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# Appropriations Committee

**Wednesday, January 31, 2024  
9:00 AM – 1:30 PM  
Webster Hall (212 KB)**

**MEETING PACKET**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Appropriations Committee

**Start Date and Time:** Wednesday, January 31, 2024 09:00 am  
**End Date and Time:** Wednesday, January 31, 2024 01:30 pm  
**Location:** Webster Hall (212 Knott)  
**Duration:** 4.50 hrs

**Consideration of the following proposed committee bill(s):**

PCB APC 24-01 -- General Appropriations Act  
PCB APC 24-02 -- Implementing the 2024-2025 General Appropriations Act  
PCB APC 24-03 -- Collective Bargaining  
PCB APC 24-04 -- Compensation of Elected Officers and Judges

**Consideration of the following proposed committee substitute(s):**

PCS for HB 151 -- Florida Retirement System

**Consideration of the following bill(s):**

HB 83 Trust Funds/Re-creation/State-Operated Institutions Inmate Welfare Trust Fund/DOC by Lopez, V.  
CS/HB 189 Gaming Control by Regulatory Reform & Economic Development Subcommittee, Salzman  
CS/HB 569 Suits Against the Government by Civil Justice Subcommittee, McFarland  
HB 589 Criminal Conflict and Civil Regional Counsel Membership in the Senior Management Service Class by Brannan  
CS/HB 637 Treatment by a Medical Specialist by Insurance & Banking Subcommittee, Yeager  
CS/HB 1459 Advanced Technology by Commerce Committee, McFarland  
HB 5101 Education by PreK-12 Appropriations Subcommittee, Tomkow  
HB 5201 Trust Funds/Federal Law Enforcement Trust Fund/FGCC by State Administration & Technology Appropriations Subcommittee, Busatta Cabrera  
HB 5203 Property Seized by the Florida Gaming Control Commission by State Administration & Technology Appropriations Subcommittee, Busatta Cabrera  
HB 5301 Medicaid Supplemental Payment Programs by Health Care Appropriations Subcommittee, Garrison  
HB 5401 Judges by Justice Appropriations Subcommittee, Brannan

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at [www.myfloridahouse.gov](http://www.myfloridahouse.gov).

**NOTICE FINALIZED on 01/29/2024 4:01PM by CTR**



1                                   A bill to be entitled  
2           An act making appropriations; providing moneys for the  
3           annual period beginning July 1, 2024, and ending June  
4           30, 2025, and supplemental appropriations for the  
5           period ending June 30, 2024, to pay salaries and other  
6           expenses, capital outlay—buildings and other  
7           improvements, and for other specified purposes of the  
8           various agencies of state government; providing  
9           effective dates.

10

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

12

13 The moneys contained herein are appropriated from the named  
14 funds for Fiscal Year 2024-2025 to the state agency indicated,  
15 as the amounts to be used to pay the salaries, other operational  
16 expenditures, and fixed capital outlay of the named agencies,  
17 and are in lieu of all moneys appropriated for these purposes in  
18 other sections of the Florida Statutes.

19

20 (see attached)

PCB APC 24-01 - General Appropriations Act (GAA)

can be accessed at the following link:

[PCB APC 24-01 GAA](#)



HOUSE APPROPRIATIONS BILL AMENDMENT  
PCBAPC24-01

SENATE

CHAMBER ACTION

HOUSE

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ORIGINAL STAMP BELOW

Representative(s) : **Joseph**  
offered the following amendment:

**In Section:**            **On Page:** 450            **Specific Appropriation:**

**Explanation:**

Provides that the unexpended balance of funds appropriated to the Division of Emergency Management for unauthorized alien activities and the impacts of illegal immigration, shall revert and are appropriated to the Division of Emergency Management for the Hazard Mitigation Grant Program.

<b>DELETE</b>	<b>INSERT</b>
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GOVERNOR, EXECUTIVE OFFICE OF THE  
Program: Emergency Management

In Section            On Page 450

In Section            On Page 449

**DELETE :**

SECTION 161. The unexpended balance of funds appropriated to the Executive Office of the Governor, Division of Emergency Management, to respond to unauthorized alien activities in chapter 2023-40, Laws of Florida, shall revert and is appropriated to the division for Fiscal Year 2024-2025 for the same purpose.

SECTION 162. The unexpended balance of funds appropriated to the Executive Office of the Governor, Division of Emergency Management, to respond to the impacts of illegal immigration provided through budget amendments EOG #B2024-0047 and EOG #B2024-0238, shall revert and is appropriated to the division for Fiscal Year 2024-2025 for the same

purpose.

and insert in lieu thereof:

SECTION 161. The unexpended balance of funds appropriated to the Executive Office of the Governor, Division of Emergency Management, to respond to unauthorized alien activities in chapter 2023-40, Laws of Florida, and the unexpended balance of funds appropriated to the Executive Office of the Governor, Division of Emergency Management, to respond to the impacts of illegal immigration provided through budget amendments EOG #B2024-0047 and EOG #B2024-0238, shall revert and are appropriated to the Executive Office of the Governor, Division of Emergency Management, for the Hazard Mitigation Grant Program for Fiscal Year 2024-2025.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB APC 24-02 Implementing the 2024-2025 General Appropriations Act

**SPONSOR(S):** Appropriations Committee

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Willson	Pridgeon

### SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2024-2025. The statutory changes are effective for only one year and either expire on July 1, 2025, or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2024-2025, there are no direct fiscal impacts created by this bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Article III, section 12 of the Florida Constitution states that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.” This language has been interpreted to defeat proviso language attached to appropriations that have the effect of amending general law. For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the General Appropriations Act (GAA). The changes made in the “implementing bill” are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

##### **Effect of the Bill**

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the GAA for Fiscal Year 2024-2025.

Section 2 incorporates the Florida Education Finance Program (FEFP) work papers by reference for the purpose of displaying the calculations used by the Legislature.

Section 3 specifies that the 2023 taxable value for the Wakulla County School District as provided by the Department of Revenue will be utilized for the remaining calculations of the Fiscal Year 2023-2024 Florida Education Finance Program and for use in the Prior Period Funding Adjustment Millage calculation.

Section 4 authorizes the Agency for Health Care Administration (AHCA) and the Department of Health (DOH) to submit a budget amendment to realign funding within and between agencies based on the implementation of the Managed Medical Assistance component of the Statewide Medicaid Managed Care program for the Children's Medical Services program within DOH.

Section 5 authorizes AHCA to submit a budget amendment, pursuant to s. 216.177, F.S., to realign funding in the Medicaid program appropriation categories to address projected surpluses and deficits and to maximize use of state trust funds.

Section 6. authorizes AHCA to submit a budget amendment, pursuant to s. 216.177, F.S., to realign funding within the Medicaid program appropriation categories to address projected surpluses and deficits within the program for Fiscal Year 2023-2024. AHCA may not realign funds to provide Medicaid reimbursements at rates above the amounts adopted at the Social Services Estimating Conference held on January 8, 2024.

Section 7 authorizes AHCA and DOH to each submit a budget amendment to realign funding within the Florida KidCare program appropriation categories, or to increase budget authority in the Children's Medical Services Network category, to address projected surpluses and deficits within the program or to maximize the use of state trust funds.

Section 8 amends s. 381.986, F.S., to provide that DOH is not required to prepare a statement of estimated regulatory costs when promulgating rules relating to medical marijuana testing laboratories, and any such rules adopted prior to July 1, 2025, are exempt from the legislative ratification provision of ss. 120.54(3)(b) and 120.541, F.S.

Section 9 & 10 amends s. 14(1) of ch. 2017-232, Laws of Fla., to provide emergency rulemaking authority to DOH to adopt rules necessary to implement provisions of s. 381.986, F.S., and to provide that rules adopted under the nonemergency rulemaking procedures of the APA to replace emergency

rules adopted under s. 14 of ch. 2017-232, Laws of Fla., are exempt from the legislative ratification provisions of ss. 120.54(3)(b) and 120.541, F.S.

Section 11 authorizes AHCA to submit a budget amendment to implement the federally approved Directed Payment Program for hospitals statewide, the Indirect Medical Education Program, and a nursing workforce expansion and education program.

Section 12 authorizes AHCA to submit a budget amendment, that includes certain information, to implement the federally approved Directed Payment Program and fee-for-service supplemental payments for cancer hospitals that meet certain federal criteria.

Section 13 authorizes AHCA to submit a budget amendment, that includes certain information, to implement the Low Income Pool Program.

Section 14 authorizes AHCA to submit a budget amendment, that includes certain information, to implement fee-for-service supplemental payments and a directed payment program for physicians and subordinate licensed health care practitioners employed by or under contract with a Florida medical or dental school or a public hospital.

Section 15 authorizes AHCA to submit a budget amendment to establish budget authority for public emergency transportation services.

Section 16 authorizes AHCA to submit a budget amendment, that includes certain information, requesting additional spending authority to implement the Disproportionate Share Hospital Program.

Section 17 authorizes the Department of Children and Families (DCF) to submit a budget amendment, pursuant to s. 216.177, F.S., to realign funding within DCF based on the implementation of the Guardianship Assistance Program, between the specific appropriations for guardianship assistance payments, foster care Level 1 room and board payments, relative caregiver payments, and nonrelative caregiver payments.

Section 18 authorizes DCF, DOH, & AHCA to submit budget amendments to increase budget authority to support Refugee Programs administered by the federal Office of Refugee Resettlement based on programmatic need, and requires DCF to submit quarterly reports containing certain information.

Section 19 authorizes DCF to submit a budget amendment, pursuant to s. 216.177, F.S., to increase budget authority to support the following federal grant programs: the Supplemental Nutrition Assistance Grant Program, Pandemic Electronic Benefit Transfer (P-EBT), the American Rescue Plan Grant, the State Opioid Response Grant, the Substance Abuse Prevention and Treatment Block Grant, and the Mental Health Block Grant.

Section 20 authorizes DOH to submit a budget amendment, pursuant to s. 216.177, F.S., to increase budget authority for the department if additional federal grant revenues specific to the Women, Infants, and Children (WIC) program and the Child Care Food program become available.

Section 21 authorizes DOH to submit a budget amendment, subject to s. 216.177, F.S., to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues specific to the program become available.

Section 22 authorizes DOH to submit a budget amendment, pursuant to s. 216.177, F.S., to increase budget authority for the department if additional federal revenues specific to COVID-19 relief funds become available.

Section 23 requires AHCA to replace the current Florida Medicaid Management Information System and provides requirements of the system (FX). This section establishes the executive steering committee membership, including updated titles to reflect AHCA reorganization, duties and the process

for steering committee meetings and decisions. Provides requirements for deliverables-based fixed price contracts.

Section 24 requires ACHA, in consultation with DOH, APD, DCF, and DOC, to competitively procure a contract with a vendor to negotiate prices for prescription drugs, including insulin and epinephrine, for all participating agencies. The contract must require the vendor be compensated on a contingency basis paid from a portion of the savings achieved through the negotiation and purchase of prescription drugs.

Section 25 provides that the Agency for Persons with Disabilities (APD), notwithstanding ss. 216.181 and 216.292, F.S., may submit budget amendments, pursuant to s. 216.177, F.S., to transfer funding from the Salaries and Benefits appropriation categories to categories used for contractual services in order to support additional staff augmentation resources needed at the Developmental Disability Centers.

Section 26 authorizes APD, in consultation with AHCA, notwithstanding ss. 216.181 and 216.292, F.S., to submit a budget amendment, pursuant to s. 216.177, F.S., to realign funding between the agencies based on the implementation of APD's Medicaid Home and Community-Based Services Program.

Section 27 amends s. 216.262, F.S. to allow the Executive Office of the Governor (EOG) to request additional positions and appropriations from unallocated general revenue during the fiscal year for the Department of Corrections (DOC) if the actual inmate population of DOC exceeds certain Criminal Justice Estimating Conference forecasts.

Section 28 amends s. 215.18, F.S. to provide chief justice the authority to request a trust fund loan.

Section 29 requires the Department of Juvenile Justice to review county juvenile detention payments to ensure that counties are fulfilling their financial responsibilities. If the department determines that a county has not met its obligations, Department of Revenue must deduct the amount owed to the Department of Juvenile Justice from shared revenue funds provided to the county under s. 218.23, F.S.

Section 30 & 31 reenacts s. 27.40, F.S., to require written certification of conflict by a public defender. If the office of criminal conflict and civil regional counsel cannot accept a case from the public defender due to conflict, the office of civil regional counsel is required to specifically identify and describe the conflict of interest and certify the conflict to the court before a court-appointed counsel may be assigned.

Contracts with appointed counsel and forms for use in billing must be consistent with ss. 27.5304 and 216.311, F.S. The contract must specify that payment is contingent upon an appropriation by the Legislature. The flat fee established in s. 27.5304, F.S. is required to be presumed to be sufficient compensation.

The Justice Administrative Commission (JAC) is required to review appointed counsel billings, and objections by the JAC are required to be presumed correct unless a court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption. If an attorney does not permit the JAC or the Auditor General to review billing documentation, the attorney waives the claim for attorney fees. A finding by the JAC that the appointed counsel waived the right to seek compensation above the flat fee is required to be presumed correct, unless a court determines, in written findings, that competent and substantial evidence exists to overcome the presumption.

Section 32 & 33 reenacts and amends portions of s. 27.5304, F.S. to increase caps for compensation of court appointed counsel in criminal cases. Court-appointed counsel may be compensated only in compliance with ss. 27.40(1), (2)(a), (6), (7), 27.5304, F.S., and the GAA. The JAC is required to review all billings and must contemporaneously document its review before authorizing payment to an attorney. Objections by the JAC to billings by an attorney are required to be presumed correct by a court unless the court determines, in writing, that competent and substantial evidence supports overcoming the presumption. Motions to exceed the flat fee are required to be served on the JAC at

least 20 business days before the hearing date, and the JAC may appear at the hearing in person or telephonically.

Section 34 requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements for office or storage space, in excess of 2,000 square feet, expiring between July 1, 2025 and June 30, 2027.

Section 35 notwithstanding s. 216.292(2)(a), F.S., which authorizes transfers of up to 5 percent of approved budget between categories. Agencies will be prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 36 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Risk Management Insurance" between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 37 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the GAA between departments in order to align the budget authority granted with the assessments that must be paid by each agency to DMS for human resources management services.

Section 38 authorizes DMS to use 5 percent of facility disposition funds after selling a state office building to offset relocation expenses associated with the disposition of state office buildings.

Section 39 notwithstanding s. 253.025(4), F.S., relating to the purchase of lands by the state, to authorize DMS to acquire additional state-owned office buildings, as defined in s. 255.248, F.S., for inclusion in the Florida Facilities Pool as created in s. 255.505, F.S.

Section 40 provides scope of FLAIR replacement project and specifies governance structure.

Section 41 & 42 reenacts s. 282.709, F.S., to carryforward the authority for DMS to execute a 15-year contract with the SLERs operator.

Section 43 authorizes state agencies and other eligible users to use the DMS SLERS contract to purchase equipment and services.

Section 44 specifies that the transaction fee as identified in s. 287.057(24)(c), F.S., collected for use of the online procurement system, will be 0.7 percent.

Section 45 & 46 amends s. 24.105(9)(i), F.S., to provide that lottery ticket sale commissions will be 6.0 percent.

Section 47 amends s. 627.351(6)(II), F.S., to authorize Citizen's Property Insurance Corp. to adopt policy forms authorizing claim determination disputes to come before the Division of Administrative Hearings.

Section 48 amends s. 110.116, F.S., specifying that, in order to maintain continuity of operations and to ensure the successful completion of the PALM System, DMS must enter into a 5-year contract extension, pursuant to s. 287.057(11), F.S., with the entity currently operating the People First System.

Section 49 provides that, in order to implement the appropriation of funds in the appropriation category "Northwest Regional Data Center" in the 2024-2025 GAA, and pursuant to s. 216.177, F.S., EOG may transfer funds appropriated in that category between departments in order to align the budget authority granted based on the estimated costs for data processing services for the 2024-2025 fiscal year.

Section 50 provides that, in order to implement appropriations authorized in the 2024-2025 GAA for state data center services, auxiliary assessments charged to state agencies related to contract management services provided to Northwest Regional Data Center shall not exceed three percent.

Section 51 creates s. 284.50, F.S., directing the Division of Risk Management at the Department of Financial Services to select a provider to establish a statewide pilot program to make electroencephalogram combined transcranial magnetic stimulation (eTMS) treatment available for veterans, first responders, and immediate family members with certain conditions.

Section 52 amends s. 215.18, F.S. to authorize loans to land acquisition trust funds.

Section 53 provides that, in order to implement specific appropriations from the land acquisition trust funds within the Department of Agriculture and Consumer Services, the DEP, the Fish and Wildlife Conservation Commission, and the Department of State, the DEP will transfer a proportionate share of revenues in the LATF within the DEP on a monthly basis, after subtracting required debt service payments, to each agency and retain a proportionate share within the LATF within the DEP. Total distributions to a land acquisition trust fund within the other agencies may not exceed the total appropriations for the fiscal year. The section further provides that DEP may advance funds from the beginning unobligated fund balance in the LATF to LATF within FWC for cash flow purposes.

Section 54 & 55 reenacts s. 376.3071(15)(g), F.S., relating to the requirements for the usage of the trust fund for ethanol or biodiesel damage.

Section 56 amends s. 259.105(3), F.S. to notwithstanding the distribution of Florida Forever Trust Funds and direct proceeds as provided in GAA.

Section 57 amends ch. 2022-272(10), Laws of Fla., as amended by ch. 2023-240(61), Laws of Fla., to expand funding and project eligibility under the Hurricane Restoration Reimbursement Grant Program.

Section 58 authorizes FWC, notwithstanding s. 823.11(4)(c), F.S., to use funds appropriated for the derelict vessel removal program for grants to local governments or to remove, store, destroy, and dispose of, or to pay private contractors to remove, store, destroy, and dispose of, derelict vessels or vessels declared a public nuisance pursuant to s. 327.73(1)(aa), F.S.

Section 59 amends s. 321.04, F.S. to provide that upon request of Governor, the Department of Highway Safety & Motor Vehicles shall assign one or more patrol officers to the office of the Lieutenant Governor for security services. Also allows assignment of a patrol officer to Cabinet Members if deemed appropriate by DHSMV or in response to a threat.

Section 60 amends s. 288.80125(3), F.S. relating to the Triumph Gulf Coast Trust Fund to provide that funds shall be used for the Rebuild Florida Revolving Loan Fund Program to aid businesses impacted by Hurricane Michael as provided in the GAA.

Section 61 & 62 amends s. 288.8013(3), F.S., to allow certain interest earnings to be used for awards under program or administrative costs, instead of being transferred to the Triumph Gulf Coast Trust Fund.

Section 63 amends s. 339.08, F.S., to authorize the transfer of funds from General Revenue to the State Transportation Trust Fund as provided in the GAA.

Section 64 amends s. 339.135(7)(h), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve certain work program amendments under specified circumstances, pursuant to s. 216.177, F.S. Specifically, the bill authorizes the Department of Transportation to adopt an amendment if a commission meeting cannot be held within 30 days of submittal of the amendment that adds a new project, or a phase of a new project, in excess of \$3 million.

Section 65 establishes the Florida National Guard (FNG) Joint Enlistment Enhancement Program (JEEP) program within the Department of Military Affairs, authorizing certain current and former Guardsmen to act as recruiting assistants and receive \$1000 upon enlistment of each new member referred by them to the FNG. Requires DMA, in cooperation with the FNG, to adopt rules to administer program.

Section 66 amends s. 288.0655, F.S. to specify grant funds for Florida Panhandle counties shall be distributed pursuant to and for the purposes described in the GAA.

Section 67 authorizes the Division of Emergency Management to submit budget amendments to increase budget authority for projected expenditures due to federal reimbursements from federally declared disasters.

