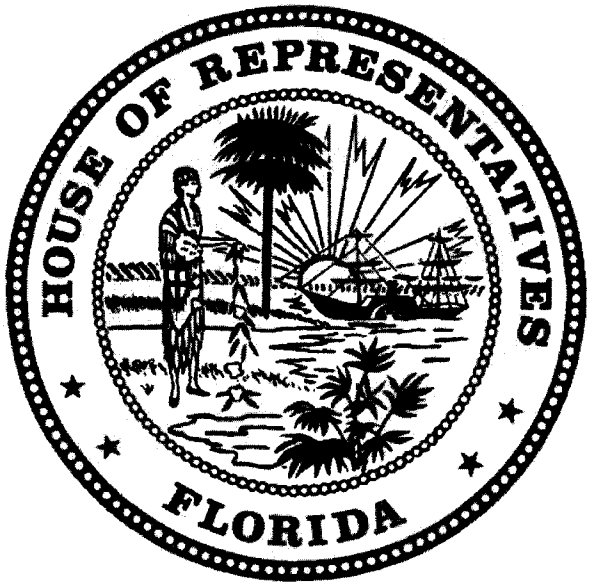

Appropriations Committee

Wednesday, January 29, 2020
12:30 PM – 2:30 PM
Webster Hall (212 Knott Building)

Committee Meeting Packet

Jose Oliva
Speaker

W. Travis Cummings
Chair

The Florida House of Representatives

Appropriations Committee

Jose Oliva
Speaker

W. Travis Cummings
Chair

AGENDA

Wednesday, January 29, 2020
212 Knott Building (Webster Hall)
12:30 PM – 2:30 PM

I. Call to Order/Roll Call

II. Opening Remarks by Chair Cummings

III. Consideration of the following bill(s):

HB 43 Child Welfare by Latvala, Valdés
CS/HB 187 Postsecondary Education for Secondary Students by PreK-12 Innovation Subcommittee, Zika, Valdés
CS/HB 259 Compensation for Wrongful Incarceration by Criminal Justice Subcommittee, DuBose
HB 593 Disability Retirement Benefits by Williamson
HB 641 Funds for the Operation of Schools by Plasencia, Overdorf
HB 711 Hospital, Hospital System, or Provider Organization Transactions by Burton
CS/HB 747 Coverage for Air Ambulance Services by Health Market Reform Subcommittee, Williamson
HB 953 Charter Schools by McClain
HB 1073 Statewide Office of Resiliency by Stevenson
HB 1157 Florida Land Subsidence Research Initiative by Ingoglia
CS/HB 1203 Pathways to Career Opportunities by Higher Education & Career Readiness Subcommittee, Mariano
HB 7037 Constitutional Amendments Proposed By Initiative by Judiciary Committee, Grant, J.

IV. Closing Remarks and Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4810

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 43 Child Welfare
SPONSOR(S): Latvala, Valdes & others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 0 N	Woodruff	Brazzell
2) Appropriations Committee		Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Jordan Belliveau, Jr., was murdered by his mother in September 2018 when he was two-years-old. At the time of Jordan's death, reunification with his mother and father had occurred but the family was under court supervision and receiving post-reunification services. Due to lack of communication to the court, lack of communication between law enforcement and the Department of Children and Families (DCF), and lack of evidence provided by case management regarding the parent's case plan compliance, ongoing family issues that provided an unsafe home environment for Jordan were never addressed.

HB 43 is entitled "Jordan's Law" and addresses some issues that arose in his dependency case.

The bill creates a communication process between DCF and law enforcement by requiring the systems used by both agencies to connect in a way that allows the Florida Department of Law Enforcement (FDLE) to make available to law enforcement agencies information that a person is a parent or caregiver involved in the child welfare system. The bill further requires that if a law enforcement officer interacts with such a person and has concerns for a child's health, safety, or well-being, the officer shall contact the Florida central abuse hotline so the hotline can provide relevant information to individuals involved in the child's case.

The bill amends several statutes to require child welfare professionals and law enforcement officers to receive training on the recognition of, and responses to, head trauma and brain injury in a child under six years of age.

The bill amends s. 409.988(3), F.S., to include intensive family reunification services that combine child welfare and mental health services for families with dependent children under six years of age.

Finally, the bill amends s. 409.996, F.S., authorizing DCF to select up to three lead agencies to develop and implement a program to improve case management services for dependent children under six years of age.

The bill has a negative, nonrecurring fiscal impact to DCF and FDLE, no fiscal impact to the Guardian ad Litem program, and an indeterminate impact to the Community-based care lead agencies. The bill has no impact on local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the child welfare system cannot address the problems, the Department of Children and Families (DCF) finds a safe out-of-home placement to protect children.

Central Abuse Hotline

DCF operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week, of known or suspected child abuse, abandonment, or neglect.[1] Statute mandates any person who knows or suspects that a child is abused, abandoned, or neglected to report such knowledge or suspicion to the hotline.[2] A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect.[3] A child protective investigation must be commenced either immediately or within 24 hours after the report is received, depending on the nature of the allegation.[4]

Current law requires DCF to notify law enforcement immediately when the alleged harm to the victim is the result of suspected "criminal conduct" by the child's parent or caregiver.[5] The term "criminal conduct" includes cases where a child is known or suspected to have died from child abuse or neglect or to be the victim of:

- child abuse or neglect.[6]
- aggravated child abuse.[7]
- sexual battery.[8]
- sexual abuse.[9]
- institutional child abuse or neglect.[10]
- human trafficking.[11]

[1] S. 39.201(5), F.S.
[2] S. 39.201(1)(a), F.S.
[3] S. 39.201(2)(a), F.S.
[4] *Supra* note 1.
[5] S. 39.301(2)(a), F.S.
[6] Ss. 827.03(1)(b), 827.03(1)(e), F.S.
[7] S. 827.03(1)(a), F.S.
[8] S. 827.071(1)(f), F.S.
[9] S. 39.01(77), F.S.
[10] Ss. 39.01(37), 39.302(1), F.S.
[11] S. 787.06, F.S.

Upon receiving information about alleged criminal conduct from DCF, the law enforcement agency reviews the information to determine whether the conduct calls for a criminal investigation.[12] If so, the law enforcement agency coordinates its investigative activities with DCF, when feasible.[13]

Other than reporting criminal conduct, statutes do not require DCF to share any other information with law enforcement, such as when there is an open child protective investigation or when a family is under judicial supervision after an adjudication of dependency.

Dependency Case Process

When DCF removes a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent for placement in out-of-home care.

DCF must develop and refine a case plan throughout the dependency process with input from all parties to the child's dependency case. The case plan details the problems found during the child protective investigation as well as the goals, tasks, services, and responsibilities required to alleviate the concerns of the state.[14] Services in the case plan must focus on clearly defined objectives that will improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement.[15] Once a court finds a child dependent, the judge reviews the case plan and orders the child's parent or parents to follow the case plan tasks.[16] The case plan follows the child from the provision of voluntary services through any dependency or termination of parental rights proceeding or related activity.[17]

Once the court approves a case plan, the dependency case continues with judicial review hearings, case plan reviews, custody or placement changes, and permanency planning. The goal is for the dependency court and all parties involved in the child's case to ensure the child remains safe.[18]

In determining the specific permanency goal for the child and whether requirements for its achievement have been met, or if other actions need to be taken to protect the child, the court follows the Rules of Juvenile Procedure[19] and statute. In addition, the court considers information about the parent's behavior and actions and other relevant details provided by parties to and participants in the case, such as through written reports submitted and witness testimony at hearings.[20]

Services for Dependent Children

To serve families and children, DCF contracts for foster care and related services with lead agencies, also known as community-based care organizations (CBCs). The outsourced provision of child welfare services increases local community ownership of service delivery and design.[21] DCF, through the CBCs and other community partners, administers a system of care for children[22] to:

- Prevent children's separation from their families;
- Intervene to allow children to remain safely in their own homes;
- Reunify families who have had children removed from their care, if possible and appropriate;

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[12] S. 39.301(2)(c), F.S.
[13] Id.
[14] Ss. 39.6011, 39.6012, F.S.
[15] S. 39.6012(1)(a), F.S.
[16] S. 39.603, F.S.
[17] S. 39.01(11), F.S.
[18] S. 39. 001(1)(a), F.S.
[19] S. 39.013(1), F.S.
[20] For example, the social study report is submitted under s. 39.701(2)(a), F.S., prior to judicial review hearings.
[21] Department of Children and Families, *Community-Based Care*, http://www.dcf.state.fl.us/service-programs/community-based-care/ (last visited Sept. 30, 2019).
[22] Department of Children and Families, *Office of Child Welfare*, https://myflfamilies.com/service-programs/child-welfare/ (last visited Sept. 30, 2019).

- Ensure safety and normalcy for children who are separated from their families;
- Enhance the well-being of children through educational stability and timely health care;
- Provide permanency; and
- Develop their independence and self-sufficiency.

Case managers help individuals identify their needs, plan their services, link them to the service systems, coordinate the various system components, monitor services delivery, and evaluate the effect of the services received. Services may include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption. CBCs contract with subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.[23]

Service Needs of Children Under Six Years of Age

Children under age six are at a crucial developmental stage in their lives. From birth through five years of age, children develop foundational capabilities on which subsequent development builds.[24] Regions of the brain involved in regulating emotions, language, and abstract thought grow rapidly in the first three years of life.[25] By age three, a child's brain has reached almost 90 percent of its adult size, and the growth in each region of the brain during this time largely depends on the stimulation it receives.[26]

A child's experience with abuse or neglect, or other forms of toxic stress such as domestic violence, can negatively affect brain development.[27] These include changes to the structure and chemical activity (e.g., decreased size or connectivity in some parts of the brain) and in the emotional and behavioral functioning of the child (e.g., over-sensitivity to stressful situations).[28] When the brain develops under negative conditions, children learn to cope in a negative environment, and their ability to respond to nurturing may be impaired.[29]

The effect of abuse or neglect as a child can continue to influence brain development into teenage years as well as adulthood. Some youth who grow up in negative environments as children develop brains that focus on survival, which can lead to impulsive behavior as well as difficulty with tasks that require higher-level thinking and feeling.[30]

Young children are especially vulnerable to abuse and neglect due to their inability to protect themselves. In 2018, 15,458 children entered out-of-home care statewide, and around 56 percent were 0 to 5 years of age. A breakdown based on the age of children entering out-of-home care last year is in the table below.

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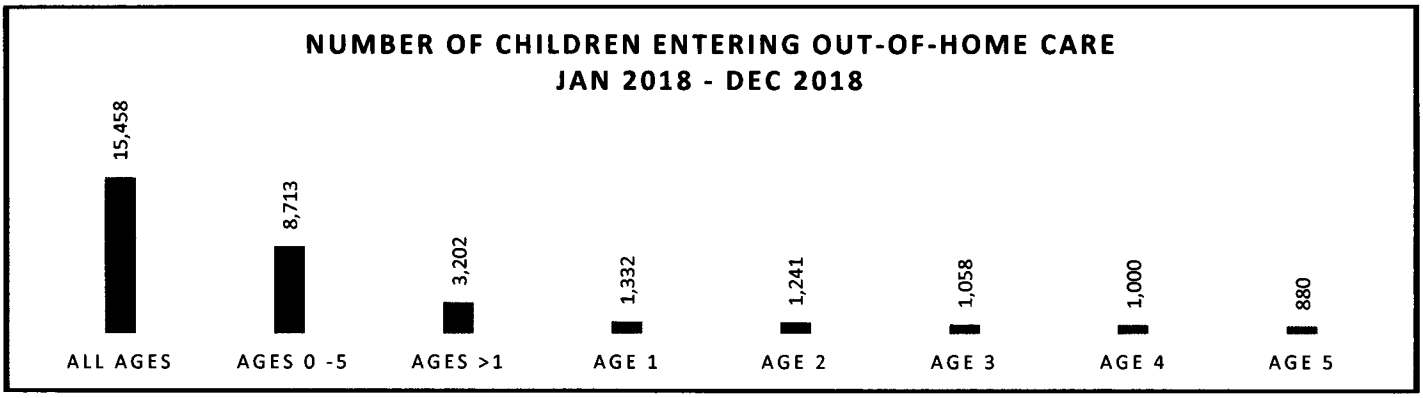
[23] Department of Children and Families, *Community Based Care Lead Agency Map*, http://www.myflfamilies.com/service-programs/community-based-care/cbc-map (last visited Sept. 30, 2019).
[24] Committee on Integrating the Science of Early Childhood Development, From Neurons to Neighborhood: The Science of Childhood Development 5 (Jack P. Shonkoff & Deborah A. Philips).
[25] U.S. Department of Health, Administration for Children & Families, Children's Bureau, *Understanding the Effects of Maltreatment on Brain Development*, (April 2015) https://www.childwelfare.gov/pubpdfs/brain_development.pdf (last visited Sept. 30, 2019).
[26] Id. at 3.
[27] Id. at 5.
[28] Id.
[29] Id.
[30] Id. at 9.



An important predictor of a child's healthy growth and development is the attachment he or she forms with a consistent caregiver.[31] A secure bond with a caregiver helps children develop healthy attachments, nurture themselves, care for others, and be motivated to learn.[32] Because a young child's brain is rapidly developing and there is an important need to bond with a consistent caregiver, it is important to quickly remedy issues that contribute to an unsafe home environment so young children can be reunified with their parents, or be placed in an alternative stable placement, in the shortest time possible.

Jordan Belliveau, Jr.

Jordan Belliveau, Jr., was murdered by his mother in September 2018. At the time of Jordan's death, reunification with his mother and father had occurred but the family was under court supervision and receiving post-reunification services. DCF first encountered the family in October 2016 when a report to the hotline alleged Jordan was in an unsafe home environment that included gang violence. The court subsequently found Jordan dependent on November 1, 2016, and placed him in foster care after his mother was unable to obtain alternative housing. Case management gave his parents a case plan with tasks including finding stable housing and receiving mental health services and counseling.

Throughout the entirety of Jordan's case, his mother and father were either non-compliant or only partially compliant with their case plans. Nevertheless, due to lack of communication to the court and lack of evidence provided by case management regarding compliance, the court reunified Jordan with his mother and father. After reunification with his mother, and while still under judicial supervision, domestic violence continued between the parents, with law enforcement arresting Jordan's father for domestic violence against Jordan's mother in July 2018. However, because the incident was not immediately reported to the hotline upon arrest, the incident was not reported to the court at a hearing the next day regarding Jordan's reunification with his father. Three weeks later, the hotline received a report about the arrest, and a child protective investigation began. However, the investigator found Jordan was not *currently* in danger, and therefore, found no need to remove him from the home. [33] Given the on-going and escalating level of violence between the parents, the inability to control the situation in the home, and the risk of harm posed to Jordan should his parents engage in further altercations, the investigator should have identified an unsafe home environment. With no concerns for Jordan's safety raised after the investigation or during subsequent hearings, there was no consideration for an emergency modification of his placement and Jordan's reunification with his father occurred.

On August 31, 2018, a case manager visited Jordan's parents to discuss several issues regarding lack of cooperation with the Guardian ad Litem and case plan tasks. The case manager emphasized the continued need for Jordan's parents to participate in services or risk losing custody of Jordan. Less than 24 hours after the visit, Jordan's mother reported him missing. Four days later, law enforcement found his body and

[31] Lucy Hudson, et al., *Healing the Youngest Children: Model Court-Community Partnerships* (Mar. 2007), https://www.americanbar.org/content/dam/aba/administrative/child_law/healing_young_children.pdf.
[32] Id.
[33] Department of Children and Families, Special Review of the Case Involving Jordan Belliveau, Jr. (Jan. 11, 2019), http://www.dcf.state.fl.us/newsroom/docs/Belliveau%20Special%20Review%202018-632408.pdf.

arrested his mother with aggravated child abuse and first-degree murder after she admitted to killing Jordan by hitting him in a "moment of frustration" which "in turn caused the back of his head to strike an interior wall of her home."[34]

Training on Head Trauma and Brain Injury in Abused and Neglected Children

Head Trauma and Brain Injury in Children

Abusive head trauma is a leading cause of child abuse deaths in children under five in the United States.[35] Head trauma and injuries can be mild, like a bump or bruise, or they can be more severe, like a concussion or a fractured skull bone, and may include internal bleeding and damage to the brain. A number of actions can cause head trauma and brain injury in children. The most commonly known physical abuse that results in a brain injury is shaken-baby syndrome; however, head trauma and other forms of physical abuse, like hitting or striking a child, can cause brain injuries. Caregiver neglect can also cause brain injuries through inadequate supervision or by providing an unsafe home environment.

Additionally, other forms of abuse that do not involve physical abuse to the head, such as through choking or strangling, can damage the brain. Disruption in oxygen to the brain, called hypoxia, can cause long-term disabilities and damage to a child's brain.[36]

Training Requirements

Current law requires training for many professionals who work in the child welfare system. Some of these professions require training upon hire as well as continuing education throughout employment. The chart below details these requirements. Although training for these professionals may include some information on head trauma and brain injury in abused and neglected children, it is not a statutorily required training topic.

Professional	Training Requirement	Statute
Judges	All judges new to the bench are required to complete the Florida Judicial College Program during their first year of judicial service following selection to the bench.[37] Continuing judicial education is mandatory for all county, circuit, and appellate judges and the Supreme Court justices. The Florida Court Educational Council establishes standards for instruction of circuit and county court judges who have responsibility for domestic violence cases.	s. 25.385, F.S. Fla. R. Jud. Admin. 2.320
Law Enforcement	New hires must successfully complete the Florida Basic Recruit Training Program for the respective discipline or equivalency for out-of-state officers.[38] Child abuse training is currently provided as part of the basic skills training for law enforcement officers. As a condition of continued employment, officers must complete continuing training or education every four years. A continuing education class entitled Child Abuse Investigations is a 40-hour advanced training program that can be used for salary incentive, as an elective course for mandatory retraining, or as a Specialized Training Program course.	s. 943.13, F.S. s. 943.135, F.S.
Guardians ad Litem	The Statewide Guardian ad Litem Office has a curriculum committee to develop the training program for Guardian ad Litem staff and volunteers.	s. 39.8296(2), F.S.

[34] Id.
[35] Spies, EL, Ph.D. and Klevens, J., MD, Ph.D., *Fatal Abusive Head Trauma among Children Aged <5 Years – United States, 1999-2014* (May 27, 2016).
[36] James E. Lewis, Ph.D., *Neuropsychological Evaluations of Children and Adults in Child Welfare Cases*, http://centervideo.forest.usf.edu/clsneuropsych/start.html (last visited Sept. 30, 2019).
[37] Florida Courts, *Information for New Judges*, https://www.flcourts.org/Resources-Services/Judiciary-Education/Information-for-New-Judges (last visited Sept. 30, 2019).
[38] Florida Department of Law Enforcement, *How to Become Employed in Florida,* http://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Employment-Requirements.aspx (last visited Sept. 30, 2019).

Child Protective Investigators and Supervisors	Child protective investigators and supervisors employed by DCF or a sheriff's office must obtain their Florida Child Protective Investigator certification within 12 months of hire. Additionally, they must complete specialized training within two years of being hired, which focuses either on servicing a specific population or on performing certain aspects of child protection practice. The specialized training may be used to fulfill continuing education requirements.	s. 402.402(2), F.S.
Children's Legal Services	Attorneys employed by DCF must receive training within the first six months of employment but the training currently offered does not address head trauma and brain injuries.	s. 402.402(4), F.S.
Case Managers, Supervisors, and Service Providers	CBC providers are required to ensure all individuals providing care for dependent children receive appropriate training.	s. 409.988(1)(f), F.S.

Information Technology Systems for Child Welfare and Law Enforcement

Florida Safe Families Network

The Florida Safe Families Network (FSFN) is DCF's Statewide Automated Child Welfare Information System. FSFN serves as the statewide electronic case record for all child abuse investigations and case management activities in Florida.

Florida Crime Information Center

The Florida Crime Information Center (FCIC), administered by the Florida Department of Law Enforcement (FDLE), is a state database that houses actionable criminal justice information. When law enforcement encounters an individual, the officer runs the individual's identifying information in FCIC to see if there are any open wants or warrants for their arrest. FDLE's Criminal Justice Information Services (CJIS) is the central repository of criminal history records for the state and provides criminal identification screening to criminal justice and non-criminal justice agencies.[39] The CJIS helps ensure the quality of data available on the FCIC system.

Effect of Proposed Changes

The bill is entitled "Jordan's Law" and addresses some issues that arose in his dependency case. It creates a communication process between DCF and law enforcement, requires training on head trauma and brain injury in children under six years of age, allows DCF to select lead agencies to develop and implement case management services for dependent children under six years of age, and specifies that intensive reunification services may be provided to dependent children.

DCF Communication with Law Enforcement

The bill creates a communication process between DCF and law enforcement agencies. Although DCF and law enforcement agencies currently share information on cases possibly involving criminal conduct for the purpose of facilitating criminal investigations, law enforcement is not informed of individuals involved in the child welfare system for purposes of providing information for these civil cases.

The bill requires the FSFN and FCIC systems to connect in a way to allow FDLE to make available to law enforcement agencies information that a person is involved in the child welfare system in one of two statuses as a parent or caregiver:

- Currently the subject of a child protective investigation, or
- Under judicial supervision after an adjudication of dependency.

[39] Florida Department of Law Enforcement, *Criminal Justice Information Services*, http://www.fdle.state.fl.us/CJIS/CJIS-Home.aspx (last visited Sept. 30, 2019).

The bill further requires a law enforcement officer to contact the hotline if he or she interacts with a parent or caregiver and the officer has concerns about a child's health, safety, or well-being. The hotline then must provide any relevant information to either a child protective investigator or to the child's case manager and the attorney representing DCF, depending on who is involved in the child's case at the time of the report.

Training

The bill requires training on the recognition of and response to head trauma and brain injury in a child under six years of age. Training on this subject will be required for case managers, Guardian ad Litem staff and volunteers, dependency court judges, child protective investigators, Children's Legal Services attorneys, and foster parents and group home staff.

Additionally, the bill creates s. 943.17298, F.S., to require training for law enforcement officers on the recognition of and response to head trauma and brain injury in a child under six years of age to aid an officer in the detection of head trauma and brain injury due to child abuse. Each law enforcement officer must complete the training as part of basic recruit training or as part of continuing training or education. The bill requires the training to be available for new law enforcement offices and completed by current officers by July 1, 2022.

Each entity will have flexibility in developing the trainings it provides.

Services for Dependent Children

The bill amends s. 409.996, F.S., to allow DCF to select up to three lead agencies to develop and implement a program to improve case management services for dependent children under six years of age. The bill requires DCF to choose lead agencies in circuits with high removal rates, significant budget deficits, significant case management turnover, and the highest numbers of children in out-of-home care or a significant increase over the last three fiscal years in children in out-of-home care.

Further, the bill amends s. 409.988(3), F.S., regarding the services CBC's may provide to dependent children to include intensive family reunification services that combine child welfare and mental health services for families with dependent children under six years of age.

This bill is effective July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Provides a title.
Section 2. Amends s. 25.385, F.S., relating to standards for instruction of circuit and county court judges.
Section 3. Creates s. 39.0142, F.S.; relating to notifying law enforcement of parent or caregiver names.
Section 4. Amends s. 39.8296, F.S.; relating to statewide Guardian ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.
Section 5. Amends s. 402.402, F.S.; relating to child protection and child welfare personnel; attorneys employed by the department.
Section 6. Amends s. 409.988, F.S.; relating to lead agency duties; general provisions.
Section 7. Amends s. 409.996, F.S.; relating to duties of the Department of Children and Families.
Section 8. Creates s. 943.17298, F.S.; relating to training in the recognition of and response to head trauma and brain injury.
Section 9. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has a negative fiscal impact among multiple entities, which in total is estimated to have nonrecurring training costs of $44,955 and technology costs of approximately $565,000. Other areas affected by the bill have costs that are indeterminate, as the costs are dependent upon means by which the bill requirements are implemented.

Training

- DCF estimates a nonrecurring cost of $35,000 to develop the training established in the bill. This includes the cost of research, front-end analysis to further define scope, subject matter experts, and the design and development of materials. These costs can be absorbed within existing resources.
- The Guardian ad Litem program can incorporate the changes of its training curriculum within existing resources.
- FDLE estimates a cost of approximately $9,955 to develop the required training curricula, which is based upon the need for curriculum development workshops and OPS staffing to develop the training. The department can utilize existing appropriations for these costs.

Technology

- FDLE reports a technology cost of $45,000 to incorporate child welfare training into its current system. The department indicates this costs can be absorbed within existing resources, although doing so may require the reprioritization of existing staff and resources.
- FDLE suggest developing a web-based interface between FSFN and FCIC for a cost of $300,000, and notes these programming modifications may take two years to complete. Initial costs can be absorbed within available resources. The FDLE can submit a legislative budget request for future needs should a comprehensive analysis indicate such.
- DCF indicates a nonrecurring need of between $160,000 and $270,000 for the development of a technology solution that interfaces FSFN and FCIC. Based upon a review of budgetary reversions of technology appropriations, it's determined there exists sufficient resources for these costs.

Staffing

- DCF has indicated that the bill could have an indeterminate workload impact on the central abuse hotline's Crime Intelligence Unit due to additional calls from law enforcement and by requiring additional criminal records checks.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Training

The CBC's will be required to ensure that individuals providing care for dependent children receive training on the recognition of and response to head trauma and brain injury. However, they may be able to use or adapt training developed by DCF or available from other entities at low or no cost.

Case Management Project

Should DCF elect to create a program that examines more effective case management for dependent children under six years of age, the CBC's selected for this program would work in collaboration with DCF to develop and implement the program in their respective circuits. The bill provides flexibility in how the program is implemented, and the cost to develop the program depends on its design. For example, the program design may involve hiring additional case management staff. In 2018, the annual mean wage estimates in Florida for a Child, Family and School Social Worker was $42,640, and for a Community and Social Service Specialist was $40,050.[40] At least five staff members would be needed to serve 75 children if caseloads are at the bill's target level of no more than 15 children. In this scenario, additional staffing resources would cost each CBC an estimated $200,000 (five additional case managers *x* $40,000 mean salary).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[40] Bureau of Labor Statistics, Occupational Employment Statistics, https://www.bls.gov/oes/current/oes_fl.htm (last visited Sept. 30, 2019).

A bill to be entitled

An act relating to child welfare; providing a short title; amending s. 25.385, F.S.; requiring the Florida Court Educational Council to establish certain standards for instruction of circuit and county court judges for dependency cases; creating s. 39.0142, F.S.; requiring the Department of Law Enforcement to provide certain information to law enforcement officers relating to specified individuals; providing how such information shall be provided to law enforcement officers; providing requirements for law enforcement officers and the central abuse hotline relating to specified interactions with certain persons and how to relay details of such interactions; amending s. 39.8296, F.S.; requiring that the guardian ad litem training program include training on the recognition of and responses to head trauma and brain injury in specified children; amending s. 402.402, F.S.; requiring certain entities to provide training to certain parties on the recognition of and responses to head trauma and brain injury in specified children; amending s. 409.988, F.S.; requiring lead agencies to provide certain individuals with training on the recognition of and responses to head trauma and brain injury in specified children; authorizing lead

agencies to provide intensive family reunification services that combine child welfare and mental health services to certain families; amending s. 409.996, F.S.; authorizing the Department of Children and Families and certain lead agencies to create and implement a program to more effectively provide case management services to specified children; providing criteria for selecting judicial circuits for implementation of the program; specifying requirements of the program; requiring a report to the Legislature and Governor under specified conditions; creating s. 943.17298, F.S.; requiring the Criminal Justice Standards and Training Commission to incorporate training for specified purposes; requiring law enforcement officers to complete such training as part of either basic recruit training or continuing training or education by a specified date; providing an effective date.

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

Section 1. This act may be cited as "Jordan's Law."

Section 2. Section 25.385, Florida Statutes, is amended to read:

25.385 Standards for instruction of circuit and county

court judges ~~in handling domestic violence cases~~.—

(1) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who have responsibility for domestic violence cases, and the council shall provide such instruction on a periodic and timely basis.

~~(2)~~ As used in this subsection, ~~section:~~

~~(a)~~ the term "domestic violence" has the meaning set forth in s. 741.28.

~~(b) "Family or household member" has the meaning set forth in s. 741.28.~~

(2) The Florida Court Educational Council shall establish standards for instruction of circuit and county court judges who have responsibility for dependency cases regarding the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The council shall provide such instruction on a periodic and timely basis.

Section 3. Section 39.0142, Florida Statutes, is created to read:

39.0142 Notifying law enforcement officers of parent or caregiver names.—The Department of Law Enforcement shall provide information to a law enforcement officer stating whether a person is a parent or caregiver who is currently the subject of a child protective investigation for alleged child abuse, abandonment, or neglect or is a parent or caregiver of a child who has been allowed to return to or remain in the home under

judicial supervision after an adjudication of dependency. This information shall be provided via a Florida Crime Information Center query into the department's child protection database.

(1) If a law enforcement officer has an interaction with a parent or caregiver as described in this section and the interaction results in the officer having concern about a child's health, safety, or well-being, the officer shall report relevant details of the interaction to the central abuse hotline immediately after the interaction even if the requirements of s. 39.201, relating to a person having actual knowledge or suspicion of abuse, abandonment, or neglect, are not met.

(2) The central abuse hotline shall provide any relevant information to:

(a) The child protective investigator, if the parent or caregiver is the subject of a child protective investigation; or

(b) The child's case manager and the attorney representing the department, if the parent or caregiver has a child under judicial supervision after an adjudication of dependency.

Section 4. Paragraph (b) of subsection (2) of section 39.8296, Florida Statutes, is amended to read:

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian Ad Litem Office within the Justice

Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad Litem Office is ~~shall~~ not ~~be~~ subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are ~~shall be~~ governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program, which shall include, but not be limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a

curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of the Florida Coalition Against Domestic Violence, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding guardian ad litem programs, ~~shall~~ maximize the use of those funding sources to the extent possible, and ~~shall~~ review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

Section 5. Subsections (2) and (4) of section 402.402, Florida Statutes, are amended to read:

402.402 Child protection and child welfare personnel; attorneys employed by the department.—

(2) SPECIALIZED TRAINING.—All child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office must complete the following specialized training:

(a) Training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.

(b) Training that is either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics.

The specialized training may be used to fulfill continuing education requirements under s. 402.40(3)(e). Individuals hired before July 1, 2014, shall complete the specialized training by June 30, 2016, and individuals hired on or after July 1, 2014, shall complete the specialized training within 2 years after hire. An individual may receive specialized training in multiple areas.

(4) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD WELFARE CASES.—Attorneys hired on or after July 1, 2014, whose primary responsibility is representing the department in child welfare cases shall, within the first 6 months of employment, receive training in all of the following:

(a) The dependency court process, including the attorney's role in preparing and reviewing documents prepared for dependency court for accuracy and completeness.~~;~~

(b) Preparing and presenting child welfare cases, including at least 1 week shadowing an experienced children's

legal services attorney preparing and presenting cases.~~,~~

(c) Safety assessment, safety decisionmaking tools, and safety plans.~~,~~

(d) Developing information presented by investigators and case managers to support decisionmaking in the best interest of children.~~, and~~

(e) The experiences and techniques of case managers and investigators, including shadowing an experienced child protective investigator and an experienced case manager for at least 8 hours.

(f) The recognition of and responses to head trauma and brain injury in a child under 6 years of age.

Section 6. Paragraph (f) of subsection (1) and subsection (3) of section 409.988, Florida Statutes, are amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(f) Shall ensure that all individuals providing care for dependent children receive appropriate training and meet the minimum employment standards established by the department. Appropriate training shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.

(3) SERVICES.—A lead agency must provide dependent children with services that are supported by research or that are recognized as best practices in the child welfare field. The

agency shall give priority to the use of services that are evidence-based and trauma-informed and may also provide other innovative services, including, but not limited to, family-centered and cognitive-behavioral interventions designed to mitigate out-of-home placements and intensive family reunification services that combine child welfare and mental health services for families with dependent children under 6 years of age.

Section 7. Subsection (24) is added to section 409.996, Florida Statutes, to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(24) The department in collaboration with the lead agencies serving the judicial circuits selected in paragraph (a) may create and implement a program to more effectively provide case management services for dependent children under 6 years of age.

(a) If the program is created, the department shall select up to three judicial circuits in which to develop and implement

a program under this subsection, with priority given to a circuit that has a high removal rate, significant case management turnover rate, and the highest numbers of children in out-of-home care or a significant increase in the number of children in out-of-home care over the last 3 fiscal years.

(b) If the program is created, it shall:

1. Include caseloads for dependency case managers comprised solely of children who are under 6 years of age, except as provided in paragraph (c). The maximum caseload for a case manager shall be no more than 15 children if possible.

2. Include case managers who are trained specifically in:

a. Critical child development for children under 6 years of age.

b. Specific practices of child care for children under 6 years of age.

c. The scope of community resources available to children under 6 years of age.

d. Working with a parent or caregiver and assisting him or her in developing the skills necessary to care for the health, safety, and well-being of a child under 6 years of age.

