUREAU Lobbyist registered with Legislature:  Yes  No  
Appearing at request of Chair:  Yes  No

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

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

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

---

Prepared By: The Professional Staff of the Committee on Rules

---

BILL: SB 7004

INTRODUCER: Higher Education Committee

SUBJECT: OGSR/Commission for Independent Education

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Scott</u>	<u>Klebacha</u>		<b>HE SPB 7004 as introduced</b>
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Scott</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

---

**I. Summary:**

SB 7004 saves the public records exemption for investigatory records and public meetings exemption relating to disciplinary proceedings conducted by the Commission for Independent Education from their scheduled repeal on October 2, 2015.

The bill takes effect July 1, 2015.

**II. Present Situation:**

**Public Records and Open Meetings Requirements**

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

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act<sup>4</sup> guarantees every person's right to inspect and copy any state or local government public record.<sup>5</sup>

---

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

<sup>2</sup> FLA. CONST., art. I, s. 24(b).

<sup>3</sup> FLA. CONST., art. I, s. 24(b).

<sup>4</sup> Chapter 119, F.S.

<sup>5</sup> Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means

The Sunshine Law<sup>6</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>7</sup>

The Legislature may create an exemption to public records or open meetings requirements.<sup>8</sup> An exemption must specifically state the public necessity justifying the exemption<sup>9</sup> and must be tailored to accomplish the stated purpose of the law.<sup>10</sup>

### **Open Government Sunset Review Act**

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

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>13</sup> An exemption serves an identifiable purpose if it meets one of the following criteria:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>14</sup>

---

of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature’s records are public pursuant to section 11.0431, F.S.

<sup>6</sup> Section 286.011, F.S.

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

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

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

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

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

<sup>12</sup> Section 119.15(3), F.S.

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

<sup>14</sup> Section 119.15(6)(b)1., F.S.

- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>15</sup> or
- It protects trade or business secrets.<sup>16</sup>

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.<sup>17</sup>

The OGSR also requires specific questions to be considered during the review process.<sup>18</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>19</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>20</sup>

## **Commission for Independent Education**

### ***Disciplinary Proceedings***

The Commission for Independent Education<sup>21</sup> (Commission) created within the Florida Department of Education approves applications submitted by independent postsecondary educational institutions for licensure to operate in the state and to award diplomas and degrees.<sup>22</sup> The Commission is authorized to deny, revoke, or place on probation any license that it has granted and to investigate and initiate disciplinary proceedings against licensed institutions suspected of violating chapter 1005, Florida Statutes, or a Commission rule.<sup>23</sup> The results of an investigation are reported to a panel to determine whether there is probable cause to find that a

---

<sup>15</sup> Section 119.15(6)(b)2., F.S.

<sup>16</sup> Section 119.15(6)(b)3., F.S.

<sup>17</sup> Section 119.15(6)(b), F.S.

<sup>18</sup> Section 119.15(6)(a), F.S. The specified questions are:

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

<sup>19</sup> FLA. CONST., art. I, s. 24(c).

<sup>20</sup> Section 119.15(7), F.S.

<sup>21</sup> Seven members are appointed by the Governor to serve on the Commission, subject to Senate confirmation pursuant to section 1005.21(2), F.S.

<sup>22</sup> Sections 1005.05 and 1005.21(1) and (2), F.S. *See also*, ss. 1005.06 and 1005.31(1)(a), F.S. An independent postsecondary educational institution that is not within the Commission's jurisdiction is not required to obtain licensure.

<sup>23</sup> Section 1005.38(1) and (6), F.S.

violation of a law or rule has occurred.<sup>24</sup> These meetings are closed to the public; however, the meeting must be recorded, and no portion of the meeting may be off the record.

### ***Publication of Investigatory Records and Panel Meeting Records***

During the investigatory process and disciplinary proceedings, any records or meetings held by the Commission, including the recordings and minutes of meetings, are confidential and exempt from disclosure for no longer than 10 days after a probable cause panel makes its determination.<sup>25</sup>

Any records or portions of meetings that contain information that is protected under state or federal law maintain their protected status after investigatory records are made public.<sup>26</sup> Such information would be redacted by the Commission before being released.<sup>27</sup>

### ***Scheduled for Repeal Unless Reenacted***

As required by the Open Government Sunset Review Act, the exemptions are scheduled for repeal on October 2, 2015, unless reenacted by the Legislature.<sup>28</sup> If the exemptions are not saved from repeal by the Legislature before October 2, 2015, the investigatory records and probable cause hearings held by the Commission will be subject to public disclosure.<sup>29</sup>

### ***Legislative Review of Exemptions***

Pursuant to the OSGR, the Commission recommended that the exemption be continued.<sup>30</sup> The exemption protects independent colleges and universities from unwarranted damage to their reputations until a thorough investigation is completed.<sup>31</sup>

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

SB 7004 amends s. 1005.38(6), F.S., by removing the scheduled repeal date to maintain the existing public records and meeting exemptions for investigatory records and probable cause panel meetings associated with disciplinary proceedings initiated by the Commission.

The bill takes effect July 1, 2015.

---

<sup>24</sup> Section 1005.38(6)(a), F.S.

<sup>25</sup> Section 1005.38(6)(b), F.S.

<sup>26</sup> Title 20 U.S.C. s. 1232g, Family Educational Rights and Privacy Act (FERPA), provides federal protection for student records. Section 1002.221, F.S., provides that student records under FERPA are confidential and exempt under Florida Law.

<sup>27</sup> Section 119.07(1)(d), F.S.

<sup>28</sup> Section 1005.38(6)3., F.S.

<sup>29</sup> The Commission for Independent Education recommends in its response to an Open Government Sunset Review Questionnaire that the Legislature reenact the public records and meetings exemptions, stating that “it is foreseeable that an investigation could be compromised” if the records and meetings were open to the public (received December 18, 2014; on file with the Senate Committee on Higher Education). Also, in a letter addressed to the chairs of the Senate Committee on Governmental Oversight and Accountability and the House State Affairs Committee, the First Amendment Foundation does not object to reenactment of the exemptions as written, stating that the exemptions are “sufficiently narrow.” (dated August 22, 2014; on file with the Senate Committee on Higher Education).

<sup>30</sup> Open Government Sunset Review Questionnaire survey results, on file with the Senate Committee on Higher Education.

<sup>31</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members of each house of the Legislature for final passage of a bill that creates an exemption for public records or meetings. The bill does not create an exemption, nor does it expand the scope of an existing exemption; therefore, a two-thirds vote of the members of each house of the Legislature is not required for final passage of the bill.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill amends section 1005.38 of the Florida Statutes.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

---

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

---



By the Committee on Higher Education

589-00879-15

20157004\_\_

1 A bill to be entitled  
 2 An act relating to a review under the Open Government  
 3 Sunset Review Act; amending s. 1005.38, F.S., relating  
 4 to exemptions from public records and meeting  
 5 requirements for investigatory records held by and  
 6 portions of meetings conducted by the Commission for  
 7 Independent Education in disciplinary proceedings;  
 8 saving the exemptions from repeal under the Open  
 9 Government Sunset Review Act; providing an effective  
 10 date.  
 11  
 12 Be It Enacted by the Legislature of the State of Florida:  
 13  
 14 Section 1. Paragraph (b) of subsection (6) of section  
 15 1005.38, Florida Statutes, is amended to read:  
 16 1005.38 Actions against a licensee and other penalties.—  
 17 (6) The commission may conduct disciplinary proceedings  
 18 through an investigation of any suspected violation of this  
 19 chapter or any rule of the commission, including a finding of  
 20 probable cause and making reports to any law enforcement agency  
 21 or regulatory agency.  
 22 (b)1. All investigatory records held by the commission in  
 23 conjunction with an investigation conducted pursuant to this  
 24 subsection are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 25 the State Constitution for a period not to exceed 10 days after  
 26 the panel makes a determination regarding probable cause.  
 27 2.a. Those portions of meetings of the probable cause panel  
 28 at which records made exempt pursuant to subparagraph 1. are  
 29 discussed are exempt from s. 286.011 and s. 24(b), Art. I of the

Page 1 of 2

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

589-00879-15

20157004\_\_

30 State Constitution. The closed portion of a meeting must be  
 31 recorded and no portion of the closed meeting may be off the  
 32 record. The recording shall be maintained by the commission.  
 33 b. The recording of a closed portion of a meeting and the  
 34 minutes and findings of such meeting are exempt from s.  
 35 119.07(1) and s. 24(a), Art. I of the State Constitution for a  
 36 period not to exceed 10 days after the panel makes a  
 37 determination regarding probable cause.  
 38 ~~3. This paragraph is subject to the Open Government Sunset~~  
 39 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
 40 ~~on October 2, 2015, unless reviewed and saved from repeal~~  
 41 ~~through reenactment by the Legislature.~~  
 42 Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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

**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 Rules

---

BILL: CS/SB 200

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Latvala

SUBJECT: Public Records/E-mail Addresses/Tax Notices

DATE: March 11, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Favorable</b>
2.	Kim	McVaney	GO	<b>Fav/CS</b>
3.	Stearns	Phelps	RC	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 200 creates an exemption from the public records laws for e-mail addresses of taxpayers held by tax collectors for the purposes of e-mailing tax notices or obtaining permission from the taxpayer to do so. Current law does not provide an exemption for e-mail addresses held for such purposes.

The bill provides for repeal of the exemption on October 2, 2020, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

**II. Present Situation:**

**Public Records Laws**

The State Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of

the state, or of persons acting on their behalf.<sup>1</sup> The State Constitution states that the records of the legislative, executive, and judicial branches are all subject to public disclosure.<sup>2</sup>

Only the Legislature may create an exemption to public records requirements.<sup>3</sup> There is a difference between records the Legislature designates as ‘exempt’ from public records requirements and those the Legislature designates as ‘confidential and exempt.’ A record classified as exempt from public disclosure may be disclosed under certain circumstances.<sup>4</sup> If the Legislature designates a record as confidential and exempt from public disclosure, a public records custodian may not release the record to anyone other than the persons or entities specifically designated in the statutory exemption.<sup>5</sup>

An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>6</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>7</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>8</sup>

The Open Government Sunset Review Act prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>9</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>10</sup>

### **Public Records Status of E-mail Addresses and Agency Website Notice**

Under Florida law, e-mail addresses are public records.<sup>11</sup> Agency<sup>12</sup> websites that use e-mail are required to post a notice to users making them aware of this fact and advising them not to send e-mail to the agency if they do not want their e-mail address released in response to a public records request.<sup>13</sup>

---

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

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

<sup>3</sup> FLA. CONST., art. I, s. 24(c).

<sup>4</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004). *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)

<sup>5</sup> Op. Att’y Gen. Fla. 85-62 (1985)

<sup>6</sup> FLA. CONST., art. I, s. 24(c).

<sup>7</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>8</sup> FLA. CONST., art. I, s. 24(c).

<sup>9</sup> Section 119.15, F.S.

<sup>10</sup> Section 119.15(3), F.S.

<sup>11</sup> Section 119.011(12), F.S., defines “public records” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” See Attorney General Opinion 96-34, May 15, 1996.

<sup>12</sup> Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>13</sup> Section 668.6076, F.S.