Section 68 amends s. 112.061, F.S. to authorize a Lieutenant Governor who permanently resides outside Leon County to have an appropriate facility as an official headquarters. The Lieutenant Governor will be eligible for subsistence allowance for days spent at the State Capitol and transportation expenses between Capitol and official headquarters.

Section 69 requires DMS to collect an administrative health insurance assessment from each state agency equal to the employer's cost of individual employee health care coverage for each vacant position within such agency eligible for coverage through the Division of State Group Insurance. The administrative health insurance assessment will apply to all vacant positions funded with state funds whether fully or partially funded with state funds. Vacant positions partially funded with state funds must pay a percentage of the assessment equal to the percentage share of state funds provided for such vacant positions. No assessment shall apply to vacant positions fully funded with federal funds

Section 70 notwithstanding s. 11.13, F.S., to specify that legislator salaries will be set in the GAA.

Section 71 & 72 amends s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the GAA.

Section 73 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. Funds may not be used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing. Agency heads must consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 74 provides that, notwithstanding s. 112.061, F.S., costs for lodging associated with a meeting, conference or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$225 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$225 per day. Exempts travel for conducting an audit, examination, inspection or investigation or travel activities relating to a litigation or emergency response.

Section 75 authorizes the Legislative Budget Commission (LBC) to increase amounts appropriated to state agencies for new fixed capital outlay projects using general revenue funds.

Section 76 amends s. 216.292(2), F.S. to broaden legislative review of "5 percent" budget transfers. Legislature would be able to object that the proposed action exceeds delegated authority or is contrary to legislative policy and intent would apply. Also, requires that review ensure that transfer maximizes the use of available and appropriate trust funds.

Section 77 provides that, in order to implement appropriations in the GAA for the acquisitions of motor vehicles, and notwithstanding ch. 287, F.S., relating to the purchase of motor vehicles from a state term contract, authorizes state agencies may purchase vehicles from nonstate term contract vendors without prior approval from DMS, provided the cost of the motor vehicle is equal to or less than the cost of a similar class of vehicle found on a state term contract and provided the funds for the purchase have been specifically appropriated.

Section 78 provides that, notwithstanding s. 255.25(3)(a), F.S., the Department of Management Services, the Executive Office of the Governor, the Commissioner of Agriculture, the Chief Financial Officer, the Legislature, and the Attorney General are authorized to enter into a lease as a lessee for the use of space in a privately owned building, even if such space is 5,000 square feet or more, without having to advertise or receive competitive solicitations.

Section 79 & 80 amends s. 110.12315, F.S., to require DMS to implement formulary management for prescription drugs and supplies beginning with the 2025 plan year.

Section 81 authorizes the EOG to submit, no later than August 1, 2024, a budget amendment to the LBC to realign funding, within and between agencies, in appropriation categories specifically authorized for the implementation of the state's award from the federal Coronavirus State Fiscal Recovery Fund (Public Law 117-2). Realignments must address projected surpluses and deficits in existing programs and maximize the state's utilization of federal funds, which must be fully obligated by December 31, 2024.

Section 82 provides that, notwithstanding s. 216.181(8)(b), F.S., annual salary rate for the Department of Corrections and the Department of Highway Safety and Motor Vehicles shall be controlled at the budget entity level.

Section 83 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 84 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 85 provides a severability clause.

Section 86 provides effective dates.

**B. SECTION DIRECTORY:**

See Effect of Proposed Changes section.

**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:**



Because this bill implements provisions of the proposed House of Representatives General Appropriations Act, there are no direct fiscal impacts created by the bill.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

1 A bill to be entitled  
 2 An act implementing the 2024-2025 General  
 3 Appropriations Act; providing legislative intent;  
 4 incorporating by reference certain calculations of the  
 5 Florida Education Finance Program; requiring a  
 6 specified school district to use a taxable value  
 7 provided by the Department of Revenue; requiring such  
 8 value be used for certain remaining calculations for a  
 9 specified fiscal year; providing an expiration date;  
 10 authorizing the Agency for Health Care Administration,  
 11 in consultation with the Department of Health, to  
 12 submit a budget amendment to realign funding for  
 13 specified purposes; specifying requirements for such  
 14 realignment; authorizing the Agency for Health Care  
 15 Administration to request nonoperating budget  
 16 authority for transferring certain federal funds to  
 17 the Department of Health; authorizing the Agency for  
 18 Health Care Administration to submit a budget  
 19 amendment to realign Medicaid funding for specified  
 20 purposes, subject to certain limitations; authorizing  
 21 the Agency for Health Care Administration to submit a  
 22 budget amendment to realign funding for a specified  
 23 purpose within a specified fiscal year; specifying  
 24 requirements for such realignment; authorizing the  
 25 Agency for Health Care Administration and the

26 Department of Health to each submit a budget amendment  
 27 to realign funding within the Florida Kidcare program  
 28 appropriation categories or increase budget authority  
 29 for certain purposes; specifying the time period  
 30 within which each budget amendment must be submitted;  
 31 amending s. 381.986, F.S.; extending for 1 fiscal year  
 32 the exemption of certain rules pertaining to the  
 33 medical use of marijuana from certain rulemaking  
 34 requirements; amending s. 14(1), ch. 2017-232, Laws of  
 35 Florida; exempting certain rules pertaining to medical  
 36 marijuana adopted to replace emergency rules from  
 37 specified rulemaking requirements; providing for the  
 38 future expiration and reversion of specified law;  
 39 authorizing the Agency for Health Care Administration  
 40 to submit budget amendments seeking additional  
 41 spending authority to implement specified programs and  
 42 payments; requiring institutions participating in a  
 43 specified workforce expansion and education program to  
 44 provide quarterly reports to the agency; authorizing  
 45 the Agency for Health Care Administration to submit  
 46 budget amendments for a specified purpose; requiring  
 47 such amendment include executed Letters of Agreement  
 48 from a specified fiscal year providing certain  
 49 information; authorizing the Agency for Health Care  
 50 Administration to submit a budget amendment seeking

51 additional spending authority to implement the Low  
 52 Income Pool component of the Florida Managed Medical  
 53 Assistance Demonstration; requiring a signed  
 54 attestation and acknowledgment for entities relating  
 55 to the Low Income Pool; authorizing the Agency for  
 56 Health Care Administration to submit a budget  
 57 amendment to implement certain payments and specified  
 58 programs; requiring such amendment include executed  
 59 Letters of Agreement from a specified fiscal year  
 60 providing certain information; authorizing the Agency  
 61 for Health Care Administration to submit a budget  
 62 amendment requesting additional spending authority to  
 63 implement a specified program; authorizing the Agency  
 64 for Health Care Administration to submit a budget  
 65 amendment for implement a specified program; requiring  
 66 such amendment include specified information;  
 67 authorizing the Department of Children and Families to  
 68 submit a budget amendment to realign funding within  
 69 the specified areas of the department based on  
 70 implementation of the Guardianship Assistance Program;  
 71 authorizing the Department of Children and Families,  
 72 Department of Health, and Agency for Health Care  
 73 Administration to submit budget amendments to increase  
 74 budget authority to support certain refugee programs;  
 75 requiring the Department of Children and Families to

76 submit quarterly reports to the Executive Office of  
 77 the Governor and the Legislature; authorizing the  
 78 Department of Children and Families to submit budget  
 79 amendments to increase budget authority to support  
 80 specified federal grant programs; authorizing the  
 81 Department of Health to submit a budget amendment to  
 82 increase budget authority for the Supplemental  
 83 Nutrition Program for Women, Infants, and Children  
 84 (WIC) and the Child Care Food Program if a certain  
 85 condition is met; authorizing the Department of Health  
 86 to submit a budget amendment to increase budget  
 87 authority for the HIV/AIDS Prevention and Treatment  
 88 Program if a certain condition is met; authorizing the  
 89 Department of Health to submit a budget amendment to  
 90 increase budget authority for the department if  
 91 additional federal revenues specific to COVID-19  
 92 relief funds become available; requiring the Agency  
 93 for Health Care Administration to replace the Florida  
 94 Medicaid Management Information System (FMMIS) and  
 95 fiscal agent operations with a specified new system;  
 96 specifying items that may not be included in the new  
 97 system; providing directives to the Agency for Health  
 98 Care Administration related to the new system, the  
 99 Florida Health Care Connection (FX) system; requiring  
 100 the Agency for Health Care Administration to meet

101 certain requirements in replacing FMMIS and the  
 102 current Medicaid fiscal agent; requiring the Agency  
 103 for Health Care Administration to implement a project  
 104 governance structure that includes an executive  
 105 steering committee; providing procedures for use by  
 106 the executive steering committee; providing  
 107 responsibilities of the executive steering committee;  
 108 requiring the Agency for Health Care Administration,  
 109 in consultation with the Department of Health, the  
 110 Agency for Persons with Disabilities, the Department  
 111 of Children and Families, and the Department of  
 112 Corrections, to competitively procure a contract with  
 113 a vendor to negotiate prices for certain prescribed  
 114 drugs and biological products; providing requirements  
 115 for such contract; authorizing the Agency for Persons  
 116 with Disabilities to submit budget amendments to  
 117 transfer funding from the Salaries and Benefits  
 118 appropriation categories for a specified purpose;  
 119 authorizing the Agency for Persons with Disabilities,  
 120 in consultation with the Agency for Health Care  
 121 Administration, to submit a budget amendment for a  
 122 specified purpose; amending s. 216.262, F.S.;  
 123 extending for 1 fiscal year the authority of the  
 124 Department of Corrections to submit a budget amendment  
 125 for additional positions and appropriations under

126 certain circumstances; requiring review and approval  
 127 by the Legislative Budget Commission; amending s.  
 128 215.18, F.S.; extending for 1 fiscal year the  
 129 authority and related repayment requirements for  
 130 temporary trust fund loans to the state court system  
 131 which are sufficient to meet the system's  
 132 appropriation; requiring the Department of Juvenile  
 133 Justice to review county juvenile detention payments  
 134 to determine whether a county has met specified  
 135 financial responsibilities; requiring amounts owed by  
 136 the county for such financial responsibilities to be  
 137 deducted from certain county funds; requiring the  
 138 Department of Revenue to transfer withheld funds to a  
 139 specified trust fund; requiring the Department of  
 140 Revenue to ensure that such reductions in amounts  
 141 distributed do not reduce distributions below amounts  
 142 necessary for certain payments due on bonds and to  
 143 comply with bond covenants; requiring the Department  
 144 of Revenue to notify the Department of Juvenile  
 145 Justice if bond payment requirements mandate a  
 146 reduction in deductions for amounts owed by a county;  
 147 reenacting s. 27.40(1), (2)(a), (3)(a), (5), (6), and  
 148 (7), F.S., relating to court-appointed counsel;  
 149 extending for 1 fiscal year provisions governing the  
 150 appointment of court-appointed counsel; providing for

151 the future expiration and reversion of specified  
 152 statutory text; reenacting and amending s. 27.5304,  
 153 F.S.; revising compensation limits for representation  
 154 pursuant to a court appointment for specified  
 155 proceedings; extending for 1 fiscal year limitations  
 156 on compensation for representation in criminal  
 157 proceedings; providing for the future expiration and  
 158 reversion of specified statutory text; requiring the  
 159 Department of Management Services to use tenant broker  
 160 services to renegotiate or reprocure certain private  
 161 lease agreements for office or storage space;  
 162 requiring the Department of Management Services to  
 163 provide a report to the Governor and the Legislature  
 164 by a specified date; prohibiting an agency from  
 165 transferring funds from a data processing category to  
 166 another category that is not a data processing  
 167 category; authorizing the Executive Office of the  
 168 Governor to transfer funds between departments for  
 169 purposes of aligning amounts paid for risk management  
 170 insurance and for human resources services purchased  
 171 per statewide contract; authorizing the Department of  
 172 Management Services to use certain facility  
 173 disposition funds from the Architects Incidental Trust  
 174 Fund to pay for certain relocation expenses;  
 175 authorizing the Department of Management Services to



176 submit budget amendments for certain purposes related  
 177 to the relocation; authorizing the Department of  
 178 Management Services to acquire additional state-owned  
 179 office buildings or property for inclusion in the  
 180 Florida Facilities Pool; requiring the Department of  
 181 Financial Services to replace specified components of  
 182 the Florida Accounting Information Resource Subsystem  
 183 (FLAIR) and the Cash Management Subsystem (CMS);  
 184 specifying certain actions to be taken by the  
 185 Department of Financial Services regarding FLAIR and  
 186 CMS replacement; providing for the composition of an  
 187 executive steering committee to oversee FLAIR and CMS  
 188 replacement; prescribing duties and responsibilities  
 189 of the executive steering committee; reenacting s.  
 190 282.709(3), F.S., relating to the state agency law  
 191 enforcement radio system and interoperability network;  
 192 providing for future expiration and reversion of  
 193 specified statutory text; authorizing state agencies  
 194 and other eligible users of the Statewide Law  
 195 Enforcement Radio System to use the Department of  
 196 Management Services contract to purchase equipment and  
 197 services; requiring a specified transaction fee  
 198 percentage for use of the online procurement system;  
 199 amending s. 24.105, F.S.; specifying how Department of  
 200 the Lottery rules are to be adopted, except certain

201 rules for 1 fiscal year regarding the commission for  
 202 lottery ticket sales; limiting additional retailer  
 203 compensation in a specified manner; providing for the  
 204 future expiration and reversion of specified statutory  
 205 text; amending s. 627.351, F.S.; extending for 1 year  
 206 the specified authority of Citizens Property Insurance  
 207 Corporation; amending s. 110.116, F.S.; directing the  
 208 Department of Management Services to renew a specified  
 209 contract with a current vendor for a specified period  
 210 of time with certain conditions; requiring the  
 211 Department of Management Services submit a specified  
 212 planning and cost estimate to specified parties by a  
 213 certain date; authorizing the Executive Office of the  
 214 Governor to transfer certain funds between departments  
 215 to align costs; prohibiting certain contract  
 216 management services from exceeding a certain amount;  
 217 creating s. 284.51, F.S.; creating a specified pilot  
 218 program for a certain purpose; providing definitions;  
 219 directing the Division of Risk Management at the  
 220 Department of Financial Services to select a provider  
 221 for such program; providing program eligibility;  
 222 providing requirements for choosing a provider;  
 223 requiring rulemaking; amending s. 215.18, F.S.;  
 224 extending for 1 fiscal year the authority of the  
 225 Governor, if there is a specified temporary deficiency

226 | in a land acquisition trust fund in the Department of  
 227 | Agriculture and Consumer Services, the Department of  
 228 | Environmental Protection, the Department of State, or  
 229 | the Fish and Wildlife Conservation Commission, to  
 230 | transfer funds from other trust funds in the State  
 231 | Treasury as a temporary loan to such trust fund;  
 232 | providing a deadline for the repayment of a temporary  
 233 | loan; requiring the Department of Environmental  
 234 | Protection to transfer designated proportions of the  
 235 | revenues deposited in the Land Acquisition Trust Fund  
 236 | within the department to land acquisition trust funds  
 237 | in the Department of Agriculture and Consumer  
 238 | Services, the Department of State, and the Fish and  
 239 | Wildlife Conservation Commission according to  
 240 | specified parameters and calculations; defining the  
 241 | term "department"; requiring the Department of  
 242 | Environmental Protection to make transfers to land  
 243 | acquisition trust funds monthly; specifying the method  
 244 | of determining transfer amounts; authorizing the  
 245 | Department of Environmental Protection to advance  
 246 | funds from its land acquisition trust fund to the Fish  
 247 | and Wildlife Conservation Commission's land  
 248 | acquisition trust fund for specified purposes;  
 249 | reenacting s. 376.3071(15)(g), F.S., relating to the  
 250 | Inland Protection Trust Fund; exempting specified

251 costs incurred by certain petroleum storage system  
 252 owners or operators during a specified period from the  
 253 prohibition against making payments in excess of  
 254 amounts approved by the Department of Environmental  
 255 Protection; providing for the future expiration and  
 256 reversion of specified statutory text; amending s.  
 257 259.105, F.S.; providing that proceeds from a  
 258 specified trust fund shall be distributed as provided  
 259 in the General Appropriations Act; amending s. 10, ch.  
 260 2022-272, Laws of Florida; extending the Hurricane  
 261 Restoration Reimbursement Grant Program for 1 fiscal  
 262 year; revising reimbursement and cost sharing for  
 263 specified projects; authorizing specified entities to  
 264 apply for certain funds that meet specified  
 265 requirements; providing purpose of such funding;  
 266 requiring funding to be distributed in a specified  
 267 manner; providing applicability; revising the  
 268 expiration date for certain emergency rules;  
 269 authorizing the Fish and Wildlife Conservation  
 270 Commission to use specified funds to provide grants  
 271 for a specified purpose; amending s. 321.04, F.S.;  
 272 extending for 1 fiscal year the requirement that the  
 273 Department of Highway Safety and Motor Vehicles assign  
 274 one or more patrol officers to the office of  
 275 Lieutenant Governor for security purposes, upon

276 request of the Governor; extending for 1 fiscal year  
 277 the requirement that the Department of Highway Safety  
 278 and Motor Vehicles assign a patrol officer to a  
 279 Cabinet member under certain circumstances; amending  
 280 s. 288.80125, F.S.; extending for 1 fiscal year a  
 281 requirement that funds in the Triumph Gulf Coast Trust  
 282 Fund be related to Hurricane Michael recovery;  
 283 reenacting s. 288.8013, F.S., relating to the Triumph  
 284 Gulf Coast, Inc. Trust Fund; providing for the future  
 285 expiration and reversion of specified statutory text;  
 286 amending s. 339.08, F.S.; extending 1 fiscal year the  
 287 appropriations of certain funds to the State  
 288 Transportation Trust Fund from the General Revenue  
 289 Fund as provided in the General Appropriations Act;  
 290 amending s. 339.135, F.S.; extending for 1 fiscal year  
 291 the authority for the chair and vice chair of the  
 292 Legislative Budget Commission to approve certain work  
 293 program amendments under specified circumstances;  
 294 amending s. 250.245, F.S.; extending for 1 fiscal year  
 295 the Florida National Guard Joint Enlistment  
 296 Enhancement Program within the Department of Military  
 297 Affairs; amending s. 288.0655, F.S.; extending for 1  
 298 fiscal year a requirement that certain appropriated  
 299 funds relating to the Rural Infrastructure Fund be  
 300 distributed in a specified manner; authorizing the

301 Division of Emergency Management to submit budget  
 302 amendments to increase budget authority for certain  
 303 project expenditures; amending s. 112.061, F.S.;  
 304 extending for 1 fiscal year the authorization for the  
 305 Lieutenant Governor to designate an alternative  
 306 official headquarters under certain conditions;  
 307 specifying restrictions, limitations, eligibility for  
 308 the subsistence allowance, reimbursement of  
 309 transportation expenses, and payment thereof;  
 310 requiring the Department of Management Services to  
 311 maintain and offer the same health insurance options  
 312 for participants of the State Group Health Insurance  
 313 Program for the 2024-2025 fiscal year as applied in  
 314 the preceding fiscal year; requiring the Department of  
 315 Management Services to assess an administrative health  
 316 insurance assessment on each state agency; providing  
 317 the rate of such assessment; defining the term "state  
 318 agency"; providing how a state agency shall remit  
 319 certain funds; requiring the Department of Management  
 320 Services to take certain actions in case of  
 321 delinquencies; requiring the Chief Financial Officer  
 322 to transfer funds under specified circumstances;  
 323 providing an exception; requiring state agencies to  
 324 provide a list of positions that qualify for such  
 325 exception by a specified date and to update the list

326 monthly thereafter; requiring state agencies to  
 327 include the administrative health insurance assessment  
 328 in their indirect cost plan; requiring agencies to  
 329 notify the Department of Management Services regarding  
 330 the approval of their updated indirect cost plans;  
 331 authorizing the Executive Office of the Governor to  
 332 transfer budget authority between agencies in  
 333 specified circumstances; providing that the annual  
 334 salaries of the members of the Legislature be  
 335 maintained at a specified level; providing an  
 336 exception; reenacting s. 215.32(2)(b), F.S., relating  
 337 to the authorization for transferring unappropriated  
 338 cash balances from selected trust funds to the Budget  
 339 Stabilization Fund and General Revenue Fund; providing  
 340 for future expiration and reversion of specific  
 341 statutory text; specifying the type of travel which  
 342 may be used with state employee travel funds;  
 343 providing exceptions; providing a monetary cap on  
 344 lodging costs for state employee travel to certain  
 345 meetings organized or sponsored by a state agency or  
 346 the judicial branch; authorizing employees to expend  
 347 their own funds for lodging expenses that exceed the  
 348 monetary caps; amending s. 216.181, F.S.; extending  
 349 for 1 fiscal year the authority of the Legislative  
 350 Budget Commission to approve budget amendments for

351 certain fixed capital outlay projects; amending s.  
 352 216.292, F.S.; extending for 1 fiscal year the  
 353 requirements for certain transfers; a authorizing  
 354 state agencies to purchase vehicles from nonstate term  
 355 contract vendors without prior approval from the  
 356 Department of Management Services under certain  
 357 circumstances; authorizing the Department of  
 358 Management Services, the Executive Office of the  
 359 Governor, the Commissioner of Agriculture, the Chief  
 360 Financial Officer, the Legislature, and the Attorney  
 361 General to enter into specified leases as a lessee  
 362 without having to advertise or receive competitive  
 363 solicitations; amending s. 110.12315, F.S.; revising  
 364 the plan year during which the Department of  
 365 Management Services must implement formulary  
 366 management; revising an exception for drugs excluded  
 367 from such formulary; revising the date after which  
 368 drugs may not be covered by the prescription drug  
 369 program until a certain event occurs; providing for  
 370 future expiration and reversion of specific statutory  
 371 text; authorizing the Executive Office of the  
 372 Governor's Office of Policy and Budget to submit a  
 373 budget amendment to the Legislative Budget Commission  
 374 to realign certain funding for specified categories by  
 375 a specified date; providing requirements for such



376 |       realignment; authorizing the annual salary rate for  
 377 |       certain entities be controlled at the budget entity  
 378 |       level; providing conditions under which the veto of  
 379 |       certain appropriations or proviso language in the  
 380 |       General Appropriations Act voids language that  
 381 |       implements such appropriation; providing for the  
 382 |       continued operation of certain provisions  
 383 |       notwithstanding a future repeal or expiration provided  
 384 |       by the act; providing severability; providing for  
 385 |       contingent retroactivity; providing effective dates.  
 386 |

387 | Be It Enacted by the Legislature of the State of Florida:  
 388 |

389 |       Section 1. It is the intent of the Legislature that the  
 390 | implementing and administering provisions of this act apply to  
 391 | the General Appropriations Act for the 2024-2025 fiscal year.