(c) If a child being served through the program has a dependent sibling, the sibling may be assigned to the same case manager as the child being served through the program; however, each sibling counts toward the case manager's maximum caseload as provided under paragraph (b).

(d) If the program is created, the department shall evaluate the permanency, safety, and well-being of children being served through the program and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025, detailing its findings.

Section 8. Section 943.17298, Florida Statutes, is created to read:

943.17298 Training in the recognition of and responses to head trauma and brain injury.—The commission shall establish standards for the instruction of law enforcement officers in the subject of recognition of and responses to head trauma and brain injury in a child from under 6 years of age to aid an officer in the detection of head trauma and brain injury due to child abuse. Each law enforcement officer must successfully complete the training as part of the basic recruit training for a law enforcement officer, as required under s. 943.13(9), or as a part of continuing training or education required under s. 943.135(1) before July 1, 2022.

Section 9. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 187 Postsecondary Education for Secondary Students
SPONSOR(S): PreK-12 Innovation Subcommittee, Zika and Valdes
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	14 Y, 2 N, As CS	D'Souza	Brink
2) Appropriations Committee		Peters	Pridgeon
3) Education Committee			

SUMMARY ANALYSIS

The bill renames "collegiate high school programs" as "early college acceleration programs" and expands the programs from 1 to 2 years.

The bill requires the programs be made available to students in grades 11 and 12 and specifies that they must include an option for a student to graduate from high school with an associate degree. The bill also prohibits district school boards and Florida College System (FCS) institutions from limiting the number of eligible students who may enroll in dual enrollment programs, including early college acceleration programs, unless a 1-year waiver is granted by the Commissioner of Education.

The bill requires each dual enrollment articulation agreement between a FCS institution and a school district to establish at least one early admission program, one career early admission program, or one early college acceleration program. District school boards may establish an early college acceleration program with a state university or an eligible institution and charter and private schools may establish a program with a state college, state university, or other eligible postsecondary institution.

The bill establishes reporting requirements for district school boards, postsecondary institutions, and the Department of Education (DOE) regarding early college acceleration programs and dual enrollment articulation agreements.

For private schools, the bill provides that costs associated with dual enrollment, including the early college acceleration program, may not be passed on to their students. The bill also prohibits dual enrollment articulation agreements from passing along costs associated with tuition and fees, including registration and laboratory fees, and instructional materials to a student's private school of enrollment.

The bill requires articulation agreements to address the costs associated with courses delivered using technology to be borne by both entities.

The bill requires the dual enrollment transfer guarantees statement developed by the DOE to include English and mathematics courses that require a grade of C or higher to measure student achievement in college-level communication and computation skills. This must include a notice stating that grades in college credit courses remain on the student's permanent record.

The bill appropriates $550,000 in recurring funds from the General Appropriations Act (GAA) to the DOE for Fiscal Year 2020-2021. The bill has an indeterminate fiscal impact on public postsecondary institutions. *See* Fiscal Comments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Dual Enrollment

The dual enrollment program is an acceleration mechanism that allows an eligible secondary[1] or home education student to enroll and earn credit in a postsecondary course creditable toward both high school completion and an associate or baccalaureate degree or career certificate.[2] College credit earned prior to high school graduation may reduce the average time-to-degree and increase the likelihood of completion of a postsecondary degree.[3] Eligible students are permitted to enroll in dual enrollment courses conducted during and after school hours and during the summer term.[4] Eleven of Florida's 12 state universities and all 28 Florida College System (FCS) institutions currently participate in dual enrollment.[5]

Students must meet the following eligibility criteria for initial enrollment in college credit dual enrollment courses:[6]

- Be enrolled as a student in any of grades 6 through 12 in a Florida public school or in a Florida private school, or in a home education program.
- Not be scheduled to graduate from high school prior to the completion of the dual enrollment course.
- Have a 3.0 unweighted high school GPA to enroll in college credits, or a 2.0 unweighted high school GPA to enroll in career certificate dual enrollment courses.
- Achieve a minimum score on a common placement test adopted by the State Board of Education (SBE).
- Meet any additional eligibility criteria specified by the postsecondary institution in the dual enrollment articulation agreement.

A dual enrollment student is exempt from paying for registration, tuition, and laboratory fees.[7] For public high school students, there is no cost for dual enrollment instructional materials. While a FCS institution may provide instructional materials at no cost to dual enrollment students from home education programs or private schools, it is not required to do so.[8] To facilitate FCS institutions in covering the cost of instructional materials for home education students, the Legislature appropriated $550,000 in recurring funds from the General Revenue Fund in 2019.[9]

The DOE is required to develop a statement on transfer guarantees to inform students and their parents, before enrollment in a dual enrollment course, of the potential for the dual enrollment course to articulate as an elective or a general education course into a postsecondary education certificate or degree program.[10] The statement must be provided to each district school superintendent, who must

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[1] For purposes of dual enrollment, "secondary" is defined as a student who is enrolled in grades 6-12 in a Florida public school or Florida private school. Section 1007.271(2), F.S.

[2] Section 1007.271(1), F.S.

[3] Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions* (revised August 2019), *available at* http://fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf.

[4] Section 1007.271(2), F.S.

[5] Florida Department of Education, Public School Dual Enrollment Articulation Agreements, http://www.fldoe.org/policy/articulation/public-school-dual-enrollment.stml (last visited December 10, 2019).

[6] Section 1007.271(3), F.S.

[7] Section 1007.271(2), F.S.

[8] Section 1007.271(17), F.S.

[9] *See* s. 129, ch. 2019-115. L.O.F. The law was revised in 2018 to provide that the dual enrollment articulation agreement for a home education student is not required to specify the student's responsibilities for providing their own instructional materials. *See* s. 27, ch. 2018-6, L.O.F.

[10] Section 1007.271(15), F.S.

include the statement in the information provided to all secondary students and their parents.[11] The statement may also include additional information, including, but not limited to, dual enrollment options, guarantees, privileges, and responsibilities.[12]

Two forms of dual enrollment include early admission and career early admission. In an early admission program, eligible high school students enroll in a postsecondary institution on a full-time basis in courses that are creditable toward a high school diploma and an associate or baccalaureate degree.[13] A student must enroll in at least 12 college credit hours per semester to participate in an early admission program; however, the student may not enroll in more than 15 credit hours per semester.[14]

In a career early admission program, eligible high school students enroll full-time in a career center or FCS institution in postsecondary programs leading to industry certifications as listed in the Career and Professional Education (CAPE) Postsecondary Industry Certification Funding List,[15] which are creditable toward a high school diploma and a certificate or associate degree.[16] Participation in a career early admission program is limited to students who have completed at least 4 semesters of full-time high school enrollment.[17]

Students participating in an early admission program or a career early admission program are exempt from the payment of registration, tuition, and laboratory fees.[18]

Articulation Agreements between Public Postsecondary Institutions and School Districts

As used in the Florida K-20 Education Code, "articulation" is the systematic coordination that provides the means by which students proceed toward their educational objectives in as rapid and student-friendly manner as their circumstances permit, from grade level to grade level, from elementary to middle to high school, to and through postsecondary education, and when transferring from one educational institution or program to another.[19] "Service area" refers to the county or counties served by each FCS institution.[20]

Each public postsecondary institution and school district in its service area is required to jointly develop and implement a comprehensive dual enrollment articulation agreement.[21] The dual enrollment articulation agreement must be submitted annually to the Department of Education (DOE) on or before August 1 and must include, but is not limited to, the following components:

- The available dual enrollment courses and programs.[22]
- A description of the processes by which students and parents are informed about and exercise options to participate in dual enrollment, including registration.[23]
- The type of high school credit earned for completion of a dual enrollment course.[24]
- A listing of any additional student eligibility criteria.[25]

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[11] *Id.*
[12] *Id.*
[13] Section 1007.271(10), F.S.
[14] *Id.*
[15] Section 1008.44, F.S.
[16] Section 1007.271(11), F.S.
[17] *Id.*
[18] Section 1007.271(10), F.S.; *Id.*
[19] Section 1000.21(1), F.S.
[20] Section 1000.21(3)(a)-(bb), F.S.
[21] Section 1007.271(21), F.S.
[22] Section 1007.271(21)(c), F.S.
[23] Section 1007.271(21)(b), (d), and (i), F.S. Career centers, FCS institutions, and state universities must also delineate courses and programs for dually enrolled home education students. Courses and programs may be added, revised, or deleted at any time. Section 1007.271(13)(b)1., F.S.
[24] Section 1007.271(21)(f), F.S.
[25] Section 1007.271(21)(e), F.S. Career centers, FCS institutions, and state universities must also identify eligibility criteria for home education student participation, not to exceed those required of other dually enrolled students. Section 1007.271(13)(b)2., F.S. Exceptions to the required grade point average may be granted on an individual student basis. Section 1007.271(21)(h), F.S.

- Each institution's responsibilities for student screening and performance monitoring, transmission of grades, program costs including instructional materials, and student transportation.[26]

Additionally, when dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution. [27] A public postsecondary institution may enter into an agreement with the school district to authorize teachers to teach dual enrollment courses at the high school site or the public postsecondary institution.[28]

Funding for dual enrollment programs is provided to school districts through the Florida Education Finance Program (FEFP). Students who enroll in these programs are included in their school districts' full time enrollment (FTE) student count and districts receive allocations based on their FTE enrollment. The law[29] requires school districts to pay public postsecondary institutions the standard tuition rate per credit hour from funds provided for in the FEFP when dual enrollment course instruction takes place on the postsecondary institution's campus during the fall or spring term.[30] Dual enrollment funding for public postsecondary institutions during the summer term is subject to appropriation in the General Appropriations Act (GAA).[31] Students who participate in dual enrollment programs with an FCS institution or state university are also included in the FCS institution's or university's FTE count for funding purposes.

Articulation Agreements between Public Postsecondary Institutions and Private Schools

Each public postsecondary institution eligible to participate in the dual enrollment program must enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students, including, but not limited to, students with disabilities. By August 1 of each year, the eligible postsecondary institution shall complete and submit the private school articulation agreement to the DOE.[32] The private school articulation agreement must include, at a minimum:[33]

- A delineation of courses and programs available to the private school student. The postsecondary institution may add, revise, or delete courses and programs at any time. The available dual enrollment courses and programs.
- The initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students. The type of high school credit earned for completion of a dual enrollment course.
- The student's responsibilities for providing his or her own instructional materials and transportation.
- A provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program.
- A provision expressing that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student.

For private schools, Florida law does not specify how dual enrollment costs must be borne; however, some articulation agreements with private secondary schools have mirrored the payment provisions set forth for school districts. In 2018, the Legislature eliminated a requirement that articulation agreements state whether the private school would pay the standard tuition rate per credit hour for each dual enrollment course taken by its students.[34]

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[26] Section 1007.271(21)(l), (m), (n), and (o), F.S.
[27] Section 1007.271(21)(n)1., F.S.
[28] *Id.*
[29] Section 1007.271(21)(n)1., F.S.
[30] Section 1009.23(3)(a), F.S., for Florida College System institutions; Section 1009.24(4)(a), F.S., for State University System institutions.
[31] Section 1007.271(21)(n)2., F.S.
[32] Section 1007.271(24)(b), F.S.
[33] Section 1007.271(24)(b), F.S.
[34] *See* sec. 27, Chapter 2018-9, L.O.F.

While private secondary students who participate in dual enrollment programs at FCS institutions and state universities are included in the FTE counts for total enrollment, funds appropriated in the General Appropriations Act are not tied directly to FTE. A base student allocation is not provided for each student as it is for public school students in the FEFP. Additionally, funds are not specifically provided to public postsecondary institutions to make up for these tuition and fees which account for approximately 40% of the cost of education a student at a FCS institution, and 47% at a state university.

The Collegiate High School Program

The collegiate high school program offers public school students the opportunity to complete 30 credit hours through a dual enrollment program toward the first year of college for an associate degree or baccalaureate degree. The collegiate high school program must, at a minimum, include an option for public school students in grade 12 to participate for one full school year and earn CAPE industry certifications.[35]

Each FCS institution is required to execute a contract with each district school board in its designated service area to establish one or more collegiate high school programs at a mutually agreed upon location or locations.
The contract must: [36]

- identify the grade levels to be included, in addition to grade 12;
- describe the collegiate high school program, including:
  - a delineation of courses and industry certifications offered;
  - high school and college credits earned (including online) for each postsecondary course completed and industry certification earned;
  - student eligibility criteria; and
  - the enrollment process and relevant deadlines;
- describe the methods, medium, and process by which students and their parents are annually informed about the program;
- identify delivery methods for instruction, instructors, student advising services, progress monitoring mechanisms, and terms of funding arrangements to implement the program; and
- establish a program review and reporting mechanism for student performance outcomes.

A district school board may also execute a contract to establish a collegiate high school program with a state university or other eligible institution.[37]

Each student participating in the program must enter into a student performance contract that must be signed by the student, the parent, and a representative of the school district and FCS institution, state university, or other participating institution.[38]

Funding for collegiate high school programs is based on the funding mechanism for dual enrollment.[39]

Effect of Proposed Changes

Dual Enrollment

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[35] Section 1007.273(2), F.S.
[36] Section 1007.273(3), F.S.
[37] Section 1007.273(5), F.S. A district school board may execute a contract to establish a collegiate high school program with a state university or an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees.
[38] Section 1007.273(4), F.S.
[39] Section 1007.273(6), F.S.

Beginning September 1, 2021, and annually thereafter, the bill requires each postsecondary institution to report to the Commissioner of Education the following information regarding each dual enrollment articulation agreement it has entered into during the previous year:

- The number of students who enrolled in a dual enrollment course under each articulation agreement, including students enrolled in an early acceleration college program.
- The total and average number of dual enrollment courses completed, clock hours earned, high school and college credits earned, standard high school diplomas awarded, certificates awarded, associate and baccalaureate degrees awarded, and industry certifications attained, if any, by the students who enrolled in each dual enrollment program or early college acceleration program.
- The projected student enrollment in each dual enrollment program and early college acceleration program during the next school year.
- Any barriers to entering into an agreement to establish one or more early college acceleration programs.

Additionally, the bill requires articulation agreements that authorize teachers to teach dual enrollment courses at the high school site or the postsecondary institution to address the costs, borne by each entity, associated with courses delivered using technology (e.g., online courses, blended courses, and synchronous or asynchronous e-learning).

The bill prohibits a district school board or FCS institution from limiting the number of eligible students who may enroll in dual enrollment programs, including early college acceleration programs. However, the commissioner may grant a request for a 1-year waiver due to capacity to offer a quality program. The waiver request must:

- describe the existing capacity issues and specific courses or programs that cannot be offered;
- suggest solutions; and
- suggest a timeline for achieving the capacity needed to meet the demand.

The bill specifies that dual enrollment instructional materials must be provided at no cost to students from home education programs and private schools. It also prohibits articulation agreements between public postsecondary institutions and private schools from passing along costs associated with instructional materials, tuition, and fees to a student's private school of enrollment.

In order to encourage public postsecondary institutions to offer more dual enrollment courses, the bill provides the statewide average cost of a fulltime faculty member's salary and benefits, subject to annual appropriation in the GAA, to certain postsecondary institutions in which dual enrollment accounts for 25 percent or more of their total enrollment.

The bill requires DOE's dual enrollment transfer guarantees statement to include the English and mathematics courses that require a grade of C or higher to measure student achievement in college-level communication and computation skills, pursuant to state board rule. A notice must be included stating that grades earned in college credit courses remain on the student's permanent postsecondary transcript.

The Collegiate High School Program

The bill renames the "collegiate high school program" as the "early college acceleration program." The bill requires the program to be made available to students in grade 11 and specifies that the program must last up to 2 full school years and allow students to graduate from high school with an associate degree. The early college acceleration program must prioritize dual enrollment courses applicable to the general education core requirements and common prerequisite courses over elective courses. The bill revises the requirements for a student performance contract to specify the applicability of such courses to an associate degree or baccalaureate degree.

The bill requires each dual enrollment articulation agreement between each FCS institution and school district within its service area to include a provision to establish at least one of the following: an early admission program, a career early admission program, or an early college acceleration program.

The bill requires each dual enrollment articulation agreement between each FCS institution and school district within its service area to include a provision to establish at least one early college acceleration program. An articulation agreement establishing an early college acceleration program must:

- identify the grade levels to be included in the early college acceleration program;
- describe the early college acceleration program, including:
  - a list of the approved meta-major academic pathways that are available to participating students through the partner FCS institution or other eligible participating partner postsecondary institution;
  - a delineation of courses that must, at a minimum, include general education core courses and common prerequisite courses, as well as industry certifications offered, including online course availability;
  - the high school and college credits earned for each postsecondary course completed and industry certification earned;
  - student eligibility criteria; and
  - the enrollment process and relevant deadlines.
- describe the methods, medium, and process by which students and their parents are annually informed about the availability of the early college acceleration program, the return on investment associated with participation in the early college acceleration program, and the relevant information listed above;
- identify the delivery methods for instruction and the instructors for all courses;
- identify student advising services and progress monitoring mechanisms;
- establish a program review and reporting mechanism regarding student performance outcomes; and
- describe the terms of funding arrangements to implement the early college acceleration program.

The bill authorizes a charter school or a private school to establish an early college acceleration program with an FCS institution, state university, or other eligible postsecondary institution.[40] The bill also requires the State Board of Education (SBE) and the Board of Governors (BOG) to adopt rules and regulations, respectively, to implement private school dual enrollment articulation agreements.

The bill specifies that the costs for a private school early college acceleration program may not be funded through the FEFP or passed along to the private school.

The bill requires each district school board, by September 1, 2021, and annually thereafter, to post on its website the following information:

- The methods for earning college credit through participation in the early college acceleration program with links to:
  - the dual enrollment course equivalency list approved by the SBE;
  - the common degree program prerequisite requirements published by the Articulation Coordinating Committee;
  - the industry certification articulation agreements adopted by the SBE in rule; and
  - the approved meta-major academic pathways of the partner FCS institutions or other eligible participating partner postsecondary institution.
- The estimated cost savings to students and their families resulting from students successfully completing 30 credit hours and 60 credit hours applicable toward the general education core requirement or common prerequisite courses before graduating from high school versus the cost of student earning such credit hours after graduating from high school.

The bill requires the DOE to post on its website, by November 30, 2021, and annually thereafter, the status of early college acceleration programs, including, at a minimum, a summary of student

[40] The eligibility requirements are described in note 37, *supra*.

enrollment and completion information, barriers if any, to establishing such programs, and recommendations for expanding access to such program statewide.

B. SECTION DIRECTORY:

Section 1. Amends s. 1007.27, F.S., establishing reporting requirements for postsecondary institutions participating in dual enrollment programs.

Section 2. Amends s. 1007.271, F.S., prohibiting district school boards and FCS institutions from limiting participation in dual enrollment programs; providing an exemption; requiring a certain statement to include specified postsecondary course and grade information; requiring, rather than authorizing, instructional materials to be made available to certain dual enrollment students free of charge; providing requirements for costs associated with certain courses delivered using technology; providing additional funding to certain public postsecondary institutions that provide dual enrollment courses using technology; requiring the inclusion of provisions relating to the establishment of early admission programs and early college programs in an articulation agreement; requiring private school articulation agreements to prohibit certain costs from being funded through the FEFP or passed along to private school students or private schools; authorizing a private school to enter into an agreement with specified educational institutions to establish an early college program; prohibiting the costs of such program from being funded through the FEFP or passed along to private school students or private schools; and requiring the SBE to adopt rules and the BOG to adopt regulations for specified purposes.

Section 3. Amends s. 1007.273, F.S., providing additional options for students participating in an early college program; revising the requirements for an early college program; prohibiting certain entities from limiting the number of students who may participate in an early college program; revising early college program student performance contract requirements; requiring each district school board to post specified information on its website; authorizing a charter school or private school to establish an early college program; and providing an appropriation.

Section 4. Provides an appropriation.

Section 5. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   For Fiscal Year 2020-21, the bill appropriates $550,000 in recurring general revenue funds to the Department of Education for the purpose of providing instructional materials for private school and charter school students. No additional funds are needed for home educated students because a recurring appropriation of $550,000 was provided in FY 2018-2019 to cover these costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill appropriates $550,000 in recurring general revenue for dual enrollment instructional materials for private and charter school students.

Current and future estimates pertaining to providing an additional specific appropriation to postsecondary institutions, whose ratio of dually enrolled students to total students is 25 percent or more, and which also utilize technology to deliver the dual enrollment courses is unknown, particularly as dual enrollment program enrollments increase. These costs are indeterminate. The funding provision, however, is subject to appropriation.

There may be minimal costs to postsecondary institutions associated with the reporting requirements included in the bill; however, the reporting requirements begin in 2021, and will likely be absorbed through institutional funding.

The articulation agreement provision between public postsecondary institutions and private secondary schools, expressing that associated costs will not be funded by the Florida Education Finance Program (FEFP) or passed along to the student or the student's private school of enrollment, will impact public postsecondary institutions. Payment provisions included in current articulation agreements between private schools and colleges or universities are individually negotiated, and the rates range from zero cost to the private school to standard tuition rates per credit hour, which are $71.98 for FCS institutions and $105.07 for state universities. In FY 2018-2019, there were approximately 3,500 dually enrolled students from private schools. Institutions who are currently collecting the tuition from private secondary schools will no longer be able to collect tuition revenues from the schools. Public postsecondary institutions will also be impacted if enrollment in these programs increase.

The bill allows a private school to enter into an agreement with a state university, or other specified postsecondary institution to establish an early acceleration college program and requires the agreement to be consistent with s. 1007.273, F.S, and s. 1007.271(21)(p), F.S. Since the bill states that the cost of such a program will not be funded through the FEFP or passed along to the student or the student's private school of enrollment, it appears there would be a fiscal impact to the state university or other specified postsecondary institution. Because the number of private schools which may enter into an agreement for such a program is unknown, the fiscal impact is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill also requires the SBE and the BOG to adopt rules and regulations, respectively, to implement private school dual enrollment articulation agreements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 11, 2019, the PreK-12 Innovation Subcommittee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- require agreements that authorize teachers to teach dual enrollment courses at the high school site or the postsecondary institution to address the costs associated with courses delivered using technology (i.e., online courses, blended courses, and synchronous or asynchronous e-learning) to be borne by both the postsecondary institution and the school district;
- require dual enrollment articulation agreements to include a provision to establish at least one of the following: an early admission program, a career early admission program, or an early college acceleration program;
- require a notice to be included in DOE's statement of transfer guarantees stating that grades in college credit courses remain on the student's permanent record; and
- provide rulemaking and regulatory authority to the SBE and the BOG, respectively, to implement private school dual enrollment articulation agreements.

The analysis is drafted to the committee substitute.

A bill to be entitled

An act relating to postsecondary education for secondary students; amending s. 1007.27, F.S.; establishing reporting requirements for postsecondary institutions participating in dual enrollment programs; amending s. 1007.271, F.S.; prohibiting district school boards and Florida College System institutions from limiting participation in dual enrollment programs; providing an exemption; requiring a certain statement to include specified postsecondary course and grade information; requiring, rather than authorizing, instructional materials to be made available to certain dual enrollment students free of charge; providing requirements for costs associated with certain courses delivered using technology; providing additional funding to public postsecondary institutions that provide dual enrollment courses using technology; requiring the inclusion of provisions relating to the establishment of early admission programs and early college programs in an articulation agreement; requiring private school articulation agreements to prohibit certain costs from being funded through the Florida Education Finance Program or passed along to private school students or private schools; authorizing a private school to enter

into an agreement with specified educational institutions to establish an early college program; prohibiting the costs of such program from being funded through the Florida Education Finance Program or passed along to private school students or private schools; requiring the State Board of Education to adopt rules and the Board of Governors to adopt regulations for specified purposes; amending s. 1007.273, F.S.; providing additional options for students participating in an early college program; revising the requirements for an early college program; prohibiting certain entities from limiting the number of students who may participate in an early college program; revising early college program student performance contract requirements; requiring each district school board to post specified information on its website; authorizing a charter school or a private school to establish an early college program; providing an appropriation; providing an effective date.

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

Section 1. Subsections (5) through (8) of section 1007.27, Florida Statutes, are renumbered as subsections (6) through (9),

respectively, and a new subsection (5) is added to that section to read:

1007.27 Articulated acceleration mechanisms.—

(5)(a) Beginning September 1, 2021, and annually thereafter, each postsecondary institution shall report to the Commissioner of Education at least the following information for the previous school year for each dual enrollment articulation agreement it enters into pursuant to s. 1007.271:

1. The number of students who enrolled in a dual enrollment course under each articulation agreement, including those students enrolled in an early college program under s. 1007.273.

2. The total and average number of dual enrollment courses completed, clock hours earned, high school and college credits earned, standard high school diplomas awarded, certificates awarded, associate and baccalaureate degrees awarded, and industry certifications attained, if any, by the students who enrolled in each dual enrollment program or early college program.

3. The projected student enrollment in each dual enrollment program and early college program during the next school year.

4. Any barriers to entering into an agreement to establish one or more early college programs as provided in ss. 1007.271 and 1007.273.

(b) By November 30, 2021, and annually thereafter, the Department of Education shall post on its website the status of early college programs, including, at a minimum, a summary of student enrollment and completion information provided pursuant to this subsection; barriers, if any, to establishing such programs; and recommendations for expanding access to such programs statewide.

Section 2. Subsections (4), (15), and (17), paragraph (n) of subsection (21), and paragraph (b) of subsection (24) of section 1007.271, Florida Statutes, are amended, paragraph (p) is added to subsection (21), paragraph (c) is added to subsection (24), and subsection (26) is added to that section, to read:

1007.271 Dual enrollment programs.—

(4) District school boards may not refuse to enter into a dual enrollment articulation agreement with a local Florida College System institution if that Florida College System institution has the capacity to offer dual enrollment courses. A district school board or a Florida College System institution may not limit the number of students who enter dual enrollment programs, including early college programs under s. 1007.273, unless the commissioner grants a request for a 1-year waiver due to capacity to offer a quality program. The request for a waiver must describe the existing capacity issues and specific courses or programs that cannot be offered and suggest solutions and a

timeline for achieving the capacity needed to meet the demand.

(15) The Department of Education shall develop a statement on transfer guarantees to inform students and their parents, before ~~prior to~~ enrollment in a dual enrollment course, of the potential for the dual enrollment course to articulate as an elective or a general education course into a postsecondary education certificate or degree program. The statement shall include the English and mathematics courses that require a grade of "C" or higher to measure student achievement in college-level communication and computation skills pursuant to state board rule. A notice must be included with the statement stating that grades earned in college credit courses remain on the student's permanent postsecondary transcript. The statement shall be provided to each district school superintendent, who shall include the statement in the information provided to all secondary students and their parents as required pursuant to this subsection. The statement may also include additional information, including, but not limited to, dual enrollment options, guarantees, privileges, and responsibilities.

(17) Instructional materials assigned for use within dual enrollment courses shall be made available to dual enrollment students from Florida public high schools, home education programs, and private schools free of charge. ~~This subsection does not prohibit a Florida College System institution from providing instructional materials at no cost to a home education~~

~~student or student from a private school.~~ Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of dual enrollment students shall be the property of the board against which the purchase is charged.

(21) Each district school superintendent and each public postsecondary institution president shall develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution. The superintendent and president shall establish an articulation committee for the purpose of developing the agreement. Each state university president may designate a university representative to participate in the development of a dual enrollment articulation agreement. A dual enrollment articulation agreement shall be completed and submitted annually by the postsecondary institution to the Department of Education on or before August 1. The agreement must include, but is not limited to:

(n) A funding provision that delineates costs incurred by each entity.

1. School districts shall pay public postsecondary institutions the standard tuition rate per credit hour from funds provided in the Florida Education Finance Program when dual enrollment course instruction takes place on the postsecondary institution's campus and the course is taken

during the fall or spring term. When dual enrollment is provided on the high school site by postsecondary institution faculty, the school district shall reimburse the costs associated with the postsecondary institution's proportion of salary and benefits to provide the instruction. When dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution. A postsecondary institution may enter into an agreement with the school district to authorize teachers to teach dual enrollment courses at the high school site or the postsecondary institution. A school district may not deny a student access to dual enrollment unless the student is ineligible to participate in the program subject to provisions specifically outlined in this section.

2. Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution shall receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a student during the summer term.

3. The agreement must address the costs associated with courses delivered using technology, such as online courses, blended courses, and synchronous or asynchronous e-learning, to be borne by each entity.

4. Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution that uses

technology to provide dual enrollment courses on the institution's campus or on the high school site and has a total number of dual enrollment students that meets or exceeds 25 percent of the institution's total FTE or total headcount enrollment shall receive an appropriation in an amount equivalent to the statewide average cost of a fulltime faculty member's salary and benefits. The institution shall receive an additional appropriation in the same amount for each 100 students served above the 25-percent threshold.

(p) For an agreement between a Florida College System institution and a school district, a provision to establish one or more early admission programs pursuant to subsections (10) and (11) or early college programs pursuant to s. 1007.273 at a mutually agreed upon location or locations. If the Florida College System institution does not establish an early college program with a district school board in its designated service area, another Florida College System institution may establish an early college program with that district school board through an articulation agreement consistent with this section. An agreement establishing an early college program must:

1. Identify the grade levels to be included in the early college program.

2. Describe the early college program, including a list of the meta-major academic pathways approved pursuant to s. 1008.30(4) that are available to participating students through

the partner Florida College System institution or other eligible partner postsecondary institution participating pursuant to s. 1007.273(3); the delineation of courses that must, at a minimum, include general education core requirements and common prerequisite courses under s. 1007.25; industry certifications offered, including online course availability; the high school and college credits earned for each postsecondary course completed and industry certification earned; student eligibility criteria; and the enrollment process and relevant deadlines.

3. Describe the methods, mediums, and processes by which students and their parents are annually informed about the availability of the early college program, the return on investment associated with participation in the early college program, and the information described in subparagraphs 1. and 2.

4. Identify the delivery methods for instruction and the instructors for all courses.

5. Identify student advising services and progress monitoring mechanisms.

6. Establish a program review and reporting mechanism regarding student performance outcomes.

7. Describe the terms of funding arrangements to implement the early college program pursuant to s. 1007.273(4).

(24)

(b) Each public postsecondary institution eligible to

participate in the dual enrollment program pursuant to s. 1011.62(1)(i) must enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students, including, but not limited to, students with disabilities. By August 1 of each year, the eligible postsecondary institution shall complete and submit the private school articulation agreement to the Department of Education. The private school articulation agreement must include, at a minimum:

1. A delineation of courses and programs available to the private school student. The postsecondary institution may add, revise, or delete courses and programs at any time.

2. The initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students.

3. The student's responsibilities for providing his or her own ~~instructional materials and~~ transportation.

4. A provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program.

5. A provision expressing that costs associated with tuition and fees, including registration~~,~~ and laboratory fees and instructional materials, may not be funded through the Florida Education Finance Program or ~~will not be~~ passed along to

the student or the student's private school of enrollment.

(c) A private school may enter into an agreement with the local Florida College System institution or another institution consistent with paragraph (21)(p) and s. 1007.273 to establish an early college program. The costs of such program may not be funded through the Florida Education Finance Program or passed along to the student or the student's private school of enrollment.

(26) The State Board of Education shall adopt rules and the Board of Governors shall adopt regulations to implement this section.

Section 3. Section 1007.273, Florida Statutes, is amended to read:

1007.273 Early college acceleration programs ~~Collegiate high school program~~.—

~~(1)~~ Each Florida College System institution shall work with each district school board in its designated service area to establish one or more early college programs consistent with s. 1007.271(21)(p) ~~collegiate high school programs~~.

(1)~~(2)~~ PURPOSE.—At a minimum, early college ~~collegiate high school~~ programs must include an option for public school students in grades ~~grade~~ 11 and ~~or grade~~ 12 participating in the early college program, for at least 2 ~~1~~ full school years ~~year~~, to earn CAPE industry certifications pursuant to s. 1008.44 and graduate from high school with an associate degree ~~to~~

~~successfully complete 30 credit hours~~ through the dual enrollment program under s. 1007.271. The early college program must prioritize dual enrollment courses applicable to the general education core requirements and common prerequisite courses under s. 1007.25 ~~toward the first year of college~~ for an associate degree or a baccalaureate degree over elective courses. A district school board or Florida College System institution may not limit the number of eligible students who may enroll in an early college program ~~while enrolled in the program~~.