## Notices of Taxation

Tax collectors may send notices of taxation to taxpayers by e-mail in two situations: (1) if the taxpayer has applied to participate in a prepayment installment plan,<sup>14</sup> or (2) if the tax collector has received express consent from the taxpayer to do so.<sup>15</sup>

## E-mail Addresses and Crimes

Fraudsters replicate federal and state tax agency websites and use them when e-mailing the public for criminal purposes. The Internal Revenue Service (IRS) has issued consumer warnings about fraudsters posing as the IRS and soliciting personal information in the form of an e-mail, a scam which is known as phishing. The fake notice may entice a taxpayer by stating that the taxpayer is due for a refund and the taxpayer must submit personal and financial information in order for the refund to be disbursed. Another fake notice may threaten an individual if he or she does not provide requested personal information. The fraudster then uses the information to empty a victim's bank account, use the victim's credit cards and apply for loans in the victim's name.<sup>16</sup> According to the IRS, phishing and identity theft are two of the top twelve tax scams employed by fraudsters.<sup>17</sup> In 2014, the Governor of New York issued a statement warning consumers that scammers were posing as the IRS and the New York Department of Taxation and Finance and threatening people with fines, arrest and other penalties if they did not immediately pay owed taxes.<sup>18</sup>

In Florida, Attorney General Pam Bondi has issued consumer protection warnings and news releases about the dangers of phishing.<sup>19</sup> On January 20, 2015, Attorney General Pam Bondi's office issued a news release about tax fraud awareness, and warned the public about identity thieves accessing personal information by e-mail.<sup>20</sup> The Florida Department of Highway Safety and Motor Vehicles was the subject of the e-mail phishing incident in which its name, e-mail address and transactional receipts were sent to the public. The e-mails directed the recipient to visit a third party website, which may have contained computer programs designed to harm the user.<sup>21</sup>

---

<sup>14</sup> Section 197.222(3), F.S.

<sup>15</sup> Sections 197.322(3), 197.343(1), and 197.344(1), F.S.

<sup>16</sup> Identity Theft E-mail Scams a Growing Problem. IRS publication FS 2008-9, dated January 2008.

<sup>17</sup> IRS Completed the "Dirty Dozen" Tax Scams of 2015. IRS publication IR-2015-26, dated February 2015.

<sup>18</sup> Consumer Alert- NYS Division of Consumer Protection and the NYS Tax Department Caution New Yorkers to Beware of Elaborate Tax Collection Scams. <http://www.tax.ny.gov/press/rel/2014/consumerwarning040114.htm>. Last checked on February 11, 2015.

<sup>19</sup> Florida Attorney General, Consumer Protection, How to Protect Yourself: Phishing.

[http://myfloridalegal.com/\\_\\_85256CC5006DFCC3.nsf/0/D3C503749286AF3885256E4C0072015D?Open&Highlight=0,phishing](http://myfloridalegal.com/__85256CC5006DFCC3.nsf/0/D3C503749286AF3885256E4C0072015D?Open&Highlight=0,phishing), last checked February 9, 2015.

<sup>20</sup> Tax Identity Theft Awareness Week, Attorney General Pam Bondi News Release, Dated January 25, 2015

[http://myfloridalegal.com/\\_\\_852562220065EE67.nsf/0/178F807FB451A69085257DD900737B2E?Open&Highlight=0,tax](http://myfloridalegal.com/__852562220065EE67.nsf/0/178F807FB451A69085257DD900737B2E?Open&Highlight=0,tax)

<sup>21</sup> Fraudsters Use Agency's Name and Email Address for Phishing Expedition- Highway safety agency warns of email spam. Press Release dated February 7, 2013 by the Florida Department of Highway Safety and Motor Vehicles.

<http://www.flhsmv.gov/news/2013.htm>. Last visited on February 12, 2015.

### III. Effect of Proposed Changes:

This bill makes taxpayer e-mail addresses exempt from the public records laws if the e-mail addresses are held by tax collectors specifically for the purposes of:

- Sending a quarterly tax notice for prepayment of estimated taxes to tax payers, pursuant to s. 197.222(3), F.S.;
- Obtaining the taxpayer's consent to send tax notices, and e-mailing tax notices stating the amount of taxes due or outstanding and any discounts which may apply pursuant to s. 197.322(3), F.S.;
- Sending an additional tax notice or delinquent tax notice to the taxpayer under s. 197.343, F.S.; or
- Sending a tax notice to a designated third party, mortgagee, or vendee as provided under s. 197.344(1), F.S.

The bill does not make taxpayer e-mail addresses provided to a tax collector for any other purpose exempt from the public record.

The bill provides a statement of public necessity as required by the State Constitution. The public necessity states that the Legislature finds that e-mail addresses, when combined with personal identifying information, can be used for identity theft, scams and invasive contact. The public necessity statement provides that this exemption helps protect taxpayers from harm.

The bill provides that the exemption will take effect on July 1, 2015. The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and reenacted by the Legislature.

### IV. Constitutional Issues:

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

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

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

##### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption for taxpayer e-mail addresses held by a tax collector; thus, it requires a two-thirds vote for final passage.

**Public Necessity Statement**

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

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption limited to the e-mail address of a taxpayer when those e-mail addresses are used for the four enumerated purposes named in the bill. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill likely will benefit taxpayers by reducing their exposure to economic harm from identity theft or spam e-mail.

**C. Government Sector Impact:**

The bill may have a minimal fiscal impact on tax collectors because staff responsible for complying with public record requests could require training related to expansion of the public record exemption. Tax collectors may have to increase spending on technology if new computer programs are employed to separate e-mail addresses used for different purposes. In addition, tax collectors may incur costs associated with redacting exempt information prior to releasing a record. The costs, however, may be absorbed as part of the day-to-day responsibilities of the staff of the tax collectors.

To the extent this exemption encourages taxpayers to choose to receive certain information via e-mail, tax collectors will reduce the amount of money spent on postage.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The analysis performed by the Department of Revenue<sup>22</sup> states that the list of documents in the bill may not be an exhaustive list of official documents authorized to be sent to and from tax collectors by e-mail.<sup>23</sup> It is unclear if the omission from the list of certain purposes for which a tax collector holds a taxpayer's e-mail address is intentional or not.

**VIII. Statutes Affected:**

This bill creates section 197.3225 of the Florida Statutes.

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

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

**CS by Governmental Oversight and Accountability on February 17, 2015:**

The CS makes a technical change to status of the exemption from 'confidential and exempt' to 'exempt.' As originally drafted, the bill provided no means for the records custodian to release e-mail addresses to any entity without a court order. This change permits the records custodian the flexibility to release e-mail addresses at his or her discretion.

**B. Amendments:**

None.

---

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

---

<sup>22</sup> 2015 Department of Revenue Legislative Bill Analysis, dated January 12, 2015.

<sup>23</sup> See ss. 197.182(1)(m), 197.432(7), and 197.472(5), F.S.

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

585-01656-15

2015200c1

1 A bill to be entitled  
2 An act relating to public records; creating s.  
3 197.3225, F.S.; providing an exemption from public  
4 records requirements for e-mail addresses obtained by  
5 a tax collector for the purpose of electronically  
6 sending certain tax notices or obtaining the consent  
7 of a taxpayer for electronic transmission of certain  
8 tax notices; providing for future review and repeal of  
9 the exemption; providing a statement of public  
10 necessity; providing an effective date.  
11  
12 Be It Enacted by the Legislature of the State of Florida:  
13  
14 Section 1. Section 197.3225, Florida Statutes, is created  
15 to read:  
16 197.3225 Public records exemption; taxpayer e-mail  
17 addresses.—  
18 (1) A taxpayer's e-mail address held by a tax collector for  
19 any of the following purposes is exempt from s. 119.07(1) and s.  
20 24(a), Art. I of the State Constitution:  
21 (a) Sending a quarterly tax notice for prepayment of  
22 estimated taxes to the taxpayer pursuant to s. 197.222(3).  
23 (b) Obtaining the taxpayer's consent to send the tax notice  
24 described in s. 197.322(3).  
25 (c) Sending an additional tax notice or delinquent tax  
26 notice to the taxpayer pursuant to s. 197.343.  
27 (d) Sending a tax notice to a designated third party,  
28 mortgagee, or vendee pursuant to s. 197.344(1).  
29 (2) This section is subject to the Open Government Sunset

Page 1 of 2

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

585-01656-15

2015200c1

30 Review Act in accordance with s. 119.15 and shall stand repealed  
31 on October 2, 2020, unless reviewed and saved from repeal  
32 through reenactment by the Legislature.  
33 Section 2. The Legislature finds that it is a public  
34 necessity that the e-mail address of a taxpayer which is held by  
35 a tax collector for the purpose of sending a tax notice or  
36 obtaining the consent of the taxpayer to the electronic  
37 transmission of a tax notice be made exempt from s. 119.07(1),  
38 Florida Statutes, and s. 24(a), Article I of the State  
39 Constitution. E-mail, rather than traditional postal mail, is  
40 increasingly used as a means for communicating and conducting  
41 business, including official state and local business such as  
42 the payment of taxes. In order to conduct business  
43 electronically with a tax collector, the taxpayer must report  
44 his or her personal e-mail address. Under current law, e-mail  
45 addresses are public records available to anyone for any  
46 purpose. However, such addresses are unique to the individual  
47 and, when combined with other personal identifying information,  
48 can be used for identity theft, taxpayer scams, and other  
49 invasive contacts. The public availability of personal e-mail  
50 addresses invites and exacerbates thriving and well-documented  
51 criminal activities and puts taxpayers at increased risk of  
52 harm. Such harm would be significantly curtailed by allowing a  
53 tax collector to preserve the confidentiality of taxpayer e-mail  
54 addresses.  
55 Section 3. This act shall take effect July 1, 2015.

Page 2 of 2

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





# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development, *Chair*  
Appropriations  
Commerce and Tourism  
Governmental Oversight and Accountability  
Regulated Industries  
Rules

**SENATOR JACK LATVALA**  
20th District

February 17, 2015

The Honorable Senator David Simmons, Chair  
Senate Committee on Rules  
402 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Simmons:

I respectfully request consideration of Senate Bill 200 regarding a Public Records Exemption for Taxpayers' Email Addresses by the Senate Committee on Rules. The bill was referred favorably by the Committee on Governmental Oversight and Accountability on February 17.

This bill will provide a public records exemption for the private email addresses of residents who receive electronic payment and notice documents directly from their tax collector.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack Latvala".

Jack Latvala  
State Senator  
District 20

Cc: John Phelps, Staff Director; Cissy DuBose, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/12/15

Amendment Barcode (if applicable)

SB 205

Topic Public Records / Tax Notices

Name Lisa Hurley

Job Title Legislative Director FL Assoc Counties

Address 100 S. Monroe St

Phone 850.922.4300

Street Tallahassee FL 32301

Email lhurley@fl-counties.com

City State Zip

Speaking:  For  Against  Information

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

Representing FL Assoc. of Counties

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

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

03/12/2015  
Meeting Date

SB200  
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Prevention of Taxpayer Fraud

Name Lisa Cullen

Job Title Tax Collector, Brevard County

Address 5165 Pine St

Phone 321-264-6930

Street Cocoa State FL Zip 32929

Email Lisa.Cullen@BrevardTC .Com

Speaking:  For  Against  Information

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

Representing Florida Tax Collectors Association

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

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

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

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

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

---

Prepared By: The Professional Staff of the Committee on Rules

---

BILL: SB 462

INTRODUCER: Senator Lee

SUBJECT: Family Law

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Brown</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

---

**I. Summary:**

SB 462 establishes the Collaborative Law Process Act in statute as the basic framework for a collaborative law process to facilitate the out-of-court settlement of dissolution of marriage and paternity cases. The process is a type of alternative dispute resolution, which employs collaborative attorneys, mental health professionals, and financial specialists to help the parties reach a consensus. The terms of the process are contained in a collaborative law participation agreement between the parties.