392 |       Section 2. In order to implement Specific Appropriations  
 393 | 5, 6, 84, and 85 of the 2024-2025 General Appropriations Act,  
 394 | the calculations of the Florida Education Finance Program for  
 395 | the 2024-2025 fiscal year included in the document titled  
 396 | "Public School Funding: The Florida Education Finance Program  
 397 | (FEFP) Fiscal Year 2024-2025," dated January 26, 2024, and filed  
 398 | with the Clerk of the House of Representatives, are incorporated  
 399 | by reference for the purpose of displaying the calculations used  
 400 | by the Legislature, consistent with the requirements of state

401 law, in making appropriations for the Florida Education Finance  
 402 Program. This section expires July 1, 2025.

403 Section 3. Effective upon this act becoming a law, and in  
 404 order to implement Specific Appropriations 5, 6, 80, and 81 of  
 405 the 2023-2024 General Appropriations Act, and notwithstanding  
 406 ss. 1011.60(6) and 1011.62(4)(a) and (4)(e), Florida Statutes,  
 407 the 2023 taxable value for the Wakulla County School District as  
 408 provided by the Department of Revenue must be utilized for the  
 409 remaining calculations of the Fiscal Year 2023-2024 Florida  
 410 Education Finance Program and for use in the Prior Period  
 411 Funding Adjustment Millage calculation. This section expires  
 412 July 1, 2025.

413 Section 4. In order to implement Specific Appropriations  
 414 202 through 229 and 546 of the 2024-2025 General Appropriations  
 415 Act, and notwithstanding ss. 216.181 and 216.292, Florida  
 416 Statutes, the Agency for Health Care Administration, in  
 417 consultation with the Department of Health, may submit a budget  
 418 amendment, subject to the notice, review, and objection  
 419 procedures of s. 216.177, Florida Statutes, to realign funding  
 420 within and between agencies based on implementation of the  
 421 managed medical assistance component of the Statewide Medicaid  
 422 Managed Care program for the Children's Medical Services program  
 423 of the Department of Health. The funding realignment shall  
 424 reflect the actual enrollment changes due to the transfer of  
 425 beneficiaries from fee-for-service to the capitated Children's

426 Medical Services network. The Agency for Health Care  
 427 Administration may submit a request for nonoperating budget  
 428 authority to transfer the federal funds to the Department of  
 429 Health pursuant to s. 216.181(12), Florida Statutes. This  
 430 section expires July 1, 2025.

431 Section 5. In order to implement Specific Appropriations  
 432 202 through 229 of the 2024-2025 General Appropriations Act, and  
 433 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
 434 Agency for Health Care Administration may submit a budget  
 435 amendment, subject to the notice, review, and objection  
 436 procedures of s. 216.177, Florida Statutes, to realign funding  
 437 within the Medicaid program appropriation categories to address  
 438 projected surpluses and deficits within the program and to  
 439 maximize the use of state trust funds. A single budget amendment  
 440 shall be submitted in the last quarter of the 2024-2025 fiscal  
 441 year only. This section expires July 1, 2025.

442 Section 6. Effective upon this act becoming a law, and in  
 443 order to implement section 71 of the 2024-2025 General  
 444 Appropriations Act, and notwithstanding section 8 of chapter  
 445 2023-240, Laws of Florida, the Agency for Health Care  
 446 Administration is authorized to submit a budget amendment,  
 447 subject to the notice, review and objection procedures of s.  
 448 216.177, Florida Statutes, to realign funding within the  
 449 Medicaid program appropriation categories to address projected  
 450 surpluses and deficits within the program for the 2023-2024

451 fiscal year. The Agency for Health Care Administration may not  
 452 realign funds to provide Medicaid reimbursements at rates above  
 453 the amounts adopted at the January 8, 2024, Social Services  
 454 Estimating Conference. This section expires July 1, 2024.

455 Section 7. In order to implement Specific Appropriations  
 456 181 through 186 and 546 of the 2024-2025 General Appropriations  
 457 Act, and notwithstanding ss. 216.181 and 216.292, Florida  
 458 Statutes, the Agency for Health Care Administration and the  
 459 Department of Health may each submit a budget amendment, subject  
 460 to the notice, review, and objection procedures of s. 216.177,  
 461 Florida Statutes, to realign funding within the Florida Kidcare  
 462 program appropriation categories, or to increase budget  
 463 authority in the Children's Medical Services network category,  
 464 to address projected surpluses and deficits within the program  
 465 or to maximize the use of state trust funds. A single budget  
 466 amendment must be submitted by each agency in the last quarter  
 467 of the 2024-2025 fiscal year only. This section expires July 1,  
 468 2025.

469 Section 8. In order to implement Specific Appropriations  
 470 484 through 492 of the 2024-2025 General Appropriations Act,  
 471 subsection (17) of section 381.986, Florida Statutes, is amended  
 472 to read:

473 381.986 Medical use of marijuana.—

474 (17) Rules adopted pursuant to this section before July 1,  
 475 2025 ~~2024~~, are not subject to ss. 120.54(3)(b) and 120.541. This

476 subsection expires July 1, 2025 ~~2024~~.

477 Section 9. Effective July 1, 2024, upon the expiration and  
 478 reversion of the amendments made to subsection (1) of section 14  
 479 of chapter 2017-232, Laws of Florida, pursuant to section 18 of  
 480 chapter 2022-157, Laws of Florida, and in order to implement  
 481 Specific Appropriations 484 through 492 of the 2024-2025 General  
 482 Appropriations Act, subsection (1) of section 14 of chapter  
 483 2017-232, Laws of Florida, is amended to read:

484 Section 14. Department of Health; authority to adopt  
 485 rules; cause of action.—

486 (1) EMERGENCY RULEMAKING.—

487 (a) The Department of Health and the applicable boards  
 488 shall adopt emergency rules pursuant to s. 120.54(4), Florida  
 489 Statutes, and this section necessary to implement s. 381.986 ~~ss.~~  
 490 ~~381.986 and 381.988~~, Florida Statutes. If an emergency rule  
 491 adopted under this section is held to be unconstitutional or an  
 492 invalid exercise of delegated legislative authority, and becomes  
 493 void, the department or the applicable boards may adopt an  
 494 emergency rule pursuant to this section to replace the rule that  
 495 has become void. If the emergency rule adopted to replace the  
 496 void emergency rule is also held to be unconstitutional or an  
 497 invalid exercise of delegated legislative authority and becomes  
 498 void, the department and the applicable boards must follow the  
 499 nonemergency rulemaking procedures of the Administrative  
 500 Procedures Act to replace the rule that has become void.

501 (b) For emergency rules adopted under this section, the  
 502 department and the applicable boards need not make the findings  
 503 required by s. 120.54(4)(a), Florida Statutes. Emergency rules  
 504 adopted under this section are exempt from ss. 120.54(3)(b) and  
 505 120.541, Florida Statutes. The department and the applicable  
 506 boards shall meet the procedural requirements in s. 120.54(4)(a)  
 507 ~~s. 120.54(a)~~, Florida Statutes, if the department or the  
 508 applicable boards have, before July 1, 2019 ~~the effective date~~  
 509 ~~of this act~~, held any public workshops or hearings on the  
 510 subject matter of the emergency rules adopted under this  
 511 subsection. Challenges to emergency rules adopted under this  
 512 subsection are subject to the time schedules provided in s.  
 513 120.56(5), Florida Statutes.

514 (c) Emergency rules adopted under this section are exempt  
 515 from s. 120.54(4)(c), Florida Statutes, and shall remain in  
 516 effect until replaced by rules adopted under the nonemergency  
 517 rulemaking procedures of the Administrative Procedures Act.  
 518 Rules adopted under the nonemergency rulemaking procedures of  
 519 the Administrative Procedures Act to replace emergency rules  
 520 adopted under this section are exempt from ss. 120.54(3)(b) and  
 521 120.541, Florida Statutes. By July 1, 2025 ~~January 1, 2018~~, the  
 522 department and the applicable boards shall initiate nonemergency  
 523 rulemaking pursuant to the Administrative Procedures Act to  
 524 replace all emergency rules adopted under this section by  
 525 publishing a notice of rule development in the Florida

526 Administrative Register. Except as provided in paragraph (a),  
 527 after July 1, 2025 ~~January 1, 2018~~, the department and  
 528 applicable boards may not adopt rules pursuant to the emergency  
 529 rulemaking procedures provided in this section.

530 Section 10. The amendments to subsection (1) of section 14  
 531 of chapter 2017-232, Laws of Florida, made by this act expire  
 532 July 1, 2025, and the text of that subsection shall revert to  
 533 that in existence on June 30, 2019, except that any amendments  
 534 to such text enacted other than by this act shall be preserved  
 535 and continue to operate to the extent that such amendments are  
 536 not dependent upon the portions of text which expire pursuant to  
 537 this section.

538 Section 11. In order to implement Specific Appropriations  
 539 207, 208, 211, and 215 of the 2024-2025 General Appropriations  
 540 Act, the Agency for Health Care Administration may submit a  
 541 budget amendment pursuant to chapter 216, Florida Statutes,  
 542 requesting additional spending authority to implement the  
 543 federally approved Directed Payment Program for hospitals  
 544 statewide providing inpatient and outpatient services to  
 545 Medicaid managed care enrollees, the Indirect Medical Education  
 546 (IME) Program, and a nursing workforce expansion and education  
 547 program for certain institutions participating in a graduate  
 548 medical education or nursing education program. For institutions  
 549 participating in the nursing workforce expansion and education  
 550 program, the budget amendment must identify the educational

551 institutions partnering with the teaching hospital. Institutions  
 552 participating in the nursing workforce expansion and education  
 553 program shall provide quarterly reports to the agency detailing  
 554 the number of nurses participating in the program. This section  
 555 expires July 1, 2025.

556 Section 12. In order to implement Specific Appropriations  
 557 208, 211, and 215 of the 2024-2025 General Appropriations Act,  
 558 the Agency for Health Care Administration may submit a budget  
 559 amendment pursuant to chapter 216, Florida Statutes, requesting  
 560 additional spending authority to implement the federally  
 561 approved Directed Payment Program and fee-for-service  
 562 supplemental payments for cancer hospitals that meet the  
 563 criteria in 42 U.S.C. s. 1395ww(d) (1) (B) (v). The budget  
 564 amendment must include the executed Letters of Agreement for  
 565 Fiscal Year 2024-2025 that support the Grants and Donations  
 566 Trust Fund appropriation that provides a minimum fee schedule  
 567 calculated as a supplemental per member per month payment  
 568 through prepaid health plans for services provided by qualifying  
 569 Florida cancer hospitals that meet the criteria in 42 U.S.C. s.  
 570 1395ww(d) (1) (B) (v). This section expires July 1, 2025.

571 Section 13. In order to implement Specific Appropriations  
 572 202 through 229 of the 2024-2025 General Appropriations Act, the  
 573 Agency for Health Care Administration may submit a budget  
 574 amendment pursuant to chapter 216, Florida Statutes, requesting  
 575 additional spending authority to implement the Low Income Pool



576 component of the Florida Managed Medical Assistance  
 577 Demonstration up to the total computable funds authorized by the  
 578 federal Centers for Medicare and Medicaid Services. The budget  
 579 amendment must include the final terms and conditions of the Low  
 580 Income Pool, a proposed distribution model by entity, and a  
 581 listing of entities contributing intergovernmental transfers to  
 582 support the state match required. In addition, for each entity  
 583 included in the distribution model, a signed attestation must be  
 584 provided that includes the charity care cost upon which the Low  
 585 Income Pool payment is based and an acknowledgment that should  
 586 the distribution result in an overpayment based on the Low  
 587 Income Pool cost limit audit, the entity is responsible for  
 588 returning that overpayment to the agency for return to the  
 589 federal Centers for Medicare and Medicaid Services. This section  
 590 expires July 1, 2025.

591 Section 14. In order to implement Specific Appropriations  
 592 214 and 215 of the 2024-2025 General Appropriations Act, the  
 593 Agency for Health Care Administration may submit a budget  
 594 amendment pursuant to chapter 216, Florida Statutes, requesting  
 595 additional spending authority to implement fee-for-service  
 596 supplemental payments and a directed payment program for  
 597 physicians and subordinate licensed health care practitioners  
 598 employed by or under contract with a Florida medical or dental  
 599 school, or a public hospital. The budget amendment must include  
 600 the executed Letters of Agreement for Fiscal Year 2024-2025 that

601 support the Grants and Donations Trust Fund appropriation that  
602 provides a differential fee schedule paid as supplemental  
603 payments or a minimum fee schedule calculated as supplemental  
604 per member per month payment through prepaid health plans for  
605 services provided by doctors of medicine, osteopathy, and  
606 dentistry as well as other licensed health care practitioners  
607 acting under the supervision of those doctors pursuant to  
608 existing statutes and written protocols employed by or under  
609 contract with a medical or dental school or a public hospital in  
610 Florida. This section expires July 1, 2025.

611 Section 15. In order to implement Specific Appropriations  
612 212, 215, and 227 of the 2024-2025 General Appropriations Act,  
613 the Agency for Health Care Administration may submit a budget  
614 amendment pursuant to chapter 216, Florida Statutes, requesting  
615 additional spending authority to implement a certified  
616 expenditure program for emergency medical transportation  
617 services. This section expires July 1, 2025.

618 Section 16. In order to implement Specific Appropriation  
619 209 of the 2024-2025 General Appropriations Act, the Agency for  
620 Health Care Administration may submit a budget amendment  
621 pursuant to chapter 216, Florida Statutes, requesting additional  
622 spending authority to implement the Disproportionate Share  
623 Hospital Program. The budget amendment must include a proposed  
624 distribution model by entity and a listing of entities  
625 contributing intergovernmental transfers and certified public

626 expenditures to support the state match required. This section  
 627 expires July 1, 2025.

628 Section 17. In order to implement Specific Appropriations  
 629 330, 332, 362, and 363 of the 2024-2025 General Appropriations  
 630 Act, and notwithstanding ss. 216.181 and 216.292, Florida  
 631 Statutes, the Department of Children and Families may submit a  
 632 budget amendment, subject to the notice, review, and objection  
 633 procedures of s. 216.177, Florida Statutes, to realign funding  
 634 within the department based on the implementation of the  
 635 Guardianship Assistance Program, between the specific  
 636 appropriations for guardianship assistance payments, foster care  
 637 Level 1 room and board payments, relative caregiver payments,  
 638 and nonrelative caregiver payments. This section expires July 1,  
 639 2025.

640 Section 18. In order to implement Specific Appropriations  
 641 202 through 204, 208, 211, 212, 214 through 216, 356, 366, 474,  
 642 493 through 495, 501, and 506 of the 2024-2025 General  
 643 Appropriations Act, and notwithstanding ss. 216.181 and 216.292,  
 644 Florida Statutes, the Department of Children and Families,  
 645 Department of Health, and Agency for Health Care Administration  
 646 may submit budget amendments, subject to the notice, review, and  
 647 objection procedures of s. 216.177, Florida Statutes, to  
 648 increase budget authority to support refugee programs  
 649 administered by the federal Office of Refugee Resettlement due  
 650 to the ongoing instability of federal immigration policy and the

651 resulting inability of the state to reasonably predict, with  
652 certainty, the budgetary needs of this state with respect to the  
653 number of refugees relocated to the state as part of those  
654 federal programs. The Department of Children and Families shall  
655 submit quarterly reports to the Executive Office of the  
656 Governor, the President of the Senate, and the Speaker of the  
657 House of Representatives on the number of refugees entering the  
658 state, the nations of origin of such refugees, and current  
659 expenditure projections. This section expires July 1, 2025.

660       Section 19. In order to implement Specific Appropriations  
661 347 through 384 of the 2024-2025 General Appropriations Act, and  
662 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
663 Department of Children and Families may submit budget  
664 amendments, subject to the notice, review, and objection  
665 procedures of s. 216.177, Florida Statutes, to increase budget  
666 authority to support the following federal grant programs: the  
667 Supplemental Nutrition Assistance Grant Program, the Pandemic  
668 Electronic Benefit Transfer, the American Rescue Plan Grant, the  
669 State Opioid Response Grant, the Substance Abuse Prevention and  
670 Treatment Block Grant, and the Mental Health Block Grant. This  
671 section expires July 1, 2025.

672       Section 20. In order to implement Specific Appropriations  
673 458 and 460 of the 2024-2025 General Appropriations Act, and  
674 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
675 Department of Health may submit a budget amendment, subject to

676 the notice, review, and objection procedures of s. 216.177,  
 677 Florida Statutes, to increase budget authority for the  
 678 Supplemental Nutrition Program for Women, Infants, and Children  
 679 (WIC) and the Child Care Food Program if additional federal  
 680 revenues will be expended in the 2024-2025 fiscal year. This  
 681 section expires July 1, 2025.