~~(3) Each district school board and its local Florida College System institution shall execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. Beginning with the 2015-2016 school year, If the institution does not establish a program with a district school board in its designated service area, another Florida College System institution may execute a contract with that district school board to establish the program. The contract must be executed by January 1 of each school year for implementation of the program during the next school year. The contract must:~~

~~(a) Identify the grade levels to be included in the collegiate high school program which must, at a minimum, include grade 12.~~

~~(b) Describe the collegiate high school program, including~~

~~the delineation of courses and industry certifications offered, including online course availability; the high school and college credits earned for each postsecondary course completed and industry certification earned; student eligibility criteria; and the enrollment process and relevant deadlines.~~

~~(c) Describe the methods, medium, and process by which students and their parents are annually informed about the availability of the collegiate high school program, the return on investment associated with participation in the program, and the information described in paragraphs (a) and (b).~~

~~(d) Identify the delivery methods for instruction and the instructors for all courses.~~

~~(e) Identify student advising services and progress monitoring mechanisms.~~

~~(f) Establish a program review and reporting mechanism regarding student performance outcomes.~~

~~(g) Describe the terms of funding arrangements to implement the collegiate high school program.~~

(2)~~(4)~~ STUDENT PERFORMANCE CONTRACT AND INFORMATION.—

(a) Each student participating in an early college ~~a collegiate high school~~ program must enter into a student performance contract which must be signed by the student, the parent, and a representative of the school district and the ~~applicable~~ Florida College System institution~~, state university,~~ or other eligible postsecondary institution participating

pursuant to subsection (3)~~(5)~~. The performance contract must, at a minimum, specify ~~include~~ the schedule of courses, by semester, and industry certifications to be taken by the student, if any; student attendance requirements; ~~, and~~ course grade requirements; and the applicability of such courses to an associate degree or a baccalaureate degree.

(b) By September 1, 2021, and annually thereafter, each district school board must post on its website at least the following:

1. The method for earning college credit through participation in the early college program. The information must link to the dual enrollment course equivalency list approved by the State Board of Education; the common degree program prerequisite requirements published by the Articulation Coordinating Committee pursuant to s. 1007.01(3)(f); the industry certification articulation agreements adopted in rule by the State Board of Education; and the approved meta-major academic pathways of the partner Florida College System institution or other eligible partner postsecondary institution participating through an agreement consistent with subsection (3).

2. The estimated cost savings to students and their families resulting from students successfully completing 30 credit hours and 60 credit hours applicable toward the general education core requirements and common prerequisite courses

before graduating from high school versus the cost of students earning such credit hours after graduating from high school.

(3) ~~(5)~~ AUTHORIZED EARLY COLLEGE PROGRAM AGREEMENTS.—~~In addition to executing a contract with the local Florida College System institution under this section,~~ A district school board may ~~execute a contract to~~ establish an early college ~~a collegiate high school~~ program with a state university or an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. The program must be established through an agreement that meets the requirements of this section and s. 1007.271(21)(p). A charter school or a private school may enter into an agreement with the local Florida College System institution or another institution consistent with this section and s. 1007.271(21)(p) to establish an early college program ~~Such university or institution must meet the requirements specified under subsections (3) and (4)~~.

(4) ~~(6)~~ FUNDING.—The early college ~~collegiate high school~~ program shall be funded pursuant to ss. 1007.271 and 1011.62. The State Board of Education shall enforce compliance with this section and s. 1007.271(21)(p) by withholding the transfer of funds for the school districts and the Florida College System

institutions in accordance with s. 1008.32.

Section 4. For the 2020-2021 fiscal year, the sum of $550,000 in recurring funds is appropriated from the General Revenue Fund to the Department of Education for the purpose of providing instructional materials for private school and charter school students pursuant to s. 1007.271(17), Florida Statutes, as amended by this act.

Section 5. This act shall take effect July 1, 2020.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Zika offered the following:

Amendment

Between lines 376 and 377, insert:

Section 1. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in

determining the annual allocation to each district for operation:

(i) Calculation of full-time equivalent membership with respect to dual enrollment instruction.—

1. Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions

of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. ~~An independent college or university, which is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees.~~ No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

2. For students enrolled in an early college program pursuant to s. 1007.273, a value of 0.16 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A" or higher. For students who are not enrolled in an early college program, a value of 0.08 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A" or

higher. Additionally, a value of 0.3 full-time equivalent student membership shall be calculated for any student who receives an associate degree through the dual enrollment program with a 3.0 grade point average or higher. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. This subparagraph shall be applicable to credit earned by dually enrolled students for courses taken in the 2020-2021 school year and each subsequent school year thereafter. If the associate degree is earned in 2020-2021 following completion of courses taken in the 2020-2021 school year, courses taken toward the degree as part of the dual enrollment program before 2020-2021 may not preclude eligibility for the 0.3 additional full-time equivalent student membership bonus. Each school district shall allocate at least 50 percent of the funds received from the dual enrollment bonus FTE funding in accordance with this paragraph to the schools that generated funds to support student academic guidance and postsecondary readiness.

3. For the purposes of this paragraph, general education core courses are those that are identified in rule by the State Board of Education and in regulation by the Board of Governors pursuant to s. 1007.25(3).

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 259 Compensation for Wrongful Incarceration
SPONSOR(S): Criminal Justice Subcommittee, DuBose and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	15 Y, 0 N, As CS	Rochester	Hall
2) Appropriations Committee		Jones	Pridgeon
3) Judiciary Committee			

SUMMARY ANALYSIS

In 2008, the Legislature passed the Victims of Wrongful Incarceration Compensation Act (Act) to compensate a person who is determined to be actually innocent of a felony offense for his or her wrongful incarceration. The Act disqualifies a person with specified types of prior criminal convictions from eligibility for compensation. To be eligible for compensation, a person must not have been:

- Convicted of a violent felony or more than one nonviolent felony before or during the wrongful incarceration or during a term of parole or community supervision served for the wrongful conviction.
- Serving a concurrent sentence for another felony for which the person was not wrongfully incarcerated.

Under current law, a person must file a petition for compensation with the court within 90 days after the order vacating his or her conviction and sentence becomes final. Moreover, if a compensation claim is approved, the wrongfully incarcerated person is barred from bringing a civil lawsuit against the state. Similarly, a wrongfully incarcerated person with a pending lawsuit against the state may not apply for compensation.

CS/HB 259 removes the bar to compensation for a person who has been convicted of a violent felony or multiple nonviolent felonies prior to the person's wrongful conviction and incarceration. Accordingly, a claimant who was previously convicted of a violent felony or multiple nonviolent felonies will not be disqualified from receiving compensation under the Act.

The bill also:

- Extends the filing deadline for a petition from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed, if the conviction and sentence is vacated on or after July 1, 2020;
- Removes the bar to applying for wrongful incarceration compensation if the person has a pending lawsuit against the state relating to the person's wrongful conviction and incarceration;
- Creates an "off-set provision" authorizing the state to deduct the amount of any civil award recovered in a lawsuit from the state compensation owed if the claimant receives a civil award first or requiring a claimant to reimburse the state for any difference between state compensation and a civil award if the claimant receives statutory compensation prior to a civil award; and
- Requires a claimant to notify the Department of Legal Affairs (DLA) upon filing a civil action and DLA to file a notice of payment of monetary compensation in such action to recover any amount owed for state compensation already awarded.

The bill may have an indeterminate fiscal impact on state government due to an increased number of eligible applicants under the expanded criteria. *See* Fiscal Analysis & Economic Impact Statement. The bill does not appear to have a fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Victims of Wrongful Incarceration Compensation Act

In Florida, 13 people have been exonerated or released from incarceration since 2000 as a result of post-conviction DNA testing.[1] The Victims of Wrongful Incarceration Compensation Act (Act) has been in effect since July 1, 2008. The Act provides a process by which a person whose conviction and sentence has been vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a "wrongfully incarcerated person."[2] A "wrongfully incarcerated person" is a person whose felony conviction and sentence have been vacated by a court and the original sentencing court has issued an order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to the offense.[3]

Petition Process

To receive compensation under the Act, an exonerated person must file a petition in the court where the judgment and sentence were vacated seeking status as a "wrongfully incarcerated person." Section 961.03(1)(a), F.S., requires a claimant to state:

- That verifiable and substantial evidence of actual innocence exists;
- The nature and significance of the evidence of actual innocence with particularity; and
- That the person is not disqualified from seeking compensation under ch. 961, F.S.

The person must file the petition with the court:

- Within 90 days after the order vacating a conviction and sentence becomes final, if the person's conviction and sentence is vacated on or after July 1, 2008; or
- By July 1, 2010, if the person's conviction and sentence was vacated by an order that became final prior to July 1, 2008.

Although a claimant must submit proof of actual innocence in his or her petition, after a conviction is overturned, the state may choose to retry the claimant. In some cases, a claimant must file a petition with proof of actual innocence while still in custody or facing retrial.

Once filed, a claimant must provide a copy of the petition to the prosecutor who must respond within 30 days by:

- Stipulating to the claimant's innocence and eligibility for compensation;
- Contesting the evidence of actual innocence; or
- Contesting the claimant's eligibility for compensation.[4]

If the prosecuting authority contests the claimant's innocence or eligibility, the original sentencing court must determine whether the claimant has established eligibility for compensation by a preponderance

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[1] Frank Lee Smith, Jerry Townsend, Wilton Dedge, Luis Diaz, Alan Crotzer, Orlando Boquete, Larry Bostic, Chad Heins, Cody Davis, William Dillon, James Bain, Anthony Caravella, and Derrick Williams have been released from prison or exonerated in Florida based on DNA testing. The National Registry of Exonerations, https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA (last visited on Jan. 15, 2020).

[2] To be eligible for compensation, a person must meet the definition of a "wrongfully incarcerated person" and not be otherwise disqualified from seeking compensation under the Act. S. 961.02(5), F.S.

[3] S. 961.02(4), F.S.

[4] Ss. 961.03(2)(a) and (b), F.S.

of the evidence based on the pleadings and the supporting documents. If the court finds the claimant is not eligible for compensation, it must dismiss the petition.[5]

If the court finds the claimant is eligible for compensation, but the prosecuting authority contests the claimant's actual innocence, the court must enter its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH) for a hearing before an administrative law judge (ALJ). The ALJ must make factual findings regarding the claimant's actual innocence and draft a recommended order determining whether the claimant has established by clear and convincing evidence that he or she is a wrongfully incarcerated person.[6] The ALJ must file his or her findings and recommended order within 45 days of the hearing.[7] The original sentencing court must review the ALJ's findings and recommendation and issue its own order declining or adopting the recommended order within 60 days.

Eligibility

Florida has the only wrongful incarceration compensation law in the country that bars eligibility if a person was previously convicted of certain unrelated crimes, referred to as the "clean hands provision."[8] When the Act was passed, a person was barred from receiving compensation if he or she had any prior felony conviction.

Under current law, a claimant is barred from receiving compensation if he or she was:

- Convicted of any violent felony, a similar crime in another jurisdiction, or a federal crime designated a violent felony, excluding any delinquency disposition, before or during the wrongful conviction and incarceration;
- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction that would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during the wrongful conviction and incarceration; or
- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the wrongful incarceration.[9]

Under ch. 961, F.S., a violent felony means any felony listed in ss. 755.084(1)(c)1. or 948.06(8)(c), F.S., including:

- The commission of, or attempt to commit:
  - Kidnapping (s. 787.01, F.S.);
  - Murder (s. 782.04, F.S.);
  - Felony murder (s. 782.051, F.S.);
  - Aggravated battery (s. 784.045, F.S.);
  - Sexual battery (ss. 794.011(2), (3), (4), or (8)(b) or (c), F.S.);
  - Lewd or lascivious battery (s. 800.04(4), F.S.);
  - Robbery (s. 812.13, F.S.);
  - Carjacking (s. 812.133, F.S.);
  - Home invasion robbery (s. 812.135, F.S.);
  - Lewd or lascivious offense upon or in the presence of an elderly or disabled person (s. 825.1025, F.S.);
  - Sexual performance by a child (s. 827.071, F.S.);
  - Any burglary offense that is a first or second degree felony (s. 810.02(2) or (3), F.S.);
  - Arson (s. 806.01(1), F.S.);
- Manslaughter (s. 782.07, F.S.);

[5] S. 961.03(4)(a), F.S.
[6] S. 961.03(4)(b), F.S.
[7] Ss. 961.03 (5)(c) and (d), F.S.
[8] Kansas Legislative Research Department, *Compensation for Wrongful Conviction, Wrongful Incarceration, and Exoneration* (Dec. 27, 2017), http://www.kslegresearch.org/KLRD-web/Publications/JudiciaryCorrectionsJuvJustice/WrongfulIncarcerationCompensationMemo.pdf (last visited Jan. 15, 2020).
[9] Ss. 961.04 and 961.06(2), F.S.

- False imprisonment of a child under the age of 13 (s. 787.02(3), F.S.);
- Luring or enticing a child (s. 787.025(2)(b) or (c), F.S.);
- Lewd or lascivious molestation (ss. 800.04(5)(b) or (c)2., F.S.);
- Lewd or lascivious conduct (s. 800.04(6)(b), F.S.);
- Lewd or lascivious exhibition (s. 800.04(7)(b), F.S.);
- Lewd or lascivious exhibition on computer (s. 847.0135(5)(b), F.S.);
- Computer pornography (ss. 847.0135(2) or (3), F.S.);
- Transmission of child pornography (s. 847.0137, F.S.);
- Selling or buying of minors (s. 847.0145, F.S.);
- Poisoning food or water (s. 859.01, F.S.);
- Abuse of a dead human body (s. 872.06, F.S.);
- Aggravated assault (s. 784.021, F.S.);
- Aggravated stalking (ss. 784.048(3), (4), (5), or (7), F.S.);
- Aircraft piracy (s. 860.16, F.S.);
- Unlawful throwing, placing, or discharging of a destructive device or bomb (ss. 790.161(2), (3), or (4), F.S.);
- Treason (s. 876.32, F.S.);
- Aggravated child abuse (s. 827.03, F.S.);
- Aggravated abuse of an elderly person or disabled adult (s. 825.102, F.S.); or
- Any offense committed in another jurisdiction which would be a violent felony if that offense had been committed in Florida.[10]

Currently, 34 states have a process to compensate wrongfully incarcerated individuals. Nine of these states have some form of clean hands provision that prohibits compensation for persons with related convictions for which the claimant was not wrongfully incarcerated.[11] Three of the nine states revoke compensation if the person is convicted of a felony after receiving an award.[12] Florida, however, is the only state that bars compensation for certain prior, unrelated felony convictions.

Application Process

After the original sentencing court enters an order finding that the person meets the definition of a wrongfully incarcerated person who is eligible for compensation, a claimant has two years to apply to the Department of Legal Affairs (DLA) for compensation.[13] Only the claimant, not the claimant's estate or its personal representative, may apply for compensation.[14] Section 961.05(3), F.S., requires, in part, that an application include:

- A certified copy of the order vacating the conviction and sentence;
- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation;
- Certified copies of the original judgment and sentence;
- Documentation demonstrating the length of the sentence served, including documentation from the Department of Corrections (DOC) regarding the person's admission into and release from the custody of DOC;
- Proof of identification demonstrating that the person seeking compensation is the same individual who was wrongfully incarcerated;
- All supporting documentation of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; and
- All supporting documentation of any reasonable attorney's fees and expenses.[15]

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[10] Ss. 961.02, 775.084(1)(c)1., and 948.06(8)(c), F.S.
[11] Kansas Legislative Research Department, *supra* note 8.
[12] Alabama, Texas, and Virginia. *Id.*
[13] S. 961.05(1) and (2), F.S.
[14] S. 961.05(2), F.S.
[15] S. 961.05(3), F.S.

DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any relevant additional information. The claimant has 15 days after notification of existing errors to supplement the application. DLA must process and review each completed application within 90 days.

Before DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.[16] Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.[17] If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.[18]

Compensation

Under s. 961.06, F.S., a wrongfully incarcerated person is entitled to:

- Monetary compensation, at a rate of $50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.[19]

The total compensation awarded may not exceed $2 million.[20] The Chief Financial Officer is required to issue the purchase of an annuity for a term not less than 10 years to distribute such compensation.[21]

Claim Bills

Since the Act's inception, a number of claim bills have been filed on behalf of wrongfully incarcerated persons who are ineligible for compensation under the Act because of a felony conviction prior to the person's wrongful incarceration. At least two such persons have received compensation for wrongful incarceration through the claim bill process.

In 2008, Alan Crotzer prevailed in a claim bill for his wrongful incarceration. Crotzer was ineligible for compensation under the Act because of a prior violent felony conviction for armed robbery when he was 18 years old.[22] In 2012, prior to the eligibility expansion in 2017, William Dillon prevailed in a claim bill for his wrongful incarceration. Dillon was barred from seeking compensation under the Act because of a prior felony conviction for possession of a single Quaalude.[23]

Effect of Proposed Changes

CS/HB 259 extends the filing deadline for a petition from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed, if the person's conviction and sentence is vacated on or after July 1, 2020.

The bill removes the bar to compensation for a claimant who has been convicted of a prior violent

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[16] S. 960.06(5), F.S.
[17] S. 960.05(5), F.S.
[18] S. 960.05(6), F.S.
[19] S. 961.06(1), F.S.
[20] *Id.*
[21] S. 961.06(3), F.S.
[22] Florida House of Representatives, Special Master's Final Report of 2008 House Bill 7037, p. 6 (Mar. 14, 2008). Ch. 2008-259, L.O.F.
[23] Ch. 2012-229, L.O.F. (compensating William Dillon for wrongful incarceration despite ineligibility for compensation under the Act).

felony or multiple nonviolent felonies. Accordingly, an otherwise eligible claimant who was previously convicted of a violent felony or multiple nonviolent felonies will not be disqualified from receiving compensation under the Act for their unrelated wrongful conviction and incarceration.

A person will continue to be barred from receiving compensation if he or she was:

- Convicted of a violent felony or more than one nonviolent felony during the wrongful incarceration or during a term of parole or community supervision served for the wrongful conviction.
- Serving a concurrent sentence for another felony during the wrongful incarceration.

CS/HB 259 removes the requirement for a wrongfully incarcerated person to release the state or any agency from all claims arising out of the facts relating to the person's wrongful conviction and incarceration. The bill also removes the bar to applying for wrongful incarceration compensation if the person has a pending lawsuit against the state or any agency, or any political subdivision thereof for damages relating to the person's wrongful conviction and incarceration.

Finally, the bill replaces the bar on civil litigation with an "offset provision" that:

- Authorizes the state to deduct the amount of a civil award recovered in a lawsuit from the state compensation owed if the claimant receives a civil award first;
- Requires a claimant to reimburse the state for any difference between state compensation and a civil award if the claimant receives statutory compensation prior to a civil award; and
- Requires a claimant to notify the Department of Legal Affairs (DLA) upon filing a civil action and DLA to file a notice of payment of monetary compensation in such action to recover any amount owed for state compensation already awarded.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 961.03, F.S., relating to determination of status as a wrongfully incarcerated person; determination of eligibility for compensation.
Section 2: Amends s. 961.04, F.S., relating to eligibility for compensation for wrongful incarceration.
Section 3: Amends s. 961.06, F.S., relating to compensation for wrongful incarceration.
Section 4: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have any impact on state revenues.

2. Expenditures:

   The bill may have an indeterminate fiscal impact on state government. The bill may expand the number of persons eligible for compensation due to wrongful incarceration, which could increase state expenditures to provide such compensation. A person who is entitled to compensation based on wrongful incarceration would be paid at the rate of $50,000 per year of wrongful incarceration up to a limit of $2 million. Payment is made from an annuity or annuities purchased by the Chief Financial Officer for the benefit of the wrongfully incarcerated person. The Act is funded through a continuing appropriation.[24]

[24] S. 961.07, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on persons who will be eligible for compensation under the Act as amended.

D. FISCAL COMMENTS:

Although statutory limits on compensation under the Act are clear, the fiscal impact of the bill is unquantifiable. The possibility that a person would be compensated for wrongful incarceration is based upon variables that cannot be known, such as the number of wrongful incarcerations that currently exist or might exist in the future.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 15, 2020, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Extended the filing deadline for a petition from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed, if the conviction and sentence is vacated on or after July 1, 2020.
- Removed the requirement for a wrongfully incarcerated person to sign a liability release before receiving compensation.
- Removed the bar to applying for wrongful incarceration compensation if the person has a pending lawsuit against the state or any agency, or any political subdivision thereof for damages relating to the person's wrongful conviction and incarceration.
- Created an "offset provision" authorizing the state to deduct the amount of any civil award recovered in a lawsuit from the state compensation owed if the claimant receives a civil award first and requiring a claimant to reimburse the state for any difference between state compensation and a civil award if the claimant receives statutory compensation prior to a civil award.

- Required a claimant to notify the Department of Legal Affairs (DLA) upon filing a civil action and DLA to file a notice of payment of monetary compensation in such action to recover any amount owed for state compensation already awarded.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

A bill to be entitled

An act relating to compensation for wrongful incarceration; amending s. 961.03, F.S.; extending the filing deadline for a petition claiming wrongful incarceration; amending s. 961.04, F.S.; deleting eligibility requirements relating to a person's conduct before the person's wrongful conviction or incarceration; amending s. 961.06, F.S.; authorizing the state to deduct the amount of a civil award from the state compensation amount owed if the claimant first receives a civil award; deleting a requirement that a wrongfully incarcerated person sign a liability release before receiving compensation; requiring a claimant to reimburse the state for any difference between state compensation and a civil award if the claimant receives statutory compensation prior to a civil award; deleting provisions prohibiting an application for compensation if the applicant has a pending civil suit requesting compensation; requiring a claimant to notify the Department of Legal Affairs upon filing a civil action; requiring the department to file a notice of payment of monetary compensation in the civil action; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 961.03, Florida Statutes, is amended to read:

961.03 Determination of status as a wrongfully incarcerated person; determination of eligibility for compensation.—

(1)

(b) The person must file the petition with the court:

1. Within 90 days after the order vacating a conviction and sentence becomes final if the person's conviction and sentence is vacated on or after July 1, 2008, but before July 1, 2020.

2. By July 1, 2010, if the person's conviction and sentence was vacated by an order that became final prior to July 1, 2008.

3. Within 2 years after the order vacating a conviction and sentence becomes final and the criminal charges against the person are dismissed, if the person's conviction and sentence is vacated on or after July 1, 2020.

Section 2. Subsections (3), (4), and (5) of section 961.04, Florida Statutes, are renumbered as subsections (1), (2), and (3), respectively, and present subsections (1) and (2) of that section are amended, to read:

961.04 Eligibility for compensation for wrongful incarceration.— A wrongfully incarcerated person is not eligible

for compensation under the act if:

~~(1) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any violent felony, or a crime committed in another jurisdiction the elements of which would constitute a violent felony in this state, or a crime committed against the United States which is designated a violent felony, excluding any delinquency disposition;~~

~~(2) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony, or more than one crime committed in another jurisdiction, the elements of which would constitute a felony in this state, or more than one crime committed against the United States which is designated a felony, excluding any delinquency disposition;~~

Section 3. Section 961.06, Florida Statutes, is amended, to read:

961.06 Compensation for wrongful incarceration.—

(1) Except as otherwise provided in this act and subject to the limitations and procedures prescribed in this section, a person who is found to be entitled to compensation under the provisions of this act is entitled to:

(a) Monetary compensation for wrongful incarceration,

which shall be calculated at a rate of $50,000 for each year of wrongful incarceration, prorated as necessary to account for a portion of a year. For persons found to be wrongfully incarcerated after December 31, 2008, the Chief Financial Officer may adjust the annual rate of compensation for inflation using the change in the December-to-December "Consumer Price Index for All Urban Consumers" of the Bureau of Labor Statistics of the Department of Labor;

(b) A waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, any Florida College System institution as defined in s. 1000.21(3), or any state university as defined in s. 1000.21(6), if the wrongfully incarcerated person meets and maintains the regular admission requirements of such career center, Florida College System institution, or state university; remains registered at such educational institution; and makes satisfactory academic progress as defined by the educational institution in which the claimant is enrolled;

(c) The amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person;

(d) The amount of any reasonable attorney ~~attorney's~~ fees and expenses incurred and paid by the wrongfully incarcerated person in connection with all criminal proceedings and appeals regarding the wrongful conviction, to be calculated by the department based upon the supporting documentation submitted as

specified in s. 961.05; and

(e) Notwithstanding any provision to the contrary in s. 943.0583 or s. 943.0585, immediate administrative expunction of the person's criminal record resulting from his or her wrongful arrest, wrongful conviction, and wrongful incarceration. The Department of Legal Affairs and the Department of Law Enforcement shall, upon a determination that a claimant is entitled to compensation, immediately take all action necessary to administratively expunge the claimant's criminal record arising from his or her wrongful arrest, wrongful conviction, and wrongful incarceration. All fees for this process shall be waived.

The total compensation awarded under paragraphs (a), (c), and (d) may not exceed $2 million. No further award for attorney ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses shall be made by the state.

(2) In calculating monetary compensation under paragraph (1)(a), a wrongfully incarcerated person who is placed on parole or community supervision while serving the sentence resulting from the wrongful conviction and who commits no more than one felony that is not a violent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years incarcerated. A wrongfully incarcerated person who commits one violent felony or

more than one felony that is not a violent felony that results in revocation of the parole or community supervision is ineligible for any compensation under subsection (1).

(3) Within 15 calendar days after issuing notice to the claimant that his or her claim satisfies all of the requirements under this act, the department shall notify the Chief Financial Officer to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the department under this act.

(4) The Chief Financial Officer shall issue payment in the amount determined by the department to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state to purchase an annuity or annuities, selected by the wrongfully incarcerated person, for a term of not less than 10 years. The Chief Financial Officer is directed to execute all necessary agreements to implement this act and to maximize the benefit to the wrongfully incarcerated person. The terms of the annuity or annuities shall:

(a) Provide that the annuity or annuities may not be sold, discounted, or used as security for a loan or mortgage by the wrongfully incarcerated person.

(b) Contain beneficiary provisions for the continued disbursement of the annuity or annuities in the event of the death of the wrongfully incarcerated person.

(5) If, at the time monetary compensation is determined under paragraph (1)(a), a court has previously entered a monetary judgment in favor of the claimant in a civil action related to the person's wrongful incarceration, or the claimant has entered into a settlement agreement with the state or any political subdivision thereof related to the person's wrongful incarceration, the amount of the damages in the civil action or settlement agreement, less any sums paid for attorney fees or for costs incurred in litigating the civil action or obtaining the settlement agreement, shall be deducted from the total monetary compensation to which the claimant is entitled under this section ~~Before the department approves the application for compensation, the wrongfully incarcerated person must sign a release and waiver on behalf of the wrongfully incarcerated person and his or her heirs, successors, and assigns, forever releasing the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to s. 768.28, from all present or future claims that the wrongfully incarcerated person or his or her heirs, successors, or assigns may have against such entities arising out of the facts in connection with the wrongful conviction for which compensation is being sought under the act~~.

(6) If subsection (5) does not apply, and if after the time monetary compensation is determined under paragraph (1)(a) the court enters a monetary judgment in favor of the claimant in

a civil action related to the person's wrongful incarceration, or the claimant enters into a settlement agreement with the state or any political subdivision thereof related to the person's wrongful incarceration, the claimant shall reimburse the state for the monetary compensation in paragraph (1)(a), less any sums paid for attorney fees or costs incurred in litigating the civil action or obtaining the settlement agreement. A reimbursement required under this subsection shall not exceed the amount of the monetary award the claimant received for damages in a civil action or settlement agreement. The court shall include in the order of judgment an award to the state of any amount required to be deducted under this subsection.

~~(6)(a) A wrongfully incarcerated person may not submit an application for compensation under this act if the person has a lawsuit pending against the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to the provisions of s. 768.28, in state or federal court requesting compensation arising out of the facts in connection with the claimant's conviction and incarceration.~~

(7)(a) The claimant shall notify the department upon filing a civil action against the state or any political subdivision thereof in which the claimant is seeking monetary damages related to the claimant's wrongful incarceration for which he or she previously received or is applying to receive

compensation pursuant to paragraph (1)(a).

(b) Upon notice of the claimant's civil action, the department shall file in the case a notice of payment of monetary compensation to the claimant under paragraph (1)(a). The notice shall constitute a lien upon any judgment or settlement recovered under the civil action that is equal to the sum of monetary compensation paid to the claimant under paragraph (1)(a), less any attorney fees and litigation costs.

(8)(a) ~~(b)~~ A wrongfully incarcerated person may not submit an application for compensation under this act if the person is the subject of a claim bill pending for claims arising out of the facts in connection with the claimant's conviction and incarceration.

(b) ~~(c)~~ Once an application is filed under this act, a wrongfully incarcerated person may not pursue recovery under a claim bill until the final disposition of the application.

(c) ~~(d) Any amount awarded under this act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant's conviction and incarceration.~~ Upon notification by the department that an application meets the requirements of this act, a wrongfully incarcerated person may not recover under a claim bill.

(d) ~~(e)~~ Any compensation awarded under a claim bill shall be the sole redress for claims arising out of the facts in

connection with the claimant's conviction and incarceration and, upon any award of compensation to a wrongfully incarcerated person under a claim bill, the person may not receive compensation under this act.

(9)~~(7)~~ Any payment made under this act does not constitute a waiver of any defense of sovereign immunity or an increase in the limits of liability on behalf of the state or any person subject to the provisions of s. 768.28 or other law.

Section 4. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 593 Disability Retirement Benefits
SPONSOR(S): Williamson & others
TIED BILLS: **IDEN./SIM. BILLS:** SB 936

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N	Villa	Smith
2) Appropriations Committee		Keith	Pridgeon
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits for employees of the state and county government agencies, district school boards, state colleges, and universities; it also serves as the retirement plan for participating employees of the cities and special districts that have elected to join the system. Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan.

The FRS provides disability retirement benefits for certain members that are totally and permanently disabled to the extent that they are unable to work. Currently, in order to qualify for disability retirement benefits, members must provide certification of the member's total and permanent disability from two licensed physicians in this state, or if the member is required to work full time outside this state in the United States, then the member can provide certification from two licensed physicians of that state.

The bill allows an FRS member who is receiving care at a federal Veterans' Health Administration facility to provide certification by two licensed physicians employed by the facility as proof of total and permanent disability; regardless of the state the physicians are licensed.

The bill has no fiscal impact to state or local government.

The bill takes effect on July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Trust Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated into the FRS as a closed group.[1]

The FRS is a multi-employer, contributory plan governed by the Florida Retirement System Act.[2] As of June 30, 2018, the FRS had 643,333 active members,[3] 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).[4] As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 173 cities and 267 special districts that have elected to join the system.[5]

The membership of the FRS is divided into five membership classes:

- Regular Class[6] has 559,346 members;
- Special Risk Class[7] has 73,618 members;
- Special Risk Administrative Support Class[8] has 87 members;
- Elected Officers' Class[9] has 2,170 members; and
- Senior Management Service Class[10] has 8,088 members.[11]

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

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[1] *Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018*, at 35. A copy of the report can be found at: https://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports [hereinafter *Annual Report*].

[2] *See* Chapter 121, F.S.

[3] As of June 30, 2018, the FRS pension plan, which is a defined benefit plan, had 518,545 members, and the investment plan, which is a defined contribution plan, had 124,788 members. *Annual Report, supra* note 1, at 160.

[4] *Annual* Report, *supra* note 1, at 160.

[5] *Annual Report, supra* note 1, at 196.

[6] The Regular Class members is for all members who are not assigned to another class. Section 121.021(12), F.S.

[7] The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

[8] The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

[9] The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

[10] The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service Designation. Section 121.055, F.S.

[11] All figures from *Annual Report, supra* note 1, at 163.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[12] The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[13]

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.[14] With respect to the employer contributions, a member vests after completing one work year with an FRS employer.[15] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[16]

The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.[17] An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.[18]

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement.[19] Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.[20] For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.[21] A member vests immediately in all employee contributions paid to the pension plan. Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.[22]

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.[23] For members in the Special Risk and Special Risk Administrative Support

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[12] Section 121.4501(8), F.S.
[13] Art. IV, s. 4(e), FLA. CONST.
[14] Section 121.4501(6)(a), F.S.
[15] If a member terminated employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.
[16] Section 121.591, F.S.
[17] *See* Section 121.4501(16), F.S.
[18] Florida Retirement System, *Disability*, https://myfrs.com/FRSPro_ComparePlan_Disability.htm (last visited December 10, 2019).
[19] Section 121.025, F.S.
[20] Section 121.021(45)(a), F.S.
[21] Section 121.021(45)(b), F.S.
[22] Section 121.091, F.S.
[23] Section 121.021(29)(a)1., F.S.

Classes, normal retirement is the earliest of 25 years of service or age 55.[24] Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.[25]

Disability Retirement Benefit

There are two types of disability retirement benefits available under the FRS: in-line-of-duty and regular disability. In-line-of-duty disability benefits are available to members from their first date of employment.[26] The minimum in-line-of-duty disability benefit is 42 percent of the member's average monthly compensation for all members except those in the Special Risk Class, who may not receive less than 65 percent of their average monthly compensation.[27] To qualify for regular disability retirement, members must complete eight years of credible service.[28] The minimum benefit under regular disability is 25 percent of the member's average monthly compensation.[29] If a disabled member's service benefit would be higher than the minimum disability benefit, the member can elect to receive the higher benefit.

A member cannot receive any disability retirement benefit if the disability is a result of any of the following:

- Injury or disease sustained by the member while willfully participating in a riot, civil insurrection, or other act of violence or while committing a felony;
- Injury or disease sustained by the member after his or her employment has terminated; or
- Intentional, self-inflicted injury.[30]

To qualify for either type of disability retirement benefit, members must be totally and permanently disabled to the extent that they are unable to work.[31] DMS must require proof that the FRS member is totally and permanently disabled before approving any disability retirement payment. The proof must include the certification of the member's total and permanent disability by two licensed physicians in this state. If a member's position with an employer requires that the member work full time outside this state in the United States, then the member may include certification by two licensed physicians of the state where the member works.[32] Regardless, it must be documented that the:

- Member's medical condition occurred or became symptomatic during the time the member was employed.
- Member was totally and permanently disabled at the time he or she terminated covered employment.
- Member has not been employed after such termination.