Under the bill, issues that may be resolved through the collaborative process, include but are not limited to:

- Alimony and child support;
- Marital property distribution;
- Child custody and visitation;
- Parental relocation with a child;
- Premarital, marital, and postmarital agreements; and
- Paternity.

The bill also defines under what circumstances the collaborative law process begins and ends. The collaborative law process begins when the parties enter into a collaborative law participation agreement. Under the bill, parties may enter into a collaborative law participation agreement before filing a petition with the court or while the legal proceeding is pending. The bill also allows for partial resolution of issues collaboratively, with the remainder to be resolved through the traditional adversarial process.

Under the bill, collaborative law communications, which are communications made as part of the collaborative process, are generally confidential and privileged from disclosure, not subject to discovery in a subsequent court proceeding, and inadmissible as evidence. However, the bill provides exceptions to the privilege.

The effect of the bill is contingent upon the adoption of implementing rules by the Florida Supreme Court.

## II. Present Situation:

### Collaborative Law Process

The collaborative law process, a type of alternative dispute resolution, is designed to facilitate the out-of-court settlement of dissolution of marriage cases. The process employs collaborative attorneys, mental health professionals, and financial specialists to help the parties reach consensus. The parties, attorneys, and team of professionals negotiate various terms, such as the distribution of property, alimony, and child visitation and support. A collaborative law participation agreement provides the structure for how the parties will proceed.

Once the parties reach agreement on a disputed matter, they sign and file with the court the marital settlement agreement.

The purported benefits of a collaborative divorce are that the process hastens resolution of disputed issues and that the total expenses of the parties are less than the parties would incur in traditional litigation. Although a comparison of costs is not available, the International Academy of Collaborative Professionals (IACP) studied 933 cases in which the parties agreed to the collaborative process.

The IACP found that:

- Eighty percent of all collaborative cases resolved within 1 year;
- Eighty six percent of the cases studied were resolved with a formal agreement and no court appearances; and
- The average fees for all professionals totaled \$24,185.<sup>1</sup>

Some jurisdictions disfavor the collaborative process for cases involving domestic violence, substance abuse, or severe mental illness.<sup>2</sup>

### History of Collaborative Law Movement

The collaborative law movement, starting in 1990, began to significantly expand after 2000.<sup>3</sup> Known as an interdisciplinary dispute resolution process, collaborative law envisions a collaborative team of professionals assembled to assist the divorcing couple in negotiating resolution of their issues.

Today, collaborative law is practiced in every state, in every English-speaking country, and in other countries.<sup>4</sup> Established in 2000, the International Academy of Collaborative Professionals

---

<sup>1</sup> Glen L. Rabenn, Marc R. Bertone, and Paul J. Toohey, *Collaborative Divorce – A Follow Up*, 55-APR Orange County Law 32, 36 (Apr. 2013).

<sup>2</sup> *Id.* at 36.

<sup>3</sup> John Lande and Forrest S. Mosten, *Family Lawyering: Past, Present, and Future*, 51 FAM. CT. REV. 20, 22 (Jan. 2013).

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

has more than 4,000 professionals as members from 24 countries.<sup>5</sup> In the United States, at least 30,000 attorneys and family professionals have been trained in the collaborative process.<sup>6</sup>

### **Uniform Collaborative Law Act of 2009**

In the United States, the Uniform Law Commission established the Uniform Collaborative Law Act of 2009 (amended in 2010). According to the ULC:

Collaborative Law is a voluntary dispute-resolution process in which clients agree that, with respect to a particular matter in dispute, their named counsel will represent them solely for purposes of negotiation, and, if the matter is not settled out of court that new counsel will be retained for purposes of litigation. The parties and their lawyers work together to find an equitable resolution of a dispute, retaining experts as necessary. The process is intended to promote full and open disclosure and, as is the case in mediation, information disclosed ... is privileged against use in any subsequent litigation. ... Collaborative Law is governed by a patchwork of state laws, state Supreme Court rules, local rules, and ethics opinions. The Uniform Collaborative Law Rules/Act (UCLR/A) is intended to create a uniform national framework for the use of Collaborative Law; one which includes important consumer protections and enforceable privilege provisions.<sup>7</sup>

Eleven states, Alabama, District of Columbia, Hawaii, Maryland, Michigan, Nevada, New Jersey, Ohio, Texas, Utah, and Washington have enacted the Uniform Collaborative Law Act. The Montana Legislature is considering a bill on the UCLA for the 2015 legislative session.<sup>8</sup> Seven states, including Florida, address the collaborative process through local court rules.<sup>9</sup>

An essential component of the Uniform Collaborative Law Act (UCLA) is the mandatory disqualification of the collaborative attorneys if the parties fail to reach an agreement or intend to engage in contested litigation. Once both collaborative lawyers are disqualified from further representation, the parties must start again with new counsel. “The disqualification provision thus creates incentives for parties and Collaborative lawyers to settle.”<sup>10</sup>

At least three sections of the American Bar Association have approved the UCLA—the Section of Dispute Resolution, the Section of Individual Right & Responsibilities, and the Family Law Section.<sup>11</sup> However, in 2011 when the ULC submitted the UCLA to the American Bar Association’s House of Delegates for approval, it was rejected. The disqualification provision

---

<sup>5</sup> *Id.*

<sup>6</sup> John Lande, *The Revolution in Family Law Dispute Resolution*, 24 J. AM. ACAD. MATRIM. LAW. 411, 430 (2012).

<sup>7</sup> Uniform Law Commission, *Uniform Collaborative Law Rules/Act Short Summary*  
[http://www.uniformlaws.org/Shared/Docs/Collaborative\\_Law/UCLA%20Short%20Summary.pdf](http://www.uniformlaws.org/Shared/Docs/Collaborative_Law/UCLA%20Short%20Summary.pdf).

<sup>8</sup> Illinois, Massachusetts, Michigan, New Jersey, Oklahoma, and South Carolina.  
<http://www.uniformlaws.org/Act.aspx?title=Collaborative%20Law%20Act> (last visited Feb. 19, 2015).

<sup>9</sup> California, Florida, Indiana, Kansas, Louisiana, Minnesota, and Wisconsin. Email correspondence with Meghan McCann, National Conference of State Legislatures (Feb. 19, 2015). At least four judicial circuits in Florida have adopted local court rules on collaborative law. These are the 9th, 11th, 13th, and 18th judicial circuits. Other circuits may however recognize the collaborative process in the absence of issuing a formal administrative order.

<sup>10</sup> Lande, *supra* note 6 at 429.

<sup>11</sup> New Jersey Law Revision Commission, *Final Report Relating to New Jersey Family Collaborative Law Act*, 5 (Jul. 23, 2013), <http://www.lawrev.state.nj.us/ucla/njfcLAFR0723131500.pdf>.

appears to have been the primary basis for the ABA's decision. Those within the ABA who objected to the UCLA have stated that the disqualification provision unfairly enables one party to disqualify the other party's attorney simply by terminating the collaborative process or initiating litigation.<sup>12</sup>

### **Florida Court System**

In the 1990s, the court system began to move towards establishing family law divisions and support services to accommodate families in conflict. In 2001, the Florida Supreme Court adopted the Model Family Court Initiative. This action by the Court combined all family cases, including dependency, adoption, paternity, dissolution of marriage, and child custody into the jurisdiction of a specially designated family court. The Court noted the need for these cases to have a "system that provide[s] nonadversarial alternatives and flexibility of alternatives; a system that preserve[s] rather than destroy[s] family relationships; ... and a system that facilitate[s] the process chosen by the parties."<sup>13</sup> The court also noted the need to fully staff a mediation program, anticipating that mediation can resolve a high percentage of disputes.<sup>14</sup>

In 2012, the Florida Family Law Rules committee proposed to the Florida Supreme Court a new rule 12.745, to be known as the Collaborative Process Rule.<sup>15</sup> In declining to adopt the rule, the court explained:

Given the possibility of legislative action addressing the use of the collaborative law process and the fact that certain foundations, such as training or certification of attorneys for participation in the process, have not yet been laid, we conclude that the adoption of a court rule on the subject at this time would be premature.<sup>16</sup>

Although the Florida Supreme Court has not adopted rules on collaborative law, at least four judicial circuits in Florida have adopted local court rules on collaborative law. These are the 9th, 11th, 13th, and 18th judicial circuits. Each of these circuits that have adopted local court rules on collaborative law include the requirement that an attorney disqualify himself or herself if the collaborative process is unsuccessful. Other circuits have recognized the collaborative process in the absence of issuing a formal administrative order.

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

#### **Collaborative Law Process Act**

SB 462 establishes the Collaborative Law Process Act (Act) as a basic framework for the collaborative law process, for use in dissolution of marriage and paternity cases. The collaborative law process, a type of alternative dispute resolution, is designed to facilitate the out-of-court settlement of dissolution of marriage cases. The process employs collaborative

---

<sup>12</sup> Andrew J. Meyer, *The Uniform Collaborative Law Act: Statutory Framework and the Struggle for Approval by the American Bar Association*, 4 Y.B. ON ARB. & MEDIATION 212, 216 (2012).

<sup>13</sup> *In re Report of Family Court Steering Committee*, 794 So. 2d 518, 523 (Fla. 2001).

<sup>14</sup> *Id.* at 520.

<sup>15</sup> *In Re: Amendments to the Florida Family Law Rules of Procedure*, 84 So. 3d 257 (March 15, 2012).

<sup>16</sup> *Id.*

attorneys, mental health professionals, and financial specialists to help the parties reach agreement.

By placing the Act in law, the bill offers another kind of alternative dispute resolution, besides mediation, to parties involved in dissolution of marriage and parentage cases. However, unlike mediation, which may be court-ordered, participation in the collaborative process is voluntary.<sup>17</sup>

The authority for the collaborative process provided in the bill is limited to issues governed by chapter 61, F.S. (Dissolution of Marriage; Support; Time-sharing) and chapter 742, F.S. (Determination of Parentage). More specifically, the following issues are proper issues for resolution through the collaborative law process:

- Marriage, divorce, dissolution, annulment, and marital property distribution;
- Child custody, visitation, parenting plan, and parenting time;
- Alimony, maintenance, child support;
- Parental relocation with a child;
- Premarital, marital, and postmarital agreements; and
- Paternity.

### **Beginning and End of Collaborative Process**

The bill defines the circumstances in which a collaborative law case begins and ends. The collaborative law process begins when the parties enter into a collaborative law participation agreement. The agreement governs the terms of how the process will proceed. Parties may enter into the agreement before or after filing a petition on dissolution of marriage or parentage with the court.

The collaborative law process concludes when issues are resolved and the parties sign the agreement. But the bill also allows for the collaborative law process to partially resolve the issues. If partially resolved, parties agree to reserve remaining issues for the court process.

Alternatively, a collaborative law process may terminate before any issues are resolved. The collaborative law process terminates when a party:

- Provides notice to the other parties that the process has ended;
- Begins a court proceeding without consent of the other party, or asks the court to place the proceeding on a court calendar;
- Initiates a pleading, motion, order to show cause, or requests a conference with a court; or
- Discharges a collaborative attorney or a collaborative attorney withdraws as counsel.

The bill allows the process to continue if a party hires a successor collaborative attorney to replace his or her previous attorney. The unrepresented party must hire, and identify in the agreement, a successor collaborative attorney within 30 days after providing notice that the party is unrepresented.

---

<sup>17</sup> Section 61.183(1), F.S., provides, in part: “In any proceeding in which the issues of parental responsibility, primary residence, access to, visitation with, or support of a child are contested, the court may refer the parties to mediation.”



In allowing parties to begin the process before or after filing a petition, partially resolve issues, and hire successor collaborative attorneys, parties can customize the process as they see fit.