682 Section 21. In order to implement Specific Appropriations  
 683 470 and 522 of the 2024-2025 General Appropriations Act, and  
 684 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
 685 Department of Health may submit a budget amendment, subject to  
 686 the notice, review, and objection procedures of s. 216.177,  
 687 Florida Statutes, to increase budget authority for the HIV/AIDS  
 688 Prevention and Treatment Program if additional federal revenues  
 689 specific to HIV/AIDS prevention and treatment become available  
 690 in the 2024-2025 fiscal year. This section expires July 1, 2025.

691 Section 22. In order to implement Specific Appropriations  
 692 427 through 578 of the 2024-2025 General Appropriations Act, and  
 693 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
 694 Department of Health may submit a budget amendment, subject to  
 695 the notice, review, and objection procedures of s. 216.177,  
 696 Florida Statutes, to increase budget authority for the  
 697 department if additional federal revenues specific to COVID-19  
 698 relief funds become available in the 2024-2025 fiscal year. This  
 699 section expires July 1, 2025.

700 Section 23. In order to implement Specific Appropriation

701 196 of the 2024-2025 General Appropriations Act:

702 (1) The Agency for Health Care Administration shall  
 703 replace the current Florida Medicaid Management Information  
 704 System (FMMIS) and fiscal agent operations with a system that is  
 705 modular, interoperable, and scalable for the Florida Medicaid  
 706 program that complies with all applicable federal and state laws  
 707 and requirements. The agency may not include in the project to  
 708 replace the current FMMIS and fiscal agent contract any of the  
 709 following:

710 (a) Functionality that duplicates any of the information  
 711 systems of the other health and human services state agencies;

712 (b) Procurement for agency requirements external to  
 713 Medicaid programs with the intent to leverage the Medicaid  
 714 technology infrastructure for other purposes without legislative  
 715 appropriation or legislative authorization to procure these  
 716 requirements. The new system, the Florida Health Care Connection  
 717 (FX) system, must provide better integration with subsystems  
 718 supporting Florida's Medicaid program; uniformity, consistency,  
 719 and improved access to data; and compatibility with the Centers  
 720 for Medicare and Medicaid Services' Medicaid Information  
 721 Technology Architecture (MITA) as the system matures and expands  
 722 its functionality; or

723 (c) Any contract executed after July 1, 2022, not  
 724 including staff augmentation services purchased off the  
 725 Department of Management Services Information Technology staff

726 augmentation state term contract that are not deliverables based  
 727 fixed price contracts.

728 (2) For purposes of replacing FMMIS and the current  
 729 Medicaid fiscal agent, the Agency for Health Care Administration  
 730 shall:

731 (a) Prioritize procurements for the replacement of the  
 732 current functions of FMMIS and the responsibilities of the  
 733 current Medicaid fiscal agent, to minimize the need to extend  
 734 all or portions of the current fiscal agent contract.

735 (b) Comply with and not exceed the Centers for Medicare  
 736 and Medicaid Services funding authorizations for the FX system.

737 (c) Ensure compliance and uniformity with the published  
 738 MITA framework and guidelines.

739 (d) Ensure that all business requirements and technical  
 740 specifications have been provided to all affected state agencies  
 741 for their review and input and approved by the executive  
 742 steering committee established in paragraph (g).

743 (e) Consult with the Executive Office of the Governor's  
 744 working group for interagency information technology integration  
 745 for the development of competitive solicitations that provide  
 746 for data interoperability and shared information technology  
 747 services across the state's health and human services agencies.

748 (f) Implement a data governance structure for the project  
 749 to coordinate data sharing and interoperability across state  
 750 health care entities.

751 (g) Implement a project governance structure that includes  
 752 an executive steering committee composed of:

753 1. The Secretary of Health Care Administration, or the  
 754 executive sponsor of the project.

755 2. A representative of the Division of Health Care Finance  
 756 and Data of the Agency for Health Care Administration, appointed  
 757 by the Secretary of Health Care Administration.

758 3. Two representatives from the Division of Medicaid  
 759 Policy, Quality, and Operations of the Agency for Health Care  
 760 Administration, appointed by the Secretary of Health Care  
 761 Administration.

762 4. A representative of the Division of Health Care Policy  
 763 and Oversight of the Agency for Health Care Administration,  
 764 appointed by the Secretary of Health Care Administration.

765 5. A representative of the Florida Center for Health  
 766 Information and Transparency of the Agency for Health Care  
 767 Administration, appointed by the Secretary of Health Care  
 768 Administration.

769 6. The Chief Information Officer of the Agency for Health  
 770 Care Administration, or his or her designee.

771 7. The state chief information officer, or his or her  
 772 designee.

773 8. Two representatives of the Department of Children and  
 774 Families, appointed by the Secretary of Children and Families.

775 9. A representative of the Department of Health, appointed



776 | by the State Surgeon General.

777 |       10. A representative of the Agency for Persons with  
778 | Disabilities, appointed by the director of the Agency for  
779 | Persons with Disabilities.

780 |       11. A representative from the Florida Healthy Kids  
781 | Corporation.

782 |       12. A representative from the Department of Elderly  
783 | Affairs, appointed by the Secretary of Elderly Affairs.

784 |       13. A representative of the Department of Financial  
785 | Services who has experience with the state's financial  
786 | processes, including development of the PALM system, appointed  
787 | by the Chief Financial Officer.

788 |       (3) The Secretary of Health Care Administration or the  
789 | executive sponsor of the project shall serve as chair of the  
790 | executive steering committee, and the committee shall take  
791 | action by a vote of at least 10 affirmative votes with the chair  
792 | voting on the prevailing side. A quorum of the executive  
793 | steering committee consists of at least 11 members.

794 |       (4) The executive steering committee has the overall  
795 | responsibility for ensuring that the project to replace FMMIS  
796 | and the Medicaid fiscal agent meets its primary business  
797 | objectives and shall:

798 |       (a) Identify and recommend to the Executive Office of the  
799 | Governor, the President of the Senate, and the Speaker of the  
800 | House of Representatives any statutory changes needed to

801 implement the modular replacement to standardize, to the fullest  
 802 extent possible, the state's health care data and business  
 803 processes.

804 (b) Review and approve any changes to the project's scope,  
 805 schedule, and budget which do not conflict with the requirements  
 806 of subsections (1) and (2).

807 (c) Ensure that adequate resources are provided throughout  
 808 all phases of the project.

809 (d) Approve all major project deliverables.

810 (e) Review and verify that all procurement and contractual  
 811 documents associated with the replacement of the current FMMIS  
 812 and Medicaid fiscal agent align with the scope, schedule, and  
 813 anticipated budget for the project.

814 (5) This section expires July 1, 2025.

815 Section 24. In order to implement Specific Appropriations  
 816 215, 216, 270, 282, 342, 497, and 522 of the 2024-2025 General  
 817 Appropriations Act, the Agency for Health Care Administration,  
 818 in consultation with the Department of Health, the Agency for  
 819 Persons with Disabilities, the Department of Children and  
 820 Families, and the Department of Corrections, shall competitively  
 821 procure a contract with a vendor to negotiate, for these  
 822 agencies, prices for prescribed drugs and biological products  
 823 excluded from the programs established under s. 381.02035,  
 824 Florida Statutes, and ineligible under 21 U.S.C. s. 384,  
 825 including, but not limited to, insulin and epinephrine. The

826 contract may allow the vendor to directly purchase these  
 827 products for participating agencies when feasible and  
 828 advantageous. The contracted vendor will be compensated on a  
 829 contingency basis, paid from a portion of the savings achieved  
 830 by its price negotiation or purchase of the prescription drugs  
 831 and products. This section expires July 1, 2025.

832 Section 25. In order to implement Specific Appropriations  
 833 262, 268, 269, 280, and 281 of the 2024-2025 General  
 834 Appropriations Act, and notwithstanding ss. 216.181 and 216.292,  
 835 Florida Statutes, the Agency for Persons with Disabilities may  
 836 submit budget amendments, subject to the notice, review, and  
 837 objection procedures of s. 216.177, Florida Statutes, to  
 838 transfer funding from the Salaries and Benefits appropriation  
 839 categories to categories used for contractual services in order  
 840 to support additional staff augmentation resources needed at the  
 841 Developmental Disability Centers. This section expires July 1,  
 842 2025.

843 Section 26. In order to implement Specific Appropriations  
 844 223 and 247 of the 2024-2025 General Appropriations Act, and  
 845 notwithstanding ss. 216.181 and 216.292, Florida Statutes, the  
 846 Agency for Persons with Disabilities, in consultation with the  
 847 Agency for Health Care Administration, may submit a budget  
 848 amendment, subject to the notice, review, and objection  
 849 procedures of s. 216.177, Florida Statutes, to realign funding  
 850 between agencies based on the implementation of the Medicaid

851 Home and Community-Based Services Program of the Agency for  
 852 Persons with Disabilities. This section expires July 1, 2025.

853 Section 27. In order to implement Specific Appropriations  
 854 608 through 719 and 733 through 768 of the 2024-2025 General  
 855 Appropriations Act, subsection (4) of section 216.262, Florida  
 856 Statutes, is amended to read:

857 216.262 Authorized positions.—

858 (4) Notwithstanding the provisions of this chapter  
 859 relating to increasing the number of authorized positions, and  
 860 for the 2024-2025 ~~2023-2024~~ fiscal year only, if the actual  
 861 inmate population of the Department of Corrections exceeds the  
 862 inmate population projections of the December 15, ~~February 13,~~  
 863 2023, Criminal Justice Estimating Conference by 1 percent for 2  
 864 consecutive months or 2 percent for any month, the Executive  
 865 Office of the Governor, with the approval of the Legislative  
 866 Budget Commission, shall immediately notify the Criminal Justice  
 867 Estimating Conference, which shall convene as soon as possible  
 868 to revise the estimates. The Department of Corrections may then  
 869 submit a budget amendment requesting the establishment of  
 870 positions in excess of the number authorized by the Legislature  
 871 and additional appropriations from unallocated general revenue  
 872 sufficient to provide for essential staff, fixed capital  
 873 improvements, and other resources to provide classification,  
 874 security, food services, health services, and other variable  
 875 expenses within the institutions to accommodate the estimated

876 | increase in the inmate population. All actions taken pursuant to  
 877 | this subsection are subject to review and approval by the  
 878 | Legislative Budget Commission. This subsection expires July 1,  
 879 | 2025 ~~2024~~.

880 |       Section 28. In order to implement Specific Appropriations  
 881 | 3267 through 3334 of the 2024-2025 General Appropriations Act,  
 882 | subsection (2) of section 215.18, Florida Statutes, is amended  
 883 | to read:

884 |           215.18 Transfers between funds; limitation.—

885 |           (2) The Chief Justice of the Supreme Court may receive one  
 886 | or more trust fund loans to ensure that the state court system  
 887 | has funds sufficient to meet its appropriations in the 2024-2025  
 888 | ~~2023-2024~~ General Appropriations Act. If the Chief Justice  
 889 | accesses the loan, he or she must notify the Governor and the  
 890 | chairs of the legislative appropriations committees in writing.  
 891 | The loan must come from other funds in the State Treasury which  
 892 | are for the time being or otherwise in excess of the amounts  
 893 | necessary to meet the just requirements of such last-mentioned  
 894 | funds. The Governor shall order the transfer of funds within 5  
 895 | days after the written notification from the Chief Justice. If  
 896 | the Governor does not order the transfer, the Chief Financial  
 897 | Officer shall transfer the requested funds. The loan of funds  
 898 | from which any money is temporarily transferred must be repaid  
 899 | by the end of the 2024-2025 ~~2023-2024~~ fiscal year. This  
 900 | subsection expires July 1, 2025 ~~2024~~.

901           Section 29. In order to implement Specific Appropriations  
 902 1150 through 1161 of the 2024-2025 General Appropriations Act:

903           (1) The Department of Juvenile Justice is required to  
 904 review county juvenile detention payments to ensure that  
 905 counties fulfill their financial responsibilities required in s.  
 906 985.6865, Florida Statutes. If the Department of Juvenile  
 907 Justice determines that a county has not met its obligations,  
 908 the department shall direct the Department of Revenue to deduct  
 909 the amount owed to the Department of Juvenile Justice from the  
 910 funds provided to the county under s. 218.23, Florida Statutes.  
 911 The Department of Revenue shall transfer the funds withheld to  
 912 the Shared County/State Juvenile Detention Trust Fund.

913           (2) As an assurance to holders of bonds issued by counties  
 914 before July 1, 2024, for which distributions made pursuant to s.  
 915 218.23, Florida Statutes, are pledged, or bonds issued to refund  
 916 such bonds which mature no later than the bonds they refunded  
 917 and which result in a reduction of debt service payable in each  
 918 fiscal year, the amount available for distribution to a county  
 919 shall remain as provided by law and continue to be subject to  
 920 any lien or claim on behalf of the bondholders. The Department  
 921 of Revenue must ensure, based on information provided by an  
 922 affected county, that any reduction in amounts distributed  
 923 pursuant to subsection (1) does not reduce the amount of  
 924 distribution to a county below the amount necessary for the  
 925 timely payment of principal and interest when due on the bonds

926 and the amount necessary to comply with any covenant under the  
 927 bond resolution or other documents relating to the issuance of  
 928 the bonds. If a reduction to a county's monthly distribution  
 929 must be decreased in order to comply with this section, the  
 930 Department of Revenue must notify the Department of Juvenile  
 931 Justice of the amount of the decrease, and the Department of  
 932 Juvenile Justice must send a bill for payment of such amount to  
 933 the affected county.

934 (3) This section expires July 1, 2025.

935 Section 30. In order to implement Specific Appropriations  
 936 779 through 801, 950 through 1093, and 1114 through 1149 of the  
 937 2024-2025 General Appropriations Act, and notwithstanding the  
 938 expiration date in section 36 of chapter 2022-157, Laws of  
 939 Florida, subsection (1), paragraph (a) of subsection (2),  
 940 paragraph (a) of subsection (3), and subsections (5), (6), and  
 941 (7) of section 27.40, Florida Statutes, are reenacted to read:

942 27.40 Court-appointed counsel; circuit registries; minimum  
 943 requirements; appointment by court.—

944 (1) Counsel shall be appointed to represent any individual  
 945 in a criminal or civil proceeding entitled to court-appointed  
 946 counsel under the Federal or State Constitution or as authorized  
 947 by general law. The court shall appoint a public defender to  
 948 represent indigent persons as authorized in s. 27.51. The office  
 949 of criminal conflict and civil regional counsel shall be  
 950 appointed to represent persons in those cases in which provision

951 is made for court-appointed counsel, but only after the public  
 952 defender has certified to the court in writing that the public  
 953 defender is unable to provide representation due to a conflict  
 954 of interest or is not authorized to provide representation. The  
 955 public defender shall report, in the aggregate, the specific  
 956 basis of all conflicts of interest certified to the court. On a  
 957 quarterly basis, the public defender shall submit this  
 958 information to the Justice Administrative Commission.

959 (2) (a) Private counsel shall be appointed to represent  
 960 persons in those cases in which provision is made for court-  
 961 appointed counsel but only after the office of criminal conflict  
 962 and civil regional counsel has been appointed and has certified  
 963 to the court in writing that the criminal conflict and civil  
 964 regional counsel is unable to provide representation due to a  
 965 conflict of interest. The criminal conflict and civil regional  
 966 counsel shall report, in the aggregate, the specific basis of  
 967 all conflicts of interest certified to the court. On a quarterly  
 968 basis, the criminal conflict and civil regional counsel shall  
 969 submit this information to the Justice Administrative  
 970 Commission.

971 (3) In using a registry:

972 (a) The chief judge of the circuit shall compile a list of  
 973 attorneys in private practice, by county and by category of  
 974 cases, and provide the list to the clerk of court in each  
 975 county. The chief judge of the circuit may restrict the number



976 of attorneys on the general registry list. To be included on a  
 977 registry, an attorney must certify that he or she:

978 1. Meets any minimum requirements established by the chief  
 979 judge and by general law for court appointment;

980 2. Is available to represent indigent defendants in cases  
 981 requiring court appointment of private counsel; and

982 3. Is willing to abide by the terms of the contract for  
 983 services, s. 27.5304, and this section.

984

985 To be included on a registry, an attorney must enter into a  
 986 contract for services with the Justice Administrative  
 987 Commission. Failure to comply with the terms of the contract for  
 988 services may result in termination of the contract and removal  
 989 from the registry. Each attorney on the registry is responsible  
 990 for notifying the clerk of the court and the Justice  
 991 Administrative Commission of any change in his or her status.  
 992 Failure to comply with this requirement is cause for termination  
 993 of the contract for services and removal from the registry until  
 994 the requirement is fulfilled.

995 (5) The Justice Administrative Commission shall approve  
 996 uniform contract forms for use in procuring the services of  
 997 private court-appointed counsel and uniform procedures and forms  
 998 for use by a court-appointed attorney in support of billing for  
 999 attorney's fees, costs, and related expenses to demonstrate the  
 1000 attorney's completion of specified duties. Such uniform

1001 contracts and forms for use in billing must be consistent with  
 1002 s. 27.5304, s. 216.311, and the General Appropriations Act and  
 1003 must contain the following statement: "The State of Florida's  
 1004 performance and obligation to pay under this contract is  
 1005 contingent upon an annual appropriation by the Legislature."

1006 (6) After court appointment, the attorney must immediately  
 1007 file a notice of appearance with the court indicating acceptance  
 1008 of the appointment to represent the defendant and of the terms  
 1009 of the uniform contract as specified in subsection (5).

1010 (7) (a) A private attorney appointed by the court from the  
 1011 registry to represent a client is entitled to payment as  
 1012 provided in s. 27.5304 so long as the requirements of subsection  
 1013 (1) and paragraph (2) (a) are met. An attorney appointed by the  
 1014 court who is not on the registry list may be compensated under  
 1015 s. 27.5304 only if the court finds in the order of appointment  
 1016 that there were no registry attorneys available for  
 1017 representation for that case and only if the requirements of  
 1018 subsection (1) and paragraph (2) (a) are met.

1019 (b)1. The flat fee established in s. 27.5304 and the  
 1020 General Appropriations Act shall be presumed by the court to be  
 1021 sufficient compensation. The attorney shall maintain appropriate  
 1022 documentation, including contemporaneous and detailed hourly  
 1023 accounting of time spent representing the client. If the  
 1024 attorney fails to maintain such contemporaneous and detailed  
 1025 hourly records, the attorney waives the right to seek

1026 compensation in excess of the flat fee established in s. 27.5304  
 1027 and the General Appropriations Act. These records and documents  
 1028 are subject to review by the Justice Administrative Commission  
 1029 and audit by the Auditor General, subject to the attorney-client  
 1030 privilege and work-product privilege. The attorney shall  
 1031 maintain the records and documents in a manner that enables the  
 1032 attorney to redact any information subject to a privilege in  
 1033 order to facilitate the commission's review of the records and  
 1034 documents and not to impede such review. The attorney may redact  
 1035 information from the records and documents only to the extent  
 1036 necessary to comply with the privilege. The Justice  
 1037 Administrative Commission shall review such records and shall  
 1038 contemporaneously document such review before authorizing  
 1039 payment to an attorney. Objections by or on behalf of the  
 1040 Justice Administrative Commission to records or documents or to  
 1041 claims for payment by the attorney shall be presumed correct by  
 1042 the court unless the court determines, in writing, that  
 1043 competent and substantial evidence exists to justify overcoming  
 1044 the presumption.

1045         2. If an attorney fails, refuses, or declines to permit  
 1046 the commission or the Auditor General to review documentation  
 1047 for a case as provided in this paragraph, the attorney waives  
 1048 the right to seek, and the commission may not pay, compensation  
 1049 in excess of the flat fee established in s. 27.5304 and the  
 1050 General Appropriations Act for that case.