In addition, for in-line-of-duty benefits, it must be documented that the disability was caused by a job-related illness or accident which occurred while the member was an FRS employee.[33]

Federal Veterans' Health Administration Facility

The Veterans' Health Administration (VA) is the largest healthcare network in the United States serving over 9 million enrolled veterans, and is made up of 1,255 health care facilities, including 170 medical centers and 1,074 outpatient sites of varying complexity.[34] The mission of the VA is to honor America's

[24] Section 121.021(9)(b)1., F.S.
[25] Section 121.021(9)(a)2. and (b)2., F.S.
[26] Section 121.091(4)(a)1.b., F.S.
[27] Section 121.091(4)(f), F.S.
[28] Section 121.091(4)(a)1.b., F.S.
[29] Section 121.091(4)(f), F.S.
[30] Section 121.091(4)(i), F.S.
[31] Section 121.091(4), F.S.
[32] Section 121.091(4)(c), F.S.
[33] *Id.*
[34] U.S. Department of Veterans Affairs, https://www.va.gov/health/aboutvha.asp (last visited January 10, 2020).

veterans by providing exceptional health care that improves their health and well-being.[35] Each VA medical center provides traditional hospital-based services, and most offer specialty care services such as speech pathology, dermatology, dental, geriatrics, neurology, oncology, podiatry, prosthetics, urology, and vision care.[36]

Many VA physicians on staff are on rotation throughout the country and are not necessarily Florida-licensed physicians.[37] However, each VA physician must possess at least one full, active, current, and unrestricted license that authorizes the licensee to practice in the state of licensure.[38] A physician who has had his or her license revoked for professional misconduct, professional incompetence, or substandard care is not eligible to work as a VA physician unless the license is restored to a full and unrestricted status.[39] Additionally, the VA consults with the National Practitioner Data Bank, which provides a background check for each new hire.[40] Physician applicants must also provide the VA with employment history, pre-employment references, and details of past involvement with malpractice allegations.[41]

Effect of the Bill

For proof of total and permanent disability, the bill allows an FRS member who is receiving care at a federal Veterans' Health Administration facility to provide certification by two licensed physicians employed by the facility; regardless of the state the physicians are licensed. This change will allow FRS members receiving care from such a facility to more timely and conveniently prove total and permanent disability as the FRS member would no longer have to go outside his or her current medical care provider to obtain certification of disability.

B. SECTION DIRECTORY:

Section 1 amends s. 121.091, F.S., to allow members receiving care at a federal Veterans' Health Care Administration facility to use certification by two licensed physicians at that facility as proof of total and permanent disability.

Section 2 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

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[35] *Id.*
[36] *Id.*
[37] Department of Management Services, Agency Analysis of 2020 House Bill 593, p. 2 (December 23, 2019).
[38] U.S. Department of Veterans Affairs, Veterans Health Administration Handbook 1100.19, available at: https://www.va.gov/vhapublications/publications.cfm?pub=2 (last visited 1/14/20).
[39] *Id.*
[40] *Id.*
[41] *Id.*

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would allow FRS members who receive care at Veterans' Health Administration facilities to receive proof of total and permanent disability certification from two physicians licensed by the facility, rather than two Florida licensed physicians. This will have a positive fiscal impact to those patients due to the saved time and expense of having to go outside his or her current medical care provider to obtain the certification of disability.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not require agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to disability retirement benefits; amending s. 121.091, F.S.; allowing members receiving care at federal Veterans' Health Administration facilities to use certification by a specified number of physicians working at such facilities as proof of total and permanent disability; providing an effective date.

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

Section 1. Paragraph (c) of subsection (4) of section 121.091, Florida Statutes, is amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents

are not received.

(4) DISABILITY RETIREMENT BENEFIT.—

(c) Proof of disability.—The administrator, before approving payment of any disability retirement benefit, shall require proof that the member is totally and permanently disabled as provided herein:

1. Such proof shall include the certification of the member's total and permanent disability by two licensed physicians of the state and such other evidence of disability as the administrator may require, including reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment. A member whose position with an employer requires that the member work full time outside this state in the United States may include certification by two licensed physicians of the state where the member works. A member who is receiving care at a federal Veterans' Health Administration facility may include certification by two licensed physicians working at the facility.

2. It must be documented that:

a. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer;

b. The member was totally and permanently disabled at the time he or she terminated covered employment; and

c. The member has not been employed with any other

employer after such termination.

3. If the application is for in-line-of-duty disability, in addition to the requirements of subparagraph 2., it must be documented by competent medical evidence that the disability was caused by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer.

4. The unavailability of an employment position that the member is physically and mentally capable of performing will not be considered as proof of total and permanent disability.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 641 Funds for the Operation of Schools
SPONSOR(S): Plasencia and Overdorf
TIED BILLS: None **IDEN./SIM. BILLS:** SB 836

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee	11 Y, 0 N	Bailey	Potvin
2) Education Committee		McAlarney	Hassell
3) Appropriations Committee		Bailey	Pridgeon

SUMMARY ANALYSIS

The Advanced Placement (AP) Capstone Diploma is a program offered by the College Board and is based on two year-long AP courses: AP Seminar and AP Research. These courses are designed to develop a student's skills in critical thinking, independent research, collaborative teamwork, and communication. The courses complement other AP courses the student may take. Students who earn a score of 3 or higher on four additional AP exams of their choosing, receive the AP Capstone Diploma. The AP Capstone Diploma program signifies that a student has completed a certain set of requirements in high school to earn an advanced diploma in addition to the standard high school diploma.

The bill provides for school districts to receive additional funding through the Florida Education Finance Program (FEFP) for each student who receives an AP Capstone Diploma in addition to a standard high school diploma.

The bill would have a fiscal impact based on the number of AP Capstone Diplomas awarded. This fiscal impact would be incorporated into the overall FEFP. See Fiscal Comments.

The bill has an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Advanced Placement Program

Present Situation

Since 1955, the College Board's Advanced Placement (AP) program has enabled millions of students to take college-level courses and earn college credit, advanced placement credit, or both while still in high school.[1] The AP program allows academically prepared students to pursue college-level studies through 38 AP courses, modeled on comparable introductory college courses, in seven subject areas.[2] Each AP course culminates in a standardized college-level assessment, or AP exam.[3] The exams are scored on a scale of 1 to 5,[4] with college credit awarded for AP exam scores of 3 or higher.[5]

Currently AP students who score 3 or higher on the AP exam in the prior year generate a value of 0.16 full-time equivalent (FTE) bonus amount in the Florida Education Finance Program (FEFP) calculation for the subsequent year.[6] Each school district must allocate at least 80 percent of the funds to the high school that generates the funds.[7] The school district must distribute to each classroom teacher who provided the AP instruction as follows:

- A $50 bonus for each student taught by the AP teacher in each AP course who receives a score of 3 or higher on the AP exam.
- An additional $500 to each AP teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 3 or higher on the AP exam, regardless of the number of classes taught or of the number of students scoring 3 or higher on the AP exam.[8]

Bonuses awarded to an AP teacher are in addition to any regular wage or other bonus the classroom teacher received or is scheduled to receive.[9] The Fiscal Year 2018-2019 final calculation of the Florida Education Finance Program (FEFP) includes 29,434 add-on weighted FTE for the AP program.[10]

Advanced Placement Capstone Diploma

The College Board established the Advanced Placement (AP) Capstone Diploma to provide students with opportunities to develop skills in critical thinking, independent research, collaborative teamwork, and communication skills.[11] The AP Capstone Diploma program is based on two year-long AP courses: AP Seminar and AP Research.[12] These two courses are designed to complement the other AP courses taken by an AP Capstone student. Students typically take the AP Seminar course in either grade 10 or 11, followed by the AP Research course.[13] The AP Seminar course is a prerequisite for the AP Research course.[14]

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[1] The College Board, *About AP*, https://apcentral.collegeboard.org/about-ap (last visited January 17, 2020).
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] Section 1007.27(5), F.S.
[6] Section 1011.62(1)(n), F.S.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Florida Department of Education, *Florida Education Finance Program Fiscal Year 2018-2019 Final Calculation, available at* http://www.fldoe.org/core/fileparse.php/7507/urlt/1819FEFPFinalCalc.pdf.
[11] The College Board, *What is the AP Capstone Diploma Program, available at* https://apcentral.collegeboard.org/pdf/ap-capstone-student-brochure.pdf?course=ap-capstone-diploma-program.
[12] *Id.*
[13] *Id.*
[14] *Id.*

The AP Seminar course allows students to consider an issue from multiple perspectives, identify credible sources, evaluate strengths and weaknesses of arguments, and make logical, evidence-based recommendations. Students investigate a variety of topics through various viewpoints of their choice and complete a team project as well as take a written end-of-course exam.[15]

The AP Research course allows students to explore various research methods and complete an independent research project that builds on a topic, problem, or issue covered in the AP Seminar course or on a new topic of the student's choosing. At the end of the project, students submit an academic paper and present and defend their research findings. There is no end-of-course exam.[16]

Students who earn a score of 3 or higher on the exams for the AP Seminar course and the AP Research course, plus earn a score of 3 or higher on four additional AP exams of their choosing, receive the AP Capstone Diploma.[17] The AP Capstone Diploma program signifies that the student has completed a certain set of requirements in high school to earn an advanced diploma in addition to the standard high school diploma.

There are 228 approved AP Capstone schools in Florida.[18]

Effect of Proposed Changes

The bill provides a 0.30 full-time equivalent (FTE) add-on bonus amount funded in the Florida Education Finance Program (FEFP) to be generated by students who graduate with the Advanced Placement (AP) Capstone Diploma and meet the requirements for a standard high school diploma. Students who graduate with the AP Capstone Diploma will generate the add-on bonus funding for their school districts in the subsequent fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends s. 1011.62, F.S., revising the annual allocation to school districts to include an additional calculation of full-time equivalent (FTE) membership for students who earn an Advanced Placement Capstone Diploma.

Section 2: Provide an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   There were 1,317 Advanced Placement (AP) Capstone Diplomas awarded to Florida public school AP students in Fiscal Year 2018-2019.[19] Based on this data, and applying the Fiscal Year 2019-2020 based student allocation of $4,279.49 multiplied by 0.30 full-time equivalent (FTE) and then multiplied by the 1,317 students equals $1,690,827. Based on the number of AP Capstone

[15] *Id.*
[16] *Id.*
[17] The College Board, *How it Works, available at* https://apcentral.collegeboard.org/pdf/ap-capstone-student-brochure.pdf?course=ap-capstone-diploma-program.
[18] Email, The College Board, Government Relations (Jan. 8, 2020).
[19] Email, The College Board, Government Relations (Jan. 9, 2020).

diplomas awarded in Fiscal Year 2020-2021, the Florida Education Finance Program (FEFP) would be redistributed to accommodate these students.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

School districts that offer the Advanced Placement Capstone Diploma program may receive additional funding through the Florida Education Finance Program.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to funds for the operation of schools; amending s. 1011.62, F.S.; revising the annual allocation to school districts to include an additional calculation of full-time equivalent membership for students who earn a College Board Advanced Placement Capstone Diploma beginning in a specified fiscal year; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(n) Calculation of additional full-time equivalent membership based on college board advanced placement scores of

students and earning college board advanced placement capstone diplomas.—A value of 0.16 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives a College Board Advanced Placement Capstone Diploma and meets the requirements for a standard high school diploma under s. 1003.4282. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

1. A bonus in the amount of $50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of $500 to each Advanced Placement teacher in a school designated with a grade of "D" or "F" who

has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. For such courses, the teacher shall earn an additional bonus of $50 for each student who has a qualifying score.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 711 Hospital, Hospital System, or Provider Organization Transactions
SPONSOR(S): Burton & others
TIED BILLS: **IDEN./SIM. BILLS:** SB 758

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	15 Y, 0 N	Calamas	Calamas
2) Appropriations Committee		Jones	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Healthy competition in economic markets keeps prices low and quality high for consumers. When one entity becomes too strong, it can stifle competition, leading to higher prices and harm to consumers. The goal of antitrust law is to protect and foster competition in economic markets, based on the idea that an unregulated market can lead to coercive monopolies.

When large hospitals systematically acquire smaller physician practices—a process known as vertical integration—such transactions can lead to less competition, price increases, and sometimes, coercive monopolies. To prevent such a transaction from occurring, a plaintiff, often the Attorney General, may bring an antitrust suit against the hospital. If a merger or acquisition violates antitrust law, a court may order the transaction undone. It is difficult for the Office of the Attorney General (OAG) to address antitrust activity once a transaction has occurred. However, Florida law does not require parties to such potentially monopolistic transactions to notify the OAG prior to execution.

HB 711 amends the Florida Antitrust Act relating to the transactions by hospitals, hospital systems, and provider organizations. The bill imposes certain reporting requirements when a transaction between two entities in the health care market results in an affiliation or a material change to the health care market which could create a monopoly. An entity that fails to comply with these reporting requirements is subject to a civil penalty up to $500,000.

The notice requirements will provide a mechanism for the OAG to review transactions before they occur to determine whether a proposed transaction has antitrust implications and, if warranted, pursue action to prevent coercive monopolies from forming in the health care market.

The bill authorizes 12 full-time equivalent positions, associated salary rate of $629,382, and appropriates the sums of $1,295,718 in recurring funds and $48,284 in nonrecurring funds from the General Revenue Fund to the Department of Legal Affairs to implement changes made by the bill. The bill has no impact on local governments. The bill may negatively impact hospitals, hospital systems, and provider organizations engaging in anticompetitive behavior, but may positively impact independently operated hospitals or group practices, and consumers by providing greater competition. *See* Fiscal Analysis and Economic Impact Statement.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Federal Antitrust Law

Healthy competition in economic markets keeps prices low and quality high for consumers. When one entity becomes too strong, it can stifle competition, leading to higher prices and harm to consumers.

Antitrust law exists to protect competition, but not necessarily individual competitors, in economic markets. It is based on the idea that an unregulated market will lead to the creation of coercive monopolies.[1] Federal antitrust law includes the Sherman Antitrust Act, the Clayton Act, and the Federal Trade Commission Act. These laws are enforced in federal district court[2] by the U.S. Department of Justice, the Federal Trade Commission, state Attorneys General, and private plaintiffs. Antitrust case law is well-developed, and it is often difficult to distinguish aggressive, pro-competitive conduct—which is legal—from predatory, anti-competitive conduct.[3]

Clayton Act

The Clayton Act[4] prohibits specific business actions, including mergers and acquisitions, which may substantially lessen competition. To determine whether a merger violates the Clayton Act, a court must decide whether the merger is likely to create an appreciable danger of anticompetitive effects. The plaintiff must establish a prima facie case that a transaction is anticompetitive, such as by showing that an acquisition will significantly increase market concentration and lessen competition.[5] The burden then shifts to the defendant to rebut the prima facie case, such as by introducing evidence casting doubt on the plaintiff's prediction of anticompetitive effects.[6] If the defendant rebuts the prima facie case, the plaintiff has the final burden to demonstrate an antitrust violation.[7] If the plaintiff prevails, the customary remedy is for the court to order divestiture and unwind the merger.[8]

Sherman Antitrust Act

The Sherman Antitrust Act[9] prohibits any attempt to restrain trade or form a monopoly. A monopoly has two elements: (1) monopoly power and (2) willful acquisition or maintenance of that power, as opposed to power naturally resulting from a superior product, acumen, or historic accident. Stated differently, a plaintiff must prove the defendant acquired the monopoly power in a "predatory" manner. Penalties for violating the Sherman Act include up to ten years' imprisonment and a fine up to $100 million for a corporation or $1 million for any other person.[10]

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[1] John J. Miles, Antitrust Primer, 20140513 AHLA Seminar Papers 1 (2014) (stating the purpose of antitrust law is to "protect and promote competition as the primary method by which this country allocates scarce resources to maximize the welfare of consumers.").
[2] Steven Fox, Litigation Under Florida's Deceptive and Unfair Trade Practices Act, the Florida Antitrust Act, or Federal Antitrust Statutes, The Florida Bar, Business Litigation in Florida (2017) (federal district courts have exclusive jurisdiction over federal antitrust actions).
[3] Animesh Ballabh, Antitrust Law: An Overview, 88 J. Pat. & Trademark Off. Soc'y 877 (2006); John J. Miles, Antitrust Primer, 20140513 AHLA Seminar Papers 1 (2014).
[4] 15 U.S.C. s. 18.
[5] *Olin Corp. v. FTC*, 986 F.2d 1295, 1305 (9th Cir. 1993) (discussing how plaintiff's establishment of a prima facie case on statistical evidence is first step in analysis); *Chicago Bridge & Iron Co. v. FTC*, 534 F.3d 410, 423 (5th Cir. 2008).
[6] Id.
[7] *Chicago Bridge & Iron*, 534 F.3d at 423.
[8] *St. Alphonsus Med. Ctr. v. St. Luke's Health Sys.*, 778 F.3d 775, 792 (9th Cir. 2015).
[9] 15 U.S.C. ss. 1 et seq.
[10] 15 U.S.C. s. 1.

Florida Antitrust Law

Florida Antitrust Act of 1980

The Florida Antitrust Act of 1980[11] (the Act) is intended to complement federal antitrust law in order to foster effective competition. Implemented by the Office of the Attorney General (OAG), the Act essentially mirrors the federal Sherman Act, and prohibits:[12]

- Every contract, combination, or conspiracy in restraint of trade or commerce;[13] and
- Monopolization or attempted monopolization of any part of trade or commerce.[14]

A violation of Florida antitrust law can be penalized with up to three years' imprisonment and fines up to $1 million for a corporation and $100,000 for any other person.[15] There is also a private right of action for any person injured by certain violations.[16]

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

The FDUTPA broadly prohibits any unfair or deceptive act or practice committed in the conduct of any trade or commerce.[17] It provides a cause of action to make consumers whole for losses caused by fraudulent consumer practices. The FDUTPA applies to actions that do not yet constitute full-blown antitrust violations;[18] thus, an antitrust violation is also an unfair method of competition under the FDUTPA.[19] A willful violation of the FDUTPA is subject to a fine up to $10,000.[20]

Florida law does not provide a corollary to the federal Clayton Act, which specifically targets mergers and acquisitions that may lessen competition. However, the Attorney General considers the Florida Antitrust Act of 1980 and the FDUTPA broad enough to encompass those types of violations.[21]

Vertical Integration

When large hospitals or other medical facilities merge with one another or systematically acquire smaller physician practices, such transactions can lead to less competition, and sometimes, coercive monopolies.

Vertical integration broadly refers to transactions whereby a large medical entity, such as a hospital, acquires a smaller medical entity, such as a physician practice group, thereby expanding the hospital's market power. Vertical integration can occur in many ways, including by the following methods:

- **Complete buyout.** A hospital buys out a physician practice, including its physicians, staff, equipment, and patients. The physicians become hospital employees.
- **Asset purchase agreement.** A hospital acquires from a physician practice its channels of distribution, laboratories, equipment, or other assets.

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[11] Ss. 542.15 – 542.36, F.S.
[12] S. 542.16, F.S.
[13] S. 542.18, F.S.
[14] S. 542.19, F.S.
[15] S. 542.21, F.S.
[16] Ss. 542.21, 542.22, F.S.
[17] Ss. 501.201 – 501.213, F.S.
[18] Steven Fox, *Litigation Under Florida's Deceptive and Unfair Trade Practices Act, the Florida Antitrust Act, or Federal Antitrust Statutes*, THE FLORIDA BAR, Business Litigation in Florida (2017).
[19] Id.; *see Omni Healthcare, Inc. v. Health First, Inc., not reported in* F.Supp.3d (2016).
[20] S. 501.2075, F.S.
[21] *Supra* note 18; FLORIDA ATTORNEY GENERAL, *Antitrust*, http://myfloridalegal.com/antitrust (last visited Dec. 10, 2019).

- **Physician enterprise model.** A hospital and a physician practice enter into non-equity joint ventures together. The physicians preserve their autonomy and private practice model.[22]
- **Group practice subsidiary model.** A hospital purchases a physician practice group, but the physicians, who are not employed directly by the hospital, maintain control of the day-to-day operations of the practice group.[23]
- **Professional service agreement.** A hospital purchases a physician practice's technical component services and compensates the practice's physicians for professional services at the practice. The practice remains intact, while the hospital bills and collects professional fee-for-service revenue. The hospital compensates the practice for the services.[24]

Vertical integration has been on the rise in the last twenty years. Between 2002 and 2008 in the U.S., the share of physician practices owned by hospitals doubled,[25] and trends towards increased vertical integration continued from 2007 to 2013.[26] Whether the trend towards vertical integration benefits consumers is heavily debated.[27] Proponents of vertical integration argue that it can improve the quality and efficiency of care by strengthening ties between physicians and hospitals and improving communication.[28]

Critics of vertical integration argue that it increases a hospital's market share, potentially reducing or eliminating competition. Removing competition in the medical marketplace, in turn, may allow hospitals to raise their prices to a level that harms consumers.[29] Vertical integration may lead to:[30]

- Hospitals increasing their market power by amassing control over a larger bundle of services;
- Hospitals depriving their rivals of a source of destination for referrals; and
- Heightened incentives for physicians to supply unnecessary treatments to pay for kickbacks for inappropriate referrals.

One study analyzed the trends and effects of vertical integration in the U.S. and found that some loose forms of vertical integration might be socially beneficial. However, the study concluded that vertical integration increases healthcare costs:[31]

> Taken together, our results provide a mixed, although somewhat negative, picture of vertical integration from the perspective of the privately insured. Our most definitive finding is that hospital ownership of physician practices leads to higher prices and higher levels of hospital spending.

Similarly, another recent study found that hospital acquisitions of physician practices were responsible for an average price increase of 14.1% in fees for physician services, with larger increases where the

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[22] John W. McDaniel, *The Physician Enterprise Model: A Nonemployment Alternative*, ACMPE Executive View, Vol. 8, No. 1 (Spring 2012).
[23] PHYSICIANS PRACTICE, *Maintaining Independence as a Group Practice Subsidiary*, https://www.physicianspractice.com/maintaining-independence-group-practice-subsidiary (last visited Dec. 10, 2019).
[24] Marti Cox, *Physician-Hospital Alignment Models: An Evolving Lexicon*, MGMA, https://www.mgma.com/resources/resources/business-strategy/physician-hospital-alignment-models-an-evolving-l (last visited Dec. 10, 2019); CBIZ, *Professional Services Agreement: An Alternative Strategy to Hospital Employment*, https://www.cbiz.com/insights-resources/details/articleid/3197/ispreview/true/professional-services-agreement-an-alternative-strategy-to-hospital-employment-article (last visited Dec. 10, 2019).
[25] Laurence C. Baker, M. Kate Bundorf, and Daniel P. Kessler, *Vertical Integration: Hospital Ownership of Physician Practices is Associated with Higher Prices and Spending*, HEALTH AFFAIRS (May 2014), available at: https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2013.1279 (last visited Dec. 10, 2019).
[26] Cory Capps, David Dranove, and Christopher Ody, *The Effect of Hospital Acquisitions of Physician Practices on Prices and Spending*, JOURNAL OF HEALTH ECONOMICS (Apr. 22, 2018), https://www.sciencedirect.com/science/article/abs/pii/S016762961730485X (last visited Dec. 10, 2019).
[27] *Supra* note 25.
[28] Id.
[29] Id.
[30] Id.
[31] Id.

acquiring hospital was more dominant within its market. The price increases varied across specialties, ranging from a 15% price increase for primary care physicians up to a 33.5% price increase for cardiologists.[32]

The study estimated nearly half of the price increases were due to the exploitation of "facility fees," which hospitals are allowed to charge for procedures performed by hospital-owned physician groups.[33] When hospitals acquire physician practices, the simple change in ownership allows them to charge higher prices for the same procedure regardless of whether the procedure is performed in the hospital or in the physician's practice. The study found that the cardiologist specialty had the sharpest increase in vertical integration and prices, suggesting that more hospitals are acquiring cardiologists because of the higher reimbursement incentives for facility fees in that specialty. The study concluded:[34]

> Overall, we believe these results paint a relatively negative picture of hospital-physician VI [vertical integration]. However, given the evolving nature of healthcare reimbursement systems, future analyses will be important.

Antitrust Enforcement Mechanisms in Medical Markets

A plaintiff, such as the Attorney General, may bring an antitrust suit to prevent a merger or acquisition in the medical market.[35] If a merger or acquisition violates antitrust law, a court may order the transaction undone, or "unwound," or the court may order other remedies.[36]

For example, in *St. Alphonsus Medical Center v. St. Luke's Health System*, 778 F.3d 775 (9th Cir. 2015), an Idaho hospital purchased independent physician groups, resulting in the combined entity capturing 80% of the primary care physicians in the geographic market. Two medical centers and the FTC sued the acquiring hospital under state and federal antitrust law. The Court analyzed the transaction and found that while the intent of the acquisition may have been to improve patient outcomes, the acquisition would likely have anticompetitive effects and must be unwound under the Clayton Act.[37]

Under current law, a hospital's acquisition of a physician practice may be challenged by:

- The FTC[38] under the federal Clayton Act;[39]
- A private plaintiff under the FDUTPA; or
- The Attorney General under the Florida Antitrust Act.[40]

However, there is no reporting mechanism in current law that would alert the Attorney General to such acquisitions or transactions.

Effect of Proposed Changes

HB 711 amends the Florida Antitrust Act relating to the acquisition of hospitals or other provider entities in the health care market. The bill imposes certain reporting requirements when a transaction between two entities in the health care market results in an affiliation or a material change to the health care market which could create a monopoly. An entity that fails to comply with these reporting requirements

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[32] *Supra* note 26.
[33] Id.
[34] Id.
[35] *See, e.g., St. Alphonsus Med. Ctr. v. St. Luke's Health Sys.*, 778 F.3d 775 (9th Cir. 2015) (where two hospitals merged, FTC and private plaintiffs brought antitrust suit, and court ordered divestiture of merger).
[36] *See id.*
[37] Id.
[38] *See, e.g., id.*; *F.T.C. v. Hosp. Bd. of Directors of Lee Cnty.*, 38 F.3d 1184 (11th Cir. 1994).
[39] *See also F.T.C. v. Univ. Health, Inc.*, 938 F.2d 1206 (11th Cir. 1991) (ruling against proposed acquisition of one hospital by another under the Clayton Act).
[40] S. 542.27(2), F.S., the Attorney General may institute any action authorized by federal law pertaining to antitrust or restraints of trade.

is subject to a civil penalty up to $500,000.

It is difficult for the OAG to address antitrust activity once a transaction has occurred. These new notice requirements will provide a mechanism whereby the OAG will be able to review transactions before they are effective and will allow the OAG time to determine whether a proposed transaction has antitrust implications and if warranted, pursue action to prevent coercive monopolies from forming in the health care market.

Transactions Requiring Federal Reporting

Currently, when an entity operating in Florida reports a proposed merger or acquisition to the Federal Trade Commission or the U.S. Department of Justice under the federal Clayton Act, there is no requirement that Florida's Attorney General be notified. In these instances, the bill requires the entity to notify the OAG when it files any such report with the federal government.

Transactions Resulting in Material Change

In addition to the notices related to federal filings, the bill requires certain entities to notify the OAG of certain transactions not subject to the federal requirements.

A hospital, hospital system or provider organization must notify the OAG when it plans to enter into a transaction with another hospital, hospital system or provider organization, which is defined by the bill as a health care service entity which represents four or more health care providers in contracting with third-party payers for payments. Notice is only required for transactions that result in a material change, which is defined by the bill as a merger, acquisition or contract affiliation resulting in a combined revenue of $50 million or more. The bill requires these entities to submit such notices at least 90 days prior to the effective date of the transaction.

Notice Content

Under the bill, notices of transactions involving material changes and notices of transactions requiring federal reporting must include the following content.

- The name and business addresses of the parties to the transaction.
- A description of the proposed relationship among the parties.
- A description of services that will be provided at each location.
- The primary service area to be served by each location, which the bill defines as the area measured by the fewest number of zip codes from which the party draws at least 75 percent of its patients.
- A description of all acquisitions made by the parties in the last 5 years, which the bill defines as any activity by which a party to the noticed transaction obtains control of another hospital, hospital system, or provider organization..

When submitting this notice, the entity must identify any information that is a trade secret as defined in statute so that it can be protected from further disclosure. The bill expressly authorizes OAG to request additional information or issue a civil investigative demand for other documents or information relevant to antitrust investigations.[41] In addition, the bill expressly allows parties to a material change to voluntarily provide additional information to the OAG.

The bill requires the Attorney General to biennially report to the Legislature on its activities under this new section of law, beginning January 1, 2021.

[41] S. 542.28, F.S., currently authorizes the OAG to issue civil investigative demands, essentially a subpoena, for copies of any documents or information relevant to a civil antitrust investigation.

The bill is effective July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Creates s. 542.275, F.S., relating to hospital, hospital system, or provider organization mergers, acquisitions, and other transactions; notice; reporting; penalty.
Section 2: Creates an unnumbered section of law relating to reviews authorized under this act; expenses.
Section 3: Provides an appropriation.
Section 4: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill establishes a civil penalty which must be deposited in the Legal Affairs Revolving Trust Fund. To the extent that the OAG imposes such penalties, it will experience an increase in revenue.

2. Expenditures:

According to the OAG, the division will incur out-of-pocket expenses for staff and witnesses, expert fees and costs, court reporting costs, and the maintenance of a document review platform. The OAG projects it will receive at least 20 transaction reviews annually at an estimated cost of $16,000 per review for a total of $320,000 annually. Additionally, to implement the requirements of the bill, the OAG will need seven attorneys with antitrust or health care experience, three financial analysts or health economists, and two legal assistants.[42]

FTEs	**Number**	**Rate**	**Total Salary & Benefits**
Senior Legal Assistant	2	$36,478	$94,843
Economic Analyst	3	$43,498	$169,642
Assistant Attorney General	2	$51,636	$134,254
Senior Assistant Attorney General	5	$64,532	$419,458
Standard Expense Package (Professional)	10	$10,921	$109,210
Standard Expense Package (Support Staff)	2	$8,623	$17,246
Human Resources Package	12	$339	$4,068
Total FTE Costs	$948,721		
Special Category Antitrust Investigations	$320,000		
Total Nonrecurring	$47,472		
Total Recurring	$1,221,249		

The bill authorizes 12 additional FTEs and appropriates $1,295,718 in recurring funds and $48,284 in nonrecurring funds from the General Revenue Fund to cover these costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

[42] Correspondence from the Florida Department of Legal Affairs, Dec. 10, 2019(on file with Health Market Reform Subcommittee staff).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the OAG discovers anticompetitive behavior under the new notice requirements of the bill, hospitals, hospital systems, and provider organizations engaging in such behavior will no longer be able to acquire and control monopolistic shares of the market. Entities that fail to comply with the notice requirements are subject to a civil penalty of up to $500,000. The bill also requires parties to the transaction to pay the reasonable expenses for the services of consultants, experts, accountants, economists, and other assistants used by the OAG to review transactions authorized by the act.

To the extent that the OAG is successful in reducing health care monopolies in the state, smaller or independent hospitals or group practices will be able to continue operating independently and may offer more competitive prices for health care services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The OAG does not require rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to hospital, hospital system, or provider organization transactions; creating s. 542.275, F.S.; providing definitions; requiring certain entities to submit written notice of a specified filing to the Office of the Attorney General relating to certain hospital, hospital system, or provider organization mergers, acquisitions, and other transactions within a specified timeframe; requiring that such entities submit written notice of a material change to the office within a specified period; providing requirements for such notice; authorizing the office to request additional information or issue a civil investigative demand; requiring the office to submit a biennial report to the Legislature by a specified date; providing a civil penalty; providing that such penalty be deposited into a specified trust fund; authorizing the office to engage the services of certain persons to fulfill its duties; authorizing positions and providing appropriations; providing an effective date.

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

Section 1. Section 542.275, Florida Statutes, is created

to read:

542.275 Hospital, hospital system, or provider organization mergers, acquisitions, and other transactions; notice; reporting; penalty.—

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

(a) "Acquisition" means an agreement, arrangement, or activity which results in a hospital, hospital system, or provider organization, directly or indirectly, obtaining control of another hospital, hospital system, or provider organization, including, but not limited to, the acquisition of voting securities and noncorporate interests, such as assets, capitol stock, membership interests, or equity interests.

(b) "Contracting affiliation" means a relationship between two or more entities wherein the entities have the ability to negotiate jointly with payors over rates for health care services, or one entity negotiates on behalf of the other entity with payors over rates for professional medical services in the primary service area in which the entities operate. The term does not include arrangements among entities under common ownership.

(c) "Health care provider" means a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or a person licensed under chapter 463 or a dentist licensed under chapter 466.

(d) "Hospital" has the same meaning as provided in s.

395.002.