### **Mandatory Disqualification**

This bill does not provide for mandatory disqualification of the collaborative attorneys if the process does not result in an agreement. Therefore, the primary incentive to encourage resolution is not in the Act. Although the bill conforms to the Uniform Collaborative Law Act in other respects, the failure to include mandatory disqualification is a significant departure from the UCLA. However, the disqualification concept could be part of implementing rules adopted by the Supreme Court.

The bill also departs from local court rules on collaborative divorce. All circuits in which courts have adopted local rules on the collaborative process require counsel to withdraw from further representation if the process breaks down and an agreement is not reached.<sup>18</sup>

### **Confidentiality and Privilege**

The bill generally provides that collaborative law communications are confidential and privileged from disclosure. As such, communications made during the collaborative law process are not subject to discovery or admissible as evidence.

The bill identifies a number of exceptions to the privilege. The privilege does not apply to communications if:

- The parties agree to waive privilege.
- A person makes a prejudicial statement during the collaborative law process. In this instance, preclusion applies to enable the person prejudiced to respond to the statement.
- A participant makes statements available to the public under the state's public records law or made during a meeting of the process that is required to be open to the public.
- A participant makes a threat, or describes a plan to inflict bodily injury.
- A participant makes a statement that is intentionally used to plan, commit, attempt to commit, or conceal a crime.
- A person seeks to introduce the statement in a claim or complaint of professional misconduct or malpractice arising from the collaborative law process.
- A person seeks to introduce the statement to prove or disprove abuse, neglect, abandonment, or exploitation of children or adults unless the Department of Children and Families is involved.
- A court finds that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in confidentiality, and the communication is sought or offered in a felony proceeding or a proceeding involving contract disputes.

---

<sup>18</sup> Order Authorizing Collaborative Process Dispute Resolution Model in the Ninth Judicial Circuit of Florida, Fla. Admin. Order No. 2008-06 (Mar. 28, 2008) (on file with Clerk, Fla. 9th Jud. Cir.); *In re: Authorizing the Collaborative Process Dispute Resolution Model in the Eleventh Judicial Circuit of Florida*, Fla. Admin Order No. 07-08 (Oct. 2007) (on file with Clerk, Fla. 11th Jud. Cir.); Collaborative Family Law Practice, Fla. Admin. Order No. S-2012-041 (Jul. 31, 2012) (on file with Clerk, Fla. 13th Jud. Cir.); *In re: Domestic Relations—Collaborative Conflict Resolution in Dissolution of Marriage Cases*, Fla. Admin. Order No. 14-04 Amended (Feb. 23, 2014) (on file with Clerk, Fla. 18th Jud. Cir.).

Other than the discrete categories of exceptions to the privilege, the bill provides a broad level of confidentiality and protection from disclosure to collaborative law communications. Additionally, disclosure is limited to only the part of the communication needed for the purpose of the disclosure. Parties will be encouraged to communicate openly during the collaborative law process.

#### **Rule Adoption by the Florida Supreme Court**

Although the bill becomes law July 1, 2015, provisions do not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility. Which issues addressed in the bill will be appropriate for placement in court rules on professional responsibility is unknown.

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

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

This bill does not contain a mandate because the bill does not affect cities or counties.

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

None.

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

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Although some family law attorneys already practice collaborative law in the state, the bill could theoretically expand the use of collaborative law as an alternative to traditional litigation in dissolution of marriage cases. To the extent that collaborative law reduces costs of litigation, parties undergoing divorce could benefit financially from electing to proceed in a collaborative manner.

##### **C. Government Sector Impact:**

The Office of the State Courts Administrator (OSCA) indicates that the bill could potentially decrease judicial workload due to fewer filings, hearings, and contested issues. Some judicial workload, however, could result from *in camera* hearings regarding privilege determinations. Due to the unavailability of data needed to quantifiably establish the impact on judicial or court workload, fiscal impact is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 61.55, 61.56, 61.57, and 61.58.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

By Senator Lee

24-00394A-15

2015462\_\_

1 A bill to be entitled  
 2 An act relating to family law; providing legislative  
 3 findings; providing a directive to the Division of Law  
 4 Revision and Information; creating s. 61.55, F.S.;  
 5 providing a purpose; creating s. 61.56, F.S.; defining  
 6 terms; creating s. 61.57, F.S.; providing that a  
 7 collaborative law process commences when the parties  
 8 enter into a collaborative law participation  
 9 agreement; prohibiting a tribunal from ordering a  
 10 party to participate in a collaborative law process  
 11 over the party's objection; providing the conditions  
 12 under which a collaborative law process concludes,  
 13 terminates, or continues; creating s. 61.58, F.S.;  
 14 providing for confidentiality of communications made  
 15 during the collaborative law process; providing  
 16 exceptions; providing that specified provisions do not  
 17 take effect until 30 days after the Florida Supreme  
 18 Court adopts rules of procedure and professional  
 19 responsibility; providing a contingent effective date;  
 20 providing effective dates.

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

23  
 24 Section 1. The Legislature finds and declares that the  
 25 purpose of this part is to:

26 (1) Create a system of practice for a collaborative law  
 27 process for proceedings under chapters 61 and 742, Florida  
 28 Statutes.

29 (2) Encourage the peaceful resolution of disputes and the

Page 1 of 10

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

24-00394A-15

2015462\_\_

30 early settlement of pending litigation through voluntary  
 31 settlement procedures.

32 (3) Preserve the working relationship between parties to a  
 33 dispute through a nonadversarial method that reduces the  
 34 emotional and financial toll of litigation.

35 Section 2. The Division of Law Revision and Information is  
 36 directed to create part III of chapter 61, Florida Statutes,  
 37 consisting of ss. 61.55-61.58, to be entitled the "Collaborative  
 38 Law Process Act."

39 Section 3. Section 61.55, Florida Statutes, is created to  
 40 read:

41 61.55 Purpose.—The purpose of this part is to create a  
 42 uniform system of practice for the collaborative law process in  
 43 this state. It is the policy of this state to encourage the  
 44 peaceful resolution of disputes and the early resolution of  
 45 pending litigation through a voluntary settlement process. The  
 46 collaborative law process is a unique nonadversarial process  
 47 that preserves a working relationship between the parties and  
 48 reduces the emotional and financial toll of litigation.

49 Section 4. Section 61.56, Florida Statutes, is created to  
 50 read:

51 61.56 Definitions.—As used in this part, the term:

52 (1) "Collaborative attorney" means an attorney who  
 53 represents a party in a collaborative law process.

54 (2) "Collaborative law communication" means an oral or  
 55 written statement, including a statement made in a record, or  
 56 nonverbal conduct that:

57 (a) Is made in the conduct of or in the course of  
 58 participating in, continuing, or reconvening for a collaborative

Page 2 of 10

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

24-00394A-15

2015462\_\_

59 law process; and

60 (b) Occurs after the parties sign a collaborative law  
 61 participation agreement and before the collaborative law process  
 62 is concluded or terminated.

63 (3) "Collaborative law participation agreement" means an  
 64 agreement between persons to participate in a collaborative law  
 65 process.

66 (4) "Collaborative law process" means a process intended to  
 67 resolve a collaborative matter without intervention by a  
 68 tribunal and in which persons sign a collaborative law  
 69 participation agreement and are represented by collaborative  
 70 attorneys.

71 (5) "Collaborative matter" means a dispute, transaction,  
 72 claim, problem, or issue for resolution, including a dispute,  
 73 claim, or issue in a proceeding which is described in a  
 74 collaborative law participation agreement and arises under  
 75 chapter 61 or chapter 742, including, but not limited to:

76 (a) Marriage, divorce, dissolution, annulment, and marital  
 77 property distribution.

78 (b) Child custody, visitation, parenting plan, and  
 79 parenting time.

80 (c) Alimony, maintenance, and child support.

81 (d) Parental relocation with a child.

82 (e) Parentage and paternity.

83 (f) Premarital, marital, and postmarital agreements.

84 (6) "Law firm" means:

85 (a) One or more attorneys who practice law in a  
 86 partnership, professional corporation, sole proprietorship,  
 87 limited liability company, or association; or

24-00394A-15

2015462\_\_

88 (b) One or more attorneys employed in a legal services  
 89 organization, the legal department of a corporation or other  
 90 organization, or the legal department of a governmental entity,  
 91 subdivision, agency, or instrumentality.

92 (7) "Nonparty participant" means a person, other than a  
 93 party and the party's collaborative attorney, who participates  
 94 in a collaborative law process.

95 (8) "Party" means a person who signs a collaborative law  
 96 participation agreement and whose consent is necessary to  
 97 resolve a collaborative matter.

98 (9) "Person" means an individual; a corporation; a business  
 99 trust; an estate; a trust; a partnership; a limited liability  
 100 company; an association; a joint venture; a public corporation;  
 101 a government or governmental subdivision, agency, or  
 102 instrumentality; or any other legal or commercial entity.

103 (10) "Proceeding" means a judicial, administrative,  
 104 arbitral, or other adjudicative process before a tribunal,  
 105 including related prehearing and posthearing motions,  
 106 conferences, and discovery.

107 (11) "Prospective party" means a person who discusses with  
 108 a prospective collaborative attorney the possibility of signing  
 109 a collaborative law participation agreement.

110 (12) "Record" means information that is inscribed on a  
 111 tangible medium or that is stored in an electronic or other  
 112 medium and is retrievable in perceivable form.

113 (13) "Related to a collaborative matter" means involving  
 114 the same parties, transaction or occurrence, nucleus of  
 115 operative fact, dispute, claim, or issue as the collaborative  
 116 matter.

24-00394A-15

2015462

117 (14) "Sign" means, with present intent to authenticate or  
 118 adopt a record, to:

119 (a) Execute or adopt a tangible symbol; or

120 (b) Attach to or logically associate with the record an  
 121 electronic symbol, sound, or process.

122 (15) "Tribunal" means a court, arbitrator, administrative  
 123 agency, or other body acting in an adjudicative capacity which,  
 124 after presentation of evidence or legal argument, has  
 125 jurisdiction to render a decision affecting a party's interests  
 126 in a matter.

127 Section 5. Section 61.57, Florida Statutes, is created to  
 128 read:

129 61.57 Beginning, concluding, and terminating a  
 130 collaborative law process.—

131 (1) The collaborative law process commences, regardless of  
 132 whether a legal proceeding is pending, when the parties enter  
 133 into a collaborative law participation agreement.

134 (2) A tribunal may not order a party to participate in a  
 135 collaborative law process over that party's objection.

136 (3) A collaborative law process is concluded by any of the  
 137 following:

138 (a) Resolution of a collaborative matter as evidenced by a  
 139 signed record;

140 (b) Resolution of a part of the collaborative matter,  
 141 evidenced by a signed record, in which the parties agree that  
 142 the remaining parts of the collaborative matter will not be  
 143 resolved in the collaborative law process; or

144 (c) Termination of the collaborative law process.

145 (4) A collaborative law process terminates when a party:

Page 5 of 10

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

24-00394A-15

2015462

146 (a) Gives notice to the other parties in a record that the  
 147 collaborative law process is concluded;

148 (b) Begins a proceeding related to a collaborative matter  
 149 without the consent of all parties;

150 (c) Initiates a pleading, motion, order to show cause, or  
 151 request for a conference with a tribunal in a pending proceeding  
 152 related to a collaborative matter;

153 (d) Requests that the proceeding be put on the tribunal's  
 154 active calendar in a pending proceeding related to a  
 155 collaborative matter;

156 (e) Takes similar action requiring notice to be sent to the  
 157 parties in a pending proceeding related to a collaborative  
 158 matter; or

159 (f) Discharges a collaborative attorney or a collaborative  
 160 attorney withdraws from further representation of a party,  
 161 except as otherwise provided in subsection (7).