1051 3. A finding by the commission that an attorney has waived  
 1052 the right to seek compensation in excess of the flat fee  
 1053 established in s. 27.5304 and the General Appropriations Act, as  
 1054 provided in this paragraph, shall be presumed to be correct,  
 1055 unless the court determines, in writing, that competent and  
 1056 substantial evidence exists to justify overcoming the  
 1057 presumption.

1058 Section 31. The text of s. 27.40(1), (2)(a), (3)(a), (5),  
 1059 (6), and (7), Florida Statutes, as carried forward from chapter  
 1060 2019-116, Laws of Florida, by this act, expires July 1, 2025,  
 1061 and the text of those subsections and paragraphs, as applicable,  
 1062 shall revert to that in existence on June 30, 2019, except that  
 1063 any amendments to such text enacted other than by this act shall  
 1064 be preserved and continue to operate to the extent that such  
 1065 amendments are not dependent upon the portions of text which  
 1066 expire pursuant to this section.

1067 Section 32. In order to implement Specific Appropriations  
 1068 779 through 801, 950 through 1093, and 1114 through 1149 of the  
 1069 2024-2025 General Appropriations Act, and notwithstanding the  
 1070 expiration date in section 38 of chapter 2022-157, Laws of  
 1071 Florida, subsections (6) and (13) of section 27.5304, Florida  
 1072 Statutes, are amended, and subsections (1), (3), (7), and (11),  
 1073 and paragraphs (a) through (e) of subsection (12) of that  
 1074 section are reenacted, to read:

1075 27.5304 Private court-appointed counsel; compensation;

1076 notice.—

1077 (1) Private court-appointed counsel appointed in the  
 1078 manner prescribed in s. 27.40(1) and (2)(a) shall be compensated  
 1079 by the Justice Administrative Commission only as provided in  
 1080 this section and the General Appropriations Act. The flat fees  
 1081 prescribed in this section are limitations on compensation. The  
 1082 specific flat fee amounts for compensation shall be established  
 1083 annually in the General Appropriations Act. The attorney also  
 1084 shall be reimbursed for reasonable and necessary expenses in  
 1085 accordance with s. 29.007. If the attorney is representing a  
 1086 defendant charged with more than one offense in the same case,  
 1087 the attorney shall be compensated at the rate provided for the  
 1088 most serious offense for which he or she represented the  
 1089 defendant. This section does not allow stacking of the fee  
 1090 limits established by this section.

1091 (3) The court retains primary authority and responsibility  
 1092 for determining the reasonableness of all billings for attorney  
 1093 fees, costs, and related expenses, subject to statutory  
 1094 limitations and the requirements of s. 27.40(7). Private court-  
 1095 appointed counsel is entitled to compensation upon final  
 1096 disposition of a case.

1097 (6) For compensation for representation pursuant to a  
 1098 court appointment in a proceeding under chapter 39:

1099 (a) At the trial level, compensation for representation  
 1100 for dependency proceedings shall not exceed \$1,450 ~~\$1,000~~ for

1101 the first year following the date of appointment and shall not  
 1102 exceed \$700 ~~\$200~~ each year thereafter. Compensation shall be  
 1103 paid based upon representation of a parent irrespective of the  
 1104 number of case numbers that may be assigned or the number of  
 1105 children involved, including any children born during the  
 1106 pendency of the proceeding. Any appeal, except for an appeal  
 1107 from an adjudication of dependency, shall be completed by the  
 1108 trial attorney and is considered compensated by the flat fee for  
 1109 dependency proceedings.

1110 1. Counsel may bill the flat fee not exceeding \$1,450  
 1111 ~~\$1,000~~ following disposition or upon dismissal of the petition.

1112 2. Counsel may bill the annual flat fee not exceeding \$700  
 1113 ~~\$200~~ following the first judicial review in the second year  
 1114 following the date of appointment and each year thereafter as  
 1115 long as the case remains under protective supervision.

1116 3. If the court grants a motion to reactivate protective  
 1117 supervision, the attorney shall receive the annual flat fee not  
 1118 exceeding \$700 ~~\$200~~ following the first judicial review and up  
 1119 to an additional \$700 ~~\$200~~ each year thereafter.

1120 4. If, during the course of dependency proceedings, a  
 1121 proceeding to terminate parental rights is initiated,  
 1122 compensation shall be as set forth in paragraph (b). If counsel  
 1123 handling the dependency proceeding is not authorized to handle  
 1124 proceedings to terminate parental rights, the counsel must  
 1125 withdraw and new counsel must be appointed.

1126 (b) At the trial level, compensation for representation in  
 1127 termination of parental rights proceedings shall not exceed  
 1128 \$1,800 ~~\$1,000~~ for the first year following the date of  
 1129 appointment and shall not exceed \$700 ~~\$200~~ each year thereafter.  
 1130 Compensation shall be paid based upon representation of a parent  
 1131 irrespective of the number of case numbers that may be assigned  
 1132 or the number of children involved, including any children born  
 1133 during the pendency of the proceeding. Any appeal, except for an  
 1134 appeal from an order granting or denying termination of parental  
 1135 rights, shall be completed by trial counsel and is considered  
 1136 compensated by the flat fee for termination of parental rights  
 1137 proceedings. If the individual has dependency proceedings  
 1138 ongoing as to other children, those proceedings are considered  
 1139 part of the termination of parental rights proceedings as long  
 1140 as that termination of parental rights proceeding is ongoing.

1141 1. Counsel may bill the flat fee not exceeding \$1,800  
 1142 ~~\$1,000~~ 30 days after rendition of the final order. Each request  
 1143 for payment submitted to the Justice Administrative Commission  
 1144 must include the trial counsel's certification that:

1145 a. Counsel discussed grounds for appeal with the parent or  
 1146 that counsel attempted and was unable to contact the parent; and

1147 b. No appeal will be filed or that a notice of appeal and  
 1148 a motion for appointment of appellate counsel, containing the  
 1149 signature of the parent, have been filed.

1150 2. Counsel may bill the annual flat fee not exceeding \$700

1151 ~~\$200~~ following the first judicial review in the second year  
 1152 after the date of appointment and each year thereafter as long  
 1153 as the termination of parental rights proceedings are still  
 1154 ongoing.

1155 (c) For appeals from an adjudication of dependency,  
 1156 compensation may not exceed \$1,800 ~~\$1,000~~.

1157 1. Counsel may bill a flat fee not exceeding \$1,200 ~~\$750~~  
 1158 upon filing the initial brief or the granting of a motion to  
 1159 withdraw.

1160 2. If a brief is filed, counsel may bill an additional  
 1161 flat fee not exceeding \$600 ~~\$250~~ upon rendition of the mandate.

1162 (d) For an appeal from an adjudication of termination of  
 1163 parental rights, compensation may not exceed \$3,500 ~~\$2,000~~.

1164 1. Counsel may bill a flat fee not exceeding \$1,750 ~~\$1,000~~  
 1165 upon filing the initial brief or the granting of a motion to  
 1166 withdraw.

1167 2. If a brief is filed, counsel may bill an additional  
 1168 flat fee not exceeding \$1,750 ~~\$1,000~~ upon rendition of the  
 1169 mandate.

1170 (7) Counsel eligible to receive compensation from the  
 1171 state for representation pursuant to court appointment made in  
 1172 accordance with the requirements of s. 27.40(1) and (2)(a) in a  
 1173 proceeding under chapter 384, chapter 390, chapter 392, chapter  
 1174 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter  
 1175 744, or chapter 984 shall receive compensation not to exceed the



1176 | limits prescribed in the General Appropriations Act. Any such  
 1177 | compensation must be determined as provided in s. 27.40(7).

1178 |         (11) It is the intent of the Legislature that the flat  
 1179 | fees prescribed under this section and the General  
 1180 | Appropriations Act comprise the full and complete compensation  
 1181 | for private court-appointed counsel. It is further the intent of  
 1182 | the Legislature that the fees in this section are prescribed for  
 1183 | the purpose of providing counsel with notice of the limit on the  
 1184 | amount of compensation for representation in particular  
 1185 | proceedings and the sole procedure and requirements for  
 1186 | obtaining payment for the same.

1187 |         (a) If court-appointed counsel moves to withdraw prior to  
 1188 | the full performance of his or her duties through the completion  
 1189 | of the case, the court shall presume that the attorney is not  
 1190 | entitled to the payment of the full flat fee established under  
 1191 | this section and the General Appropriations Act.

1192 |         (b) If court-appointed counsel is allowed to withdraw from  
 1193 | representation prior to the full performance of his or her  
 1194 | duties through the completion of the case and the court appoints  
 1195 | a subsequent attorney, the total compensation for the initial  
 1196 | and any and all subsequent attorneys may not exceed the flat fee  
 1197 | established under this section and the General Appropriations  
 1198 | Act, except as provided in subsection (12).

1199 |  
 1200 | This subsection constitutes notice to any subsequently appointed

1201 attorney that he or she will not be compensated the full flat  
 1202 fee.

1203 (12) The Legislature recognizes that on rare occasions an  
 1204 attorney may receive a case that requires extraordinary and  
 1205 unusual effort.

1206 (a) If counsel seeks compensation that exceeds the limits  
 1207 prescribed by law, he or she must file a motion with the chief  
 1208 judge for an order approving payment of attorney fees in excess  
 1209 of these limits.

1210 1. Before filing the motion, the counsel shall deliver a  
 1211 copy of the intended billing, together with supporting  
 1212 affidavits and all other necessary documentation, to the Justice  
 1213 Administrative Commission.

1214 2. The Justice Administrative Commission shall review the  
 1215 billings, affidavit, and documentation for completeness and  
 1216 compliance with contractual and statutory requirements and shall  
 1217 contemporaneously document such review before authorizing  
 1218 payment to an attorney. If the Justice Administrative Commission  
 1219 objects to any portion of the proposed billing, the objection  
 1220 and supporting reasons must be communicated in writing to the  
 1221 private court-appointed counsel. The counsel may thereafter file  
 1222 his or her motion, which must specify whether the commission  
 1223 objects to any portion of the billing or the sufficiency of  
 1224 documentation, and shall attach the commission's letter stating  
 1225 its objection.

1226 (b) Following receipt of the motion to exceed the fee  
 1227 limits, the chief judge or a single designee shall hold an  
 1228 evidentiary hearing. The chief judge may select only one judge  
 1229 per circuit to hear and determine motions pursuant to this  
 1230 subsection, except multicounty circuits and the eleventh circuit  
 1231 may have up to two designees.

1232 1. At the hearing, the attorney seeking compensation must  
 1233 prove by competent and substantial evidence that the case  
 1234 required extraordinary and unusual efforts. The chief judge or  
 1235 single designee shall consider criteria such as the number of  
 1236 witnesses, the complexity of the factual and legal issues, and  
 1237 the length of trial. The fact that a trial was conducted in a  
 1238 case does not, by itself, constitute competent substantial  
 1239 evidence of an extraordinary and unusual effort. In a criminal  
 1240 case, relief under this section may not be granted if the number  
 1241 of work hours does not exceed 75 or the number of the state's  
 1242 witnesses deposed does not exceed 20.

1243 2. Objections by or on behalf of the Justice  
 1244 Administrative Commission to records or documents or to claims  
 1245 for payment by the attorney shall be presumed correct by the  
 1246 court unless the court determines, in writing, that competent  
 1247 and substantial evidence exists to justify overcoming the  
 1248 presumption. The chief judge or single designee shall enter a  
 1249 written order detailing his or her findings and identifying the  
 1250 extraordinary nature of the time and efforts of the attorney in

1251 the case which warrant exceeding the flat fee established by  
 1252 this section and the General Appropriations Act.

1253 (c) A copy of the motion and attachments shall be served  
 1254 on the Justice Administrative Commission at least 20 business  
 1255 days before the date of a hearing. The Justice Administrative  
 1256 Commission has standing to appear before the court, and may  
 1257 appear in person or telephonically, including at the hearing  
 1258 under paragraph (b), to contest any motion for an order  
 1259 approving payment of attorney fees, costs, or related expenses  
 1260 and may participate in a hearing on the motion by use of  
 1261 telephonic or other communication equipment. The Justice  
 1262 Administrative Commission may contract with other public or  
 1263 private entities or individuals to appear before the court for  
 1264 the purpose of contesting any motion for an order approving  
 1265 payment of attorney fees, costs, or related expenses. The fact  
 1266 that the Justice Administrative Commission has not objected to  
 1267 any portion of the billing or to the sufficiency of the  
 1268 documentation is not binding on the court.

1269 (d) If the chief judge or a single designee finds that  
 1270 counsel has proved by competent and substantial evidence that  
 1271 the case required extraordinary and unusual efforts, the chief  
 1272 judge or single designee shall order the compensation to be paid  
 1273 to the attorney at a percentage above the flat fee rate,  
 1274 depending on the extent of the unusual and extraordinary effort  
 1275 required. The percentage must be only the rate necessary to

1276 ensure that the fees paid are not confiscatory under common law.  
 1277 The percentage may not exceed 200 percent of the established  
 1278 flat fee, absent a specific finding that 200 percent of the flat  
 1279 fee in the case would be confiscatory. If the chief judge or  
 1280 single designee determines that 200 percent of the flat fee  
 1281 would be confiscatory, he or she shall order the amount of  
 1282 compensation using an hourly rate not to exceed \$75 per hour for  
 1283 a noncapital case and \$100 per hour for a capital case. However,  
 1284 the compensation calculated by using the hourly rate shall be  
 1285 only that amount necessary to ensure that the total fees paid  
 1286 are not confiscatory, subject to the requirements of s.  
 1287 27.40(7).

1288 (e) Any order granting relief under this subsection must  
 1289 be attached to the final request for a payment submitted to the  
 1290 Justice Administrative Commission and must satisfy the  
 1291 requirements of subparagraph (b)2.

1292 (13) Notwithstanding the limitation set forth in  
 1293 subsection (5) and for the 2024-2025 ~~2023-2024~~ fiscal year only,  
 1294 the compensation for representation in a criminal proceeding may  
 1295 not exceed the following:

1296 (a) For misdemeanors and juveniles represented at the  
 1297 trial level: \$1,000.

1298 (b) For noncapital, nonlife felonies represented at the  
 1299 trial level: \$15,000.

1300 (c) For life felonies represented at the trial level:

1301 \$15,000.

1302 (d) For capital cases represented at the trial level:  
 1303 \$25,000. For purposes of this paragraph, a "capital case" is any  
 1304 offense for which the potential sentence is death and the state  
 1305 has not waived seeking the death penalty.

1306 (e) For representation on appeal: \$9,000.

1307 (f) This subsection expires July 1, 2025 ~~2024~~.

1308 Section 33. The amendments made to s. 27.5304(6), Florida  
 1309 Statutes, by this act, and the text of s. 27.5304(1), (3), (7),  
 1310 (11), and (12) (a)-(e), Florida Statutes, as carried forward from  
 1311 chapter 2019-116, Laws of Florida, by this act, expire July 1,  
 1312 2025, and the text of those subsections and paragraphs, as  
 1313 applicable, shall revert to that in existence on June 30, 2019,  
 1314 except that any amendments to such text enacted other than by  
 1315 this act shall be preserved and continue to operate to the  
 1316 extent that such amendments are not dependent upon the portions  
 1317 of text which expire pursuant to this section.

1318 Section 34. In order to implement appropriations used to  
 1319 pay existing lease contracts for private lease space in excess  
 1320 of 2,000 square feet in the 2024-2025 General Appropriations  
 1321 Act, the Department of Management Services, with the cooperation  
 1322 of the agencies having the existing lease contracts for office  
 1323 or storage space, shall use tenant broker services to  
 1324 renegotiate or reprocure all private lease agreements for office  
 1325 or storage space expiring between July 1, 2025, and June 30,

1326 2027, in order to reduce costs in future years. The department  
 1327 shall incorporate this initiative into its 2024 master leasing  
 1328 report required under s. 255.249(7), Florida Statutes, and may  
 1329 use tenant broker services to explore the possibilities of  
 1330 collocating office or storage space, to review the space needs  
 1331 of each agency, and to review the length and terms of potential  
 1332 renewals or renegotiations. The department shall provide a  
 1333 report to the Executive Office of the Governor, the President of  
 1334 the Senate, and the Speaker of the House of Representatives by  
 1335 November 1, 2024, which lists each lease contract for private  
 1336 office or storage space, the status of renegotiations, and the  
 1337 savings achieved. This section expires July 1, 2025.

1338 Section 35. In order to implement appropriations  
 1339 authorized in the 2024-2025 General Appropriations Act for data  
 1340 center services, and notwithstanding s. 216.292(2)(a), Florida  
 1341 Statutes, an agency may not transfer funds from a data  
 1342 processing category to a category other than another data  
 1343 processing category. This section expires July 1, 2025.

1344 Section 36. In order to implement the appropriation of  
 1345 funds in the appropriation category "Special Categories-Risk  
 1346 Management Insurance" in the 2024-2025 General Appropriations  
 1347 Act, and pursuant to the notice, review, and objection  
 1348 procedures of s. 216.177, Florida Statutes, the Executive Office  
 1349 of the Governor may transfer funds appropriated in that category  
 1350 between departments in order to align the budget authority

1351 granted with the premiums paid by each department for risk  
 1352 management insurance. This section expires July 1, 2025.

1353 Section 37. In order to implement the appropriation of  
 1354 funds in the appropriation category "Special Categories-Transfer  
 1355 to Department of Management Services-Human Resources Services  
 1356 Purchased per Statewide Contract" in the 2024-2025 General  
 1357 Appropriations Act, and pursuant to the notice, review, and  
 1358 objection procedures of s. 216.177, Florida Statutes, the  
 1359 Executive Office of the Governor may transfer funds appropriated  
 1360 in that category between departments in order to align the  
 1361 budget authority granted with the assessments that must be paid  
 1362 by each agency to the Department of Management Services for  
 1363 human resource management services. This section expires July 1,  
 1364 2025.

1365 Section 38. In order to implement Specific Appropriation  
 1366 2880 in the 2024-2025 General Appropriations Act in the Building  
 1367 Relocation appropriation category from the Architects Incidental  
 1368 Trust Fund of the Department of Management Services, and in  
 1369 accordance with s. 215.196, Florida Statutes:

1370 (1) Upon the final disposition of a state-owned building,  
 1371 the Department of Management Services may use up to 5 percent of  
 1372 facility disposition funds from the Architects Incidental Trust  
 1373 Fund to defer, offset, or otherwise pay for all or a portion of  
 1374 relocation expenses, including furniture, fixtures, and  
 1375 equipment for state agencies impacted by the disposition of the



1376 department's managed facilities in the Florida Facilities Pool.  
 1377 The extent of the financial assistance provided to impacted  
 1378 state agencies shall be determined by the department.

1379 (2) The Department of Management Services may submit  
 1380 budget amendments for an increase in appropriation if necessary  
 1381 for the implementation of this section pursuant to the  
 1382 provisions of chapter 216, Florida Statutes. Budget amendments  
 1383 for an increase in appropriation shall include a detailed plan  
 1384 providing all estimated costs and relocation proposals.

1385 (3) This section expires July 1, 2025.

1386 Section 39. In order to implement Specific Appropriations  
 1387 2875 through 2882 of the 2024-2025 General Appropriations Act  
 1388 from the Architects Incidental Trust Fund of the Department of  
 1389 Management Services, notwithstanding s. 253.025(4), Florida  
 1390 Statutes, and in accordance with s. 215.196, Florida Statutes,  
 1391 the Department of Management Services may acquire additional  
 1392 state-owned office buildings as defined in s. 255.248, Florida  
 1393 Statutes, or property for inclusion in the Florida Facilities  
 1394 Pool as created in s. 255.505, Florida Statutes. This section  
 1395 expires July 1, 2025.