(e) "Hospital system" means:

1. A corporation that owns one or more hospitals and any entity affiliated with such corporation through ownership or control; or

2. A hospital and any entity affiliated with such hospital through ownership.

(f) "Material change" means a merger, acquisition, or contracting affiliation that generates a combined revenue of $50 million or more between two or more entities of the following types:

1. Hospitals;

2. Hospital systems; or

3. Provider organizations.

(g) "Payor" means any entity or person that negotiates or assumes financial responsibility for a defined set of benefits from a health insurance plan or health insurance program. The term includes, but is not limited to, federal, state, and local governmental entities or agencies; affiliates; health insurance companies; health maintenance organizations; insurers; nonprofit religious organizations; persons; preferred provider organizations; prepaid limited health service organizations; and third-party administrators.

(h) "Primary service area" means the geographic area measured by the fewest number of zip codes from which the

hospital, hospital system, or provider organization draws at least 75 percent of its patients.

(i) "Provider organization" means a corporation, partnership, business trust, association, or organized group of persons, whether incorporated or not, which is in the business of health care services and represents four or more health care providers in contracting with payors for the payments of health care services. The term includes, but is not limited to, physician organizations, physician-hospital organizations, independent practice associations, provider networks, and accountable care organizations.

(2)(a) Any hospital, hospital system, or provider organization conducting business in this state which is required to file the Notification and Report Form for Certain Mergers and Acquisitions pursuant to the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. s. 18a(a), shall provide written notice of such filing to the Office of the Attorney General at the same time that notice is filed with the Federal Government.

(b) Except when notice is required pursuant to paragraph (a), at least 90 days before the effective date of any transaction that would result in a material change, the parties to the transaction shall submit written notice to the Office of the Attorney General of such material change. Such written notice must identify all acquisitions that occurred during the 5 years preceding the date of the notice.

(c) The written notice required under paragraphs (a) and (b) shall include all of the following:

1. The names of the parties and their current business addresses.

2. A description of the proposed relationship among the parties to the proposed transaction.

3. A description of the health care services at each location at which services are currently provided and at any locations at which health care services will be provided.

4. The primary service area to be served by each location.

(d) Any written notice required under this subsection shall identify any information that the hospital, hospital system, or provider organization deems a trade secret, as defined in s. 688.002, or exempt from public records laws pursuant to any other statutory exemption.

(e) Upon receipt of any written notice submitted pursuant to this subsection, the Office of the Attorney General may request additional information or issue a civil investigative demand under s. 542.28.

(f) A hospital, hospital system, or provider organization who is a party to a material change may voluntarily provide additional information to the office.

(3) Beginning January 1, 2021, the Office of the Attorney General shall submit a biennial report to the President of the Senate and the Speaker of the House of Representatives regarding

its review of transactions under this section.

(4) A hospital, hospital system, or provider organization that fails to comply with this section is subject to a civil penalty of not more than $500,000, which shall be deposited into the Legal Affairs Revolving Trust Fund created under s. 16.53(1).

Section 2. In any review authorized under this act, the Office of the Attorney General may engage the services of consultants, experts, accountants, economists, analysts, and other assistants. When the review of a transaction is completed, the reasonable expenses related to such services shall be paid by the parties to the transaction.

Section 3. For the 2020-2021 fiscal year, 12 full-time equivalent positions with associated salary rate of 629,382 are authorized and the sums of $1,295,718 in recurring funds and $48,284 in nonrecurring funds from the General Revenue Fund are appropriated to the Department of Legal Affairs for the purpose of implementing s. 542.275, Florida Statutes.

Section 4. This act shall take effect July 1, 2020.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Burton offered the following:

Amendment

Remove lines 140-141 and insert:

authorized and the sums of $1,221,249 in recurring funds and $47,472 in nonrecurring funds from the General Revenue Fund are

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 747 Coverage for Air Ambulance Services
SPONSOR(S): Health Market Reform Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 736

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	13 Y, 1 N, As CS	Grabowski	Calamas
2) Appropriations Committee		Keith	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Providers of air ambulance services use both helicopter and fixed-wing aircraft to transport patients with time-sensitive medical needs. Air ambulance services can dramatically reduce transport times for critically ill patients during life-threatening emergencies.

The infrequent and unpredictable nature of most air ambulance transports, as well as high prices, reduce the incentives of both air ambulance providers and insurers to enter into contracts with agreed-upon payment rates. This means air ambulance providers are more likely to be out-of-network when compared with other types of providers, and may be more likely to seek reimbursement by balance billing the patient. While Florida law prohibits balance billing in many circumstances, air ambulance services are largely exempt from those prohibitions.

HB 747 requires a commercial health insurer or HMO to provide reasonable reimbursement to an air ambulance service for emergency and nonemergency transport services provided to a covered individual in accordance with the terms of the insurance policy or HMO contract. The bill defines "reasonable reimbursement" as payment that considers the direct cost of services provided, costs incurred by the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity, and in-network reimbursement for comparable services.

The bill specifies that reasonable reimbursement to air ambulance service providers may be reduced only by applicable copayments, coinsurance, and deductibles, unless a covered individual has contracted to pay a different amount. The reasonable reimbursement must serve as full and final payment to the air ambulance service provider. Accordingly, the bill would prohibit air ambulance service providers from balance billing insured patients.

The bill has no fiscal impact to the state and an indeterminate impact to local governments.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

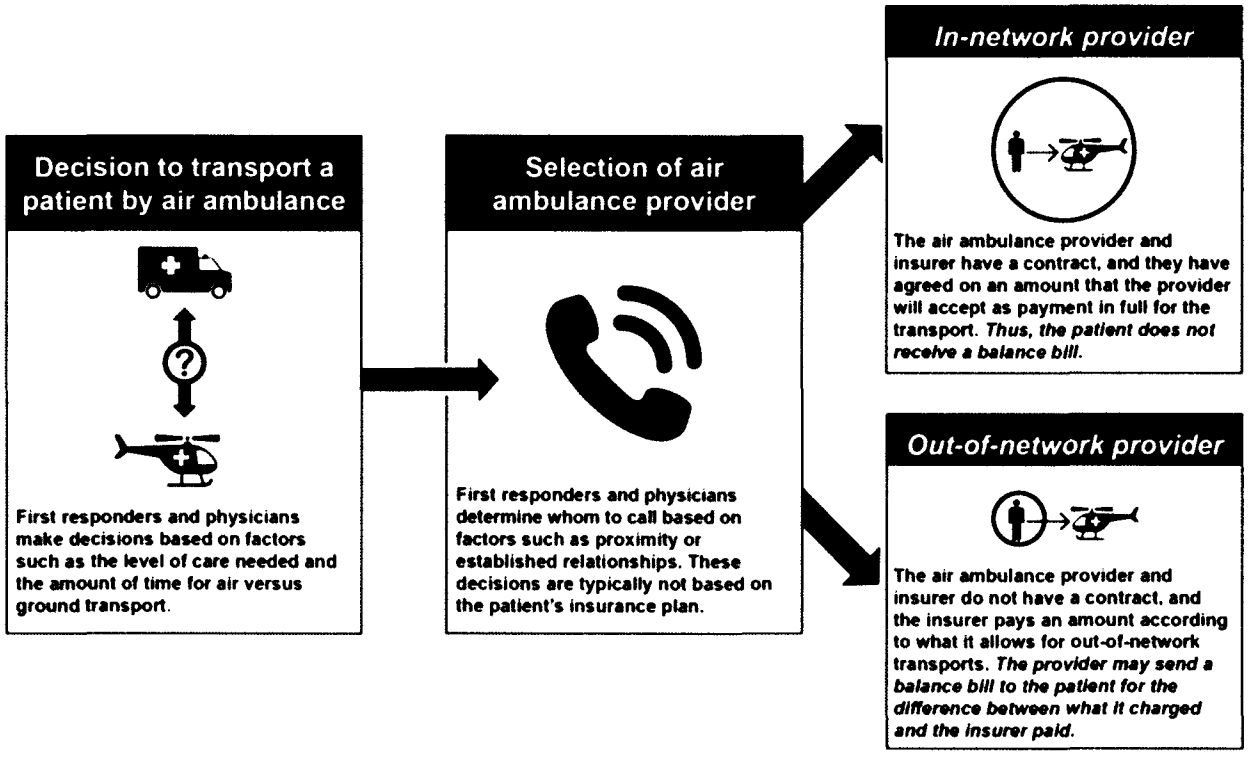
Background

Air Ambulance Services

Providers of air ambulance services use both helicopter and fixed-wing aircraft to transport patients with time-sensitive medical needs. These two types of aircraft are generally used on different types of missions:

- Helicopters are often used for transports from the scene of the accident or injury to the hospital or for shorter-distance transports between hospitals. Helicopter bases may be at hospitals, airports, or other types of helipads, and a provider may need to fly from its base to the scene or a hospital to pick up the patient being transported.
- Fixed-wing aircraft may be used for longer-distance transports between hospitals. Fixed-wing bases are at airports, and the patient is usually transported by ground ambulance to and from the airports.[1]

Relatively few patients receive air ambulance transports, but those who do generally have no control over the decision to be transported via air ambulance or in the selection of an air ambulance provider.[2]



Source: GAO | GAO-19-292

[1] U.S. Government Accountability Office, *AIR AMBULANCE – Available Data Show Privately-Insured Patients are at Financial Risk*, GAO-19-292, March 2019, available at https://www.gao.gov/assets/700/697684.pdf (last accessed January 24, 2020).
[2] Id.

Air ambulance services can dramatically reduce transport times for critically ill patients during life-threatening emergencies.[3] In the case of on-scene response transports, first responders decide when air ambulance service is needed, while hospital staff primarily make decisions regarding the need for interfacility transports. However, the on-demand nature of air ambulance services, combined with the high fixed costs associated with the transport vehicles, leads to the high cost of air ambulance services.[4] Those costs can vary widely; one source indicates the average air ambulance flight covers 52 miles and costs between $12,000 and $25,000.[5] Another source indicates that the median price charged by air ambulance providers was just under $30,000 per transport in 2014.[6] A study commissioned by the Association of Air Medical Services and Members, an industry trade group, indicates that air ambulance providers earned approximately $23,500 in median revenue per transport for flights reimbursed under commercial health insurance during fiscal year 2015.[7]

There have been numerous reports of cases where patients have received substantial balance bills from air ambulance providers for services rendered.[8] Balance billing describes a situation where a health care provider seeks to collect payment from a patient for the difference between the provider's billed charges for a covered service and the amount that the insurer or HMO paid on the claim. The infrequent and unpredictable nature of most air ambulance transports, as well as high prices, reduces the incentives of both air ambulance providers and insurers to enter into contracts with agreed-upon payment rates. This means air ambulance providers are more likely to be out-of-network when compared with other types of providers, and may be more likely to seek reimbursement through balance billing.[9]

Regulation of Air Ambulance Services

Federal Regulation

States generally have the right to regulate the business of insurance.[10] Absent federal intervention, states are responsible for regulating both health plans and service providers. In the case of air ambulance, however, federal law has effectively prevented states from regulating air ambulance services.

The federal Airline Deregulation Act of 1978[11] prohibits states from regulating the price, route, or service of an air carrier for the purposes of keeping national commercial air travel competitive. While the law was intended to shield commercial airlines from state price regulations, it also had the effect of preempting any state regulation of air medical transportation.[12]

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[3] U.S. Government Accountability Office, *AIR AMBULANCE – Data Collection and Transparency Needed to Enhance DOT Oversight*, GAO-17-637, July 2017, available at https://www.gao.gov/assets/690/686167.pdf (last accessed January 24, 2020).
[4] Supra note 1.
[5] National Association of Insurance Commissioners, *Understanding Air Ambulance Insurance Coverage*, May 2018, available at https://www.naic.org/documents/consumer_alert_understanding_air_ambulance_insurance.htm (last accessed January 24, 2020).
[6] Supra note 3.
[7] Association of Air Medical Services and Members, *Air Medical Services Cost Study Report*, March 24, 2017, available at http://aams.org/wp-content/uploads/2017/04/Air-Medical-Services-Cost-Study-Report.pdf (last accessed January 24, 2020).
[8] See, for example, *New York Times*, "Air Ambulances Offer a Lifeline, and Then a Sky-High Bill", May 5, 2015, available at https://www.nytimes.com/2015/05/06/business/rescued-by-an-air-ambulance-but-stunned-at-the-sky-high-bill.html (last accessed January 25, 2020); *Kaiser Health News*, "Loopholes Limit New California Law To Guard Against Lofty Air Ambulance Bills," January 14, 2020, available at https://khn.org/news/loopholes-limit-new-california-law-to-guard-against-lofty-air-ambulance-bills/?utm_campaign=KHN%3A%20Daily%20Health%20Policy%20Report&utm_source=hs_email&utm_medium=email&utm_content=81882222&_hsenc=p2ANqtz-_xOXkiliKqycwboslv-ok9ZzPwE0kaWIcuR0C89EQT-IM6DCIHRVyXBUUcRr4Nk_FIh6H2L5j_boZBH9EpSPpIKcsGeCRPTqKN5nw13yXMsU_VTOo&_hsmi=81882222 (last accessed January 25, 2020).
[9] Supra note 1.
[10] See the McCarran-Ferguson Act of 1945, 15 U.S.C. §§ 1011-1015
[11] P.L. 95-504, 49 U.S.C. § 1301 et seq.
[12] National Association of Insurance Commissioners, *Issue Brief: Air Ambulance Regulation*, January 2019, available at https://www.naic.org/documents/government_relations_air_ambulance_regulation_issue_brief.pdf (last accessed January 25, 2020).

Several states have tried to prevent air ambulances from collecting inflated charges by setting maximum prices, prohibiting air ambulances from balance billing, setting reasonable air ambulance rates in workers' compensation claims (which states do for nearly every health care service for workplace injuries), or even requiring air ambulance providers to provide fee schedules upon request.[13] In some states, air ambulance providers have successfully challenged state law by relying on the Airline Deregulation Act. For example, A 2017 North Dakota law requires insurers to pay for out-of-network air ambulance transports at the average of the insurer's in-network rate for air ambulance providers in the state. This payment is deemed full and final payment for the services provided.[14] In January 2019, a federal district court concluded that this payment provision is preempted by the ADA, as it has the effect of setting rates for air services.[15]

Alternatively, states have also used coverage mandates on insurers as a vehicle to prevent balance billing by service providers. In Montana, a 2017 law requires insurers and health plans to assume responsibility for amounts charged to a covered individual in excess of both allowed amounts and applicable cost-sharing amounts for air ambulance services. It also requires the use of a nonbinding dispute resolution process to determine the fair market price of services provided before a party may seek any remedy in court.[16] In New Mexico, managed health care plans are required to make emergency care services available to covered individuals without restriction and to ensure the provision of appropriate out-of-network services without additional costs. The Superintendent of Insurance began applying these requirements to air ambulance services in 2017.[17] Laws such as these appear to skirt the Airline Deregulation Act by imposing regulatory requirements on the insurer, rather than the provider.

Florida Regulation

In Florida, the Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the insurance code.[18]

All health insurance policies issued in Florida, with the exception of certain self-insured policies,[19] must meet certain requirements that are detailed throughout the Florida Insurance Code. Chapter 627, F.S., sets parameters and requirements for health insurance policies and ch. 641, F.S., provides requirements for health plans issued by health maintenance organizations (HMOs). At a minimum, insurance policies must specify premium rates, services covered, and effective dates. Insurers must document the time when a policy takes effect and the period during which the policy remains in effect.[20]

There have been numerous reports of cases where patients have received substantial balance bills from air ambulance providers for services rendered.[21] While Florida law prohibits balance billing in many circumstances, air ambulance services are generally exempt from those prohibitions.

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[13] Are Air Ambulances Truly Flying Out Of Reach? Surprise-Billing Policy And The Airline Deregulation Act, " *Health Affairs* Blog, October 17, 2019, available at https://www.healthaffairs.org/do/10.1377/hblog20191016.235396/full/ (last accessed January 25, 2020).
[14] N.D. Cent. Code S 26.1-47-09.
[15] *Guardian Flight LLV v. Godfread*, No. 1:18-cv-007.
[16] Mont. Code Ann. Ss. 33-2-2302 and 33-2-2305.
[17] N.M. Stat. Ann. S. 59A-57-4; N.M. Code R. S. 13.10.21.8.
[18] S. 20.121(3)(a)1., F.S. The OIR's commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).
[19] 29 U.S.C. 18 § 1001 et seq. ERISA regulates certain self-insured plans, which represent approximately 50 percent of the insureds in Florida. These plans cannot be regulated by state law.
[20] S. 627.413(1)(d), F.S.
[21] See, for example, *New York Times*, "Air Ambulances Offer a Lifeline, and Then a Sky-High Bill", May 5, 2015, available at https://www.nytimes.com/2015/05/06/business/rescued-by-an-air-ambulance-but-stunned-at-the-sky-high-bill.html (last accessed January 25, 2020).

Under current law, balance billing is prohibited for services provided by Medicaid;[22] workers' compensation insurance;[23] an exclusive provider who is part of an EPO; [24] or a provider who is under contract with a prepaid limited service organization.[25] In addition, the law provides that an HMO is liable to pay, and may not balance bill, for covered services provided to a subscriber whether or not a contract exists between the provider and the HMO.[26] Balance billing is also prohibited under commercial insurance in cases when emergency services are provided by an out-of-network provider, and when nonemergency services are provided by an out-of-network provider and the covered individual does not have the ability and opportunity to choose a participating provider at the facility who is available to treat that patient.[27]

Florida law does not address balance billing by air ambulance providers in cases when an air ambulance provider has not contracted with an insurer for reimbursement rates.

Effect of Proposed Changes

HB 747 requires a commercial health insurer or HMO to provide reasonable reimbursement to an air ambulance service for covered emergency and nonemergency transport services provided to a covered individual in accordance with the terms of the insurance policy or HMO contract. The bill defines "reasonable reimbursement" as payment that considers the direct cost of services provided, costs incurred by the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity[28], and in-network reimbursement for comparable services.

The bill specifies that reasonable reimbursement to air ambulance service providers may be reduced only by applicable copayments, coinsurance, and deductibles, unless a covered individual has contracted to pay a different amount. The reasonable reimbursement must serve as full and final payment to the air ambulance service provider.

The bill would prohibit air ambulance service providers from seeking reimbursement from commercially insured recipients of services, and would thus prohibit balance billing. In cases where an air ambulance provider and an insurer have not contractually agreed to reimbursement rates, the air ambulance provider would be required to accept "reasonable reimbursement" from the insurer. In preventing the use of balance billing practices by air ambulance providers, the bill would reduce the number of insured patients who receive unexpected bills resulting from air medical transport, while changing the balance of contract negotiation between payers and these providers.

The bill also indicates that these provisions are not severable. In other words, if one provision in the bill is invalidated for any reason, the entirely of the bill shall be void.

The bill takes effect upon becoming law.

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[22] S. 409.907(3)(j), F.S.; Medicaid managed care plans and their providers are required to comply with the Provider General Handbook, which expressly prohibits balance billing. In addition, the Statewide Medicaid Managed Care Contract (CORE contract) establishes minimum requirements for contracts between plans and providers. The CORE contract requires those contracts to prohibit balance billing, except for any applicable cost sharing.
[23] S. 440.13(13)(a), F.S.
[24] S. 627.6472(4)(e), F.S.
[25] S. 636.035(3) - (4), F.S.
[26] Ss. 641.315(1) and 641.3154(1), F.S.
[27] S. 627.64194, F.S.
[28] The Areas of Critical State Concern Program was created by the Florida Environmental Land and Water Management Act of 1972. The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.

B. SECTION DIRECTORY:

Section 1: Creates s. 627.42397, F.S., relating to coverage for air ambulance services.
Section 2: Establishes that the bill's requirements are not severable.
Section 3: Provides that the bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   There is no additional cost to the Office of Insurance Regulation associated with the need to amend its form review procedures to account for new requirements in the bill.[29] Additionally, provisions of the bill have no impact on the Department of Management Services' Division of State Group Insurance PPO and HMO health plans.[30]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   At least one county (Monroe) operates an air ambulance service program, and is within a designated area of critical state concern. The bill may have an indeterminate fiscal impact on any county or municipal government operating such a program.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By preventing the use of balance billing practices by air ambulance service providers, the bill will likely have a negative, indeterminate fiscal impact on those providers. Oppositely, the bill may have a positive fiscal impact on insurers, HMOs, and insureds by limiting payments to air ambulance service providers to "reasonable reimbursement" for services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have

[29] Florida Office of Insurance Regulation, Agency Analysis of 2020 HB 747, pp. 2-3 (Dec. 10, 2019).
[30] Florida Department of Management Services, Agency Analysis of 2020 HB 747, p.5 (Jan. 23, 2020).

to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Office of Insurance Regulation has sufficient authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 21, 2020, the Health Market Reform Subcommittee adopted a strike-all amendment to the bill. The strike-all creates equivalent language in both chapters 627 and 641, so that the regulation of air ambulance billing will apply to both insurance carriers and HMOs. The bill as introduced included regulation only in chapter 627.

The strike-all also modifies the set of factors that must be considered when insurers and HMOs determine "reasonable reimbursement" to providers of air ambulance services. Insurers and HMOs are required to consider the "direct" cost of services provided, rather than "actual" cost.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health Market Reform Subcommittee.

A bill to be entitled

An act relating to coverage for air ambulance services; creating ss. 627.42397 and 641.514, F.S.; providing definitions; requiring health insurers and health maintenance organizations, respectively, to provide reasonable reimbursement to air ambulance services for certain covered services; providing that such reimbursement may be reduced only by certain amounts; providing that reasonable reimbursement must serve as full and final payment to air ambulance services; providing nonseverability; providing an effective date.

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

Section 1. Section 627.42397, Florida Statutes, is created to read:

627.42397 Coverage for air ambulance services.—

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

(a) "Air ambulance service" has the same meaning as provided in s. 401.23.

(b) "Health insurer" means an authorized insurer offering health insurance as defined in s. 624.603.

(c) "Reasonable reimbursement" means reimbursement that considers the direct cost to provide the air ambulance

transportation service to the insured, the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity, and in-network reimbursement established by the health insurer for the specific policy. The term does not include billed charges for the cost of services rendered.

(2) A health insurance policy must require a health insurer to provide reasonable reimbursement to an air ambulance service for covered nonemergency and emergency services provided to an insured in accordance with the coverage terms of the policy. Such reasonable reimbursement may be reduced only by applicable copayments, coinsurance, and deductibles. The reasonable reimbursement must serve as full and final payment to the air ambulance service.

Section 2. Section 641.514, Florida Statutes, is created to read:

641.514 Coverage for air ambulance services.—

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

(a) "Air ambulance service" has the same meaning as provided in s. 401.23.

(b) "Health maintenance organization" has the same meaning as provided in s. 641.19(12).

(c) "Reasonable reimbursement" means reimbursement that considers the direct cost to provide the air ambulance

transportation service to the subscriber, the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity, and in-network reimbursement established by the health maintenance organization for the specific contract. The term does not include billed charges for the cost of services rendered.

(2) A health maintenance contract must require a health maintenance organization to provide reasonable reimbursement to an air ambulance service for covered nonemergency and emergency services provided to a subscriber in accordance with the coverage terms of the contract. Such reasonable reimbursement may be reduced only by applicable copayments, coinsurance, and deductibles. The reasonable reimbursement must serve as full and final payment to the air ambulance service.

Section 3. If any provision of section 627.42397, Florida Statutes, or section 641.514, Florida Statutes, as created by this act, is determined to be invalid or inoperative for any reason, the remaining provisions thereof shall be deemed to be void and of no effect. To this end, the Legislature declares that it would not have enacted any of the provisions of section 627.42397, Florida Statutes, or section 641.514, Florida Statutes, individually and expressly finds them not to be severable.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 953 Charter Schools
SPONSOR(S): McClain
TIED BILLS: none **IDEN./SIM. BILLS:** none

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	12 Y, 4 N	Satterly	Brink
2) Appropriations Committee		Potvin	Pridgeon
3) Education Committee			

SUMMARY ANALYSIS

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the bill authorizes state universities and Florida College System (FCS) institutions to solicit applications and sponsor charter schools upon approval by the Department of Education (DOE). The bill also revises requirements for charter schools operated by a FCS institution with a teacher preparation program.

The bill provides that the board of trustees of a sponsoring state university or FCS institution is a local educational agency for the purpose of receiving federal funds and accepting responsibility for all requirements in that role.

The bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework and report results in its annual charter school application report. In addition, the bill revises charter school application reporting requirements and submission dates for both sponsors and the DOE.

The bill establishes operational funding and capital outlay funding formulas for charter schools sponsored by a state university or FCS institution.

The bill authorizes charter schools to provide career and professional academies.

The fiscal impact of the bill is indeterminate. See Fiscal Comments, *infra*.

The bill takes effect on July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools

Present Situation

All charter schools in Florida are public schools and are a part of the state's public education system.[1] Charter schools are tuition-free public schools created through an agreement or "charter" that provides flexibility relative to regulations created for traditional public schools in return for a commitment to higher standards of accountability.[2] One of the guiding principles of charter schools is to "meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system."[3] During the 2018-2019 school year, over 313,000 students were enrolled in 658 charter schools in Florida.[4]

Charter School Sponsors

Several types of entities may sponsor charter schools:

- School districts may sponsor charter schools.[5]
- State universities may sponsor charter lab schools.[6]
- District school boards, Florida College System (FCS) institution boards of trustees, or an association of one or more of each may sponsor a charter technical career center.[7]

A sponsor's responsibilities include:

- approving or denying charter school applications;
- overseeing each sponsored charter school's progress toward the goals established in the charter;
- monitoring the revenues and expenditures of the charter school;
- ensuring that the charter school participates in the state's education accountability system; and
- intervening when a sponsored charter school demonstrates deficient student performance or financial instability.[8]

A sponsor provides various administrative services to charter schools in its purview, including contract management; full-time equivalent (FTE) and student achievement data reporting; exceptional student education program administration; eligibility and reporting for the National School Lunch Program; test administration, including payment of the costs of state-or school district-required assessments; processing of teacher certification data; and student information services.[9] As compensation for

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[1] Section 1002.33(1), F.S. Florida's first charter school law was enacted in 1996. Chapter 96-186, L.O.F., *initially codified at* s. 228.056, F.S., *re-designated in 2002 as* s. 1002.33, F.S.

[2] Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida's Charter Schools* (2019), *available at* http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2019.pdf [hereinafter *Charter School Fact Sheet*].

[3] Section 1002.33(2)(a)1., F.S.

[4] *Charter School Fact Sheet*, *supra* note 2.

[5] Section 1002.33(5)(a)1., F.S.

[6] Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

[7] Section 1002.34(3)(b), F.S.

[8] Section 1002.33(5)(b), F.S.

[9] Section 1002.33(20)(a)1., F.S. *See also,* Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state-required or district-required student assessments, *available at* http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6.

services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.[10]

FCS & State University Charter Schools

FCS institutions are statutorily authorized to operate charter schools that offer secondary education[11] and allow students to obtain an associate degree[12] upon graduation from high school. Students have full access to all college facilities, activities, and services. Such a charter school must be sponsored by the school board or boards within the FCS institution's service area.[13] If a FCS institution offers a teacher preparation program, it may operate one charter school for students in kindergarten through grade 12, implementing innovative blended learning instructional models for students in kindergarten through grade 8.[14]

There are 11 FCS institution charter schools operating in Florida:

- Florida SouthWestern State College: Florida SouthWestern Collegiate High School in Charlotte County.
- Florida SouthWestern State College: Florida SouthWestern Collegiate High School in Lee County.
- Indian River State College: Clark Advanced Learning Center in Martin County.
- Northwest Florida State College: Collegiate High School at Northwest Florida State College in Okaloosa County.
- Polk State College: Polk State Chain of Lakes Collegiate High School in Polk County.
- Polk State College: Polk State Lakeland Gateway to College Collegiate High School in Polk County.
- Polk State College: Polk State Lakeland Collegiate High School in Polk County.
- St. Petersburg College: St. Petersburg Collegiate High School in Pinellas County.
- St. Petersburg College: St. Petersburg Collegiate High School North Pinellas in Pinellas County
- State College of Florida Manatee-Sarasota: State College of Florida Collegiate School in Manatee County.
- State College of Florida Manatee-Sarasota: State College of Florida Collegiate School- Venice in Sarasota County.[15]

State universities are authorized to establish "charter lab schools."[16] Unlike lab schools,[17] charter lab schools operate under a charter and are not required to be established by the nearest state university. In considering an application to establish a charter lab school, a state university must consult with the district school board of the county in which the school is located. If a state university does not act on or denies the application, the applicant may appeal such decision to the State Board of Education (SBE).[18]

[10] Section 1002.33(20)(a)2., F.S.
[11] In this context, the term "secondary education" is synonymous with "middle or high school" (grades 6 through 12). Generally, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. *See* s. 1003.01(2), F.S. (definition of "school").
[12] Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(3)-(5), F.A.C.
[13] Section 1002.33(5)(b)4., F.S.
[14] Section 1002.33(5)(b)4., F.S.
[15] Email from Jared Ochs, Legislative Affairs, Florida Department of Education, RE: FCS Charter Schools & SUS Charter Lab Schools (Jan. 13, 2020) [*hereinafter* FCS Charter Schools & SUS Charter Lab Schools].
[16] Section 1002.33(5)(a)2., F.S.
[17] Section 1002.32(2), F.S.
[18] Section 1002.33(6)(g), F.S.

There are three charter lab schools operating in Florida:

- Florida State University School in Leon County.
- FAU/SLCSD Palm Pointe Research School in St. Lucie County.
- The Pembroke Pines/FSUS Charter Elementary School in Broward County.[19]

Establishing a Charter School

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law.[20] While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.[21]

An applicant must submit a charter school application on a standard application form developed by the Department of Education (DOE). As of 2018, charter school applications must be submitted to the sponsor by February 1 for a charter school to open 18 months later or at a time determined by the applicant. A sponsor may not refuse to receive a charter school application submitted before February 1 and may receive an application submitted later than February 1 if it chooses.[22] The charter school application must:

- demonstrate how the school will utilize the guiding principles;[23]
- provide a detailed curriculum plan aligned with the Next Generation Sunshine State Standards;
- contain goals and objectives for improving student learning and measuring such improvement;
- describe the reading curricula and differentiated strategies for serving students at various levels of reading ability;
- contain an annual financial plan;
- disclose the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of each charter school operated by the applicant;
- contain additional information required by the sponsor; and
- for a virtual charter school, document that the applicant has contracted with a provider for virtual instruction services.[24]

The sponsor may require the applicant to submit additional information as an addendum to the application.[25]

A sponsor must approve or deny a charter school application within 90 calendar days of receipt, unless an extension of the deadline is mutually agreed to by the sponsor and applicant.[26] If an application is denied, the sponsor must within 10 calendar days provide specific written reasons, based upon good cause, for its denial to the applicant and the DOE.[27] The applicant has 30 calendar days to file an

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[19] FCS Charter Schools & SUS Charter Lab Schools, *supra* note 15.
[20] Section 1002.33(3)(a), F.S.
[21] Section 1002.33(12)(i), F.S.
[22] Section 1002.33(6)(b), F.S.
[23] The legislative guiding principles for charter schools provide that they are to meet high standards of student achievement while increasing parental choice; increase learning opportunities for all students, with special emphasis on low-performing students and reading and utilizing innovative learning methods. Charter schools may also serve to provide rigorous competition to stimulate improvement in traditional public schools, expand the capacity of the public school system, mitigate the educational impact created by the development of new residential dwelling units and create new professional opportunities for teachers, including ownership of the learning program at the school site. Section 1002.33(2), F.S.
[24] Section 1002.33(6)(a), F.S.
[25] *Id.*
[26] Section 1002.33(6)(b)3, F.S.
[27] *Id.*

appeal with the SBE after the denial of, or failure to act upon, an application. The state board's decision is a final action subject to judicial review in the District Court of Appeal.[28]

Charter School Sponsor Reporting

A charter school sponsor is required to submit an annual report to the DOE summarizing the following:

- the number of draft applications received on or before May 1 and each applicant's contact information;
- the number of final applications received on or before August 1 and each applicant's contact information;
- the date each application was approved, denied, or withdrawn; and
- the date each final contract was executed.[29]

DOE must compile the reported sponsor information into an annual report, by district, and post it on its website by November 1 each year.[30]

Charter School Funding

As with traditional public schools, charter school operations are funded through the Florida Education Finance Program (FEFP) based on student enrollment. Each charter school reports student enrollment to its sponsor[31] for inclusion in the district's report of student enrollment.[32]

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.[33] Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, teacher classroom supplies, and class-size reduction operating funds.[34] Operating funds from the FEFP are distributed by the sponsor to the charter school. Payments must be made monthly or bi-monthly, beginning with the start of a school board's fiscal year.[35] A sponsor is prohibited from delaying payment of any portion of a charter school's funding based upon the timing of receipt of local funds by the school board.[36]

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),[37] Title I programs for disadvantaged students,[38] and Title II programs for improving teacher quality based on student eligibility.[39]

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[28] Section 1002.33(6)(c)-(d), F.S.; *see also* s. 120.68, F.S.
[29] Section 1002.33(5)(b)1.k.(I)-(II), F.S.
[30] Section 1002.33(5)(b)1.k.(III)., F.S. *See* Florida Department of Education, *Annual Authorizer Report 2018* (2018), *available at* http://www.fldoe.org/core/fileparse.php/9905/urlt/18-AuthorizerReport.pdf.
[31] A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.
[32] Section 1002.33(17)(a) and (b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year based upon the October and February FTE enrollment surveys. *See* s. 1002.33(17)(b), F.S.
[33] Section 1002.33(17)(b), F.S.
[34] *See, e.g.,* s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction) and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).
[35] Section 1002.33(17)(e), F.S.
[36] *Id.*
[37] Section 1002.33(17)(c), F.S.; 20 U.S.C. s. 1411(e).
[38] 20 U.S.C. s. 6301 et. seq.
[39] 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c), F.S.