162 (5) A party's collaborative attorney shall give prompt  
 163 notice to all other parties in a record of a discharge or  
 164 withdrawal.

165 (6) A party may terminate a collaborative law process with  
 166 or without cause.

167 (7) Notwithstanding the discharge or withdrawal of a  
 168 collaborative attorney, the collaborative law process continues  
 169 if, not later than 30 days after the date that the notice of the  
 170 discharge or withdrawal of a collaborative attorney required by  
 171 subsection (5) is sent to the parties:

172 (a) The unrepresented party engages a successor  
 173 collaborative attorney;

174 (b) The parties consent to continue the collaborative law

Page 6 of 10

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

24-00394A-15

2015462\_\_

175 process by reaffirming the collaborative law participation  
 176 agreement in a signed record;

177 (c) The collaborative law participation agreement is  
 178 amended to identify the successor collaborative attorney in a  
 179 signed record; and

180 (d) The successor collaborative attorney confirms his or  
 181 her representation of a party in the collaborative law  
 182 participation agreement in a signed record.

183 (8) A collaborative law process does not conclude if, with  
 184 the consent of the parties, a party requests a tribunal to  
 185 approve a resolution of a collaborative matter or any part  
 186 thereof as evidenced by a signed record.

187 (9) A collaborative law participation agreement may provide  
 188 additional methods for concluding a collaborative law process.

189 Section 6. Section 61.58, Florida Statutes, is created to  
 190 read:

191 61.58 Confidentiality of a collaborative law  
 192 communication.—Except as provided in this section, a  
 193 collaborative law communication is confidential to the extent  
 194 agreed by the parties in a signed record or as otherwise  
 195 provided by law.

196 (1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW  
 197 COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

198 (a) Subject to subsections (2) and (3), a collaborative law  
 199 communication is privileged as provided under paragraph (b), is  
 200 not subject to discovery, and is not admissible into evidence.

201 (b) In a proceeding, the following privileges apply:

202 1. A party may refuse to disclose, and may prevent another  
 203 person from disclosing, a collaborative law communication.

24-00394A-15

2015462\_\_

204 2. A nonparty participant may refuse to disclose, and may  
 205 prevent another person from disclosing, a collaborative law  
 206 communication of a nonparty participant.

207 (c) Evidence or information that is otherwise admissible or  
 208 subject to discovery does not become inadmissible or protected  
 209 from discovery solely because of its disclosure or use in a  
 210 collaborative law process.

211 (2) WAIVER AND PRECLUSION OF PRIVILEGE.—

212 (a) A privilege under subsection (1) may be waived orally  
 213 or in a record during a proceeding if it is expressly waived by  
 214 all parties and, in the case of the privilege of a nonparty  
 215 participant, if it is expressly waived by the nonparty  
 216 participant.

217 (b) A person who makes a disclosure or representation about  
 218 a collaborative law communication that prejudices another person  
 219 in a proceeding may not assert a privilege under subsection (1).  
 220 This preclusion applies only to the extent necessary for the  
 221 person prejudiced to respond to the disclosure or  
 222 representation.

223 (3) LIMITS OF PRIVILEGE.—

224 (a) A privilege under subsection (1) does not apply to a  
 225 collaborative law communication that is:

226 1. Available to the public under chapter 119 or made during  
 227 a session of a collaborative law process that is open, or is  
 228 required by law to be open, to the public;

229 2. A threat, or statement of a plan, to inflict bodily  
 230 injury or commit a crime of violence;

231 3. Intentionally used to plan a crime, commit or attempt to  
 232 commit a crime, or conceal an ongoing crime or ongoing criminal

24-00394A-15

2015462\_\_

233 activity; or

234 4. In an agreement resulting from the collaborative law  
 235 process, as evidenced by a record signed by all parties to the  
 236 agreement.

237 (b) The privilege under subsection (1) for a collaborative  
 238 law communication does not apply to the extent that such  
 239 collaborative law communication is:

240 1. Sought or offered to prove or disprove a claim or  
 241 complaint of professional misconduct or malpractice arising from  
 242 or relating to a collaborative law process; or

243 2. Sought or offered to prove or disprove abuse, neglect,  
 244 abandonment, or exploitation of a child or adult unless the  
 245 Department of Children and Families is a party to or otherwise  
 246 participates in the process.

247 (c) A privilege under subsection (1) does not apply if a  
 248 tribunal finds, after a hearing in camera, that the party  
 249 seeking discovery or the proponent of the evidence has shown  
 250 that the evidence is not otherwise available, the need for the  
 251 evidence substantially outweighs the interest in protecting  
 252 confidentiality, and the collaborative law communication is  
 253 sought or offered in:

254 1. A court proceeding involving a felony; or

255 2. A proceeding seeking rescission or reformation of a  
 256 contract arising out of the collaborative law process or in  
 257 which a defense is asserted to avoid liability on the contract.

258 (d) If a collaborative law communication is subject to an  
 259 exception under paragraph (b) or paragraph (c), only the part of  
 260 the collaborative law communication necessary for the  
 261 application of the exception may be disclosed or admitted.

24-00394A-15

2015462\_\_

262 (e) Disclosure or admission of evidence excepted from the  
 263 privilege under paragraph (b) or paragraph (c) does not make the  
 264 evidence or any other collaborative law communication  
 265 discoverable or admissible for any other purpose.

266 (f) The privilege under subsection (1) does not apply if  
 267 the parties agree in advance in a signed record, or if a record  
 268 of a proceeding reflects agreement by the parties, that all or  
 269 part of a collaborative law process is not privileged. This  
 270 paragraph does not apply to a collaborative law communication  
 271 made by a person who did not receive actual notice of the  
 272 collaborative law participation agreement before the  
 273 communication was made.

274 Section 7. Sections 61.55-61.58, Florida Statutes, as  
 275 created by this act, shall not take effect until 30 days after  
 276 the Florida Supreme Court adopts rules of procedure and  
 277 professional responsibility consistent with this act.

278 Section 8. Except as otherwise expressly provided in this  
 279 act, this act shall take effect July 1, 2015.





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations, *Chair*  
Appropriations Subcommittee on General  
Government  
Banking and Insurance  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission,  
*Alternating Chair*

**SENATOR TOM LEE**  
24th District

March 3, 2015

The Honorable David Simmons  
Senate Committee on Rules, Chair  
400 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399

Dear Chair Simmons,

I respectfully request that SB 462 related to *Family Law*, be placed on the Senate Rules Committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee  
Senator, District 24

Cc: John B. Phelps, Staff Director

**REPLY TO:**

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

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

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

---

Prepared By: The Professional Staff of the Committee on Rules

---

BILL: CS/CS/SB 234

INTRODUCER: Judiciary; Banking and Insurance Committee; and Senator Montford

SUBJECT: Motor Vehicle Insurance

DATE: March 11, 2015

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2. <u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
3. <u>Matiyow</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/CS/SB 234 revises the definitions of “motor vehicle insurance” and “policy” to increase the number of automobiles that may be insured on the same private passenger motor vehicle insurance policy. Existing law prohibits the writing of a personal automobile insurance policy that provides coverage for more than four automobiles on a single policy. As a result of the changes in this bill, vehicle owners may purchase, and insurance companies may issue, single policies that cover more than four private passenger motor vehicles.

**II. Present Situation:**

“Motor vehicle insurance,” as defined in the statutes,<sup>1</sup> is insurance issued to a natural person or one or more related individuals residing in the same household. The insurance policy provides coverage for private passenger automobiles that are not used as public or livery conveyances or rented to others or used in the occupation, profession, or business of the insured, unless that occupation, profession, or business is farming.

The current definitions of “motor vehicle insurance” and “policy”<sup>2</sup> limit to four the number of automobiles that may be insured on a single private passenger insurance policy. Some insurance industry officials believe that this is an antiquated statute that was written at a time when society was less mobile and people did not envision a family having a large number of vehicles. The

---

<sup>1</sup> Section 627.041(8), F.S.

<sup>2</sup> Section 627.728(1)(a)2., F.S.

Office of Insurance Regulation has speculated that the statute might have been written to make certain that small business owners did not attempt to insure commercial vehicles under the cover of a personal automobile policy.<sup>3</sup> Currently, if a consumer needs to insure more than four automobiles in a household, then he or she must obtain multiple insurance policies or what is referred to as a split policy. A policy that insures five or more vehicles is considered fleet insurance and treated as commercial insurance for areas of rating, notices of cancellation, renewal, and nonrenewal.<sup>4</sup>

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

This bill deletes the prohibition against insuring more than four automobiles in a single motor vehicle insurance policy. This is accomplished by amending the definitions of “motor vehicle insurance” and “policy” found in sections 627.041(8) and 627.728(1)(a)2., F.S. As a result, consumers may purchase, and insurers may issue, single policies that insure an unlimited number of private passenger motor vehicles.

The Office of Insurance Regulation has indicated that it has no concerns with the removal of this restriction from the statutes.

This bill takes effect July 1, 2015.

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

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

This bill does not appear to affect the spending, revenues, or tax authority of cities or counties. As such, the bill does not appear to be a mandate.

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

None.

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

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

---

<sup>3</sup> Office of Insurance Regulation, *2015 Agency Legislative Bill Analysis for Senate Bill 234* (Jan. 20, 2015) (on file with the Senate Committee on Judiciary).

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

**B. Private Sector Impact:**

Insurance companies might realize an administrative benefit and paperwork reduction by not having to write multiple policies where one single policy would be allowed under this bill.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: sections 627.041 and 627.728.

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

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

**CS/CS by Judiciary on March 3, 2015:**

The reenactment provisions in sections 3 and 4 are deleted from the bill because it was determined by Senate Bill Drafting that they are not necessary.

**CS by Banking and Insurance on February 3, 2015:**

The CS conforms the change to the definition of a motor vehicle insurance policy found in s. 627.041(8)(b), F.S., to the definition of a motor vehicle insurance policy found in s. 627.728(1)(a)2., F.S.

**B. Amendments:**

None.