1396 Section 40. In order to implement Specific Appropriations  
 1397 2456 through 2462 of the 2024-2025 General Appropriations Act:

1398 (1) The Department of Financial Services shall replace the  
 1399 four main components of the Florida Accounting Information  
 1400 Resource Subsystem (FLAIR), which include central FLAIR,

1401 departmental FLAIR, payroll, and information warehouse, and  
 1402 shall replace the cash management and accounting management  
 1403 components of the Cash Management Subsystem (CMS) with an  
 1404 integrated enterprise system that allows the state to organize,  
 1405 define, and standardize its financial management business  
 1406 processes and that complies with ss. 215.90-215.96, Florida  
 1407 Statutes. The department may not include in the replacement of  
 1408 FLAIR and CMS:

1409 (a) Functionality that duplicates any of the other  
 1410 information subsystems of the Florida Financial Management  
 1411 Information System; or

1412 (b) Agency business processes related to any of the  
 1413 functions included in the Personnel Information System, the  
 1414 Purchasing Subsystem, or the Legislative Appropriations  
 1415 System/Planning and Budgeting Subsystem.

1416 (2) For purposes of replacing FLAIR and CMS, the  
 1417 Department of Financial Services shall:

1418 (a) Take into consideration the cost and implementation  
 1419 data identified for Option 3 as recommended in the March 31,  
 1420 2014, Florida Department of Financial Services FLAIR Study,  
 1421 version 031.

1422 (b) Ensure that all business requirements and technical  
 1423 specifications have been provided to all state agencies for  
 1424 their review and input and approved by the executive steering  
 1425 committee established in paragraph (c), including any updates to

1426 these documents.

1427 (c) Implement a project governance structure that includes  
 1428 an executive steering committee composed of:

1429 1. The Chief Financial Officer or the executive sponsor of  
 1430 the project.

1431 2. A representative of the Division of Treasury of the  
 1432 Department of Financial Services, appointed by the Chief  
 1433 Financial Officer.

1434 3. The Chief Information Officers of the Department of  
 1435 Financial Services and the Department of Environmental  
 1436 Protection.

1437 4. Two employees from the Division of Accounting and  
 1438 Auditing of the Department of Financial Services, appointed by  
 1439 the Chief Financial Officer. Each employee must have experience  
 1440 relating to at least one of the four main components that  
 1441 compose FLAIR.

1442 5. Two employees from the Executive Office of the  
 1443 Governor, appointed by the Governor. One employee must have  
 1444 experience relating to the Legislative Appropriations  
 1445 System/Planning and Budgeting Subsystem.

1446 6. One employee from the Department of Revenue, appointed  
 1447 by the executive director, who has experience using or  
 1448 maintaining the department's finance and accounting systems.

1449 7. Two employees from the Department of Management  
 1450 Services, appointed by the Secretary of Management Services. One

1451 employee must have experience relating to the department's  
 1452 personnel information subsystem and one employee must have  
 1453 experience relating to the department's purchasing subsystem.

1454 8. A state agency administrative services director,  
 1455 appointed by the Governor.

1456 9. The executive sponsor of the Florida Health Care  
 1457 Connection (FX) System or his or her designee, appointed by the  
 1458 Secretary of Health Care Administration.

1459 10. The State Chief Information Officer, or his or her  
 1460 designee, as a nonvoting member. The State Chief Information  
 1461 Officer, or his or her designee, shall provide monthly status  
 1462 reports to the executive steering committee pursuant to the  
 1463 oversight responsibilities in s. 282.0051, Florida Statutes.

1464 11. One employee from the Department of Business and  
 1465 Professional Regulation who has experience in finance and  
 1466 accounting and FLAIR, appointed by the Secretary of Business and  
 1467 Professional Regulation.

1468 12. One employee from the Florida Fish and Wildlife  
 1469 Conservation Commission who has experience using or maintaining  
 1470 the commission's finance and accounting systems, appointed by  
 1471 the Chair of the Florida Fish and Wildlife Conservation  
 1472 Commission.

1473 13. The budget director of the Department of Education, or  
 1474 his or her designee.

1475 (3) (a) The Chief Financial Officer or the executive

1476 sponsor of the project shall serve as chair of the executive  
1477 steering committee, and the committee shall take action by a  
1478 vote of at least eight affirmative votes with the Chief  
1479 Financial Officer or the executive sponsor of the project voting  
1480 on the prevailing side. A quorum of the executive steering  
1481 committee consists of at least 10 members.

1482 (b) No later than 14 days before a meeting of the  
1483 executive steering committee, the chair shall request input from  
1484 committee members on agenda items for the next scheduled  
1485 meeting.

1486 (c) The chair shall establish a working group consisting  
1487 of FLAIR users, state agency technical staff who maintain  
1488 applications that integrate with FLAIR, and no less than four  
1489 state agency finance and accounting or budget directors. The  
1490 working group shall meet at least monthly to review PALM  
1491 functionality, assess project impacts to state financial  
1492 business processes and agency staff, and develop recommendations  
1493 to the executive steering committee for improvements. The chair  
1494 shall request input from the working group on agenda items for  
1495 each scheduled meeting. The PALM project team shall dedicate a  
1496 staff member to the group and provide system demonstrations and  
1497 any project documentation, as needed, for the group to fulfill  
1498 its duties.

1499 (d) The chair shall request all agency project sponsors to  
1500 provide bimonthly status reports to the executive steering

1501 committee. The form and format of the bimonthly status reports  
1502 shall be developed by the Florida PALM project and provided to  
1503 the executive steering committee meeting for approval. Such  
1504 agency status reports shall provide information to the executive  
1505 steering committee on the activities and ongoing work within the  
1506 agency to prepare their systems and impacted employees for the  
1507 deployment of the Florida PALM System. The first bimonthly  
1508 status report is due September 1, 2024, and bimonthly  
1509 thereafter.

1510 (4) The executive steering committee has the overall  
1511 responsibility for ensuring that the project to replace FLAIR  
1512 and CMS meets its primary business objectives and shall:

1513 (a) Identify and recommend to the Executive Office of the  
1514 Governor, the President of the Senate, and the Speaker of the  
1515 House of Representatives any statutory changes needed to  
1516 implement the replacement subsystem that will standardize, to  
1517 the fullest extent possible, the state's financial management  
1518 business processes.

1519 (b) Review and approve any changes to the project's scope,  
1520 schedule, and budget which do not conflict with the requirements  
1521 of subsection (1).

1522 (c) Ensure that adequate resources are provided throughout  
1523 all phases of the project.

1524 (d) Approve all major project deliverables and any cost  
1525 changes to each deliverable over \$250,000.

1526 (e) Approve contract amendments and changes to all  
 1527 contract-related documents associated with the replacement of  
 1528 FLAIR and CMS.

1529 (f) Review, and approve as warranted, the format of the  
 1530 bimonthly agency status reports to include meaningful  
 1531 information on each agency's progress in planning for the  
 1532 Florida PALM Major Implementation, covering the agency's people,  
 1533 processes, technology, and data transformation activities.

1534 (g) Ensure compliance with ss. 216.181(16), 216.311,  
 1535 216.313, 282.318(4)(h), and 287.058, Florida Statutes.

1536 (5) This section expires July 1, 2025.

1537 Section 41. In order to implement Specific Appropriation  
 1538 2991 of the 2024-2025 General Appropriations Act, and  
 1539 notwithstanding the expiration date in section 42 of chapter  
 1540 2023-240, Laws of Florida, subsection (3) of section 282.709,  
 1541 Florida Statutes, is reenacted to read:

1542 282.709 State agency law enforcement radio system and  
 1543 interoperability network.—

1544 (3) In recognition of the critical nature of the statewide  
 1545 law enforcement radio communications system, the Legislature  
 1546 finds that there is an immediate danger to the public health,  
 1547 safety, and welfare, and that it is in the best interest of the  
 1548 state to continue partnering with the system's current operator.  
 1549 The Legislature finds that continuity of coverage is critical to  
 1550 supporting law enforcement, first responders, and other public

1551 safety users. The potential for a loss in coverage or a lack of  
 1552 interoperability between users requires emergency action and is  
 1553 a serious concern for officers' safety and their ability to  
 1554 communicate and respond to various disasters and events.

1555 (a) The department, pursuant to s. 287.057(10), shall  
 1556 enter into a 15-year contract with the entity that was operating  
 1557 the statewide radio communications system on January 1, 2021.

1558 The contract must include:

- 1559 1. The purchase of radios;
- 1560 2. The upgrade to the Project 25 communications standard;
- 1561 3. Increased system capacity and enhanced coverage for  
 1562 system users;
- 1563 4. Operations, maintenance, and support at a fixed annual  
 1564 rate;
- 1565 5. The conveyance of communications towers to the  
 1566 department; and
- 1567 6. The assignment of communications tower leases to the  
 1568 department.

1569 (b) The State Agency Law Enforcement Radio System Trust  
 1570 Fund is established in the department and funded from surcharges  
 1571 collected under ss. 318.18, 320.0802, and 328.72. Upon  
 1572 appropriation, moneys in the trust fund may be used by the  
 1573 department to acquire the equipment, software, and engineering,  
 1574 administrative, and maintenance services it needs to construct,  
 1575 operate, and maintain the statewide radio system. Moneys in the



1576 trust fund from surcharges shall be used to help fund the costs  
 1577 of the system. Upon completion of the system, moneys in the  
 1578 trust fund may also be used by the department for payment of the  
 1579 recurring maintenance costs of the system.

1580 Section 42. The text of s. 282.709(3), Florida Statutes,  
 1581 as carried forward from chapter 2021-37, Laws of Florida, by  
 1582 this act, expires July 1, 2025, and the text of that subsection  
 1583 shall revert to that in existence on June 1, 2021, except that  
 1584 any amendments to such text enacted other than by this act shall  
 1585 be preserved and continue to operate to the extent that such  
 1586 amendments are not dependent upon the portions of text which  
 1587 expire pursuant to this section.

1588 Section 43. In order to implement appropriations relating  
 1589 to the purchase of equipment and services related to the  
 1590 Statewide Law Enforcement Radio System (SLERS) as authorized in  
 1591 the 2024-2025 General Appropriations Act, and notwithstanding s.  
 1592 287.057, Florida Statutes, state agencies and other eligible  
 1593 users of the SLERS network may use the Department of Management  
 1594 Services SLERS contract for purchase of equipment and services.  
 1595 This section expires July 1, 2025.

1596 Section 44. In order to implement Specific Appropriations  
 1597 2898 through 2909 of the 2024-2025 General Appropriations Act,  
 1598 and notwithstanding rule 60A-1.031, Florida Administrative Code,  
 1599 the transaction fee as identified in s. 287.057(24)(c), Florida  
 1600 Statutes, shall be collected for use of the online procurement

1601 system and is 0.7 percent for the 2024-2025 fiscal year only.  
 1602 This section expires July 1, 2025.

1603 Section 45. In order to implement Specific Appropriations  
 1604 2813 through 2838 of the 2024-2025 General Appropriations Act,  
 1605 and upon the expiration and reversion of the amendments made by  
 1606 section 46 of chapter 2023-240, Laws of Florida, paragraph (i)  
 1607 of subsection (9) of section 24.105, Florida Statutes, is  
 1608 amended to read:

1609 24.105 Powers and duties of department.—The department  
 1610 shall:

1611 (9) Adopt rules governing the establishment and operation  
 1612 of the state lottery, including:

1613 (i) The manner and amount of compensation of retailers,  
 1614 except for the 2024-2025 fiscal year only, effective July 1,  
 1615 2024, the commission for lottery ticket sales shall be 6 percent  
 1616 of the purchase price of each ticket sold or issued as a prize  
 1617 by a retailer. Any additional retailer compensation is limited  
 1618 to the Florida Lottery Retailer Bonus Commission program  
 1619 appropriated in Specific Appropriation 2834 of the 2024-2025  
 1620 General Appropriations Act.

1621 Section 46. The amendment to s. 24.105(9)(i), Florida  
 1622 Statutes, made by this act expires July 1, 2025, and the text of  
 1623 that paragraph shall revert to that in existence on June 30,  
 1624 2022, except that any amendments to such text enacted other than  
 1625 by this act shall be preserved and continue to operate to the

1626 extent that such amendments are not dependent upon the portions  
 1627 of text which expire pursuant to this section.

1628 Section 47. In order to implement Specific Appropriations  
 1629 3027 through 3035 of the 2024-2025 General Appropriations Act,  
 1630 paragraph (11) of subsection (6) of section 627.351, Florida  
 1631 Statutes, is amended to read:

1632 627.351 Insurance risk apportionment plans.—

1633 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1634 (11)1. In addition to any other method of alternative  
 1635 dispute resolution authorized by state law, the corporation may  
 1636 adopt policy forms that provide for the resolution of disputes  
 1637 regarding its claim determinations, including disputes regarding  
 1638 coverage for, or the scope and value of, a claim, in a  
 1639 proceeding before the Division of Administrative Hearings. Any  
 1640 such policies are not subject to s. 627.70154. All proceedings  
 1641 in the Division of Administrative Hearings pursuant to such  
 1642 policies are subject to ss. 57.105 and 768.79 as if filed in the  
 1643 courts of this state and are not considered chapter 120  
 1644 administrative proceedings. Rule 1.442, Florida Rules of Civil  
 1645 Procedure, applies to any offer served pursuant to s. 768.79,  
 1646 except that, notwithstanding any provision in Rule 1.442,  
 1647 Florida Rules of Civil Procedure, to the contrary, an offer  
 1648 shall not be served earlier than 10 days after filing the  
 1649 request for hearing with the Division of Administrative Hearings  
 1650 and shall not be served later than 10 days before the date set

1651 for the final hearing. The administrative law judge in such  
 1652 proceedings shall award attorney fees and other relief pursuant  
 1653 to ss. 57.105 and 768.79. The corporation may not seek, and the  
 1654 office may not approve, a maximum hourly rate for attorney fees.

1655 2. The corporation may contract with the division to  
 1656 conduct proceedings to resolve disputes regarding its claim  
 1657 determinations as may be provided for in the applicable policies  
 1658 of insurance.

1659 3. This paragraph expires July 1, 2025.

1660 Section 48. Effective upon this act becoming law, and in  
 1661 order to implement Specific Appropriations 2955 through 2964 of  
 1662 the Fiscal Year 2024-2025 General Appropriations Act,  
 1663 notwithstanding the proviso language for Specific Appropriation  
 1664 2966 in chapter 2023-239, Laws of Florida, section 110.116,  
 1665 Florida Statutes, is amended to read:

1666 110.116 Personnel information system; payroll procedures.—

1667 (1) The Department of Management Services shall establish  
 1668 and maintain, in coordination with the payroll system of the  
 1669 Department of Financial Services, a complete personnel  
 1670 information system for all authorized and established positions  
 1671 in the state service, with the exception of employees of the  
 1672 Legislature, unless the Legislature chooses to participate. The  
 1673 department may contract with a vendor to provide the personnel  
 1674 information system. The specifications shall be developed in  
 1675 conjunction with the payroll system of the Department of

1676 Financial Services and in coordination with the Auditor General.  
 1677 The Department of Financial Services shall determine that the  
 1678 position occupied by each employee has been authorized and  
 1679 established in accordance with the provisions of s. 216.251. The  
 1680 Department of Management Services shall develop and maintain a  
 1681 position numbering system that will identify each established  
 1682 position, and such information shall be a part of the payroll  
 1683 system of the Department of Financial Services. With the  
 1684 exception of employees of the Legislature, unless the  
 1685 Legislature chooses to participate, this system shall include  
 1686 all career service positions and those positions exempted from  
 1687 career service provisions, notwithstanding the funding source of  
 1688 the salary payments, and information regarding persons receiving  
 1689 payments from other sources. Necessary revisions shall be made  
 1690 in the personnel and payroll procedures of the state to avoid  
 1691 duplication insofar as is feasible. A list shall be organized by  
 1692 budget entity to show the employees or vacant positions within  
 1693 each budget entity. This list shall be available to the Speaker  
 1694 of the House of Representatives and the President of the Senate  
 1695 upon request.

1696 (2) In recognition of the critical nature of the statewide  
 1697 personnel and payroll system commonly known as People First, the  
 1698 Legislature finds that it is in the best interest of the state  
 1699 to continue partnering with the current People First third-party  
 1700 operator. The People First System annually processes 500,000

1701 employment applications, 455,000 personnel actions, and the  
1702 state's \$9.5-billion payroll. The Legislature finds that the  
1703 continuity of operations of the People First System and the  
1704 critical functions it provides such as payroll, employee health  
1705 insurance benefit records, and other critical services must not  
1706 be interrupted. Presently, the Chief Financial Officer is  
1707 undertaking the development of a new statewide accounting and  
1708 financial management system, commonly known as the Planning,  
1709 Accounting, and Ledger, Management System (PALM), scheduled to  
1710 be operational in the year 2026. The procurement and  
1711 implementation of an entire replacement of the People First  
1712 System will impede the timeframe needed to successfully  
1713 integrate the state's payroll system with the PALM System. In  
1714 order to maintain continuity of operations and to ensure the  
1715 successful completion of the PALM System, the Legislature  
1716 directs that:

1717 (a) The department, pursuant to s. 287.057(11), shall  
1718 enter into a 5-year contract extension with the entity operating  
1719 the People First System on January 1, 2024. The contract  
1720 extension must:

1721 1. Provide for the integration of the current People First  
1722 System with PALM.

1723 2. Exclude major functionality updates or changes to the  
1724 People First System prior to completion of the PALM System. This  
1725 does not include:

1726        a. Routine system maintenance such as code updates  
 1727 following open enrollment; or  
 1728        b. The technical remediation necessary to integrate the  
 1729 system with PALM within the PALM project's planned  
 1730 implementation schedule.  
 1731        3. Include project planning and analysis deliverables  
 1732 necessary to:  
 1733        a. Detail and document the state's functional  
 1734 requirements.  
 1735        b. Estimate the cost of transitioning the current People  
 1736 First System to a cloud computing infrastructure within the  
 1737 contract extension and after the successful integration with  
 1738 PALM. The project cost evaluation shall estimate the annual cost  
 1739 and capacity growth required to host the system in a cloud  
 1740 environment.  
 1741  
 1742 The department shall develop these system specifications in  
 1743 conjunction with the Department of Financial Services and the  
 1744 Auditor General.  
 1745        4. Include technical support for state agencies that may  
 1746 need assistance in remediating or integrating current financial  
 1747 shadow systems with People First in order to integrate with PALM  
 1748 or the cloud version of People First.  
 1749        5. Include organizational change management and training  
 1750 deliverables needed to support the implementation of PALM

1751 payroll functionality and the People First System cloud upgrade.  
 1752 Responsibilities of the operator and the department shall be  
 1753 outlined in a project role and responsibility assignment chart  
 1754 within the contract.

1755 (b) The department shall submit, no later than June 30,  
 1756 2026, its project planning and detailed cost estimate to upgrade  
 1757 the current People First System to the chair of the Senate  
 1758 Committee on Appropriations, the chair of the House of  
 1759 Representatives Appropriations Committee, and the Executive  
 1760 Office of the Governor's Office of Policy and Budget, for  
 1761 preliminary review and consideration of funding the department's  
 1762 Fiscal Year 2026-2027 legislative budget request to update the  
 1763 system.

1764 Section 49. In order to implement the appropriation of  
 1765 funds in the appropriation category "Northwest Regional Data  
 1766 Center" in the 2024-2025 General Appropriations Act, and  
 1767 pursuant to the notice, review, and objection procedures of s.  
 1768 216.177, Florida Statutes, the Executive Office of the Governor  
 1769 may transfer funds appropriated in that category between  
 1770 departments in order to align the budget authority granted based  
 1771 on the estimated costs for data processing services for the  
 1772 2024-2025 fiscal year. This section expires July 1, 2025.

1773 Section 50. In order to implement appropriations  
 1774 authorized in the 2024-2025 General Appropriations Act for state  
 1775 data center services, auxiliary assessments charged to state



1776 agencies related to contract management services provided to  
 1777 Northwest Regional Data Center shall not exceed 3 percent. This  
 1778 section expires July 1, 2025.