Career and Professional Academies

Each school board must operate at least one high school career and professional academy and have as part of its 3-year strategic plan the implementation of an academy or a career-themed course in at least one middle school in the district.[40] Two or more school districts may collaborate in the development of the strategic plan and jointly offer an academy or career-themed courses.[41]

An academy may be offered as a school-within-a-school or as part of an existing high school that provides courses in one or more occupational clusters. Students attending the school do not necessarily attend the academy. An academy may also be offered as a total school configuration providing multiple academies, each structured around an occupational cluster. In this case, each student attending the school also attends an academy.[42]

Each career course offered in a career and professional academy and each career-themed course offered by a secondary school must lead to industry certification or postsecondary credit. If the passage rate on an industry certification examination that is associated with an academy or a career-themed course falls below 50 percent, the 3-year strategic plan must be amended to include specific strategies to improve the passage rate of the academy or career-themed course.[43]

Current law does not expressly authorize charter schools to offer career and professional academies.

Effect of Proposed Changes

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the bill authorizes state universities and FCS institutions to solicit applications and sponsor charter schools upon approval by the DOE. A state university or FCS institution may, at its discretion, deny an application for a charter school. The bill provides that a state university-sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands. Additionally, a FCS institution-sponsored charter may exist in any county within its service area to meet workforce demands; however, a charter school currently operated by a FCS institution is not eligible to be sponsored by a FCS institution until its existing charter with the school district expires. A FCS institution-sponsored charter may offer postsecondary programs leading to industry certifications for eligible charter school students.

Since the bill authorizes state universities and FCS institutions to sponsor charter schools that serve students across multiple school districts, the bill specifies that a charter's racial/ethnic balance must reflect that of nearby public schools rather than public schools located geographically within the district.

The bill deletes the limitation that a FCS institution that operates an approved teacher preparation program operate no more than one charter school, allowing a FCS institution to operate additional charter schools that serve students in kindergarten through grade 12, and providing that the students served may be in any school district within the service area of the FCS institution. The requirement that the school implement an innovative blended learning instructional model for students in kindergarten through grade 8 is deleted.

The bill prohibits a FCS institution from reporting FTE for any students participating in FCS-sponsored charter schools who receive FTE funding through the FEFP.

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[40] Sections 1003.493(3) and 1003.4935(1), F.S.
[41] Section 1003.491(2), F.S.
[42] Section 1003.493(3)(b), F.S.
[43] Section 1003.493(5), F.S.

The bill specifies that a board of trustees of a sponsoring state university or FCS institution is the local education agency for all charter schools it sponsors. As the local education agency, the sponsor may receive federal funds and accepts full responsibility for local education agency requirements and the schools it oversees. A student is enrolled in a charter school that is sponsored by a state university or FCS institution may not be included in the calculation of the school district's grade.

To provide accountability for all charter school operators, the bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework that must address, at a minimum:

- a sponsor's strategic vision for charter school authorizing and progress towards that vision;
- alignment of the sponsor's policies and practices to best practices for charter school authorizing;
- academic and financial performance of all operating charter schools overseen by the sponsor; and
- the status of charter schools authorized by the sponsor, including approved, operating and closed schools.

The bill requires the DOE to compile the results of the evaluation framework, by sponsor, and add them to its annual charter school sponsor report.

The bill repeals the requirement that a charter school sponsor report on draft applications it receives and revises the date by which a sponsor must annually report the number of applications it receives from August 31 to November 1. Accordingly, the bill revises the date by which the DOE annually reports the number of applications on its website from November 1 to January 15.

The bill repeals an obsolete August 1 application deadline and specifies that each sponsor's report to the DOE must reflect the applications it receives by the February 1 deadline, which became effective in 2018. Since the law allows an applicant to determine the time at which the charter school will open, the bill deletes conflicting language that requires the school's opening to coincide with the beginning of the school district's school calendar.

The bill provides that students enrolled in a charter school sponsored by a state university or FCS institution be funded as if they are in a basic program or a special program in the school district. The bill establishes funding for these students as the sum of the total operating funds from the FEFP for the school district in which the school is located and the General Appropriations Act (GAA), including gross state and local funds, discretionary lottery funds, and funds from each school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; and multiplied by the FTE membership of the charter school. The DOE is required to develop a tool that each state university or FCS institution sponsoring a charter school must use for purposes of calculating the funding amount for each eligible charter school student. The total obtained by the calculation must be appropriated from state funds in the GAA to the charter school.

In addition, the bill establishes a capital outlay funding formula for charter schools sponsored by a state university or FCS institution.

The bill also authorizes charter schools to provide career and professional academies.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.33, F.S., authorizing state universities and Florida College System institutions to solicit applications and sponsor charter schools under certain circumstances; revising the contents of an annual report charter school sponsors must provide to the Department of Education; revising the date by which the department must post a specified annual report; revising provisions relating to Florida College System institutions operating charter schools; requiring the board of trustees of a state university or Florida College System institution that is sponsoring a charter school to serve as

the local educational agency for such school; requiring the department to develop a sponsor evaluation framework; providing requirements for the framework; deleting obsolete language; providing a calculation for the operational funding for a charter school sponsored by a state university or Florida College System institution; requiring the department to develop a tool for state universities and Florida College System institutions for specified purposes; providing that such funding must be appropriated to the charter school; providing for capital outlay funding for such schools; conforming provisions to changes made by the act.

Section 2: Amends s. 1003.493, F.S., authorizing a career and professional academy to be offered by a charter school.

Section 3: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill requires that the funds for eligible university- or FCS institution-sponsored charter school students must be appropriated from state funds in the General Appropriations Act to the charter school. Currently full-time equivalent students funded in the Florida Education Finance Program (FEFP) are funded with a combination of state and local funds. Since the eligible university- or FCS institution-sponsored charter school student will only be funded from state funds appropriated in the FEFP, there may need to be additional state funds provided to offset the potential loss of local funds; however, at this time the individual amounts cannot be determined and would vary based upon the school district and its total amount of local funds.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill provides operational funding for a charter school sponsored by a state university or FCS institution based on a calculation of total operating funds appropriated in the Florida Education Finance Program using the total number of weighted full-time equivalent (FTE) students. Neither the number of charter schools sponsored by a state university or FCS institution that will be established nor the number of students who will enroll in these schools is known; therefore, the fiscal impact is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to charter schools; amending s. 1002.33, F.S.; authorizing state universities and Florida College System institutions to solicit applications for and sponsor charter schools under certain circumstances; authorizing a state university or Florida College System institution to, at its discretion, deny an application for a charter school; revising the contents of an annual report that charter school sponsors must provide to the Department of Education; revising the date by which the department must post a specified annual report; revising provisions relating to Florida College System institutions that are operating charter schools; requiring the board of trustees of a state university or Florida College System institution that is sponsoring a charter school to serve as the local educational agency for such school; prohibiting certain charter school students from being included in specified school district grade calculations; requiring the department to develop a sponsor evaluation framework; providing requirements for the framework; deleting obsolete language; providing a calculation for the operational funding for a charter school sponsored by a state university or Florida

College System institution; requiring the department to develop a tool for state universities and Florida College System institutions for specified purposes relating to certain funding calculations; providing that such funding must be appropriated to the charter school; providing for capital outlay funding for such schools; conforming provisions to changes made by the act; amending s. 1003.493, F.S.; authorizing a career and professional academy to be offered by a charter school; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2), subsection (5), paragraph (b) of subsection (6), paragraphs (a) and (d) of subsection (7), paragraphs (d) and (e) of subsection (8), paragraphs (g) and (n) of subsection (9), paragraph (e) of subsection (10), subsection (14), paragraph (c) of subsection (15), subsection (17), paragraph (e) of subsection (18), subsections (20) and (21), paragraph (a) of subsection (25), and subsection (28) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(2) GUIDING PRINCIPLES; PURPOSE.—

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.

2. Provide rigorous competition within the public school system ~~district~~ to stimulate continual improvement in all public schools.

3. Expand the capacity of the public school system.

4. Mitigate the educational impact created by the development of new residential dwelling units.

5. Create new professional opportunities for teachers, including ownership of the learning program at the school site.

(5) SPONSOR; DUTIES.—

(a) Sponsoring entities.—

1. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.

2. A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

3. Because needs relating to educational capacity, workforce qualifications, and career education opportunities are constantly changing and extend beyond school district boundaries:

a. A state university may, upon approval by the Department of Education, solicit applications and sponsor a charter school to meet regional education or workforce demands by serving

students from multiple school districts.

b. A Florida College System institution may, upon approval by the Department of Education, solicit applications and sponsor a charter school in any county within its service area to meet workforce demands and may offer postsecondary programs leading to industry certifications to eligible charter school students. A charter school established under subparagraph (b)4. may not be sponsored by a Florida College System institution until its existing charter with the school district expires as provided under subsection (7).

c. Notwithstanding subsection (6)(b), a state university or Florida College System institution may, at its discretion, deny an application for a charter school.

(b) Sponsor duties.—

1.a. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

b. The sponsor shall monitor the revenues and expenditures of the charter school and perform the duties provided in s. 1002.345.

c. The sponsor may approve a charter for a charter school before the applicant has identified space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds.

d. The sponsor shall not apply its policies to a charter

school unless mutually agreed to by both the sponsor and the charter school. If the sponsor subsequently amends any agreed-upon sponsor policy, the version of the policy in effect at the time of the execution of the charter, or any subsequent modification thereof, shall remain in effect and the sponsor may not hold the charter school responsible for any provision of a newly revised policy until the revised policy is mutually agreed upon.

e. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

f. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

g. The sponsor shall not be liable for civil damages under state law for personal injury, property damage, or death resulting from an act or omission of an officer, employee, agent, or governing body of the charter school.

h. The sponsor shall not be liable for civil damages under state law for any employment actions taken by an officer, employee, agent, or governing body of the charter school.

i. The sponsor's duties to monitor the charter school shall not constitute the basis for a private cause of action.

j. The sponsor shall not impose additional reporting requirements on a charter school without providing reasonable and specific justification in writing to the charter school.

k. The sponsor shall submit an annual report to the Department of Education in a web-based format to be determined by the department.

(I) The report shall include the following information:

~~(A) The number of draft applications received on or before May 1 and each applicant's contact information.~~

(A)~~(B)~~ The number of ~~final~~ applications received on or before February ~~August~~ 1 and each applicant's contact information.

(B)~~(C)~~ The date each application was approved, denied, or withdrawn.

(C)~~(D)~~ The date each final contract was executed.

(II) Annually, by November 1 ~~Beginning August 31, 2013, and each year thereafter~~, the sponsor shall submit to the department the information for the applications submitted the previous year.

(III) The department shall compile an annual report, by sponsor ~~district~~, and post the report on its website by January 15 ~~November 1~~ of each year.

2. Immunity for the sponsor of a charter school under subparagraph 1. applies only with respect to acts or omissions not under the sponsor's direct authority as described in this

section.

3. This paragraph does not waive a sponsor's ~~district school board's~~ sovereign immunity.

4. A Florida College System institution may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. If a Florida College System institution operates an approved teacher preparation program under s. 1004.04 or s. 1004.85, the institution may operate ~~no more than one~~ charter schools ~~school~~ that serve ~~serves~~ students in kindergarten through grade 12 in any school district within the service area of the institution. ~~In kindergarten through grade 8, the charter school shall implement innovative blended learning instructional models in which, for a given course, a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace and in part at a supervised brick-and-mortar location away from home. A student in a blended learning course must be a full-time student of the charter school and receive the online instruction in a classroom setting at the charter school.~~ District school boards shall cooperate with and assist the Florida College System institution on the charter application. Florida College System institution applications for charter schools are not subject to the time

deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Florida College System institutions may not report FTE for any students participating under this subparagraph who receive FTE funding through the Florida Education Finance Program.

5. A school district may enter into nonexclusive interlocal agreements with federal and state agencies, counties, municipalities, and other governmental entities that operate within the geographical borders of the school district to act on behalf of such governmental entities in the inspection, issuance, and other necessary activities for all necessary permits, licenses, and other permissions that a charter school needs in order for development, construction, or operation. A charter school may use, but may not be required to use, a school district for these services. The interlocal agreement must include, but need not be limited to, the identification of fees that charter schools will be charged for such services. The fees must consist of the governmental entity's fees plus a fee for the school district to recover no more than actual costs for providing such services. These services and fees are not included within the services to be provided pursuant to subsection (20).

6. The board of trustees of a sponsoring state university or Florida College System institution under paragraph (a) is the local educational agency for all charter schools it sponsors for

purposes of receiving federal funds and accepts full responsibility for all local educational agency requirements and the schools for which it will perform local educational agency responsibilities. A student enrolled in a charter school that is sponsored by a state university or Florida College System institution may not be included in the calculation of the school district's grade under s. 1008.34(5) for the school district in which he or she resides.

(c) Sponsor accountability.—

1. The department shall, in collaboration with charter school sponsors and charter school operators, develop a sponsor evaluation framework that must address, at a minimum:

a. The sponsor's strategic vision for charter school authorizing and the sponsor's progress toward that vision.

b. The alignment of the sponsor's policies and practices to best practices for charter school authorizing.

c. The academic and financial performance of all operating charter schools overseen by the sponsor.

d. The status of charter schools authorized by the sponsor, including approved, operating, and closed schools.

2. The department shall compile the results, by sponsor, and include the results in the report required under sub-sub-subparagraph (b)1.k.(III).

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(b) A sponsor shall receive and review all applications for a charter school using the evaluation instrument developed by the Department of Education. ~~A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. Beginning in 2018 and thereafter,~~ A sponsor shall receive and consider charter school applications received on or before February 1 of each calendar year for charter schools to be opened 18 months later at the beginning of the ~~school district's~~ school year, or to be opened at a time determined by the applicant. A sponsor may not refuse to receive a charter school application submitted before February 1 and may receive an application submitted later than February 1 if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive

corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.

1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.

3.a. A sponsor shall by a majority vote approve or deny an application no later than 90 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or

deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 or a high-performing charter school system identified pursuant to s. 1002.332 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application of a high-performing charter school does not materially comply with the requirements in paragraph (a) or, for a high-performing charter school system, the application does not materially comply with s. 1002.332(2)(b);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact

during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school or a high-performing charter school system, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application in accordance with paragraph (c).

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of an application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. ~~Upon approval of an application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted.~~ A charter school may defer the opening of the school's operations for up to 3 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

(7) CHARTER.—The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor and the governing board of the charter school shall use the standard charter contract pursuant to subsection (21), which shall incorporate the approved application and any addenda approved with the application. Any term or condition of a proposed charter contract that differs from the standard charter contract adopted by rule of the State Board of Education shall be presumed a limitation on charter school flexibility. The sponsor may not impose unreasonable rules or regulations that

violate the intent of giving charter schools greater flexibility to meet educational goals. The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Next Generation Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to

provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school pursuant to s. 1011.61(1)(a)1. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of

academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

A ~~The~~ district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

6. A method for resolving conflicts between the governing board of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct. Admission or dismissal must not be based on a student's academic performance.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other nearby public schools ~~in the same school district~~.

9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the

impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 5 years, excluding 2 planning years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the sponsor ~~district school board~~. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the sponsor ~~district school board~~. Such long-term charters remain subject to annual review and may be terminated during the term

of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location. The sponsor may not require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility earlier than 15 calendar days before the first day of school.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current

teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term "relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(d) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the

charter school's governing board and the approval of both parties to the agreement. Modification during any term may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board, regardless of the renewal cycle. A charter school that is not subject to a school improvement plan and that closes as part of a consolidation shall be reported by the sponsor ~~school district~~ as a consolidation.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(d) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds, except for capital outlay funds and federal charter school program grant funds, from the charter school shall revert to the sponsor. Capital outlay funds provided pursuant to s. 1013.62 and federal charter school program grant funds that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all sponsor ~~district school board~~ property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the sponsor ~~district school board~~, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, ~~district school board~~ property and improvements, furnishings, and

equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the sponsor's ~~district school board's~~ request, until any appeal status is resolved.

(e) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The sponsor ~~district~~ may not assume the debt from any contract made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the sponsor ~~district~~ and the governing body of the school and that may not reasonably be assumed to have been satisfied by the sponsor ~~district~~.

(9) CHARTER SCHOOL REQUIREMENTS.—

(g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or

b. At the discretion of the charter school's governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must

reformat this information for reporting according to this paragraph.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in sponsor ~~district~~ reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

3. A charter school shall, upon approval of the charter contract, provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet. The sponsor shall review each monthly or quarterly financial statement to identify the existence of any conditions identified in s. 1002.345(1)(a).

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial

statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

(n)1. The director and a representative of the governing board of a charter school that has earned a grade of "D" or "F" pursuant to s. 1008.34 shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student performance. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.

2.a. If a charter school earns three consecutive grades below a "C," the charter school governing board shall choose one of the following corrective actions:

(I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;

(II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;

(III) Reorganize the school under a new director or principal who is authorized to hire new staff; or

(IV) Voluntarily close the charter school.

b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade below a "C."

c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" is subject to subparagraph 3.

d. A charter school is no longer required to implement a corrective action if it improves to a "C" or higher. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 4.

e. A charter school implementing a corrective action that does not improve to a "C" or higher after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve to a "C" or higher if additional time is provided to implement the

existing corrective action. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" while implementing a corrective action is subject to subparagraph 3.

3. A charter school's charter contract is automatically terminated if the school earns two consecutive grades of "F" after all school grade appeals are final unless:

a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)2. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school subject to s. 1008.33(4) and the charter school earns at least a grade of "D" in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 days after the department's official release of school grades. The state board may waive termination if the charter school demonstrates that the Learning Gains of its students on statewide assessments are comparable to or better than the Learning Gains of similarly situated students enrolled in nearby

~~district~~ public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

The sponsor shall notify the charter school's governing board, the charter school principal, and the department in writing when a charter contract is terminated under this subparagraph. A charter terminated under this subparagraph must follow the procedures for dissolution and reversion of public funds pursuant to paragraphs (8)(d)-(f) and (9)(o).

4. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

5. Notwithstanding any provision of this paragraph except sub-subparagraphs 3.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(10) ELIGIBLE STUDENTS.—

(e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.

2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.

3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (15).

4. Students residing within a reasonable distance of the charter school, as described in paragraph (20)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other nearby public schools ~~in the same school district~~.

5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

7. Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least $5 million to be used as a charter school to mitigate the educational impact created by the development of new residential dwelling units. Students living in the development shall be entitled to no more than 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions, as described in subparagraph 4. The remainder of the student stations shall be filled in accordance with subparagraph 4.

(14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION OF THE STATE AND SPONSOR ~~SCHOOL DISTRICT~~; CREDIT OR TAXING POWER NOT TO BE PLEDGED.—Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in this section from a source other than the state or a sponsor ~~school district~~ shall indemnify the state and the sponsor ~~school district~~ from any and all liability, including, but not limited to, financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the sponsor ~~school district~~ but are obligations of the charter school

authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the sponsor ~~school district~~ shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a sponsor ~~district school board~~ pursuant to this section.

(15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the sponsor ~~district school board~~, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(17) FUNDING.—Students enrolled in a charter school,

regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in a ~~the~~ school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment to the sponsor as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor shall include each charter school's enrollment in the sponsor's ~~district's~~ report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all sponsors ~~districts~~ shall accept electronic data that complies with the Department of Education's electronic format.

(b)1. The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; and multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs

meet the eligibility criteria in law are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation, the research-based reading allocation, and the Florida digital classrooms allocation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education. For charter schools operated by a not-for-profit or municipal entity, any unrestricted current and capital assets identified in the charter school's annual financial audit may be used for other charter schools operated by the not-for-profit or municipal entity within the school district. Unrestricted current assets shall be used in accordance with s. 1011.62, and any unrestricted capital assets shall be used in accordance with s. 1013.62(2).

2.a. Students enrolled in a charter school sponsored by a state university or Florida College System institution pursuant to paragraph (5)(a) shall be funded as if they are in a basic program or a special program in the school district. The basis for funding these students is the sum of the total operating funds from the Florida Education Finance Program for the school

district in which the school is located as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from each school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the district; and multiplied by the full-time equivalent membership of the charter school. The Department of Education shall develop a tool that each state university or Florida College System institution sponsoring a charter school shall use for purposes of calculating the funding amount for each eligible charter school student. The total amount obtained from the calculation must be appropriated from state funds in the General Appropriations Act to the charter school.

b. Capital outlay funding for a charter school sponsored by a state university or Florida College System institution pursuant to paragraph (5)(a) is determined pursuant to s. 1013.62 and the General Appropriations Act.

(c) Pursuant to 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment. Unless otherwise mutually agreed to by the charter school and its sponsor, and consistent with state and federal rules and regulations governing the use and disbursement of federal funds,

the sponsor shall reimburse the charter school on a monthly basis for all invoices submitted by the charter school for federal funds available to the sponsor for the benefit of the charter school, the charter school's students, and the charter school's students as public school students in the school district. Such federal funds include, but are not limited to, Title I, Title II, and Individuals with Disabilities Education Act (IDEA) funds. To receive timely reimbursement for an invoice, the charter school must submit the invoice to the sponsor at least 30 days before the monthly date of reimbursement set by the sponsor. In order to be reimbursed, any expenditures made by the charter school must comply with all applicable state rules and federal regulations, including, but not limited to, the applicable federal Office of Management and Budget Circulars; the federal Education Department General Administrative Regulations; and program-specific statutes, rules, and regulations. Such funds may not be made available to the charter school until a plan is submitted to the sponsor for approval of the use of the funds in accordance with applicable federal requirements. The sponsor has 30 days to review and approve any plan submitted pursuant to this paragraph.

(d) Charter schools shall be included by the Department of Education and the district school board in requests for federal stimulus funds in the same manner as district school board-operated public schools, including Title I and IDEA funds and

shall be entitled to receive such funds. Charter schools are eligible to participate in federal competitive grants that are available as part of the federal stimulus funds.

(e) Sponsors ~~District school boards~~ shall make timely and efficient payment and reimbursement to charter schools, including processing paperwork required to access special state and federal funding for which they may be eligible. Payments of funds under paragraph (b) shall be made monthly or twice a month, beginning with the start of the sponsor's ~~district school board's~~ fiscal year. Each payment shall be one-twelfth, or one twenty-fourth, as applicable, of the total state and local funds described in paragraph (b) and adjusted as set forth therein. For the first 2 years of a charter school's operation, if a minimum of 75 percent of the projected enrollment is entered into the sponsor's student information system by the first day of the current month, the sponsor ~~district school board~~ shall distribute funds to the school for the months of July through October based on the projected full-time equivalent student membership of the charter school as submitted in the approved application. If less than 75 percent of the projected enrollment is entered into the sponsor's student information system by the first day of the current month, the sponsor shall base payments on the actual number of student enrollment entered into the sponsor's student information system. Thereafter, the results of full-time equivalent student membership surveys shall be used in

adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payments shall be issued no later than 10 working days after the sponsor ~~district school board~~ receives a distribution of state or federal funds or the date the payment is due pursuant to this subsection. If a warrant for payment is not issued within 10 working days after receipt of funding by the sponsor ~~district school board~~, the sponsor ~~school district~~ shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued. The district school board may not delay payment to a charter school of any portion of the funds provided in paragraph (b) based on the timing of receipt of local funds by the district school board.

(f) Funding for a virtual charter school shall be as provided in s. 1002.45(7).

(g) To be eligible for public education capital outlay (PECO) funds, a charter school must be located in the State of Florida.

(h) A charter school that implements a schoolwide standard student attire policy pursuant to s. 1011.78 is eligible to receive incentive payments.

(18) FACILITIES.—

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the sponsor ~~school district~~ may not sell or dispose of such property without written permission of the sponsor ~~school district~~. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services

under the National School Lunch Program, consistent with the needs of the charter school, are provided by the sponsor ~~school district~~ at the request of the charter school, that any funds due to the charter school under the National School Lunch Program be paid to the charter school as soon as the charter school begins serving food under the National School Lunch Program, and that the charter school is paid at the same time and in the same manner under the National School Lunch Program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to the sponsor's student information systems that are used by public schools in the district in which the charter school is located or by schools in the sponsor's portfolio of charter schools if the sponsor is not a school district. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district or by schools in the sponsor's portfolio of charter schools if the sponsor is not a school district.

2. A sponsor may withhold an administrative fee for the

provision of such services which shall be a percentage of the available funds defined in paragraph (17)(b) calculated based on weighted full-time equivalent students. If the charter school serves 75 percent or more exceptional education students as defined in s. 1003.01(3), the percentage shall be calculated based on unweighted full-time equivalent students. The administrative fee shall be calculated as follows:

a. Up to 5 percent for:

(I) Enrollment of up to and including 250 students in a charter school as defined in this section.

(II) Enrollment of up to and including 500 students within a charter school system which meets all of the following:

(A) Includes conversion charter schools and nonconversion charter schools.

(B) Has all of its schools located in the same county.

(C) Has a total enrollment exceeding the total enrollment of at least one school district in the state.

(D) Has the same governing board for all of its schools.

(E) Does not contract with a for-profit service provider for management of school operations.

(III) Enrollment of up to and including 250 students in a virtual charter school.

b. Up to 2 percent for enrollment of up to and including 250 students in a high-performing charter school as defined in s. 1002.331.

3. A sponsor may not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum percentage of administrative fees withheld pursuant to this paragraph.

4. A sponsor shall provide to the department by September 15 of each year the total amount of funding withheld from charter schools pursuant to this subsection for the prior fiscal year. The department must include the information in the report required under sub-sub-subparagraph (5)(b)1.k.(III).

(b) If goods and services are made available to the charter school through the contract with the sponsor ~~school district~~, they shall be provided to the charter school at a rate no greater than the sponsor's ~~district's~~ actual cost unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on the dispute. The administrative law judge shall award the prevailing party reasonable attorney fees and costs incurred during the mediation process, administrative proceeding, and any appeals, to be paid by the party whom the administrative law judge rules against. To maximize the use of state funds, sponsors ~~school districts~~ shall

allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of subpart I.E. of chapter 1006 and s. 1012.45. The governing body of the charter school may provide transportation through an agreement or contract with the sponsor ~~district school board~~, a private provider, or parents. The charter school and the sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

(d) Each charter school shall annually complete and submit a survey, provided in a format specified by the Department of Education, to rate the timeliness and quality of services provided by the sponsor ~~district~~ in accordance with this section. The department shall compile the results, by sponsor ~~district~~, and include the results in the report required under sub-sub-subparagraph (5)(b)1.k.(III).

(21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

(a) The Department of Education shall provide information to the public, directly and through sponsors, on how to form and operate a charter school and how to enroll in a charter school once it is created. This information shall include the standard application form, standard charter contract, standard evaluation

instrument, and standard charter renewal contract, which shall include the information specified in subsection (7) and shall be developed by consulting and negotiating with both sponsors ~~school districts~~ and charter schools before implementation. The charter and charter renewal contracts shall be used by charter school sponsors.

(b)1. The Department of Education shall report to each charter school receiving a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to s. 1008.341 the school's student assessment data.

2. The charter school shall report the information in subparagraph 1. to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the sponsor ~~district in which the charter school is located~~, and the governing board of the charter school. This paragraph does not abrogate the provisions of s. 1002.22, relating to student records, or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

(25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER SCHOOL SYSTEMS.—

(a) A charter school system's governing board shall be designated a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district, if the governing board of the charter school system has adopted and filed a resolution with

its sponsor ~~sponsoring district school board~~ and the Department of Education in which the governing board of the charter school system accepts the full responsibility for all local education agency requirements and the charter school system meets all of the following:

1. Has all schools located in the same county;

2. Has a total enrollment exceeding the total enrollment of at least one school district in the state; and

3. Has the same governing board.

Such designation does not apply to other provisions unless specifically provided in law.

(28) RULEMAKING.—The Department of Education, after consultation with sponsors ~~school districts~~ and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute. The State Board of Education shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement a standard charter application form, standard application form for the replication of charter schools in a high-performing charter school system, standard evaluation instrument, and standard charter and charter renewal contracts in accordance with this section.

Section 2. Paragraph (a) of subsection (1) of section

1003.493, Florida Statutes, is amended to read:

1003.493 Career and professional academies and career-themed courses.—

(1)(a) A "career and professional academy" is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the Department of Economic Opportunity. Career and professional academies shall be offered by public schools and school districts. Career and professional academies may be offered by charter schools. The Florida Virtual School is encouraged to develop and offer rigorous career and professional courses as appropriate. Students completing career and professional academy programs must receive a standard high school diploma, the highest available industry certification, and opportunities to earn postsecondary credit if the academy partners with a postsecondary institution approved to operate in the state.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1073 Statewide Office of Resiliency
SPONSOR(S): Stevenson
TIED BILLS: **IDEN./SIM. BILLS:** SB 7016

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N	Melkun	Moore
2) Appropriations Committee		White CCW	Pridgeon
3) State Affairs Committee			

SUMMARY ANALYSIS

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding. One of the primary ways that climate change influences coastal flooding is through sea-level rise. Sea-level rise is an observed increase in the average local sea level or global sea level trend. Florida's coastal communities are experiencing high-tide flooding events with increasing frequency because sea-level rise increases the height of high tides. In the U.S., sea-level rise and flooding threaten an estimated $1 trillion in coastal real estate value, and analysts estimate that Florida could lose more than $300 billion in property value by 2100.

There are considerable variations in estimates of future sea-level rise. Although some local governments and state agencies have adopted sea-level rise estimates for planning purposes, Florida has no official estimates of projected sea-level rise for use by state agencies in developing, planning, and implementing their respective duties and responsibilities.

The bill establishes the Statewide Office of Resiliency within the Executive Office of the Governor and requires the office to be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

The bill creates the Statewide Sea-Level Rise Task Force (task force) whose purpose is to recommend consensus projections of the anticipated sea-level rise and flooding impacts along Florida's coastline. The bill provides for task force membership and requires all appointments to be made no later than August 1, 2020. The bill requires the task force to develop official scientific information necessary to recommend consensus baseline projections, or a range of projections, of the expected rise in sea level along the state's coastline for planning horizons designated by the task force. The bill further authorizes the task force to designate technical advisory groups, as it deems necessary, to assist in the gathering of scientific data to inform the task force's decision-making.

The bill requires the task force to submit its recommended consensus baseline projections to the Environmental Regulation Commission (ERC) by January 1, 2021, and requires the report to include supporting data and assumptions used in developing the projections. If the ERC adopts the recommended projections, such projections must serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline and must be used for developing future state projects, plans, and programs. The bill further requires the task force to review the adopted consensus baseline projections, as it deems appropriate, and submit any recommended revisions to the ERC. The bill repeals the task force on July 1, 2023.

For Fiscal Year 2020-21, the bill appropriates $500,000 in nonrecurring funds from the General Revenue Fund to the Department of Environmental Protection to fund any authorized contracting and for task force administrative expenses.

The bill may have an insignificant negative fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.[1] One of the primary ways that climate change influences coastal flooding is through sea-level rise.[2] Sea-level rise is an observed increase in the average local sea level or global sea level trend.[3]

The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans and the loss of land-based ice due to melting.[4] Since 1880, the average global sea level has risen approximately eight to nine inches, and the rate of global sea-level rise has been accelerating.[5] The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level and provides data on local sea-level rise trends.[6] Analysis of this data shows that some low-lying areas in the southeastern United States (U.S.) experience higher local rates of sea-level rise than the global average.[7]

Florida's coastal communities are experiencing high-tide flooding events with increasing frequency because sea-level rise increases the height of high tides.[8] In the U.S., sea-level rise and flooding threaten an estimated $1 trillion in coastal real estate value, and analysts estimate that Florida could lose more than $300 billion in property value by 2100.[9] Sea-level rise further affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.[10] Sea-level rise also pushes saltwater farther upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater farther inland at the margins of coastal wetlands.[11]

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase[12] and higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.[13] Stronger storms and sea-level rise are likely to lead to increased coastal erosion.[14]

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[1] Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida* [hereinafter "SHMP"] (2018), 107-108, 162, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 14, 2020). This measurement of Florida's coastline increases to over 8,000 miles when considering the intricacies of Florida's coastline, including bays, inlets, and waterways.

[2] *Id.* at 107.

[3] DEP, *Florida Adaptation Planning Guidebook: Glossary* [hereinafter "DEP Guidebook"] (2018), available at https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf (last visited Jan. 14, 2020).

[4] National Aeronautics and Space Administration (NASA), *Facts: Sea Level,* available at https://climate.nasa.gov/vital-signs/sea-level/ (last visited Jan. 13, 2020).