By the Committees on Judiciary; and Banking and Insurance; and  
Senator Montford

590-01888-15

2015234c2

1 A bill to be entitled  
2 An act relating to motor vehicle insurance; amending  
3 s. 627.041, F.S.; revising the definition of the term  
4 "motor vehicle insurance" to include a policy that  
5 insures more than four automobiles; amending s.  
6 627.728, F.S.; revising the definition of the term  
7 "policy" to include a policy that insures more than  
8 four automobiles; providing an effective date.  
9  
10 Be It Enacted by the Legislature of the State of Florida:  
11  
12 Section 1. Subsection (8) of section 627.041, Florida  
13 Statutes, is amended to read:  
14 627.041 Definitions.—As used in this part:  
15 (8) "Motor vehicle insurance" means a policy of motor  
16 vehicle insurance delivered or issued for delivery in the state  
17 by an authorized insurer:  
18 (a) Insuring a natural person as the named insured or one  
19 or more related individuals resident of the same household, or  
20 both; and  
21 (b) Insuring a motor vehicle of the private passenger ~~type~~  
22 or station wagon type, which ~~motor vehicle~~ is not used as public  
23 or livery conveyance for passengers or rented to others, or  
24 insuring any other four-wheeled motor vehicle having a capacity  
25 of 1,500 pounds or less which is not used in the occupation,  
26 profession, or business of the insured, other than farming;  
27  
28 other than any policy issued under an automobile insurance risk  
29 apportionment plan; ~~or other than any policy insuring more than~~

Page 1 of 3

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

590-01888-15

2015234c2

30 ~~four automobiles, or other than~~ any policy covering garage,  
31 automobile sales agency, repair shop, service station, or public  
32 parking place operation hazards.  
33 Section 2. Paragraph (a) of subsection (1) of section  
34 627.728, Florida Statutes, is amended to read:  
35 627.728 Cancellations; nonrenewals.—  
36 (1) As used in this section, the term:  
37 (a) "Policy" means the bodily injury and property damage  
38 liability, personal injury protection, medical payments,  
39 comprehensive, collision, and uninsured motorist coverage  
40 portions of a policy of motor vehicle insurance delivered or  
41 issued for delivery in this state:  
42 1. Insuring a natural person as named insured or one or  
43 more related individuals resident of the same household; and  
44 2. Insuring only a motor vehicle of the private passenger  
45 ~~type~~ or station wagon type which is not used as a public or  
46 livery conveyance for passengers or rented to others; or  
47 insuring any other four-wheel motor vehicle having a load  
48 capacity of 1,500 pounds or less which is not used in the  
49 occupation, profession, or business of the insured other than  
50 farming; other than any policy issued under an automobile  
51 insurance assigned risk plan; ~~insuring more than four~~  
52 ~~automobiles,~~ or covering garage, automobile sales agency, repair  
53 shop, service station, or public parking place operation  
54 hazards.  
55  
56 The term "policy" does not include a binder as defined in s.  
57 627.420 unless the duration of the binder period exceeds 60  
58 days.

Page 2 of 3

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

590-01888-15

2015234c2

59

Section 3. This act shall take effect July 1, 2015.

**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 Rules

---

BILL: SB 7036  
INTRODUCER: Ethics and Elections Committee  
SUBJECT: Presidential Preference Primary  
DATE: March 11, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>RC</u>	<b>EE Submitted as Committee Bill</b>
	<u>Fox</u>	<u>Phelps</u>		<b>Favorable</b>

---

**I. Summary:**

SB 7036 sets the date for the Florida presidential preference primary on the 3<sup>rd</sup> Tuesday in March of each presidential election year, which has the immediate effect of moving the primary in 2016 from March 1 to March 15. This change will enable the State Republican Party to *choose* whether to hold a proportional or a “winner-take-all” primary without violating the national party rules.

The bill takes effect upon becoming law.

**II. Present Situation:**

Florida law, adopted in 2013, provides that the Presidential Preference Primary (“PPP”) for the major political parties takes place in a presidential election year on the earliest Tuesday that complies with the parties’ rules for delegate selection without incurring a penalty.<sup>1</sup> Pursuant to this statutory formula, the 2016 Florida PPP is currently scheduled for March 1, 2016.

The Democratic and Republican parties differ in the way in which they determine how delegates are pledged to vote for candidates at their national conventions. The Democrats mandate some form of proportional method in all 50 states and voting territories. Each candidate is awarded a number of delegates in proportion to their support in the primary or caucus.

The Republicans allow the states/territories to *choose* whether to award delegates proportionally or on a “winner-take-all” basis, where the candidate receiving the most overall votes receives all the pledged delegates. Florida Republican Party rules have traditionally adopted a “winner-take-

---

<sup>1</sup> Ch. 2013-57, § 20, LAWS OF FLA. (codified at Section 103.101(1), F.S.)

all” approach, which dangles a big prize in front of the candidates and is generally viewed as giving greater weight to the State and its issues during the nomination process.<sup>2</sup>

Other rules governing delegate selection are set out by the national parties. For the 2016 cycle, the *Republican National Committee* rules provide that only Iowa, New Hampshire, Nevada, and South Carolina may hold a primary or caucus *before* March 1; other states may begin holding their contests on March 1, but if they go prior to March 15 the delegates must be apportioned *proportionally*.<sup>3</sup> The first date for a “winner-take-all” primary under the current RNC rules is March 15, 2016. States (other than the four granted specific exemptions) conducting a “winner-take-all” primary between March 1 and March 14 will lose 50% of their delegates.<sup>4</sup>

From a practical standpoint, the 2016 primary calendar is very much in flux and will likely remain so for some time; it’s impossible to predict with any degree of certainty what the final calendar will look like.<sup>5</sup> A number of States are still operating with their 2012 dates in violation of the parties’ rules, but are expected to re-schedule their contests in the coming months. Realize, however, that even if a number of states go prior to March 15, 2016 — even some big states like Texas — delegates from those contests will have to be awarded *proportionally* (except, on the Republican side, for the four states granted specific exemptions). As long as there are two competitive candidates in a race, it follows that a March 15 Florida primary may well play an important role in determining the ultimate party nominee(s).

### III. Effect of Proposed Changes:

The bill sets the Florida PPP date on the *third Tuesday in March*, thereby moving back the 2016 primary from March 1 to March 15. This shift would allow the Florida Republican Party to choose whether to award all of its delegates to the winner of the primary, rather than proportionally as mandated by current Florida law and RNC rules.

Realize that this change to March 15, 2016, does not mandate a “winner-take-all” Republican primary; the Republican Party of Florida, pursuant to its internal politics, processes, and

---

<sup>2</sup> The current State party rule incorporates the proportional primary mandated by Florida law and the rules of the Republican National Committee. Republican Party of Florida, Party Rules of Procedure: Republican State Executive Committee, Rule 10 (January 6, 2014, revised); *see also, infra* notes 3-4 and accompanying text (discussing the RNC primary rules).

<sup>3</sup> Republican National Committee, The Rules of the Republican Party as Adopted by the 2012 Republican National Convention, Tampa, Florida, August 27, 2012 (amended by the Republican National Committee on April 12, 2013, January 24, 2014, May 9, 2014 & August 8, 2014)[hereinafter, 2016 RNC Rules], Rules 16(c)(1) and (c)(2), available at, [https://s3.amazonaws.com/prod-static-ngop-pbl/docs/Rules\\_of\\_the\\_Republican+Party\\_FINAL\\_S14090314.pdf](https://s3.amazonaws.com/prod-static-ngop-pbl/docs/Rules_of_the_Republican+Party_FINAL_S14090314.pdf). (last accessed Feb. 24, 2015). Since the Democratic National Committee mandates a proportional primary, its rules allow any state to schedule a primary/caucus as early as March 1, 2016, without penalty. (Iowa, New Hampshire, Nevada, and South Carolina are similarly granted preferential treatment to hold their contests earlier.) Democratic National Committee, Delegate Selection Rules for the 2016 Democratic National Convention (Proposed Draft) (adopted by the DNC on Aug. 23, 2014), Rules 8 and 11A., available at, [http://demrulz.org/wp-content/files/Proposed\\_Draft-2016\\_Delegate\\_Selection\\_Rules\\_8\\_23\\_14.pdf](http://demrulz.org/wp-content/files/Proposed_Draft-2016_Delegate_Selection_Rules_8_23_14.pdf) (last accessed Feb. 24, 2015).

<sup>4</sup> 2016 RNC Rules, Rule 17(a). States (other than the four granted specific exemptions) conducting any type of contest *prior to March 1* will suffer an even more draconian delegate penalty; in Florida’s case, the total delegate count would be reduced from almost 100 to 11. *Id.*

<sup>5</sup> Frontloading HQ, *2016 Presidential Primary Calendar*, available at <http://frontloading.blogspot.com/p/2016-presidential-primary-calendar.html> (last accessed Feb. 25, 2015).



procedures, still has the *final say* on what *type* of primary to conduct. The bill merely reinstates the “winner-take-all” option foreclosed by the national party rule change.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

In the past, some local governmental units have “piggybacked” their own elections onto the PPP in order to save some money. Given that the current statute does not establish a specific, immutable date for the election, it’s possible that this will be less of an issue in the 2016 election cycle. However, counties, municipalities, and local districts that have already pegged their local elections to the March 1 date published by the Secretary of State may incur some costs to reset them to the March 15 date envisioned in the bill. The number of impacted jurisdictions is indeterminate; however, the costs are expected to be minimal, unless a jurisdiction is unable to move its elections to the new date.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In 2008 and 2012, Florida “leapfrogged” most states to the front of the primary line.<sup>6</sup> The moves, in contravention of the parties’ rules, encouraged other states to move their primaries forward in

---

<sup>6</sup> In 2008, Michigan also moved its primary up in violation of party rules.

order not to get shut out of having a voice in the nomination process. This resulted in extremely accelerated, or “frontloaded,” primary seasons.

Moving to the forefront of the primary process *did* have its benefits. Florida enjoyed increased media coverage for its primary from national media outlets, and the focus of many candidates was on Florida’s issues right from the get-go. Further, many view John McCain’s 2008 victory in the Florida Republican Primary as the pivotal moment in garnering the party’s nomination.<sup>7</sup>

However, these benefits of going early were not without their corresponding costs; Florida delegations for both major parties incurred significant penalties as a result of the early primaries. The Republicans lost 50% of their delegates in both elections, and its delegation suffered a series of penalties and snafus as a result of being housed off-site for the 2012 Tampa convention.

On the Democratic side in 2008,<sup>8</sup> the move to an early primary resulted in uncertainty and confusion. All of the major candidates signed a pledge not to “officially” campaign in Florida (although the primary *was* held), but did come to Florida for fundraising events. The DNC initially stripped Florida of all of its delegates, resulting in an unsuccessful lawsuit filed by the State Democratic Party against the DNC. However, after a marathon, nationally-televised DNC Rules committee hearing, the Party reached a compromise and decided to seat the entire Florida delegation at the convention — although each delegate was only given half a vote.

#### **VIII. Statutes Affected:**

This bill substantially amends section 103.101 of the Florida Statutes.

#### **IX. Additional Information:**

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

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

None.

B. **Amendments:**

None.

---

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

---

---

<sup>7</sup> See, National Public Radio, *Early Florida Primary Could Sow Confusion, Not Clout* (December 27, 2011), available at, <http://www.npr.org/2011/12/27/143467282/it-s-complicated-projecting-the-relevance-of-florida-s-gop-primary> (last accessed Feb. 24, 2015) (McCain’s win in Florida was springboard to locking-up the nomination).

<sup>8</sup> President Barack Obama ran unopposed in Florida in the **2012** PPP election, so any discussion of penalties in that election is effectively moot.

By the Committee on Ethics and Elections

582-01886-15

20157036\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A bill to be entitled

An act relating to the presidential preference primary; amending s. 103.101, F.S.; revising the date of the presidential preference primary; providing an effective date.

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

Section 1. Subsection (1) of section 103.101, Florida Statutes, is amended to read:

103.101 Presidential preference primary.—

(1) Each political party other than a minor political party shall, at the presidential preference primary, elect one person to be the party's candidate for nomination for President of the United States or select delegates to the party's national nominating convention, as provided by party rule. The presidential preference primary shall be held on the third in ~~each year the number of which is a multiple of 4 on the first Tuesday in March of each presidential election year that the~~ rules of the major political parties provide for state delegations to be allocated without penalty. Any party rule directing the vote of delegates at a national nominating convention shall reasonably reflect the results of the presidential preference primary, if one is held.

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

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

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

---

Prepared By: The Professional Staff of the Committee on Rules

---

BILL: SB 7008

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Licensure Examination Questions/Board of Funeral, Cemetery, and Consumer Services

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Billmeier</u>	<u>Knudson</u>		<b>BI Submitted as Committee Bill</b>
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Billmeier</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

---

**I. Summary:**

SB 7008 is the result of an Open Government Sunset Review (OGSR) by the Banking and Insurance Committee professional staff of the public-meeting exemption for portions of meetings of the Board of Funeral, Cemetery, and Consumer Services (“board”) at which licensure examination questions or answers are discussed. The exemption also includes the recording of the portion of the meeting that is closed for discussion of licensure examination questions or answers.