1779 Section 51. In order to implement Specific Appropriation  
 1780 2506A of the 2024-2025 General Appropriations Act, section  
 1781 284.51, Florida Statutes, is created to read:

1782 284.51 Electroencephalogram combined transcranial magnetic  
 1783 stimulation treatment pilot program.-

1784 (1) As used in this section the term:

1785 (a) "Division" means the Division of Risk Management at  
 1786 the Department of Financial Services.

1787 (b) "Electroencephalogram combined Transcranial Magnetic  
 1788 Stimulation" or "eTMS" means treatment in which transcranial  
 1789 magnetic stimulation frequency pulses are tuned to the patient's  
 1790 physiology and biometric data.

1791 (c) "First Responder" has the same meaning as provided in  
 1792 s. 112.1815(1).

1793 (d) "Veteran" means:

1794 1. A veteran as defined in 38 U.S.C. s. 101(2);

1795 2. A person who served in a reserve component as defined  
 1796 in 38 U.S.C. s. 101(27); or

1797 3. A person who served in the National Guard of any state.

1798 (2) The division shall select a provider to establish a  
 1799 statewide pilot program to make eTMS available for veterans,  
 1800 first responders, and immediate family members of veterans and

1801 first responders with:

1802 (a) Substance use disorders.

1803 (b) Mental illness.

1804 (c) Sleep disorders.

1805 (d) Traumatic brain injuries.

1806 (e) Sexual trauma.

1807 (f) Post-traumatic stress disorder and accompanying

1808 comorbidities.

1809 (g) Concussions.

1810 (h) Other brain trauma.

1811 (i) Quality of life issues affecting human performance,

1812 including issues related to or resulting from problems with

1813 cognition and problems maintaining attention, concentration, or

1814 focus.

1815 (3) The provider must display a history of serving veteran

1816 and first responder populations at a statewide level. The

1817 provider shall establish a network for in person and offsite

1818 care with the goal of providing statewide access. Consideration

1819 shall be provided to locations with a large population of first

1820 responders and veterans. In addition to traditional eTMS

1821 devices, the provider may utilize non-medical Portable Magnetic

1822 Stimulation devices to improve access to underserved populations

1823 in remote areas or to be used to serve as a pre-post treatment

1824 or a stand-alone device. The provider shall be required to

1825 establish and operate a clinical practice and to evaluate

1826 outcomes of such clinical practice.

1827 (4) The division shall adopt rules for the pilot program  
 1828 which shall include:

1829 (a) The establishment of a peer-to-peer support network  
 1830 by the provider made available to all individuals receiving  
 1831 treatment under the program.

1832 (b) The requirement that each individual who receives  
 1833 treatment under the program also must receive neurophysiological  
 1834 monitoring, monitoring for symptoms of substance use and other  
 1835 mental health disorders, and access to counseling and wellness  
 1836 programming. Each individual who receives treatment must also  
 1837 participate in the peer-to-peer support network established by  
 1838 the provider.

1839 (c) The establishment of protocols which include the use  
 1840 of adopted stimulation frequency and intensity modulation based  
 1841 on EEGs done on days 0, 10, and 20 and motor threshold testing,  
 1842 as well as clinical symptoms, signs, and biometrics.

1843 (d) The requirement that protocols and outcomes of any  
 1844 treatment provided by the clinical practice shall be collected  
 1845 and reported by the provider quarterly to the division, the  
 1846 President of the Senate, and the Speaker of the House of  
 1847 Representatives. Such report shall include the bio-data metrics  
 1848 and all expenditures and accounting of the use of funds received  
 1849 from the department.

1850 (e) The requirement that protocols and outcomes of any

1851 treatment provided by the clinical practice shall be collected  
 1852 and reported to the University of South Florida and may be  
 1853 provided by the provider to any relevant Food and Drug  
 1854 Administration studies or trials.

1855 (5) This section expires July 1, 2025.

1856 Section 52. In order to implement specific appropriations  
 1857 from the land acquisition trust funds within the Department of  
 1858 Agriculture and Consumer Services, the Department of  
 1859 Environmental Protection, the Department of State, and the Fish  
 1860 and Wildlife Conservation Commission, which are contained in the  
 1861 2024-2025 General Appropriations Act, subsection (3) of section  
 1862 215.18, Florida Statutes, is amended to read:

1863 215.18 Transfers between funds; limitation.—

1864 (3) Notwithstanding subsection (1) and only with respect  
 1865 to a land acquisition trust fund in the Department of  
 1866 Agriculture and Consumer Services, the Department of  
 1867 Environmental Protection, the Department of State, or the Fish  
 1868 and Wildlife Conservation Commission, whenever there is a  
 1869 deficiency in a land acquisition trust fund which would render  
 1870 that trust fund temporarily insufficient to meet its just  
 1871 requirements, including the timely payment of appropriations  
 1872 from that trust fund, and other trust funds in the State  
 1873 Treasury have moneys that are for the time being or otherwise in  
 1874 excess of the amounts necessary to meet the just requirements,  
 1875 including appropriated obligations, of those other trust funds,

1876 | the Governor may order a temporary transfer of moneys from one  
 1877 | or more of the other trust funds to a land acquisition trust  
 1878 | fund in the Department of Agriculture and Consumer Services, the  
 1879 | Department of Environmental Protection, the Department of State,  
 1880 | or the Fish and Wildlife Conservation Commission. Any action  
 1881 | proposed pursuant to this subsection is subject to the notice,  
 1882 | review, and objection procedures of s. 216.177, and the Governor  
 1883 | shall provide notice of such action at least 7 days before the  
 1884 | effective date of the transfer of trust funds, except that  
 1885 | during July 2024 ~~2023~~, notice of such action shall be provided  
 1886 | at least 3 days before the effective date of a transfer unless  
 1887 | such 3-day notice is waived by the chair and vice chair of the  
 1888 | Legislative Budget Commission. Any transfer of trust funds to a  
 1889 | land acquisition trust fund in the Department of Agriculture and  
 1890 | Consumer Services, the Department of Environmental Protection,  
 1891 | the Department of State, or the Fish and Wildlife Conservation  
 1892 | Commission must be repaid to the trust funds from which the  
 1893 | moneys were loaned by the end of the 2024-2025 ~~2023-2024~~ fiscal  
 1894 | year. The Legislature has determined that the repayment of the  
 1895 | other trust fund moneys temporarily loaned to a land acquisition  
 1896 | trust fund in the Department of Agriculture and Consumer  
 1897 | Services, the Department of Environmental Protection, the  
 1898 | Department of State, or the Fish and Wildlife Conservation  
 1899 | Commission pursuant to this subsection is an allowable use of  
 1900 | the moneys in a land acquisition trust fund because the moneys

1901 from other trust funds temporarily loaned to a land acquisition  
 1902 trust fund shall be expended solely and exclusively in  
 1903 accordance with s. 28, Art. X of the State Constitution. This  
 1904 subsection expires July 1, 2025 ~~2024~~.

1905 Section 53. (1) In order to implement specific  
 1906 appropriations from the land acquisition trust funds within the  
 1907 Department of Agriculture and Consumer Services, the Department  
 1908 of Environmental Protection, the Department of State, and the  
 1909 Fish and Wildlife Conservation Commission which are contained in  
 1910 the 2024-2025 General Appropriations Act, the Department of  
 1911 Environmental Protection shall transfer revenues from the Land  
 1912 Acquisition Trust Fund within the department to the land  
 1913 acquisition trust funds within the Department of Agriculture and  
 1914 Consumer Services, the Department of State, and the Fish and  
 1915 Wildlife Conservation Commission as provided in this section. As  
 1916 used in this section, the term "department" means the Department  
 1917 of Environmental Protection.

1918 (2) After subtracting any required debt service payments,  
 1919 the proportionate share of revenues to be transferred to each  
 1920 land acquisition trust fund shall be calculated by dividing the  
 1921 appropriations from each of the land acquisition trust funds for  
 1922 the fiscal year by the total appropriations from the Land  
 1923 Acquisition Trust Fund within the department and the land  
 1924 acquisition trust funds within the Department of Agriculture and  
 1925 Consumer Services, the Department of State, and the Fish and

1926 Wildlife Conservation Commission for the fiscal year. The  
 1927 department shall transfer the proportionate share of the  
 1928 revenues in the Land Acquisition Trust Fund within the  
 1929 department on a monthly basis to the appropriate land  
 1930 acquisition trust funds within the Department of Agriculture and  
 1931 Consumer Services, the Department of State, and the Fish and  
 1932 Wildlife Conservation Commission and shall retain its  
 1933 proportionate share of the revenues in the Land Acquisition  
 1934 Trust Fund within the department. Total distributions to a land  
 1935 acquisition trust fund within the Department of Agriculture and  
 1936 Consumer Services, the Department of State, and the Fish and  
 1937 Wildlife Conservation Commission may not exceed the total  
 1938 appropriations from such trust fund for the fiscal year.

1939 (3) In addition, the department shall transfer from the  
 1940 Land Acquisition Trust Fund to land acquisition trust funds  
 1941 within the Department of Agriculture and Consumer Services, the  
 1942 Department of State, and the Fish and Wildlife Conservation  
 1943 Commission amounts equal to the difference between the amounts  
 1944 appropriated in chapter 2023-240, Laws of Florida, to the  
 1945 department's Land Acquisition Trust Fund and the other land  
 1946 acquisition trust funds, and the amounts actually transferred  
 1947 between those trust funds during the 2023-2024 fiscal year.

1948 (4) The department may advance funds from the beginning  
 1949 unobligated fund balance in the Land Acquisition Trust Fund to  
 1950 the Land Acquisition Trust Fund within the Fish and Wildlife

1951 Conservation Commission needed for cash flow purposes based on a  
 1952 detailed expenditure plan. The department shall prorate amounts  
 1953 transferred quarterly to the Fish and Wildlife Conservation  
 1954 Commission to recoup the amount of funds advanced by June 30,  
 1955 2025.

1956 (5) This section expires July 1, 2025.

1957 Section 54. In order to implement Specific Appropriation  
 1958 1804 of the 2024-2025 General Appropriations Act, and  
 1959 notwithstanding the expiration date in section 57 of chapter  
 1960 2023-240, Laws of Florida, paragraph (g) of subsection (15) of  
 1961 section 376.3071, Florida Statutes, is reenacted to read:

1962 376.3071 Inland Protection Trust Fund; creation; purposes;  
 1963 funding.—

1964 (15) ETHANOL OR BIODIESEL DAMAGE; PREVENTIVE MEASURES.—The  
 1965 department shall pay, pursuant to this subsection, up to \$10  
 1966 million each fiscal year from the fund for the costs of labor  
 1967 and equipment to repair or replace petroleum storage systems  
 1968 that may have been damaged due to the storage of fuels blended  
 1969 with ethanol or biodiesel, or for preventive measures to reduce  
 1970 the potential for such damage.

1971 (g) Payments may not be made for the following:

- 1972 1. Proposal costs or costs related to preparation of the
- 1973 application and required documentation;
- 1974 2. Certified public accountant costs;
- 1975 3. Except as provided in paragraph (j), any costs in



1976 excess of the amount approved by the department under paragraph  
 1977 (b) or which are not in substantial compliance with the purchase  
 1978 order;

1979 4. Costs associated with storage tanks, piping, or  
 1980 ancillary equipment that has previously been repaired or  
 1981 replaced for which costs have been paid under this section;

1982 5. Facilities that are not in compliance with department  
 1983 storage tank rules, until the noncompliance issues have been  
 1984 resolved; or

1985 6. Costs associated with damage to petroleum storage  
 1986 systems caused in whole or in part by causes other than the  
 1987 storage of fuels blended with ethanol or biodiesel.

1988 Section 55. The text of s. 376.3071(15)(g), Florida  
 1989 Statutes, as carried forward from chapter 2020-114, Laws of  
 1990 Florida, by this act, expires July 1, 2025, and the text of that  
 1991 paragraph shall revert to that in existence on July 1, 2020, but  
 1992 not including, any amendments made by this act or chapter 2020-  
 1993 114, Laws of Florida, and any amendments to such text enacted  
 1994 other than by this act shall be preserved and continue to  
 1995 operate to the extent that such amendments are not dependent  
 1996 upon the portion of text which expires pursuant to this section.

1997 Section 56. In order to implement specific appropriations  
 1998 from the Florida Forever Trust Fund within the Department of  
 1999 Environmental Protection, which are contained in the 2024-2025  
 2000 General Appropriations Act, paragraph (m) of subsection (3) of

2001 section 259.105, Florida Statutes, is amended to read:

2002 259.105 The Florida Forever Act.—

2003 (3) Less the costs of issuing and the costs of funding  
 2004 reserve accounts and other costs associated with bonds, the  
 2005 proceeds of cash payments or bonds issued pursuant to this  
 2006 section shall be deposited into the Florida Forever Trust Fund  
 2007 created by s. 259.1051. The proceeds shall be distributed by the  
 2008 Department of Environmental Protection in the following manner:

2009 (m) Notwithstanding paragraphs (a)-(j) and for the 2024-  
 2010 2025 ~~2023-2024~~ fiscal year, the proceeds shall be distributed as  
 2011 provided in the General Appropriations Act. This paragraph  
 2012 expires July 1, 2025 ~~2024~~.

2013 Section 57. In order to implement section 118 of the 2024-  
 2014 2025 General Appropriations Act, section 10 of chapter 2022-272,  
 2015 Laws of Florida, as amended by section 61 of chapter 2023-240,  
 2016 Laws of Florida is amended to read:

2017 Hurricane Restoration Reimbursement Grant Program.—

2018 (1) There is hereby created within the Department of  
 2019 Environmental Protection the Hurricane Restoration Reimbursement  
 2020 Grant Program for the purpose of providing financial assistance  
 2021 to mitigate coastal beach erosion for coastal homeowners whose  
 2022 property was significantly impacted by Hurricane Ian or  
 2023 Hurricane Nicole in 2022. The department is authorized to  
 2024 provide financial assistance grants to eligible recipients  
 2025 located in Brevard, Broward, Charlotte, Collier, Duval, Flagler,

2026 Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint  
 2027 Johns, Saint Lucie, Sarasota, and Volusia Counties.

2028 (2) The department may provide grants to property owners  
 2029 to mitigate for coastal beach erosion caused by Hurricane Ian or  
 2030 Hurricane Nicole during 2022. Grant funding may only be used to  
 2031 reimburse a property owner for construction costs:

2032 (a) Related to sand placement and temporary or permanent  
 2033 coastal armoring construction projects to mitigate coastal beach  
 2034 erosion and may not be used for the repair of residential  
 2035 structures.

2036 (b) Incurred as a result of preparation for or damage  
 2037 sustained from Hurricane Ian or Hurricane Nicole in 2022.

2038 (c) Incurred after September 23, 2022.

2039 (d) Related to a project that has been permitted, is  
 2040 exempt from permitting requirements, or is otherwise authorized  
 2041 by law.

2042 (3) Financial assistance grants may only be provided to  
 2043 mitigate damage to property located in Brevard, Broward,  
 2044 Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee,  
 2045 Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota,  
 2046 and Volusia Counties that is a:

2047 (a) Residential property that meets the following  
 2048 requirements:

2049 1. The parcel must be a single-family, site-built,  
 2050 residential property or a multi-family, site-built, residential

2051 property not to exceed four units; and  
 2052         2. The homeowner must have been granted a homestead  
 2053 exemption on the home under chapter 196, Florida Statutes;  
 2054         (b) Residential condominium, as defined in chapter 718,  
 2055 Florida Statutes; or  
 2056         (c) Cooperative, as defined in chapter 719, Florida  
 2057 Statutes.  
 2058         (4) (a) The department shall reimburse 100 percent of the  
 2059 cost of eligible sand placement projects. For armoring projects  
 2060 on residential properties eligible under paragraph (3) (a), the  
 2061 department shall cost-share with \$1 provided by the property  
 2062 owner for every \$1 provided by the state with a maximum of  
 2063 \$300,000 in state funding toward the actual cost of an eligible  
 2064 project. For armoring projects on properties eligible under  
 2065 paragraphs (3) (b) and (c), the department shall cost-share with  
 2066 \$1 provided by the property owner for every \$1 provided by the  
 2067 state with a maximum of \$600,000 in state funding toward the  
 2068 actual cost of an eligible project. The department shall  
 2069 prioritize applicants who are low-income or moderate-income  
 2070 persons, as defined in s. 420.0004, Florida Statutes. Grants  
 2071 will be awarded to property owners for eligible projects  
 2072 following the receipt of a completed application on a first-  
 2073 come, first-served basis until funding is exhausted.  
 2074         1. Applications may be submitted beginning February 1,  
 2075 2023.

2076 2. Applicants must include evidence that the project meets  
 2077 the criteria in subsections (2) and (3).

2078 (b) If the department determines that an application meets  
 2079 the requirements of this section, the department shall enter  
 2080 into a cost-share grant agreement with the applicant consistent  
 2081 with this section.

2082 (c) The department shall disburse grant funds on a  
 2083 reimbursement basis. In order to receive reimbursement, property  
 2084 owners must submit, at a minimum:

2085 1. If applicable, the permit issued under chapter 161,  
 2086 Florida Statutes, or applicable statute, and evidence that the  
 2087 project complies with all permitting requirements.

2088 2. All invoices and payment receipts for eligible  
 2089 projects.

2090 3. If applicable, documentation that the eligible project  
 2091 was completed by a licensed professional or contractor.

2092 (5) Beginning July 1, 2024, local governments and  
 2093 municipalities may apply for program funds to implement large  
 2094 scale sand placement projects located in a county listed in  
 2095 subsection (1). Impacted counties and municipalities may request  
 2096 funding for such projects that protect upland structures and  
 2097 provide benefits to property owners at large. Funding will be  
 2098 distributed on a first-come, first-served basis. Up to 100  
 2099 percent of costs are eligible. Projects must be able to be  
 2100 completed by July 1, 2025. No more than 50 percent of remaining

2101 funds will be used for this purpose.

2102 (6)~~(5)~~ No later than January 31, 2023, the department  
 2103 shall adopt emergency rules prescribing the procedures,  
 2104 administration, and criteria for approving the applications for  
 2105 the Hurricane Restoration Reimbursement Grant Program. The  
 2106 department is authorized, and all conditions are deemed met, to  
 2107 adopt emergency rules under ss. 120.536(1) and 120.54(4),  
 2108 Florida Statutes, to implement this section. The Legislature  
 2109 finds that such emergency rulemaking authority is necessary to  
 2110 address critical shoreline erosion which may result in the loss  
 2111 of property by homeowners in those areas of the state that  
 2112 sustained damage due to Hurricane Ian or Hurricane Nicole during  
 2113 2022. Such rules shall remain effective until the funding in the  
 2114 grant program is exhausted or this section expires ~~for 6 months~~  
 2115 ~~after the date of adoption.~~

2116 (7)~~(6)~~ This section expires July 1, 2025 ~~2024~~.

2117 Section 58. In order to implement Specific Appropriation  
 2118 1919 of the 2024-2025 General Appropriations Act and  
 2119 notwithstanding s. 823.11(4)(c), Florida Statutes, the Fish and  
 2120 Wildlife Conservation Commission may use funds appropriated for  
 2121 the derelict vessel removal program for grants to local  
 2122 governments or to remove, store, destroy, and dispose of, or to  
 2123 pay private contractors to remove, store, destroy, and dispose  
 2124 of, derelict vessels or vessels declared a public nuisance  
 2125 pursuant to s. 327.73(1)(aa), Florida Statutes. This section

2126 expires July 1, 2025.