[5] U.S. Global Change Research Program, *Fourth National Climate Assessment* [hereinafter "NCA4"] (2018), 757, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 14, 2020).

[6] NOAA, *What is a Tide Gauge?*, available at https://oceanservice.noaa.gov/facts/tide-gauge.html (last visited Jan. 14, 2020); NOAA, Tides and Currents, *Sea Level Trends*, available at https://tidesandcurrents.noaa.gov/sltrends/ (last visited Jan. 14, 2020).

[7] NCA4 at 757.

[8] SHMP at 108, 101; NOAA, *High-Tide Flooding*, available at https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding (last visited Jan. 14, 2020).

[9] NCA4 at 324, 758.

[10] SHMP at 106.

[11] *Id.* at 108.

[12] SHMP at 106, 141; NCA4 at 95, 97, 116-117, 1482.

[13] NCA4 at 758; SHMP at 107.

[14] NCA4 at 331, 340-341, 833, 1054, 1495; SHMP at 108, 221.

Increases in evaporation rates and water vapor in the atmosphere increase rainfall intensity and extreme precipitation events, and the sudden onset of water can overwhelm stormwater infrastructure.[15] As sea levels and groundwater levels rise, low areas drain more slowly, and the combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.[16]

Sea-Level Rise Projections

Below is a table of projections for future sea-level rise, both globally and in regions of Florida:

Sea-Level Rise Projections				
Source	**Scale**	**Years**	**Low (feet)**	**High (feet)**
Intergovernmental Panel on Climate Change[17]	Global	2046-2065	0.79	1.05
		2081-2100	1.28	2.32
		2100	1.41	2.76
U.S. Global Change Research Program[18]	Global	2030	0.3	0.6
		2050	0.5	1.2
		2100	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group[19]	Southeast Florida	2030	0.5	0.83
		2060	1.17	2.83
		2100	2.58	6.75
Tampa Bay Climate Science Advisory Panel[20]	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

As seen in these projections, there are considerable variations in estimates of future sea-level rise. Although some local governments and state agencies have adopted sea-level rise estimates for planning purposes, Florida has no official estimates of projected sea-level rise for use by state agencies in developing, planning, and implementing their respective duties and responsibilities.

State, Regional, and Local Programs

Many state, regional, and local programs and policies are in place that address issues relating to sea-level rise and coastal flooding. For example, the Department of Environmental Protection's (DEP) Office of Resilience and Coastal Protection implements numerous programs related to sea-level rise and coastal issues, including the Coastal Construction Control Line Program and the Beach Management Funding Assistance Program.[21] DEP also implements the Florida Resilient Coastlines Program, which helps prepare coastal communities and habitats for the effects of climate change,

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[15] SHMP at 99, 106, 116, 141, 181; NCA4 at 88, 762-763.

[16] SHMP at 106; NCA4 at 763.

[17] Intergovernmental Panel on Climate Change (IPCC), *The Ocean and Cryosphere in a Changing Climate*, SPM-7, 4-4, CCB9-21, AI-23, available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Jan. 14, 2020). These projected ranges are based on climate models using "representative concentration pathways (RCPs)," which are scenarios of future emissions and concentrations of the full suite of greenhouse gases and aerosols, and chemically active gases, as well as land use/land cover.

[18] NCA4 at 406, 758.

[19] Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida* (2015), 4-5, available at https://southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf (last visited Jan. 13, 2020). These projections are compared to the mean sea level in 1992; *see* SFRCCC, *Unified Sea Level Rise Projections*, available at https://southeastfloridaclimatecompact.org/resources/unified-sea-level-rise-projections/ (last visited Jan. 13, 2020). The SFRCCC will soon release updated projections.

[20] Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region* (Apr. 2019), 1, 7, available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Jan. 14, 2020).

[21] DEP, *Beaches: About Us*, available at https://floridadep.gov/rcp/beaches (last visited Jan. 14, 2020).

especially sea-level rise, by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.[22]

On the regional level, through a collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach formed the Southeast Florida Regional Climate Change Compact (Compact).[23] The Compact's work includes developing a Regional Climate Action Plan and developing a Unified Sea-Level Rise Projection.[24] Many local governments in southeast Florida have since incorporated the Compact's projections into their planning documents and policies.[25]

Florida's local governments in coastal areas are required to have a coastal management element in their comprehensive plans that uses principles to reduce flood risk and eliminate unsafe development in coastal areas.[26] In certain coastal areas, local governments are further authorized to establish an "adaptation action area" designation in their comprehensive plan to develop policies and funding priorities that improve coastal resilience and plan for sea-level rise.[27]

Office of Resilience and Coastal Protection

In January of 2019, Governor DeSantis issued Executive Order 19-12, creating the Office of Resilience and Coastal Protection to help prepare Florida's coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.[28] In August of 2019, the Governor appointed Florida's first Chief Resilience Officer, who reports to the Executive Officer of the Governor and collaborates with state agencies, local communities, and stakeholders to prepare for the impacts of sea-level rise and climate change.[29]

Environmental Regulation Commission

The Environmental Regulation Commission (ERC), established within DEP, is a non-salaried, seven-member board selected by the governor and subject to confirmation by the Senate. The appointees represent agriculture, the development industry, local government, the environmental community, residents, and the scientific and technical community.[30]

Under specified statutory provisions and with certain exceptions, the ERC must exercise the standard-setting authority of DEP by approving, modifying, or disapproving proposed rules that contain standards.[31] In exercising its authority, the ERC must consider scientific and technical validity, economic impacts, and relative risks and benefits to the public and the environment.[32]

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[22] DEP, *Florida Resilient Coastlines Program*, available at https://floridadep.gov/rcp/florida-resilient-coastlines-program (last visited Jan. 14, 2020).

[23] Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at http://southeastfloridaclimatecompact.org/wp-content/uploads/2014/09/compact.pdf (last visited Jan. 14, 2020); SFRCCC, *What is the Compact?*, available at http://southeastfloridaclimatecompact.org/about-us/what-is-the-compact/ (last visited Jan. 14, 2020).

[24] SFRCCC, *Regional Climate Action Plan*, available at http://southeastfloridaclimatecompact.org/regional-climate-action-plan/ (last visited Jan. 14, 2020).

[25] SFRCCC, *ST-1: Incorporate Projections into Plans*, available at http://southeastfloridaclimatecompact.org/recommendations/incorporate-projections-into-plans/ (last visited Jan. 14, 2020).

[26] Sections 380.24, 163.3177(6)(g), and 163.3178(2)(f), F.S.; *see* Ch. 2015-69, Laws of Fla.

[27] Sections 163.3177(6)(g)10. and 163.3164(1), F.S.; *see* Ch. 2011-139, Laws of Fla.

[28] Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf (last visited Jan. 14, 2020).

[29] Governor Ron DeSantis, *News Releases: Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida's First Chief Resilience Officer* (Aug. 1, 2019), available at https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/ (last visited Jan. 14, 2020).

[30] Section 20.255(6), F.S.; DEP, *Environmental Regulation Commission*, available at https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission (last visited Jan. 14, 2020).

[31] Sections 403.803(13), 403.804, and 403.805(1), F.S. "Standard" is defined as any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substations. The term does not include rules relating to internal management or procedural matters.

[32] Section 403.804, F.S.

Most issues that go before the ERC relate to air pollution, water quality, or waste management.[33] Generally, the ERC meets on the last Thursday of each month, and the public is encouraged to attend and participate.[34]

Effect of the Bill

The bill establishes the Statewide Office of Resiliency within the Executive Office of the Governor and requires the office to be headed by a Chief Resilience Officer. The Chief Resilience Officer is appointed by and serves at the pleasure of the Governor and must perform duties and responsibilities assigned by the Governor.

The bill creates the Statewide Sea-Level Rise Task Force (task force) whose purpose is to recommend consensus projections of the anticipated sea-level rise and flooding impacts along Florida's coastline. The task force must be composed of the following nine members:

- The Chief Resilience Officer, serving as the chair of the task force;
- DEP's Chief Science Officer, serving as vice-chair of the task force;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House of Representatives; and
- One representative each, appointed by their respective agency head, division director, executive director, or commission chair, from:
    - The Department of Transportation;
    - The Division of Emergency Management;
    - The Department of Agriculture and Consumer Services;
    - The Fish and Wildlife Conservation Commission; and
    - The Department of Economic Opportunity.

The bill requires all appointments to the task force to be made no later than August 1, 2020. The bill further requires any vacancy on the task force to be filled in the same manner as the original appointment.

The bill requires the Chief Resilience Officer to convene the task force by no later than October 1, 2020, and requires the task force to meet thereafter upon the call of the chair. The bill requires the task force to develop official scientific information, from appropriate sources as determined by the task force, necessary to recommend consensus baseline projections, or a range of projections, of the expected rise in sea level along the state's coastline for planning horizons designated by the task force. The projections may address various geographic areas of the state, as determined by the task force.

The bill requires DEP to provide administrative support to the task force and authorizes the task force to request DEP to contract for services to assist in developing the recommended official baseline projections. DEP must serve as the contract administrator for any such contracts. The bill further authorizes the task force to designate technical advisory groups, as it deems necessary, to assist in the gathering of scientific data to inform the task force's decision-making.

The bill requires the task force to submit its recommended consensus baseline projections to the ERC by January 1, 2021. The bill requires the report to include supporting data and assumptions used in developing the recommended projections. The bill requires the ERC to adopt or reject the task force's recommended projections. Following adoption by the ERC, projections must serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline and must be used for developing future state projects, plans, and programs. The bill further requires the task force to review the adopted consensus baseline projections, as it deems appropriate, and submit any recommended revisions to the projections to the ERC.

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[33] DEP, *Environmental Regulation Commission*, available at https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission (last visited Jan. 14, 2020).

[34] *Id.*

The bill repeals the task force on July 1, 2023.

For Fiscal Year 2020-21, the bill appropriates $500,000 in nonrecurring funds from the General Revenue Fund to DEP to fund any contracts for services that DEP enters into to assist the task force in developing its recommended official baseline projections and for the administrative expenses of the task force.

B. SECTION DIRECTORY:

Section 1. Creates s. 14.2031, F.S., establishing the Statewide Office of Resiliency and creating the Statewide Sea-Level Rise Task Force.

Section 2. Appropriates $500,000 from the General Revenue Fund to DEP.

Section 3. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill will have an insignificant negative fiscal impact on the Executive Office of the Governor by creating a new Statewide Office of Resiliency and a Chief Resilience Officer. The Chief Resiliency Officer has already been established and appointed by the Governor, so this impact can be absorbed within existing resources.

   The bill may have an insignificant negative fiscal impact on state government expenditures because the bill requires certain state agencies to appoint members to the task force. The costs associated with these appointments can be absorbed within existing resources.

   The bill may have an insignificant negative fiscal impact on DEP because the bill requires DEP to provide administrative support to the task force. The bill may also have an insignificant negative fiscal impact on the ERC because the bill requires the ERC to review and adopt or reject the task force's recommendations. These impacts can be absorbed within existing resources.
   For Fiscal Year 2020-21, the bill appropriates $500,000 in nonrecurring funds from the General Revenue Fund to DEP for the expenses associated with contracting for services to develop the projections and for task force administrative expenses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Statewide Office of Resiliency; creating s. 14.2031, F.S.; establishing the office within the Executive Office of the Governor; providing for appointment of the Chief Resilience Officer by the Governor; creating the Statewide Sea-Level Rise Task Force within the office; specifying the purpose of the task force; providing for the membership of the task force; providing timeframes for initial appointments and the task force's initial meeting; specifying duties of the task force; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Department of Environmental Protection to serve as the task force's contract administrator and to provide administrative support; authorizing the designation of technical advisory groups for specified purposes; prescribing reporting requirements; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations; specifying the function of the consensus baseline projections; providing for future repeal of the task force; providing an appropriation; providing an effective date.

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

Section 1. Section 14.2031, Florida Statutes, is created to read:

14.2031 Statewide Office of Resiliency.—The Statewide Office of Resiliency is established within the Executive Office of the Governor. The office shall be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor. The Chief Resilience Officer shall perform duties and responsibilities assigned by the Governor.

(1) The Statewide Sea-Level Rise Task Force, a task force as defined in s. 20.03(8), is created adjunct to the Statewide Office of Resiliency. Except as otherwise provided in this section, the task force shall operate in a manner consistent with s. 20.052. The purpose of the task force is to recommend consensus projections of the anticipated sea-level rise and flooding impacts along this state's coastline.

(2) The task force is composed of the following members:

(a) The Chief Resilience Officer, who shall serve as chair.

(b) The Chief Science Officer of the Department of Environmental Protection, who shall serve as vice chair.

(c) One member appointed by the President of the Senate.

(d) One member appointed by the Speaker of the House of Representatives.

(e) One representative each from the Department of Transportation, the Division of Emergency Management, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, and the Department of Economic Opportunity, each appointed by his or her respective agency head, division director, executive director, or commission chair.

All appointments to the task force must be made no later than August 1, 2020. Any vacancy on the task force shall be filled in the same manner as the original appointment.

(3) The Chief Resilience Officer shall convene the task force by no later than October 1, 2020. The task force shall meet thereafter upon the call of the chair.

(4)(a) The task force shall develop official scientific information, from appropriate sources as determined by the task force, necessary to make recommendations on consensus baseline projections, or a range of projections, of the expected rise in sea level along the state's coastline for planning horizons designated by the task force. The projections may address various geographic areas of the state, as determined by the task force.

(b) The task force may request the Department of Environmental Protection to contract for services to assist the task force in developing the recommended official baseline

projections. The Department of Environmental Protection shall serve as the contract administrator for any such contracts.

(c) The Department of Environmental Protection shall provide administrative support to the task force.

(d) The task force may designate technical advisory groups, as it deems necessary, to assist in the gathering of scientific data to inform the task force's decisionmaking.

(5) By January 1, 2021, the task force shall submit its recommended consensus baseline projections to the Environmental Regulation Commission, created pursuant to s. 20.255(6). The commission shall adopt or reject the task force's recommended projections. Following adoption by the commission, these projections serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline and must be used for the purpose of developing future state projects, plans, and programs. In its report, the task force must include supporting data and assumptions used by the task force in developing the recommended projections. The task force shall review the adopted consensus baseline projections as it deems appropriate, and shall submit any recommended revisions to the projections to the commission.

(6) Subsections (1) through (5) and this subsection are repealed July 1, 2023.

Section 2. For the 2020-2021 fiscal year, the sum of $500,000 in nonrecurring funds is appropriated from the General

Revenue Fund to the Department of Environmental Protection for the purpose of funding any contracts for services entered into by the department to assist the Statewide Sea-Level Rise Task Force in developing its recommended official baseline projections and for the administrative expenses of the task force.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1157 Florida Land Subsidence Research Initiative
SPONSOR(S): Ingoglia
TIED BILLS: **IDEN./SIM. BILLS:** SB 1284

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Melkun	Moore
2) Appropriations Committee		White CCW	Pridgeon
3) Education Committee			

SUMMARY ANALYSIS

Land subsidence is a gradual settling or sudden sinking of the Earth's surface due to the movement of underground material. Land subsidence is most often caused by the removal of water, oil, natural gas, or mineral resources from the ground, but it can also occur as a result of natural occurrences such as earthquakes, soil compaction, erosion, and sinkhole formation. Land subsidence is a global problem and, in the United States, more than 17,000 square miles in 45 states have been directly affected by land subsidence.

The bill creates the Florida Land Subsidence Research Initiative (Initiative) as a partnership between the Department of Environmental Protection (DEP) and Florida International University (FIU). The goal of the Initiative is to collect and analyze data using geodetic techniques and to understand natural hazards and the relationship of such hazards to sea-level rise measurements. The bill requires FIU to collaborate with other state universities to implement the Initiative statewide.

The bill requires FIU, beginning July 1, 2022, to submit a biennial report to the Governor and the Legislature providing an update on the progress of the research and a summary and analysis of the data.

The bill further requires FIU, in coordination with the contributing state universities, to submit a final report to the Governor and the Legislature by July 1, 2030. The report must include the assessment methodologies for data collection used by each university; a summary of the data collected by each university; an analysis, using all relevant data, of the trends in land subsidence in the state; and an estimation of current and future sea-level risks, including land subsidence and other natural hazards such as coastal flooding and sinkholes.

The bill may have an insignificant negative fiscal impact on state government. The bill conforms to the proposed House of Representatives' Fiscal Year 2020-2021 General Appropriations Act, which appropriates $3,000,000 in nonrecurring funds from the General Revenue Fund to DEP to transfer to FIU for monitoring of land subsidence in several selected points around the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.[1] One of the primary ways that climate change influences coastal flooding is through sea-level rise.[2] Sea-level rise is an observed increase in the average local sea level or global sea level trend.[3]

The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans and the loss of land-based ice due to melting.[4] Since 1880, the average global sea level has risen approximately eight to nine inches, and the rate of global sea-level rise has been accelerating.[5] The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level and provides data on local sea-level rise trends.[6] Analysis of this data shows that some low-lying areas in the southeastern United States (U.S.) experience higher local rates of sea-level rise than the global average.[7]

Florida's coastal communities are experiencing high-tide flooding events with increasing frequency because sea-level rise increases the height of high tides.[8] In the U.S., sea-level rise and flooding threaten an estimated $1 trillion in coastal real estate value, and analysts estimate that Florida could lose more than $300 billion in property value by 2100.[9] Sea-level rise further affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.[10] Sea-level rise also pushes saltwater farther upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater farther inland at the margins of coastal wetlands.[11]

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase,[12] and higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.[13] Stronger storms and sea-level rise are likely to lead to increased coastal erosion.[14]

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[1] Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida* [hereinafter "SHMP"] (2018), 107-108, 162, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 13, 2020). This measurement of Florida's coastline increases to over 8,000 miles when considering the intricacies of Florida's coastline, including bays, inlets, and waterways.

[2] *Id.* at 107.

[3] DEP, *Florida Adaptation Planning Guidebook: Glossary* [hereinafter "DEP Guidebook"] (2018), available at https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf (last visited Jan. 13, 2020).

[4] National Aeronautics and Space Administration (NASA), *Facts: Sea Level,* available at https://climate.nasa.gov/vital-signs/sea-level/ (last visited Jan. 13, 2020).

[5] U.S. Global Change Research Program, *Fourth National Climate Assessment* [hereinafter "NCA4"] (2018), 757, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Jan. 13, 2020).

[6] NOAA, *What is a Tide Gauge?*, available at https://oceanservice.noaa.gov/facts/tide-gauge.html (last visited Jan. 13, 2020); NOAA, Tides and Currents, *Sea Level Trends*, available at https://tidesandcurrents.noaa.gov/sltrends/ (last visited Jan. 13, 2020).

[7] NCA4 at 757.

[8] SHMP at 108, 101; NOAA, *High-Tide Flooding*, available at https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding (last visited Jan. 13, 2020).

[9] NCA4 at 324, 758.

[10] SHMP at 106.

[11] *Id.* at 108.

[12] SHMP at 106, 141; NCA4 at 95, 97, 116-117, 1482.

[13] NCA4 at 758; SHMP at 107.

[14] NCA4 at 331, 340-341, 833, 1054, 1495; SHMP at 108, 221.

Land Subsidence

Land subsidence is a gradual settling or sudden sinking of the Earth's surface due to the movement of underground material.[15] Land subsidence is most often caused by the removal of water, oil, natural gas, or mineral resources from the ground, but it can also occur as a result of natural occurrences such as earthquakes, soil compaction, erosion, and sinkhole formation.[16] Land subsidence is a global problem and, in the U.S., more than 17,000 square miles in 45 states have been directly affected by land subsidence.[17]

The occurrence of land subsidence is typically gradual and widespread and, as a result, difficult to measure. The detection of regional-scale subsidence has historically occurred with the identified movement of key benchmarks over long periods of time; however, with the advancement of global positioning system (GPS) technologies, the U.S. Geological Survey (USGS) has relied on Interferometric Synthetic Aperture Radar (InSAR) to detect smaller and more subtle changes in the Earth's surface.[18] InSAR is a geodetic[19] technique for mapping ground deformation using radar images of the Earth's surface that are collected from orbiting satellites. InSAR greatly extends the ability of scientists to monitor land movement because, unlike other techniques that rely on measurements at a few points, InSAR produces a map of ground deformation that covers a very large spatial area with centimeter-scale accuracy. Once land subsidence is identified and mapped, assessments of the InSAR data can be done to aid in the determination of the cause and how it may be mitigated.

Land Subsidence Incident Reporting

The Florida Geological Survey (FGS) within the Department of Environmental Protection (DEP) maintains a database of voluntarily reported land subsidence incidents statewide.[20] Currently, a majority of the records come from the State Watch Office,[21] which is the clearinghouse for emergency response calls involving man-made and natural disasters. Data is also received from citizens who report subsidence incidents to FGS by phone or using FGS's Subsidence Incident Report Form.[22] According to DEP's website, the majority of the incidents have not been field-checked and the cause of subsidence is not verified.[23]

Effect of the Bill

The bill creates the Florida Land Subsidence Research Initiative (Initiative) as a partnership between DEP and Florida International University (FIU). The goal of the Initiative is to collect and analyze data using geodetic techniques, including, but not limited to, GPS and other satellite approaches, to understand natural hazards and the relationship of such hazards to sea-level rise measurements.

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[15] USGS, *Land Subsidence*, available at https://www.usgs.gov/mission-areas/water-resources/science/land-subsidence?qt-science_center_objects=0#qt-science_center_objects (last visited Jan. 15, 2020).

[16] National Ocean Service, *What is subsidence?*, available at https://oceanservice.noaa.gov/facts/subsidence.html (last visited Jan. 14, 2020).

[17] U.S. Geological Survey (USGS), *USGS Groundwater Information: Land Subsidence*, available at https://water.usgs.gov/ogw/subsidence.html (last visited Jan. 13, 2020).

[18] USGS, *Land Subsidence*, available at https://www.usgs.gov/mission-areas/water-resources/science/land-subsidence?qt-science_center_objects=0#qt-science_center_objects (last visited Jan. 15, 2020).

[19] "Geodesy" means the science of accurately measuring and understanding the Earth's geometric shape, orientation in space, and gravitational field as well as the changes of these properties with time. National Ocean Service, *What is Geodesy?*, available at https://oceanservice.noaa.gov/facts/geodesy.html (last visited Jan. 15, 2020).

[20] DEP, *MapDirect: Subsidence Incident Reports Map*, available at https://ca.dep.state.fl.us/mapdirect/?focus=fgssinkholes (last visited Jan. 15, 2020).

[21] The State Watch Office is a part of the Division of Emergency Management and monitors all hazards that impact or have the potential to impact the residents of Florida. Division of Emergency Management, *Operations: State Watch Office*, available at https://floridadisaster.org/dem/response/operations/ (last visited Jan. 15, 2020).

[22] DEP, *Subsidence Incident Reports*, available at https://floridadep.gov/fgs/sinkholes/content/subsidence-incident-reports (last visited Jan. 15, 2020).

[23] *Id.*

The bill requires DEP to contract with FIU, which must collaborate with Florida State University, the University of Florida, the University of North Florida, and the University of South Florida, to implement the Initiative. FIU must develop specifications for the collection and reporting of data by the other participating universities, and FIU must allocate a portion of the funds for the Initiative to facilitate participation with the other state universities to assist in implementing the Initiative statewide.

The bill requires FIU, beginning July 1, 2022, to submit a biennial report to the Governor and the Legislature providing an update on the progress of the research and a summary and analysis of the data collected by each state university.

The bill requires FIU, in coordination with the contributing state universities, to submit a final report to the Governor and the Legislature by July 1, 2030. The bill requires the report to include the assessment methodologies for data collection used by each university; a summary of the data collected by each university; an analysis, using all relevant data, of the trends in land subsidence in the state; and an estimation of current and future sea-level risks, including land subsidence and other natural hazards such as coastal flooding and sinkholes.

B. SECTION DIRECTORY:

Section 1. Creates s. 380.29, F.S., to establish the Florida Land Subsidence Research Initiative.

Section 2. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DEP that can be absorbed within existing resources because the bill requires DEP to contract with and allocate appropriated funds to FIU. The bill requires FIU to develop the Initiative and provide funding to other state universities; however, such requirements appear to be subject to appropriation. The bill conforms to the proposed House of Representatives' Fiscal Year 2020-2021 General Appropriations Act, which appropriates $3,000,000 in nonrecurring funds from the General Revenue Fund to DEP to transfer to FIU for monitoring of land subsidence in several selected points around the state.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Florida Land Subsidence Research Initiative; creating s. 380.29, F.S.; providing legislative intent; establishing the Florida Land Subsidence Research Initiative as a partnership between the Department of Environmental Protection and Florida International University; providing the goal of the initiative; directing the department to contract with, and allocate certain funds to, Florida International University to implement the initiative; requiring Florida International University to collaborate with other state universities, develop data collection and reporting specifications, and submit reports to the Governor and Legislature by specified dates; providing report requirements; providing an effective date.

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

Section 1. Section 380.29, Florida Statutes, is created to read:

380.29 Florida Land Subsidence Research Initiative.—

(1) It is the intent of the Legislature to establish an independent and coordinated effort among state universities to determine the rate and amount of land subsidence in the state by

measuring changes in land elevation.

(2)(a) The Florida Land Subsidence Research Initiative is established as a partnership between the Department of Environmental Protection and Florida International University. The goal of the initiative is to collect and analyze data using geodetic techniques, including, but not limited to, global positioning system and other satellite approaches, to understand natural hazards, such as land subsidence and sinkholes, and the relationship of such hazards to sea-level rise measurements.

(b) To implement the initiative, the department shall contract with Florida International University, which shall collaborate with Florida State University, the University of Florida, the University of North Florida, and the University of South Florida.

(c) Funds specifically appropriated by the Legislature for the initiative shall be allocated by the department to Florida International University to achieve the goals of the initiative. Florida International University shall use a portion of the funds to facilitate additional engagement with other state universities to assist in implementing the initiative statewide.

(3) Florida International University shall develop specifications for the collection and reporting of data for the initiative that all participating state universities must use.

(4)(a) Beginning July 1, 2022, Florida International University shall submit a biennial report to the Governor, the

President of the Senate, and the Speaker of the House of Representatives. The report must provide an update on the progress of the research and include a summary and analysis of the data collected by each state university.

(b) By July 1, 2030, Florida International University, in coordination with contributing state universities pursuant to subsection (2), shall submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The final report must include the following:

1. The assessment methodologies for data collection used by each university.

2. A summary of the data collected by each university.

3. An analysis, using all relevant data, of the trends in land subsidence in the state.

4. An estimation of current and future sea level risks, including land subsidence and other natural hazards such as coastal flooding and sinkholes.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1203 Pathways to Career Opportunities
SPONSOR(S): Higher Education & Career Readiness Subcommittee, Mariano
TIED BILLS: None **IDEN./SIM. BILLS:** SB 866

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Career Readiness Subcommittee	15 Y, 0 N, As CS	Sleap	Fudge
2) Appropriations Committee		Peters	Pridgeon
3) Education Committee			

SUMMARY ANALYSIS

To determine the feasibility of implementing a Pathways in Technology Early College High School (P-TECH) program in Florida, the bill requires the Commissioner of Education to submit a report by December 1, 2020, addressing implementation.

The bill requires the report to, at a minimum, include implementation timelines, a funding model that provides the program at no-cost to students, identify industry and business partnerships, and if needed, recommendations to modify the district and school accountability requirements.

The bill requires the P-TECH program to meet specified criteria of being a 6-year integrated secondary and postsecondary model, allowing for high school and postsecondary degree attainment with work experience, having an open enrollment policy, providing student supports, and providing for seamless articulation to Florida's postsecondary institutions.

The bill does not have a fiscal impact. See Fiscal Comments.

The bill takes effect upon becoming law and will expire on December 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

PTECH 9-14 School Model

The Pathways in Technology Early College High School (P-Tech) 9-14 school model is a pioneering global education reform initiative created by IBM that prepares students with the academic, technical and professional skills required for 21st Century jobs and ongoing education.[1] In September 2011, the first P-TECH school was launched in Brooklyn, New York, through a public-private partnership between IBM, the New York City Department of Education, and The City University of New York.[2] The P-TECH school was designed to accomplish two goals:

1. address the global "skills gap" and strengthen regional economies by building a workforce with the academic, technical and professional skills required for new jobs; and
2. provide underserved youth with an innovate education that creates a direct pathway to college attainment and career readiness.[3]

From the first school launched in 2011, the P-TECH model has grown to implementation in over 204 schools across eight states in the United States and 16 international counties.[4] Over 500 companies are partnering with schools in industries such as health information management, advanced manufacturing and energy technology.[5]

Students who participated in the first P-TECH Brooklyn School cohort achieved a 100 percent graduation rate from high school, and 112 students went on to graduate with both their high school and associate degrees in science, technology, engineering and math (STEM).[6] The graduation rate for those students was more than four times the national on-time community college graduation rate, and five times the rate for students from low-income families.[7]

How the Model Works

The P-TECH model is a partnership among K-12, postsecondary, and industry, whereby the partners commit to providing students with rigorous and hands-on academic, technical, and workplace experiences.[8] P-TECH schools span grades 9-14, and enable students to earn both a high school diploma and a no-cost, two-year postsecondary degree in a STEM field.[9] Students participate in a range of workplace experiences, which includes mentorship, worksite visits and paid internships. The P-TECH model is designed as a six year experience, however, students are able to move at their own pace, allowing students to accelerate through the model and complete in four years.[10]

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[1] P-TECH, *About*, http://www.ptech.org/about/ (last visited Jan. 14, 2020).
[2] P-TECH, History, http://www.ptech.org/about/history/ (last visited Jan. 14, 2020).
[3] *Id.*
[4] P-TECH, *Our Schools Map*, http://www.ptech.org/resources/schools-map/ (last visited Jan. 14, 2020).; The eight U.S. states with P-TECH schools include New York, Illinois, Connecticut, Maryland, Colorado, Rhode Island, Texas, and Louisiana.
[5] P-TECH, *supra* note 2.
[6] P-TECH, *Results*, http://www.ptech.org/impact/results/ (last visited Jan. 14, 2020).
[7] Rick Hess, *Straight Up Conversation: IBM Foundation Chief Jen Crozier on P-TECH Schools* (Oct. 18, 2018), http://blogs.edweek.org/edweek/rick_hess_straight_up/2018/10/straight_up_conversation_ibm_foundation_chief_jen_crozier_on_p-tech_schools.html (last visited Jan. 14, 2020).
[8] P-TECH, *How it Works-The Model*, http://www.ptech.org/how-it-works/the-model/ (last visited Jan. 14, 2020).
[9] P-TECH, *Mission*, http://www.ptech.org/about/mission/ (last visited Jan. 14, 2020).
[10] *Id.*

The model is comprised of six key components:

1. Public-Private Partnership: developing and sustaining partnerships with the school district, postsecondary institution, and one or more major employers;
2. Six-Year Integrated Program: integrating high school and college courses, which are aligned to essential industry skills and lead to a postsecondary degree for students[11];
3. Workplace Learning: providing opportunities for students to obtain and develop workplace skills both in the classroom and with hands-on experiences;
4. Open Enrollment: schools are open to all students and have no grade or testing requirements for admission;
5. No Cost: the P-TECH school program and the associate degree earned is provided at no cost to students or their families; and
6. Access to Jobs: industry partners commit to making graduates first in line for jobs.[12]

Funding for a P-TECH school comes from a variety of sources including K-12 schools, postsecondary, workforce, and other grants. Ensuring adequate funding for the school is important for its ongoing sustainability and high-quality replication in a state.[13]

Effect of Proposed Changes

To determine the feasibility of implementing the Pathways in Technology Early College High School (P-TECH) program in Florida, the bill requires the Commissioner of Education to submit a report by December 1, 2020, to the Governor, Senate President, Speaker of the House, Board of Governors, and the State Board of Education, with recommendations addressing the feasibility of implementing PTECH in Florida.

The bill requires the P-TECH program to achieve the following:

- incorporate secondary and postsecondary education with workforce education and work experience in a flexible 6-year integrated model;
- allow students to earn a high school diploma, an associate degree, and applicable industry certifications and gain work experience, within 6 years after enrolling in the 9th grade;
- have an open enrollment policy that encourages a diverse student body, including students from low-income families and first-generation college students;
- support student success through flexible class scheduling, advising and mentoring, and other wrap-around services; and
- provide seamless articulation to Florida's postsecondary institutions.

The Commissioner of Education's report must, at a minimum, include the following:

- timelines for implementing a P-TECH program, including courses of study which support completion in 4 to 6 years and which meet regional workforce demand;
- a funding model that provides the P-TECH program at no cost to students and may incorporate K-12, postsecondary, and workforce funding, grants, scholarships, and other funding options;
- partnerships with industries and businesses, including private investment, work-based job training, internships, and priority placement for job opportunities after graduation; and

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[11] P-TECH, *College Partner*, http://www.ptech.org/how-it-works/partners/college-partners/ (last visited Jan. 14, 2020).; P-TECH schools are aimed at creating a structure that allows a student to complete an associate in applied science degree aligned to high-potential jobs. A choice between a maximum of two degrees provides greater structure and support for students.
[12] P-TECH, *supra* note 8.
[13] P-TECH, *How it Works-Funding*, http://www.ptech.org/how-it-works/funding/ (last visited Jan. 15, 2020).