The board enforces provisions of Chapter 497, F.S., relating to funeral and cemetery services. It also has broad authority over licensure and examination of applicants for various licenses. That authority includes specifying the content of examinations for licensure, striking any examination question determined before or after an examination to be inappropriate, and specifying which national examinations shall or shall not be required or accepted in Florida.

Current law provides that those portions of meetings of the board at which licensure examination questions or answers are discussed are exempt from public meetings requirements. The closed meeting must be recorded, and no portion of the closed meeting may be off the record. The recording shall be maintained by the board. The recording of a closed portion of a meeting is exempt from public record requirements. These exemptions will expire on October 2, 2015, unless reenacted. This bill repeals the scheduled expiration of the public meetings exemption and takes effect on October 1, 2015.

## II. Present Situation:

### Public Records and Open Meetings Requirements

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

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act<sup>4</sup> guarantees every person's right to inspect and copy any state or local government public record.<sup>5</sup> The Sunshine Law<sup>6</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>7</sup>

The Legislature may create an exemption to public records or open meetings requirements.<sup>8</sup> An exemption must specifically state the public necessity justifying the exemption<sup>9</sup> and must be tailored to accomplish the stated purpose of the law.<sup>10</sup>

---

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

<sup>2</sup> FLA. CONST., art. I, s. 24(b).

<sup>3</sup> FLA. CONST., art. I, s. 24(b).

<sup>4</sup> Chapter 119, F.S.

<sup>5</sup> Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.

<sup>6</sup> Section 286.011, F.S.

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

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

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

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

## Open Government Sunset Review Act

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

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>13</sup> An exemption serves an identifiable purpose if it meets one of the following criteria:

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

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida’s open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.<sup>17</sup>

The OGSR also requires specific questions to be considered during the review process.<sup>18</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>19</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>20</sup>

---

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

<sup>12</sup> Section 119.15(3), F.S.

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

<sup>14</sup> Section 119.15(6)(b)1., F.S.

<sup>15</sup> Section 119.15(6)(b)2., F.S.

<sup>16</sup> Section 119.15(6)(b)3., F.S.

<sup>17</sup> Section 119.15(6)(b), F.S.

<sup>18</sup> Section 119.15(6)(a), F.S. The specified questions are:

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

<sup>19</sup> FLA. CONST., art. I, s. 24(c).

<sup>20</sup> Section 119.15(7), F.S.

## **Board of Funeral, Cemetery, and Consumer Services**

Current law creates the Board of Funeral, Cemetery, and Consumer Services.<sup>21</sup> The board enforces provisions of Chapter 497, F.S., relating to funeral and cemetery services. The board has broad authority over licensure and examination of applicants for various licenses including:

- Authority to determine any and all criteria for licensure;
- Authority to specify who may conduct practical examination;
- Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade;
- Authority to strike any examination question determined before or after an examination to be inappropriate for any reason;
- Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure;
- Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination; and
- Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.<sup>22</sup>

Current law provides that those portions of meetings of the board at which licensure examination questions or answers are discussed are exempt from the public meetings requirements of s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution. The closed meeting must be recorded, and no portion of the closed meeting may be off the record. The recording shall be maintained by the board. The recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. In 2010, the Legislature made the following findings when it created the public record exemption for portions of the meeting that are closed:

The Legislature finds that it is a public necessity to make exempt from public records requirements the recording generated during those portions of meetings of the Board of Funeral, Cemetery, and Consumer Services at which licensure examination questions or answers are discussed. The release of such recordings would compromise those discussions of the board which took place during a closed meeting and would negate the public meeting exemption. Further, current law already provides a public record exemption for licensure examination questions and answers. As such, release of the recording generated during those closed portions of meetings would compromise the current protections already afforded such questions and answers. Thus, the effective and efficient administration of the licensure examination process would be compromised without this exemption.<sup>23</sup>

---

<sup>21</sup> Section 497.101(1), F.S.

<sup>22</sup> Section 497.103(1)(a)-(g), F.S.

<sup>23</sup> Chapter 2010-76, Laws of Florida, section 2.

The Department of Financial Services (Department) reports that it has never closed a meeting to discuss licensure examination questions and answers,<sup>24</sup> however, the Department plans to revise its examination in 2015, and it will be necessary to close one or more board meetings to discuss those changes. The Department recommends continuing the exemption so that applicants will not have advance notice of what will be included on the licensing examination.<sup>25</sup>

The OGSR provides that an exemption may only be maintained if it serves an identifiable public purpose and is no broader than necessary to serve that purpose. The exemptions maintained in this bill could be found to allow the state “to effectively and efficiently administer a governmental program” and administration of the program “would be significantly impaired without the exemption.”<sup>26</sup> The examination and licensing functions of the Board of Funeral, Cemetery, and Consumer Services would be significantly impaired if this exemption is not continued.

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

This bill continues the public-meeting exemption for portions of the board meetings at which licensure examination questions or answers are discussed by repealing the scheduled expiration of the exemption. The board continues to be required to record the closed meeting and maintain the recording. This bill also continues the public record exemption for the recording of the portion of the meeting that is closed for discussion of licensure examination questions or answers.

This bill takes effect October 1, 2015.

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

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

None.

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

This bill continues a current exemption but does not expand the scope of an existing public records exemption; therefore, a simple majority vote of the members present and voting in each house of the Legislature is required for passage.

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

None.

---

<sup>24</sup> Open Government Sunset Review Questionnaire completed by the Department of Financial Services (on file with the Banking and Insurance Committee).

<sup>25</sup> Bill Analysis from Department of Financial Services, dated February 11, 2015.

<sup>26</sup> Section 119.15(6)(b)1., F.S.



**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 497.172 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

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

None.

## B. Amendments:

None.

By the Committee on Banking and Insurance

597-01474-15

20157008\_\_

1 A bill to be entitled  
 2 An act relating to a review under the Open Government  
 3 Sunset Review Act; amending s. 497.172, F.S., relating  
 4 to an exemption from public meeting requirements for  
 5 portions of meetings of the Board of Funeral,  
 6 Cemetery, and Consumer Services within the Department  
 7 of Financial Services at which licensure examination  
 8 questions or answers are discussed; saving the  
 9 exemption from repeal under the Open Government Sunset  
 10 Review Act; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Subsection (1) of section 497.172, Florida  
 15 Statutes, is amended to read:

16 497.172 Public records exemptions; public meetings  
 17 exemptions.—

18 (1) EXAMINATION DEVELOPMENT MEETINGS.—

19 (a) Those portions of meetings of the board at which  
 20 licensure examination questions or answers under this chapter  
 21 are discussed are exempt from s. 286.011 and s. 24(b), Art. I of  
 22 the State Constitution. The closed meeting must be recorded, and  
 23 no portion of the closed meeting may be off the record. The  
 24 recording shall be maintained by the board.

25 (b) The recording of a closed portion of a meeting is  
 26 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 27 Constitution.

28 ~~(c) This subsection is subject to the Open Government~~  
 29 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~

Page 1 of 2

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

597-01474-15

20157008\_\_

30 ~~repealed on October 2, 2015, unless reviewed and saved from~~  
 31 ~~repeal through reenactment by the Legislature.~~  
 32 Section 2. This act shall take effect October 1, 2015.

Page 2 of 2

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

**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 Rules

---

BILL: SB 7010

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Examination Techniques or Procedures/Office of Financial Regulation

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Matiyow</u>	<u>Knudson</u>		<b>BI Submitted as Committee Bill</b>
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Matiyow</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

---

**I. Summary:**

SB 7010 is the result of an Open Government Sunset Review (OGSR) by the Banking and Insurance Committee staff of a public records exemption in s. 517.2016, F.S., for certain information held by the Office of Financial Regulation (OFR).

In 2010, the Florida Legislature enacted s. 517.2016, F.S., to create a public records exemption relating to the regulation of Securities. The Florida Securities and Investor Protection Act (Act) governs the regulation of securities transactions in Florida. The State's Office of Financial Regulation (OFR) is designated as the regulator to enforce the Act in Florida. The OFR may make investigations and examinations within or outside of Florida as it deems necessary. Section 517.2016, F.S., protects information that would reveal examination techniques or procedures used by the OFR pursuant to the Act. Such Information may be provided by the OFR to another governmental entity having oversight or regulatory or law enforcement authority.

The exemption is scheduled to expire on October 2, 2015, unless reenacted by the Legislature. This bill continues the exemption by repealing the scheduled expiration. The bill does not expand the scope of the public records exemption.

The bill takes effect October 1, 2015.

**II. Present Situation:**

**Public Records and Open Meetings Requirements**

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on

their behalf.<sup>1</sup> The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.<sup>2</sup> The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.<sup>3</sup>

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act<sup>4</sup> guarantees every person's right to inspect and copy any state or local government public record.<sup>5</sup> The Sunshine Law<sup>6</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>7</sup>

The Legislature may create an exemption to public records or open meetings requirements.<sup>8</sup> An exemption must specifically state the public necessity justifying the exemption<sup>9</sup> and must be tailored to accomplish the stated purpose of the law.<sup>10</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (referred to hereafter as the "OGSR") prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>11</sup> The OGSR provides that an exemption automatically repeals on October

---

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

<sup>2</sup> FLA. CONST., art. I, s. 24(b).

<sup>3</sup> FLA. CONST., art. I, s. 24(b).

<sup>4</sup> Chapter 119, F.S.

<sup>5</sup> Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.

<sup>6</sup> Section 286.011, F.S.

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

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

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

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

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

2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>12</sup>

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>13</sup> An exemption serves an identifiable purpose if it meets one of the following criteria:

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

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.<sup>17</sup>

The OGSR also requires specific questions to be considered during the review process.<sup>18</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>19</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>20</sup>

## Regulation of Securities

The securities industry is subject to both federal and state laws and regulations. The primary federal regulator is the Securities and Exchange Commission (SEC), which oversees the key

---

<sup>12</sup> Section 119.15(3), F.S.

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

<sup>14</sup> Section 119.15(6)(b)1., F.S.

<sup>15</sup> Section 119.15(6)(b)2., F.S.

<sup>16</sup> Section 119.15(6)(b)3., F.S.

<sup>17</sup> Section 119.15(6)(b), F.S.

<sup>18</sup> Section 119.15(6)(a), F.S. The specified questions are:

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

<sup>19</sup> FLA. CONST., art. I, s. 24(c).

<sup>20</sup> Section 119.15(7), F.S.

participants in the securities industry such as securities exchanges, securities brokers and dealers, investment advisors, and mutual funds.<sup>21</sup> The SEC is concerned primarily with promoting the disclosure of important market-related information, maintaining fair dealing, and protecting against fraud.

The Financial Industry Regulatory Authority (FINRA), an independent, not-for-profit organization, also is an important regulatory body.<sup>22</sup> FINRA performs a number of functions, including registering and educating securities industry participants. FINRA operates the Central Registration Depository and the Investment Adviser Registration Depository, which are central databases for registering, reporting, and disclosing information within the securities industry.

The state's Office of Financial Regulation (OFR), through the Division of Securities, regulates the sale of securities in, to, or from Florida by firms, branch offices and individuals affiliated with these firms to determine compliance with Florida law. A securities dealer or investment adviser is prohibited from conducting business from a branch office in Florida unless the branch office is registered with the OFR.<sup>23</sup> A "branch office" is "any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security."<sup>24</sup> It also includes any location that is held out as a place where such actions occur is also a branch office.

### **Florida Securities and Investor Protection Act**

The Florida Securities and Investor Protection Act (Act)<sup>25</sup> governs the regulation of securities transactions in Florida. The Office of Financial Regulation (OFR) is designated as the regulator to enforce the Act. The OFR may make investigations and examinations within or outside of Florida as it deems necessary to:

- determine whether a person has violated or is about to violate any provision of the Act or a rule or order under the Act; or
- aid in the enforcement of the Act.<sup>26</sup>

### **Investigations and Examinations**

Current law provides a public records exemption for information related to investigations and examinations conducted by the OFR pursuant to the Act.<sup>27</sup> Information relevant to an investigation or examination by the OFR, including any consumer complaint, is confidential and exempt from public records requirements until the investigation or examination is completed or ceases to be active.<sup>28</sup> However, the information remains confidential and exempt if the OFR submits it to any law enforcement or administrative agency or regulatory organization for further

---

<sup>21</sup> See <http://www.sec.gov/about/whatwedo.shtml> (Accessed January 22, 2015).

<sup>22</sup> See <http://www.finra.org/AboutFINRA/P125239> (Accessed January 22, 2015).

<sup>23</sup> Section 517.12(5), F.S.

<sup>24</sup> Section 517.021(4), F.S.

<sup>25</sup> Chapter 517, F.S.

<sup>26</sup> Section 517.201(1)(a), F.S.

<sup>27</sup> Section 517.2016, F.S.

<sup>28</sup> Section 517.2015(1)(a), F.S.

investigation.<sup>29</sup> In addition, certain information remains confidential and exempt after the investigation or examination is completed or ceases to be active,<sup>30</sup> including information that would disclose investigative techniques or procedures.

The OFR employs various methods, processes and guidelines to examine and evaluate regulatory compliance.<sup>31</sup> According to the OFR, maintaining the confidentiality of examination techniques and procedures are essential for protecting the integrity of the examination programs that they use to regulate the securities industry. If these investigative tools are made public through open records requests or other means, the securities industry could use them to thwart effective examinations, cover up illegal conduct, and otherwise circumvent the law.<sup>32</sup>

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

This bill removes the scheduled repeal date of October 2, 2015, for s. 517.2016, F.S., the public records exemption for examination techniques and procedures used by the OFR.

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

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

None.

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

This bill continues a current exemption but does not expand the scope of an existing public records exemption; therefore, a simple majority vote of the members present and voting in each house of the Legislature is required for passage.

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

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

---

<sup>29</sup> Section 517.2015(1)(a), F.S.

<sup>30</sup> For purposes of the exemption, an investigation or examination is considered “active” so long as OFR or any law enforcement or administrative agency or regulatory organization is proceeding with reasonable dispatch and has a reasonable good faith belief that the investigation or examination may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional grant of a license, registration, or permit. Section 517.2015(1)(a), F.S.

<sup>31</sup> Section 517.2016(1) F.S.

<sup>32</sup> Email from OFR staff received September 2, 2014 on file with Banking and Insurance staff.

**C. Government Sector Impact:**

According to the OFR being a member state of NASAA allows the OFR the ability to leverage its limited resources and save on regulatory costs.<sup>33</sup> In order for the OFR to remain a member of NASAA the public record exemption on examinations and techniques of securities may not be permitted to sunset.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 517.2016 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

---

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

---

---

<sup>33</sup> Email from OFR staff received September 2, 2014 on file with Banking and Insurance staff.



By the Committee on Banking and Insurance

597-01475-15

20157010\_\_

1 A bill to be entitled  
 2 An act relating to a review under the Open Government  
 3 Sunshine Act; amending s. 517.2016, F.S., relating to  
 4 an exemption from public records requirements for  
 5 information that would reveal examination techniques  
 6 or procedures used by the Office of Financial  
 7 Regulation under the Florida Securities and Investor  
 8 Protection Act; saving the exemption from repeal under  
 9 the Open Government Sunshine Act; making technical  
 10 changes; providing an effective date.  
 11

12 Be It Enacted by the Legislature of the State of Florida:  
 13

14 Section 1. Section 517.2016, Florida Statutes, is amended  
 15 to read:

16 517.2016 Public records exemption; examination techniques  
 17 or ~~and~~ procedures.—

18 (1) As used in ~~For purposes of~~ this section, the term  
 19 "examination techniques or ~~and~~ procedures" means ~~are~~ the  
 20 methods, processes, and guidelines used to evaluate regulatory  
 21 compliance and to collect and analyze data, records, and  
 22 testimony for the purpose of documenting violations of this  
 23 chapter and the rules adopted ~~promulgated~~ thereunder.

24 (2) Information that would reveal examination techniques or  
 25 procedures used by the office pursuant to this chapter is  
 26 confidential and exempt from s. 119.07(1) and s. 24(a), Art.I  
 27 of the State Constitution. This exemption applies to such  
 28 information held by the office before, on, or after the  
 29 effective date of this exemption.

Page 1 of 2

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

597-01475-15

20157010\_\_

30 (3) Confidential and exempt information that would reveal  
 31 examination techniques or procedures may be provided by the  
 32 office to another governmental entity having oversight or  
 33 regulatory or law enforcement authority.  
 34 ~~(4) This section is subject to the Open Government Sunset~~  
 35 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
 36 ~~on October 2, 2015, unless reviewed and saved from repeal~~  
 37 ~~through reenactment by the Legislature.~~  
 38 Section 2. This act shall take effect October 1, 2015.

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Agriculture  
Appropriations  
Appropriations Subcommittee on Education  
Education Pre-K - 12  
Health Policy  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

### SENATOR BILL GALVANO

Majority Leader  
26th District

March 12, 2015

Senator David Simmons  
400 SOB  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Simmons:

I am writing to respectfully request approval to be excused from today's Committee on Rules meeting. I apologize for the delay in requesting this excusal.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Galvano".

Bill Galvano

cc.: John Phelps  
Cissy DuBose

REPLY TO:

- 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205 (941) 741-3401
- 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

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

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

3/12/15  
O.K.  
JMS

# CourtSmart Tag Report

Room: EL 110  
Caption: Senate Rules Committee

Case:  
Judge:

Type:

Started: 3/12/2015 9:00:43 AM  
Ends: 3/12/2015 10:00:01 AM Length: 00:59:19

9:00:45 AM Senator Simmons calls the meeting to order  
9:00:51 AM Roll call - quorum present  
9:02:21 AM CS/CS/SB 234  
9:02:40 AM Senator Montford explains the bill  
9:03:48 AM Senator Montford waives close  
9:04:01 AM Roll Call  
9:04:08 AM CS/CS/SB 234 reported favorably  
9:04:53 AM SM 866  
9:05:41 AM Senator Flores explains the bill  
9:10:31 AM Senator Joyner speaks in debate  
9:11:18 AM Senator Diaz de la Portilla speaks in debate  
9:15:07 AM Senator Flores closes on the bill  
9:16:46 AM Roll call  
9:17:46 AM SM 866 reported favorably  
9:18:55 AM SB 462  
9:19:07 AM Senator Lee explains the bill  
9:21:10 AM Senator Gibson with a question  
9:21:28 AM Senator Lee answers  
9:22:25 AM Senator Lee waives close  
9:22:38 AM Roll call  
9:22:44 AM SB 462 reported favorably  
9:23:31 AM CS/SB 594  
9:23:46 AM Senator Stargel explains the bill  
9:24:26 AM Lance Pierce, Asst. Director, State Legislative Affairs, representing Florida Farm Bureau waives in support  
9:24:47 AM Lena Juarez, Florida Agritourism Association, waives in support  
9:25:20 AM Jonathan Rees, Deputy Director, representing Florida Department of Agriculture and Consumer Services waives in support  
9:25:53 AM Senator Stargel waives close  
9:26:00 AM Roll call CS/SB 594 reported favorably  
9:26:13 AM SB 7004  
9:26:25 AM Senator Stargel explains the bill  
9:26:40 AM Senator Gaetz with a question  
9:26:53 AM Senator Stargel answers  
9:27:25 AM Senator Stargel waives close  
9:27:55 AM Roll call - SB 7004 reported favorably  
9:28:11 AM CS/SB 200  
9:28:16 AM Senator Latvala explains the bill  
9:29:47 AM Senator Soto with a question  
9:29:55 AM Senator Latvala answers  
9:30:12 AM Senator Joyner speaks  
9:30:25 AM Senator Joyner with a question  
9:31:10 AM Senator Simmons speaks  
9:31:24 AM Lisa Cullen, Tax Collector, Brevard County representing Florida Tax Collectors Association, speaks in favor of the bill  
9:33:06 AM Senator Latvala speaks on the bill  
9:34:19 AM Senator Joyner asks a question  
9:35:00 AM Lisa Cullen answers  
9:35:14 AM Senator Joyner speaks  
9:35:24 AM Senator Soto with a question  
9:35:31 AM Lisa Cullen answers  
9:36:13 AM Lisa Hurley, Legislative Director, Florida Association of Counties waives in support

9:36:39 AM Senator Latvala closes on the bill  
9:37:43 AM Roll call - CS/SB 200 reported favorably  
9:38:18 AM CS/SB 290  
9:38:28 AM Senator Brandes explains the bill  
9:38:50 AM Amendment 629724 by Senator Negron  
9:39:11 AM Senator Brandes explains the amendment  
9:39:38 AM Senator Brandes waives close on the amendment  
9:39:49 AM Amendment is adopted  
9:39:57 AM Back to the bill as amended  
9:40:06 AM Senator Latvala with a question  
9:40:18 AM Senator Brandes answers  
9:40:41 AM Senator Latvala with a question  
9:40:55 AM Senator Brandes answers  
9:41:16 AM Senator Montford asks a question  
9:41:36 AM Senator Brandes answers  
9:42:13 AM Senator Joyner with a question  
9:42:46 AM Senator Brandes answers  
9:43:34 AM Senator Gaetz with a question  
9:44:15 AM Senator Brandes answers  
9:44:49 AM Senator Gibson with a question  
9:45:05 AM Senator Brandes answers  
9:45:10 AM Senator Gibson with another question  
9:45:25 AM Senator Brandes answers  
9:46:07 AM Senator Gibson with a follow-up question  
9:46:21 AM Senator Brandes answers  
9:47:50 AM Marion Hammer, National Rifle Association, Unified Sportsmen of Florida, speaks for the bill  
9:49:42 AM Stephan Dembinsky, Director, Daytona Beach Shores Police Department, representing The Florida  
Police Chiefs Assoc  
9:50:08 AM waives in support  
9:50:24 AM Senator Soto speaks in debate  
9:50:51 AM Senator Brandes waives close  
9:51:00 AM Roll call - CS/CS/SB 290 reported favorably  
9:51:46 AM SB 7036  
9:51:53 AM Senator Richter explains the bill  
9:52:26 AM Senator Soto with a question  
9:52:33 AM Senator Richter answers  
9:53:25 AM Senator Richter waives close  
9:53:29 AM Roll call - SB 7036 reported favorably  
9:54:04 AM SB 7008  
9:54:22 AM Senator Benacquisto explains the bill  
9:55:00 AM Senator Benacquisto waives close  
9:55:11 AM Roll call - SB 7008 reported favorably  
9:55:41 AM SB 7010  
9:55:48 AM Senator Benacquisto explains the bill  
9:56:35 AM Senator Benacquisto waives close  
9:56:37 AM Roll call - SB 7010 reported favorably  
9:58:45 AM Senator Montford recognizes local officials from Gadsden County  
9:59:47 AM Senator Montford moves we rise - meeting adjourned