- recommendations for modifications, if any, to the school and school district accountability requirements in s. 1008.34, F.S.

The bill provides that this section of law will expire on December 1, 2020.

B. SECTION DIRECTORY:

Section 1. Requiring the Commissioner of Education to submit to certain entities by a specified date a report with recommendations relating to the implementation of the Pathways in Technology Early College High School program; providing requirements for such program and report; providing for expiration.

Section 2. Provides the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There may be minimal costs to the Department of Education associated with the feasibility study; however, these costs can be absorbed within existing appropriations.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 22, 2020, the Higher Education & Career Readiness Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably.

The PCS revises HB 1203 in the following ways:

- Requiring the Commissioner of Education to submit a report with recommendations that address the feasibility of implementing the Pathways in Technology Early College High School (P-TECH) program in Florida.
- Reorganizing the requirements of a P-TECH program.
- Reorganizing the minimum program implementation recommendations that must be addressed in the Commissioner's report.
- Providing that this section of law will expire on December 1, 2020.

The analysis is drafted to the committee substitute adopted by the Higher Education & Career Readiness Subcommittee.

A bill to be entitled

An act relating to pathways to career opportunities; requiring the Commissioner of Education to submit to certain entities by a specified date a report with recommendations relating to the implementation of the Pathways in Technology Early College High School program; providing requirements for such program and report; providing for expiration; providing an effective date.

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

Section 1. Pathways in Technology Early College High School (P-TECH) program.—

(1) By December 1, 2020, the Commissioner of Education shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Board of Governors, and the State Board of Education a report with recommendations that address the feasibility of implementing the Pathways in Technology Early College High School (P-TECH) program in Florida. The P-TECH program must:

(a) Incorporate secondary and postsecondary education with workforce education and work experience through a flexible 6-year integrated model.

(b) Allow students to earn a high school diploma, an

associate degree, and applicable industry certifications and gain work experience within 6 years after enrolling in the 9th grade.

(c) Have an open enrollment policy that encourages a diverse student body, including students from low-income families and first-generation college students.

(d) Support student success through flexible class scheduling, advising and mentoring components, and other wrap-around services.

(e) Provide seamless articulation with Florida's postsecondary institutions.

(2) The report must, at a minimum, include the following:

(a) Timelines for implementing a P-TECH program as described in subsection (1), including courses of study which support program completion in 4 to 6 years and which meet regional workforce demand.

(b) A funding model that provides the P-TECH program at no cost to students. The funding model may incorporate K-12, postsecondary, and workforce funding, grants, scholarships, and other funding options.

(c) Partnerships with industries and businesses, which include private investment, work-based training, internships, and priority placement for job opportunities upon graduation.

(d) Recommendations for modifications, if any, to the school and school district accountability requirements of s.

1008.34.

(3) This act expires on December 1, 2020.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7037 PCB JDC 20-01 Constitutional Amendments Proposed By Initiative
SPONSOR(S): Judiciary Committee, Grant, J.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1794

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	12 Y, 6 N	Jones	Luczynski
1) Appropriations Committee		Cobb	Pridgeon
2) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative. For a citizen initiative to be placed in the constitution:

- A sponsor must register as a Florida political committee and gather a sufficient number of signatures from Florida voters;
- The Supreme Court must review the proposed amendment to ensure legal compliance;
- The Financial Impact Estimating Conference (FIEC) must analyze the proposal's financial impacts; and
- At least 60 percent of the voters voting on the proposed amendment must vote yes.

HB 7037 changes the process for amending the State Constitution by citizen initiative by:

- Revising the role of FIEC to estimating the proposal's financial impact on state and local governments and the state budget.
- Requiring the Attorney General to ask the Supreme Court to determine whether the proposal violates the U.S. Constitution.
- Providing that the Senate President and House Speaker may direct legislative staff to analyze any other impacts of the proposal.
- Increasing—from 10 percent of the number of statewide electors required to place an amendment on the ballot to 50 percent—the petitions that must be gathered before the Secretary of State refers the proposal to the Attorney General and FIEC.
- Creating a cause of action to challenge a petition circulator's failure to register.
- Providing that a signature is valid until the next February 1 of an even-numbered year, which prevents a signature from being held over for a subsequent election.
- Requiring a supervisor of elections to charge the actual cost for verifying a petition signature and requiring the Department of State to determine the actual cost amount annually.
- Providing that a signature obtained illegally or by an unregistered paid petition circulator is invalid.
- Allowing the Division of Elections or a supervisor of elections to provide a petition form in PDF format, with printing costs to be borne by the sponsor.
- Requiring the ballot to include statements indicating:
  - The name of the sponsor.
  - The percentage of in-state contributions received for the proposal.
  - Whether the sponsor used out-of-state petition circulators.
  - Notice, when applicable, that FIEC estimates a negative or indeterminate fiscal impact or cannot reach a consensus.
- Requiring a copy of the proposal in each voting booth.
- Requiring a political committee sponsoring a proposal to disclose the percentage of in-state contributions.

The bill may have an indeterminate fiscal impact on state government and on local governments. The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Constitution is the charter of the liberties of Floridians.[1] It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.[2] A citizen initiative must embrace only one subject,[3] unless it concerns limiting the power of government to raise revenue, but proposals originating from the other sources are not so limited.[4]

The Florida Constitution requires the sponsor of an amendment proposed by citizen initiative to obtain a specified number of signatures on a petition to place the proposal on the ballot.[5] The petition must contain the signatures of a number of voters equal to eight percent of the votes cast in the state in the preceding presidential election as well as eight percent of the vote cast in that election in each of at least half of the congressional districts of the state.[6] The number of signatures required for placement on the 2018 or 2020 ballot is 766,200, with a specified number of that total required to come from at least 14 of the state's congressional districts.[7]

According to the Florida Supreme Court, the Legislature and the Secretary of State are responsible for ensuring ballot integrity and a valid election process. To this end, the Legislature may pass statutes regulating the initiative process, which must be either:

- Neutral, nondiscriminatory regulations of petition-circulation and voting procedure explicitly or implicitly contemplated by the constitution; or
- Necessary for ballot integrity.[8]

Citizen Initiative Process

Before gathering signatures for an amendment proposed by citizen initiative, the sponsor of the proposed amendment must register as a Florida political committee.[9] The sponsor then must gather the required number of signatures. The sponsor must present each signature to the appropriate supervisor of elections (supervisor) where the signee resides within 30 days of gathering the signature.[10]

If the sponsor uses a paid petition circulator to gather signatures, the circulator must register with the Secretary before collecting signatures.[11] Failure of a paid petition circulator to register before collecting petition forms is a second-degree misdemeanor.[12] The paid petition circulator must provide to the Secretary:

- His or her name, permanent address, temporary address, and date of birth.
- A Florida address where the circulator will accept service of process.
- A statement that the circulator consents to the jurisdiction of Florida courts.

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[1] *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).
[2] Art. XI, Fla. Const.
[3] Art. XI, s. 3, Fla. Const.
[4] Art. XI, ss. 1, 2, 4, 6, Fla. Const.
[5] Art. XI, s. 3, Fla. Const.
[6] *Id.*
[7] FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf (last visited Jan. 14, 2020).
[8] *See Browning*, 29 So. 3d at 1057-58.
[9] Ss. 100.371(2) and 106.03, F.S.
[10] S. 100.371(7), F.S.
[11] S. 100.371(3), F.S.
[12] S. 104.187, F.S. *See also* s. 104.186, F.S. (making it a first-degree misdemeanor to compensate a petition circulator based on the number of petitions gathered).

- Any information required by the Secretary to verify the circulator's identity or address.[13]

In addition, a paid petition circulator must provide an affidavit with each petition form gathered. The affidavit must include the circulator's name and permanent address and a signed statement verifying, under penalties of perjury, that the petition was signed in the circulator's presence.[14]

The date when the elector signs the petition is presumed to be the date of collection.[15] The sponsor incurs a fine of $50 for each petition form submitted to the supervisor more than 30 days after the elector signed the petition. The sponsor incurs a fine of $500 for each petition form not submitted to the supervisor at all. If the sponsor acted willfully, the fines are raised to $250 and $1,000 per petition, respectively.[16] The sponsor can avoid fines if it shows that failure to deliver the petitions was due to force majeure[17] or impossibility of performance.[18] If the Secretary believes these provisions have been violated, she may refer the matter to the Attorney General for enforcement.[19]

The Division of Elections (division) within the Department of State or the supervisor must provide petition forms to registered paid petition circulators that contain information identifying the paid petition circulator. The division must maintain a database of registered paid petition circulators and petition forms assigned to each, updating the database daily with respect to petition forms. The supervisor must provide to the division information relating to petition forms assigned to and received from paid petition circulators.[20]

When a sponsor delivers the collected signatures to the supervisor, the supervisor must check[21] each signature to ensure the:

- Elector's original signature is recorded.
- Elector accurately recorded the date on which he or she signed the form.
- Elector is a qualified and registered Florida voter.
- Form on which the signature is recorded contains the elector's name, address, city, county, and voter registration number or date of birth.[22]

A petition form is invalid if any of these requirements is not met.[23] The supervisors submit their total numbers of valid signatures to the Secretary of State (Secretary).[24] Once a sponsor obtains verified signatures equal to 10 percent of the statewide requirement to place an amendment on the ballot in at least 25 percent of Florida's congressional districts,[25] the Secretary sends the petition to the:

- Financial Impact Estimating Conference (FIEC)[26] to complete an analysis on the proposed amendment's fiscal impact within 75 days.[27]

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[13] S. 100.371(4), F.S.
[14] S. 100.371(5), F.S.
[15] S. 100.371(10), F.S.
[16] S. 100.371(7)(a), F.S.
[17] "Force majeure" refers to circumstances that cannot be foreseen or controlled, which prevent a person from completing a legal obligation. *See Black's Law Dictionary* 673 (8th ed. 2004).
[18] S. 100.371(7)(b), F.S.
[19] S. 100.371(8), F.S.
[20] S. 100.371(6), F.S.
[21] The sponsor is required to pay the supervisor the sum of 10 cents per signature checked or the actual cost of checking the signatures, whichever is less. S. 99.097(4), F.S.
[22] S. 100.371(11), F.S.
[23] *Id.*
[24] *Id.*
[25] S. 15.21(3), F.S. For the 2018 and 2020 elections, the number is 76,632 and must come from at least seven congressional districts. FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf (last visited Jan. 14, 2020).
[26] The Florida Constitution provides that the legislature must provide by general law for the provision of a statement to public regarding the probable financial impact of any amendment proposed by initiative. Art. XI, s. 5(c), Fla. Const. The legislature created FIEC to review, analyze, and estimate the fiscal impact of constitutional amendments proposed by citizen initiative. It consists of four persons: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research or a designee; one professional Senate staffer; and one professional House staffer. S. 100.371(13)(c)1., F.S.
[27] *See* s. 100.371(13), F.S. (providing for the 75-day timeframe, which is tolled when the Legislature is in session).

- Attorney General, who in turn petitions the Florida Supreme Court for an advisory opinion as to whether the proposed amendment complies with the single-subject requirement and other legal requirements.[28]

Fiscal Impact Estimating Conference (FIEC)

After it receives a proposed amendment from the Secretary, FIEC estimates the proposal's projected impacts on the costs and revenues of state and local governments, the state and local economies, and the state budget. FIEC must complete two documents: a financial impact statement and an initiative financial information statement.[29]

The financial impact statement is placed on the ballot to inform voters to what financial impacts the proposed amendment will have.[30] The supervisor must include a copy of the FIEC's financial information summaries in the publication or mailing for sample ballots.

In addition, if the financial impact statement estimates that the proposal will cause increased costs, decreased revenues, a negative impact on the economy, or an indeterminate fiscal impact, the ballot must include a statement indicating such effect in bold font.[31]

The lengthier initiative financial information statement is available on the websites of the Secretary and the Office of Economic and Demographic Research.[32] Each supervisor must include in the publication and mailing of sample ballots the internet addresses where FIEC's full information statements can be viewed and a summary of the statements.[33] A summary of the information statements is also available at each polling place, at the main office of the supervisor, upon request, and on the supervisor's website.[34]

Ballot Placement and Passage

If the Secretary determines that the sponsor has collected the required number of verified signatures by February 1 of the election year,[35] he or she assigns an amendment number and certifies the proposed amendment's ballot position.[36] When the proposal is printed on the ballot, the ballot must also include:

- A ballot summary of up to 75 words summarizing the proposal's purpose.
- A ballot title including a caption of up to 15 words describing the proposal.
- The financial impact statement prepared by FIEC.[37]

At the general election, if at least 60 percent of the voters voting on the proposed amendment vote yes,[38] the proposed amendment is incorporated into the Florida Constitution.[39] The amendment becomes effective on the first Tuesday after the first Monday in January following the election or on a different date if specified in the amendment.[40]

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[28] S. 16.061, F.S.; FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf (last visited Jan. 14, 2020); art. IV, s. 10, Fla. Const.; art. XI, s. 3, Fla. Const.; *Advisory Opinion to the Attorney General re Rights of Electricity Consumers Regarding Solar Energy Choice*, 188 So. 3d 822 (Fla. 2016) (outlining the scope of the Supreme Court's analysis when determining whether to approve a constitutional amendment for placement on the ballot).
[29] S. 100.371(13), F.S.
[30] S. 100.371(13)(a), F.S.
[31] S. 100.371(13)(d), F.S.
[32] S. 100.371(13)(e)5., F.S.
[33] Ss. 100.371(13)(e)5. and 101.20, F.S.
[34] S. 100.371(13)(e), F.S.
[35] Art. XI, s. 5(b), Fla. Const.
[36] Ss. 100.371(12) and 101.161, F.S.
[37] S. 101.161(1), F.S.
[38] Art. XI, s. 5(e), Fla. Const.
[39] *Id.*
[40] *Id.*

Effect of Proposed Changes

The bill modifies several aspects of the citizen initiative process to increase transparency, strengthen the integrity of the ballot, and reduce costs for the supervisors of elections. Specifically, the bill changes the deadline for gathering signatures, the Fiscal Impact Estimating Conference (FIEC) analysis process, the ballot language requirements, and the requirements for supervisors of elections.

Petition Circulators and Petition Form Signatures

The bill provides that if a paid petition circulator collects a petition form but is not registered pursuant to law, that petition form is invalid. Moreover, a paid petition circulator's registration may be challenged in court. If a court finds that a petition circulator is not properly registered with the Department of State pursuant to law, the court may enjoin the circulator from collecting signatures or initiative petitions for compensation until he or she is lawfully registered.

The bill also provides that a signature on a form is valid only until February 1 of the next even-numbered year. This means that a sponsor may begin gathering signatures for a proposed amendment in February of an even-numbered year for the election to occur two years later, giving a sponsor almost two years to collect signatures. This also prohibits a sponsor from collecting a signature for a particular election and then using the signature for a subsequent election instead.

Analysis of the Proposed Amendment's Projected Impacts

The bill changes the process for the Secretary of State to refer a proposed amendment for further analysis by:

- Changing the percentage of signatures required to trigger referral from 10 percent of the number of statewide electors required to place an amendment on the ballot to 50 percent; and
- Requiring the Secretary to refer the proposed amendment to the Senate President and House Speaker in addition to the Attorney General and FIEC.

Under the bill, FIEC is no longer required to estimate the proposal's projected impacts on the state and local economies. The bill revises FIEC's role, requiring it to estimate the proposal's:

- Effect on increasing or decreasing revenues or costs to state or local governments; and
- Overall impact to the state budget.

Instead, the bill leaves to the discretion of the Senate President and House Speaker whether to direct legislative staff to conduct a broader analysis of the proposal, which may include, but is not limited to, whether the proposal:

- Has undefined terms.
- Conflicts with an existing provision of the Florida Constitution.
- Will cause unintended consequences or economic impacts.

The bill also requires the Attorney General, upon petitioning the Florida Supreme Court to review the legality of a proposed amendment, to ask the Court whether it violates the United States Constitution.

Political Committee Disclosure and Ballot Requirements

The bill requires a political committee sponsoring a proposed amendment to disclose, in its regular campaign finance reports, the percentage of contributions received from in-state persons,[41] excluding political parties, affiliated party committees, or political committees. This ensures that the public is aware of the origination of the funds that support the amendment. Otherwise, a political committee or

[41] For purposes of the bill, "person" includes an individual, corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. *Cf.* s. 106.011(14), F.S.

other entity might receive out-of-state money and then spend it on advertisements for a proposed amendment, leaving voters potentially unaware that out-of-state sources are funding the proposal.

In addition to the ballot summary and the financial impact statement already required to appear on the ballot, the bill requires the ballot to include the following information:

- The name of the sponsor.
- The percentage of contributions received by the sponsor from in-state persons, excluding political parties, affiliated party committees, or political committees.
- A statement indicating whether an out-of-state petition circulator was used to collect any petitions.
- A statement in bold capital letters indicating if FIEC:
  - Determines the proposal will have a net negative financial impact on the state budget.
  - Cannot determine the proposal's financial impact.
  - Is unable to reach a consensus on the proposal's financial impact.

Supervisors of Elections

The bill requires a supervisor of elections to:

- Include a copy of the proposed amendment text in each voting booth.
- Charge the actual cost for checking a petition form, with the cost to be calculated by Department of State rulemaking and updated annually.

The bill also gives a supervisor of elections the option to provide petition forms to a sponsor in PDF format instead of requiring that the supervisor print the forms. This places the printing costs for petition forms on the sponsor instead of the supervisor.

Severability Clause and Effective Date

The bill provides that if any provision contained within the bill is held invalid, the remaining portion of the bill is severed from that provision and should be given full legal effect. The bill is effective upon becoming a law, and its changes apply to all initiative amendments proposed for the 2020 ballot. However, nothing in the bill affects the validity of a:

- Petition form gathered before the bill's effective date.
- Contract entered into before the bill's effective date.

B. SECTION DIRECTORY:

Section 1: Amends s. 15.21, F.S., relating to initiative petitions; s. 3, Art. XI, State Constitution.
Section 2: Amends s. 16.061, F.S., relating to initiative petitions.
Section 3: Amends s. 100.371, F.S., relating to initiatives; procedure for placement on ballot.
Section 4: Amends s. 101.161, F.S., relating to referenda; ballots.
Section 5: Amends s. 101.171, F.S., relating to copy of constitutional amendment to be available at voting locations.
Section 6: Amends s. 106.07, F.S., relating to reports; certification and filing.
Section 7: Creates an unnumbered section clarifying that the bill applies to all revisions or amendments by initiative proposed for the 2020 election ballot, but that nothing in the bill affects the validity of any petition gathered prior to the bill's effective date.
Section 8: Creates an unnumbered section of law providing that if any provision contained within the bill is found to be invalid, the remaining portion of the bill is severed from that provision.
Section 9: Provides an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an indeterminate positive fiscal impact on state government by not requiring the Attorney General to review the proposed amendment until the sponsor has collected 50 percent of the number of signatures required, instead of 10 percent, which may result in a reduced workload. The bill may also have a negative fiscal impact relating to the workload for the requirement that the Department of State calculate the actual cost of verifying a petition form; however, it is unlikely that this provision will require additional resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill allows supervisors to charge the actual cost for verifying petition signatures, which is likely higher than the current rate allowed and may, in turn, have an indeterminate positive fiscal impact.

2. Expenditures:

   The bill requires supervisors, when an initiative is submitted to the electors, to include extra language on the ballot and to place a copy of each proposed amendment in each voting booth, which may have an indeterminate negative fiscal impact on local governments. However, the bill may have a positive indeterminate impact on local governments by allowing each supervisor to provide a petition form to a sponsor in PDF format, saving the supervisor printing costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires each supervisor of elections to provide a copy of the proposed constitutional text in each voting booth; however, an exemption likely applies under Art. VII, s. 18(d), because the bill relates to election laws.

2. Other:

The U.S. Supreme Court has held that states have a substantial interest in regulating the ballot-initiative process.[42] Likewise, the Florida Supreme Court has stated that the Legislature and the Secretary of State are responsible for ensuring ballot integrity and a valid election process. Statutes regulating the initiative process must be either:

- Neutral, nondiscriminatory regulations of petition-circulation and voting procedure explicitly or implicitly contemplated by the constitution; or
- Necessary for ballot integrity.[43]

B. RULE-MAKING AUTHORITY:

The bill grants sufficient rule-making authority to the Department of State to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[42] *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182, 204-05 (1999).
[43] *See Browning v. Fla. Hometown Democracy, Inc. PAC*, 29 So. 3d 1053, 1057-58 (Fla. 2010).

A bill to be entitled

An act relating to constitutional amendments proposed by initiative; amending s. 15.21, F.S.; requiring the Secretary of State to submit an initiative petition to the Legislature when a certain amount of signatures are obtained; amending s. 16.061, F.S.; requiring the Attorney General to ask the Supreme Court to address in an advisory opinion the specific validity of the proposed amendment under the United States Constitution; amending s. 100.371, F.S.; providing that a citizen may challenge a failure to register by a petition circulator; providing that the division or a supervisor may provide petition forms in electronic format; revising the length of time that a signature is valid; requiring a supervisor to charge the actual cost of verifying petition forms; requiring the Department of State to adopt rules; providing that a petition form is invalid under certain circumstances; requiring the Secretary of State to submit a copy of an initiative petition to the Financial Impact Estimating Conference; requiring the Financial Impact Estimating Conference to analyze the financial impact to the state of a proposed initiative; requiring certain ballot language based on the findings of the Financial Impact Estimating Conference; authorizing

the use of legislative staff to analyze the effects of a citizen initiative under certain circumstances; amending s. 101.161, F.S.; requiring that the ballot include certain disclosures and statements; amending s. 101.171, F.S.; requiring a copy of the amendment text in each voting booth; amending s. 106.07, F.S.; requiring a political committee sponsoring an initiative to disclose certain information; providing applicability; providing for severability; providing an effective date.

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

Section 1. Section 15.21, Florida Statutes, is amended to read:

15.21 Initiative petitions; s. 3, Art. XI, State Constitution.—The Secretary of State shall immediately submit an initiative petition to the Attorney General, the President of the Senate and the Speaker of the House of Representatives ~~and to the Financial Impact Estimating Conference~~ if the sponsor has:

(1) Registered as a political committee pursuant to s. 106.03;

(2) Submitted the ballot title, substance, and text of the proposed revision or amendment to the Secretary of State

pursuant to ss. 100.371 and 101.161; and

(3) Obtained a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 50 ~~10~~ percent of the number of electors statewide and in at least one-fourth of the congressional districts required by s. 3, Art. XI of the State Constitution.

Section 2. Subsection (1) of section 16.061, Florida Statutes, is amended to read:

16.061 Initiative petitions.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution, whether the proposed amendment is facially invalid under the United States Constitution, and the compliance of the proposed ballot title and substance with s. 101.161. The petition may enumerate any specific factual issues that the Attorney General believes would require a judicial determination.

Section 3. Subsections (3), (6), (11), and (13) of section 100.371, Florida Statutes, are amended to read:

100.371 Initiatives; procedure for placement on ballot.—

(3)(a) A person may not collect signatures or initiative petitions for compensation unless the person is registered as a petition circulator with the Secretary of State.

(b) A citizen may challenge a petition circulator's registration under this section by filing a petition in circuit court. If the court finds that the respondent is not a registered petition circulator, the court may enjoin the respondent from collecting signatures or initiative petitions for compensation until she or he is lawfully registered.

(6) The division or the supervisor of elections shall make hard copy petition forms or electronic portable document format petition forms available to registered petition circulators. All such forms must contain information identifying the petition circulator to which the forms are provided. The division shall maintain a database of all registered petition circulators and the petition forms assigned to each. Each supervisor of elections shall provide to the division information on petition forms assigned to and received from petition circulators. The information must be provided in a format and at times as required by the division by rule. The division must update information on petition forms daily and make the information publicly available.

(11) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid until the

next February 1 occurring in an even-numbered year for the purpose of appearing on the ballot for the general election occurring in that same year ~~for a period of 2 years following such date~~, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained. If a signature on a petition is from a registered voter in another county, the supervisor shall notify the petition sponsor of the misfiled petition. The supervisor shall promptly verify the signatures within 30 days after receipt of the petition forms and payment of a ~~the~~ fee for the actual cost of signature verification incurred by the supervisor ~~required by s. 99.097~~. The Department of State shall adopt rules to set the cost to verify a petition under this subsection and update the cost annually. The supervisor shall promptly record, in the manner prescribed by the Secretary of State, the date each form is received by the supervisor, and the date the signature on the form is verified as valid. The supervisor may verify that the signature on a form is valid only if:

(a) The form contains the original signature of the purported elector.

(b) The purported elector has accurately recorded on the form the date on which he or she signed the form.

(c) The form sets forth the purported elector's name,

address, city, county, and voter registration number or date of birth.

(d) The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

(e) The signature was obtained legally, including that if a paid petition circulator was used, the circulator was validly registered under subsection (3) when the signature was obtained.

The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors of elections that the committee that circulated the petition is no longer seeking to obtain ballot position.

(13)(a) At the same time the Secretary of State submits an initiative petition to the Attorney General pursuant to s. 15.21, the secretary shall submit a copy of the initiative petition to the Financial Impact Estimating Conference. Within 75 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments~~, estimated economic impact on the state and local economy,~~ and the overall impact to the

state budget resulting from the proposed initiative. The 75-day time limit is tolled when the Legislature is in session. The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.

(b) Immediately upon receipt of a proposed revision or amendment from the Secretary of State, the coordinator of the Office of Economic and Demographic Research shall contact the person identified as the sponsor to request an official list of all persons authorized to speak on behalf of the named sponsor and, if there is one, the sponsoring organization at meetings held by the Financial Impact Estimating Conference. All other persons shall be deemed interested parties or proponents or opponents of the initiative. The Financial Impact Estimating Conference shall provide an opportunity for any representatives of the sponsor, interested parties, proponents, or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research.

(c) All meetings of the Financial Impact Estimating Conference shall be open to the public. The President of the Senate and the Speaker of the House of Representatives, jointly, shall be the sole judge for the interpretation, implementation, and enforcement of this subsection.

1. The Financial Impact Estimating Conference is

established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

2. Principals of the Financial Impact Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous financial impact statement, no more than 150 words in length, and immediately submit the statement to the Attorney General. Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement. Any financial impact statement that a court finds not to be in accordance with this section shall be remanded solely to the Financial Impact Estimating Conference for redrafting. The Financial Impact Estimating Conference shall redraft the financial impact statement within 15 days.

3. If ~~the members of the Financial Impact Estimating~~

~~Conference are unable to agree on the statement required by this subsection, or if~~ the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election, the following statement shall appear on the ballot ~~pursuant to s. 101.161(1)~~: "The ~~financial~~ impact of this measure, if any, has not been ~~cannot be reasonably~~ determined at this time."

(d) The financial impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

1. If the financial impact statement projects a net ~~estimates increased costs, decreased revenues, a~~ negative impact on the state budget ~~or local economy, or an indeterminate impact for any of these areas~~, the ballot must include the ~~a~~ statement required by s. 101.161(1)(d) ~~indicating such estimated effect in bold font~~.

2. If the financial impact statement estimates an indeterminate financial impact, the ballot must include the statement required by s. 101.161(1)(e).

3. If the members of the Financial Impact Estimating Conference are unable to agree on the statement required by this subsection, the ballot must include the statement required by s. 101.161(1)(f).

(e)1. Any financial impact statement that the Supreme

Court finds not to be in accordance with this subsection shall be remanded solely to the Financial Impact Estimating Conference for redrafting, provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an initiative amendment that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience ~~and the estimated economic impact on the state and local economy~~ if the ballot measure were approved. If appropriate, the initiative financial information statement may include both estimated dollar amounts

and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statements. The supervisors shall have the summary from the initiative financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each initiative financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each initiative financial information statement on the website. Each supervisor shall include a copy of each summary from the initiative financial information statements and the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. 101.20.

(f) When the Secretary of State submits a proposed

initiative petition to the President of the Senate and the Speaker of the House of Representatives pursuant to s. 15.21, the President of the Senate and the Speaker of the House of Representatives may direct legislative staff to prepare an analysis of the petition. Such analysis may include, but is not limited to, whether the amendment has undefined terms, conflicts with an existing provision of the State Constitution, or will cause unintended consequences or economic impacts.

Section 4. Subsection (1) of section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.—

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The ballot summary of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75

words in length, of the chief purpose of the measure. In addition, for every constitutional amendment proposed by initiative, the ballot shall include, following the ballot summary, in the following order:

(a) The name of the initiative's sponsor and the percentage of total contributions obtained by the sponsor from in-state persons. For purposes of this subparagraph, "person" has the same meaning as provided in s. 106.011(14), except that the term does not include a political party, affiliated party committee, or political committee.

(b) Whether out-of-state petition circulators were used to obtain signatures for ballot placement.

(c) A separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(13) ~~s. 100.371(5)~~.

(d) If the financial impact statement projects a net negative impact on the state budget, the following statement in bold print:

THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO HAVE A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS IMPACT MAY RESULT IN HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

(e) If the financial impact statement is indeterminate, the following statement in bold print:

THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE DETERMINED DUE TO AMBIGUITIES AND UNCERTAINTIES SURROUNDING THE AMENDMENT'S IMPACT.

(f) If the members of the Financial Impact Estimating Conference are unable to agree on the financial impact statement, the following statement in bold print:

THE FINANCIAL IMPACT ESTIMATING CONFERENCE WAS UNABLE TO AGREE ON THE FINANCIAL IMPACT OF THIS PROPOSED CONSTITUTIONAL AMENDMENT. THIS AMENDMENT MAY RESULT IN HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE CONSTITUTION.

The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. This subsection does not apply to constitutional amendments or revisions proposed by joint resolution.

Section 5. Section 101.171, Florida Statutes, is amended to read:

101.171 Copy of constitutional amendment to be available

at voting locations.—Whenever any amendment to the State Constitution is to be voted upon at any election, the Department of State shall have printed and shall furnish to each supervisor of elections a sufficient number of copies of the amendment either in poster or booklet form, and the supervisor shall provide ~~have~~ a copy in ~~thereof conspicuously posted or available at~~ each voting booth ~~polling room or early voting area upon the day of election~~.

Section 6. Paragraph (a) of subsection (4) of section 106.07, Florida Statutes, is amended to read:

106.07 Reports; certification and filing.—

(4)(a) Except for daily reports, to which only the contributions provisions below apply, and except as provided in paragraph (b), each report required by this section must contain:

1. The full name, address, and occupation, if any, of each person who has made one or more contributions to or for such committee or candidate within the reporting period, together with the amount and date of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is $100 or less or is from a relative, as defined in s. 112.312, provided that the relationship is reported, the occupation of the contributor or the principal type of business need not be listed.

2. The name and address of each political committee from which the reporting committee or the candidate received, or to which the reporting committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.

3. Each loan for campaign purposes to or from any person or political committee within the reporting period, together with the full names, addresses, and occupations, and principal places of business, if any, of the lender and endorsers, if any, and the date and amount of such loans.

4. A statement of each contribution, rebate, refund, or other receipt not otherwise listed under subparagraphs 1. through 3.

5. The total sums of all loans, in-kind contributions, and other receipts by or for such committee or candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

6. The full name and address of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. However, expenditures made from the petty cash fund provided by s. 106.12 need not be reported individually.

7. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses as provided in s. 106.021(3) has been made and which is not otherwise reported, including the amount, date, and purpose of such expenditure. However, expenditures made from the petty cash fund provided for in s. 106.12 need not be reported individually. Receipts for reimbursement for authorized expenditures shall be retained by the treasurer along with the records for the campaign account.

8. The total amount withdrawn and the total amount spent for petty cash purposes pursuant to this chapter during the reporting period.

9. The total sum of expenditures made by such committee or candidate during the reporting period.

10. The amount and nature of debts and obligations owed by or to the committee or candidate, which relate to the conduct of any political campaign.

11. Transaction information for each credit card purchase. Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account.

12. The amount and nature of any separate interest-bearing accounts or certificates of deposit and identification of the financial institution in which such accounts or certificates of deposit are located.

13. The primary purposes of an expenditure made indirectly

through a campaign treasurer pursuant to s. 106.021(3) for goods and services such as communications media placement or procurement services, campaign signs, insurance, and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.

14. If filed by a political committee supporting an initiative, the percentage of total contributions obtained during the reporting period from in-state persons. For purposes of this subparagraph, the term "person" has the same meaning as provided in s. 106.011, except that the term does not include a political party as provided in s. 103.091, affiliated party committee as provided in s. 103.092, or political committee as defined in s. 106.011.

Section 7. The provisions of this act apply to all revisions or amendments to the State Constitution by initiative that are proposed for the 2020 election ballot and each ballot thereafter; provided, however, that nothing in this act affects the validity of any petition form gathered before the effective date of this act or any contract entered into before the effective date of this act.

Section 8. If any provision of this act or its application to any person or circumstance is held invalid for any reason, the remaining portion of this act, to the fullest extent

possible, shall be severed from the void portion and given the fullest possible force and application.

Section 9. This act shall take effect upon becoming a law.