2127 Section 59. In order to implement Specific Appropriation  
 2128 2736 of the 2024-2025 General Appropriations Act, paragraph (b)  
 2129 of subsection (3) and subsection (5) of section 321.04, Florida  
 2130 Statutes, are amended to read:

2131 321.04 Personnel of the highway patrol; rank  
 2132 classifications; probationary status of new patrol officers;  
 2133 subsistence; special assignments.-

2134 (3)

2135 (b) For the 2024-2025 ~~2023-2024~~ fiscal year only, upon the  
 2136 request of the Governor, the Department of Highway Safety and  
 2137 Motor Vehicles shall assign one or more patrol officers to the  
 2138 office of the Lieutenant Governor for security services. This  
 2139 paragraph expires July 1, 2025 ~~2024~~.

2140 (5) For the 2024-2025 ~~2023-2024~~ fiscal year only, the  
 2141 assignment of a patrol officer by the department shall include a  
 2142 Cabinet member specified in s. 4, Art. IV of the State  
 2143 Constitution if deemed appropriate by the department or in  
 2144 response to a threat and upon written request of such Cabinet  
 2145 member. This subsection expires July 1, 2025 ~~2024~~.

2146 Section 60. In order to implement section 148 of the 2024-  
 2147 2025 General Appropriations Act, subsection (3) of section  
 2148 288.80125, Florida Statutes, is amended to read:

2149 288.80125 Triumph Gulf Coast Trust Fund.-

2150 (3) For the 2024-2025 ~~2023-2024~~ fiscal year, funds shall

2151 be used for the Rebuild Florida Revolving Loan Fund program to  
 2152 provide assistance to businesses impacted by Hurricane Michael  
 2153 as provided in the General Appropriations Act. This subsection  
 2154 expires July 1, 2025 ~~2024~~.

2155 Section 61. In order to implement Specific Appropriations  
 2156 2284 through 2291 of the 2024-2025 General Appropriations Act,  
 2157 subsection (3) of section 288.8013, Florida Statutes, is  
 2158 reenacted to read:

2159 288.8013 Triumph Gulf Coast, Inc.; creation; funding;  
 2160 investment.—

2161 (3) Triumph Gulf Coast, Inc., shall establish a trust  
 2162 account at a federally insured financial institution to hold  
 2163 funds received from the Triumph Gulf Coast Trust Fund and make  
 2164 deposits and payments. Triumph Gulf Coast, Inc., may invest  
 2165 surplus funds in the Local Government Surplus Funds Trust Fund,  
 2166 pursuant to s. 218.407. Earnings generated by investments and  
 2167 interest of the fund may be retained and used to make awards  
 2168 pursuant to this act or, notwithstanding paragraph (2)(d), for  
 2169 administrative costs, including costs in excess of the cap.  
 2170 Administrative costs may include payment of travel and per diem  
 2171 expenses of board members, audits, salary or other costs for  
 2172 employed or contracted staff, including required staff under s.  
 2173 288.8014(9), and other allowable costs. The annual salary for  
 2174 any employee or contracted staff may not exceed \$130,000, and  
 2175 associated benefits may not exceed 35 percent of salary.



2176           Section 62. The text of s. 288.8013(3), Florida Statutes,  
 2177 as carried forward from chapter 2023-240, Laws of Florida, by  
 2178 this act expires July 1, 2025, and the text of that subsection  
 2179 shall revert to that in existence on June 30, 2023, except that  
 2180 any amendments to such text enacted other than by this act shall  
 2181 be preserved and continue to operate to the extent that such  
 2182 amendments are not dependent upon the portions of text which  
 2183 expire pursuant to this section.

2184           Section 63. In order to implement section 175 of the 2024-  
 2185 2025 General Appropriations Act, subsection (4) of section  
 2186 339.08, Florida Statutes, is amended to read:

2187           339.08 Use of moneys in State Transportation Trust Fund.—

2188           (4) Notwithstanding any other law, and for the 2024-2025  
 2189 ~~2023-2024~~ fiscal year only, funds are appropriated to the State  
 2190 Transportation Trust Fund from the General Revenue Fund as  
 2191 provided in the General Appropriations Act. The department is  
 2192 not required to deplete the resources transferred from the  
 2193 General Revenue Fund for the fiscal year as required in s.  
 2194 339.135(3)(b), and the funds may not be used in calculating the  
 2195 required quarterly cash balance of the trust fund as required in  
 2196 s. 339.135(6)(b). This subsection expires July 1, 2025 ~~2024~~.

2197           Section 64. In order to implement Specific Appropriations  
 2198 2024 through 2037, 2037F, 2037G, 2049 through 2055, 2058 through  
 2199 2062, 2064 through 2072, and 2104 through 2116 of the 2024-2025  
 2200 General Appropriations Act, paragraph (h) of subsection (7) of

2201 section 339.135, Florida Statutes, is amended to read:  
 2202 339.135 Work program; legislative budget request;  
 2203 definitions; preparation, adoption, execution, and amendment.—  
 2204 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—  
 2205 (h)1. Any work program amendment that also adds a new  
 2206 project, or phase thereof, to the adopted work program in excess  
 2207 of \$3 million is subject to approval by the Legislative Budget  
 2208 Commission. Any work program amendment submitted under this  
 2209 paragraph must include, as supplemental information, a list of  
 2210 projects, or phases thereof, in the current 5-year adopted work  
 2211 program which are eligible for the funds within the  
 2212 appropriation category being used for the proposed amendment.  
 2213 The department shall provide a narrative with the rationale for  
 2214 not advancing an existing project, or phase thereof, in lieu of  
 2215 the proposed amendment.  
 2216 2. If the department submits an amendment to the  
 2217 Legislative Budget Commission and the commission does not meet  
 2218 or consider the amendment within 30 days after its submittal,  
 2219 the chair and vice chair of the commission may authorize the  
 2220 amendment to be approved pursuant to s. 216.177. This  
 2221 subparagraph expires July 1, 2025 ~~2024~~.  
 2222 Section 65. In order to implement Specific Appropriation  
 2223 3056 of the 2024-2025 General Appropriations Act, section  
 2224 250.245, Florida Statutes, is amended to read:  
 2225 250.245 Florida National Guard Joint Enlistment

2226 Enhancement Program.—

2227 (1) The Florida National Guard Joint Enlistment  
 2228 Enhancement Program (JEEP) is established within the Department  
 2229 of Military Affairs. The purpose of the program is to motivate  
 2230 soldiers, airmen, and retirees of the Florida National Guard to  
 2231 bolster recruitment efforts and increase the force structure of  
 2232 the Florida National Guard.

2233 (2) As used in this section, the term "recruiting  
 2234 assistant" means a member of the Florida National Guard or a  
 2235 retiree of the Florida National Guard who assists in the  
 2236 recruitment of a new member and who provides motivation,  
 2237 encouragement, and moral support until the enlistment of such  
 2238 new member.

2239 (3) A current member in pay grade E-1 to O-3 or a retiree  
 2240 in any pay grade is eligible for participation in JEEP as a  
 2241 recruiting assistant.

2242 (4) The Adjutant General shall provide compensation to  
 2243 recruiting assistants participating in JEEP. A recruiting  
 2244 assistant shall receive \$1,000 for each new member referred by  
 2245 them to the Florida National Guard upon the enlistment of such  
 2246 referred member.

2247 (5) The Department of Military Affairs, in cooperation  
 2248 with the Florida National Guard, shall adopt rules to administer  
 2249 the program.

2250 (6) This section expires July 1, 2025 ~~2024~~.

2251 Section 66. In order to implement Specific Appropriation  
 2252 2348 of the 2024-2025 General Appropriations Act, subsection (6)  
 2253 of section 288.0655, Florida Statutes, as amended, by 2023-349,  
 2254 Laws of Florida, is amended to read:

2255 288.0655 Rural Infrastructure Fund.—

2256 (6) For the 2024-2025 ~~2023-2024~~ fiscal year, the funds  
 2257 appropriated for the grant program for Florida Panhandle  
 2258 counties shall be distributed pursuant to and for the purposes  
 2259 described in the proviso language associated with Specific  
 2260 Appropriation 2348 ~~2342~~ of the 2024-2025 ~~2023-2024~~ General  
 2261 Appropriations Act. This subsection expires July 1, 2025 ~~2024~~.

2262 Section 67. In order to implement Specific Appropriations  
 2263 2705 through 2714 of the 2024-2025 General Appropriations Act,  
 2264 and notwithstanding ss. 216.181 and 216.292, Florida Statutes,  
 2265 the Division of Emergency Management may submit budget  
 2266 amendments, subject to the notice, review, and objection  
 2267 procedures of s. 216.177, Florida Statutes, to increase budget  
 2268 authority for projected expenditures due to reimbursements from  
 2269 federally declared disasters. This section expires July 1, 2025.

2270 Section 68. In order to implement Specific Appropriation  
 2271 2671 of the 2024-2025 General Appropriations Act, paragraph (d)  
 2272 of subsection (4) of section 112.061, Florida Statutes, is  
 2273 amended to read:

2274 112.061 Per diem and travel expenses of public officers,  
 2275 employees, and authorized persons; statewide travel management

2276 system.—

2277 (4) OFFICIAL HEADQUARTERS.—The official headquarters of an  
 2278 officer or employee assigned to an office shall be the city or  
 2279 town in which the office is located except that:

2280 (d) A Lieutenant Governor who permanently resides outside  
 2281 of Leon County, may, if he or she so requests, have an  
 2282 appropriate facility in his or her county designated as his or  
 2283 her official headquarters for purposes of this section. This  
 2284 official headquarters may only serve as the Lieutenant  
 2285 Governor's personal office. The Lieutenant Governor may not use  
 2286 state funds to lease space in any facility for his or her  
 2287 official headquarters.

2288 1. A Lieutenant Governor for whom an official headquarters  
 2289 is established in his or her county of residence pursuant to  
 2290 this paragraph is eligible for subsistence at a rate to be  
 2291 established by the Governor for each day or partial day that the  
 2292 Lieutenant Governor is at the State Capitol to conduct official  
 2293 state business. In addition to the subsistence allowance, a  
 2294 Lieutenant Governor is eligible for reimbursement for  
 2295 transportation expenses as provided in subsection (7) for travel  
 2296 between the Lieutenant Governor's official headquarters and the  
 2297 State Capitol to conduct state business.

2298 2. Payment of subsistence and reimbursement for  
 2299 transportation between a Lieutenant Governor's official  
 2300 headquarters and the State Capitol shall be made to the extent

2301 appropriated funds are available, as determined by the Governor.

2302 3. This paragraph expires July 1, 2025 ~~2024~~.

2303 Section 69. (1) In order to implement section 8 of the  
 2304 2024-2025 General Appropriations Act, beginning July 1, 2024,  
 2305 and on the first day of each month thereafter, the Department of  
 2306 Management Services shall assess an administrative health  
 2307 insurance assessment to each state agency equal to the  
 2308 employer's cost of individual employee health care coverage for  
 2309 each vacant position within such agency eligible for coverage  
 2310 through the Division of State Group Insurance. As used in this  
 2311 section, the term "state agency" means an agency within the  
 2312 State Personnel System, the Department of the Lottery, the  
 2313 Justice Administrative Commission and all entities  
 2314 administratively housed in the Justice Administrative  
 2315 Commission, and the state courts system.

2316 (2) Each state agency shall remit the assessed  
 2317 administrative health insurance assessment under subsection (1)  
 2318 to the State Employees Health Insurance Trust Fund, for the  
 2319 State Group Insurance Program, as provided in ss. 110.123 and  
 2320 110.1239, Florida Statutes, from currently allocated monies for  
 2321 salaries and benefits, within 30 days after receipt of the  
 2322 assessment from the Department of Management Services. Should  
 2323 any state agency become more than 60 days delinquent in payment  
 2324 of this obligation, the Department of Management Services shall  
 2325 certify to the Chief Financial Officer the amount due and the

2326 Chief Financial Officer shall transfer the amount due to the  
 2327 Department of Management Services.  
 2328 (3) The administrative health insurance assessment shall  
 2329 apply to all vacant positions funded with state funds whether  
 2330 fully or partially funded with state funds. Vacant positions  
 2331 partially funded with state funds shall pay a percentage of the  
 2332 assessment imposed in subsection (1) equal to the percentage  
 2333 share of state funds provided for such vacant positions. No  
 2334 assessment shall apply to vacant positions fully funded with  
 2335 federal funds. Each state agency shall provide the Department of  
 2336 Management Services with a complete list of vacant position  
 2337 numbers that are funded, or partially funded, with federal  
 2338 funding no later than July 31, 2024, and shall update the list  
 2339 on the last day of each month thereafter. For federally funded  
 2340 vacant positions, or partially funded vacant positions, each  
 2341 state agency shall immediately take steps to include the  
 2342 administrative health insurance assessment in its indirect cost  
 2343 plan for the 2025-2026 fiscal year and each fiscal year  
 2344 thereafter. A state agency shall notify the Department of  
 2345 Management Services, the Executive Office of the Governor, and  
 2346 the chair of the Senate Committee on Appropriation and the chair  
 2347 of the House of Representatives Appropriations Committee, upon  
 2348 approval of the updated indirect cost plan. If the state agency  
 2349 is not able to obtain approval from its federal awarding agency,  
 2350 the state agency must notify the Department of Management

2351 Services, the Executive Office of the Governor, and the  
 2352 appropriation chairs no later than January 15, 2025.

2353 (4) Pursuant to the notice, review, and objection  
 2354 procedures of s. 216.177, Florida Statutes, the Executive Office  
 2355 of the Governor may transfer budget authority appropriated in  
 2356 the Salaries and Benefits appropriation category between  
 2357 agencies in order to align the appropriations granted with the  
 2358 assessments that must be paid by each agency to the Department  
 2359 of Management Services for the administrative health insurance  
 2360 assessment.

2361 (5) This section expires July 1, 2025.

2362 Section 70. In order to implement Specific Appropriations  
 2363 2800 and 2801 of the 2024-2025 General Appropriations Act, and  
 2364 notwithstanding s. 11.13(1), Florida Statutes, the authorized  
 2365 salaries for members of the Legislature for the 2024-2025 fiscal  
 2366 year shall be set in the General Appropriations Act. This  
 2367 section expires July 1, 2025.

2368 Section 71. In order to implement the transfer of funds  
 2369 from the General Revenue Fund from trust funds for the 2024-2025  
 2370 General Appropriations Act, and notwithstanding the expiration  
 2371 date in section 76 of chapter 2023-240, Laws of Florida,  
 2372 paragraph (b) of subsection (2) of section 215.32, Florida  
 2373 Statutes, is reenacted to read:

2374 215.32 State funds; segregation.—

2375 (2) The source and use of each of these funds shall be as



2376 follows:

2377 (b)1. The trust funds shall consist of moneys received by  
 2378 the state which under law or under trust agreement are  
 2379 segregated for a purpose authorized by law. The state agency or  
 2380 branch of state government receiving or collecting such moneys  
 2381 is responsible for their proper expenditure as provided by law.  
 2382 Upon the request of the state agency or branch of state  
 2383 government responsible for the administration of the trust fund,  
 2384 the Chief Financial Officer may establish accounts within the  
 2385 trust fund at a level considered necessary for proper  
 2386 accountability. Once an account is established, the Chief  
 2387 Financial Officer may authorize payment from that account only  
 2388 upon determining that there is sufficient cash and releases at  
 2389 the level of the account.

2390 2. In addition to other trust funds created by law, to the  
 2391 extent possible, each agency shall use the following trust funds  
 2392 as described in this subparagraph for day-to-day operations:

2393 a. Operations or operating trust fund, for use as a  
 2394 depository for funds to be used for program operations funded by  
 2395 program revenues, with the exception of administrative  
 2396 activities when the operations or operating trust fund is a  
 2397 proprietary fund.

2398 b. Operations and maintenance trust fund, for use as a  
 2399 depository for client services funded by third-party payors.

2400 c. Administrative trust fund, for use as a depository for

2401 funds to be used for management activities that are departmental  
 2402 in nature and funded by indirect cost earnings and assessments  
 2403 against trust funds. Proprietary funds are excluded from the  
 2404 requirement of using an administrative trust fund.

2405 d. Grants and donations trust fund, for use as a  
 2406 depository for funds to be used for allowable grant or donor  
 2407 agreement activities funded by restricted contractual revenue  
 2408 from private and public nonfederal sources.

2409 e. Agency working capital trust fund, for use as a  
 2410 depository for funds to be used pursuant to s. 216.272.

2411 f. Clearing funds trust fund, for use as a depository for  
 2412 funds to account for collections pending distribution to lawful  
 2413 recipients.

2414 g. Federal grant trust fund, for use as a depository for  
 2415 funds to be used for allowable grant activities funded by  
 2416 restricted program revenues from federal sources.

2417  
 2418 To the extent possible, each agency must adjust its internal  
 2419 accounting to use existing trust funds consistent with the  
 2420 requirements of this subparagraph. If an agency does not have  
 2421 trust funds listed in this subparagraph and cannot make such  
 2422 adjustment, the agency must recommend the creation of the  
 2423 necessary trust funds to the Legislature no later than the next  
 2424 scheduled review of the agency's trust funds pursuant to s.  
 2425 215.3206.

2426           3. All such moneys are hereby appropriated to be expended  
 2427 in accordance with the law or trust agreement under which they  
 2428 were received, subject always to the provisions of chapter 216  
 2429 relating to the appropriation of funds and to the applicable  
 2430 laws relating to the deposit or expenditure of moneys in the  
 2431 State Treasury.

2432           4.a. Notwithstanding any provision of law restricting the  
 2433 use of trust funds to specific purposes, unappropriated cash  
 2434 balances from selected trust funds may be authorized by the  
 2435 Legislature for transfer to the Budget Stabilization Fund and  
 2436 General Revenue Fund in the General Appropriations Act.

2437           b. This subparagraph does not apply to trust funds  
 2438 required by federal programs or mandates; trust funds  
 2439 established for bond covenants, indentures, or resolutions whose  
 2440 revenues are legally pledged by the state or public body to meet  
 2441 debt service or other financial requirements of any debt  
 2442 obligations of the state or any public body; the Division of  
 2443 Licensing Trust Fund in the Department of Agriculture and  
 2444 Consumer Services; the State Transportation Trust Fund; the  
 2445 trust fund containing the net annual proceeds from the Florida  
 2446 Education Lotteries; the Florida Retirement System Trust Fund;  
 2447 trust funds under the management of the State Board of Education  
 2448 or the Board of Governors of the State University System, where  
 2449 such trust funds are for auxiliary enterprises, self-insurance,  
 2450 and contracts, grants, and donations, as those terms are defined

2451 by general law; trust funds that serve as clearing funds or  
 2452 accounts for the Chief Financial Officer or state agencies;  
 2453 trust funds that account for assets held by the state in a  
 2454 trustee capacity as an agent or fiduciary for individuals,  
 2455 private organizations, or other governmental units; and other  
 2456 trust funds authorized by the State Constitution.

2457 Section 72. The text of s. 215.32(2)(b), Florida Statutes,  
 2458 as carried forward from chapter 2011-47, Laws of Florida, by  
 2459 this act, expires July 1, 2025, and the text of that paragraph  
 2460 shall revert to that in existence on June 30, 2011, except that  
 2461 any amendments to such text enacted other than by this act shall  
 2462 be preserved and continue to operate to the extent that such  
 2463 amendments are not dependent upon the portions of text which  
 2464 expire pursuant to this section.

2465 Section 73. In order to implement appropriations in the  
 2466 2024-2025 General Appropriations Act for state employee travel,  
 2467 the funds appropriated to each state agency which may be used  
 2468 for travel by state employees are limited during the 2024-2025  
 2469 fiscal year to travel for activities that are critical to each  
 2470 state agency's mission. Funds may not be used for travel by  
 2471 state employees to foreign countries, other states, conferences,  
 2472 staff training activities, or other administrative functions  
 2473 unless the agency head has approved, in writing, that such  
 2474 activities are critical to the agency's mission. The agency head  
 2475 shall consider using teleconferencing and other forms of

2476 electronic communication to meet the needs of the proposed  
 2477 activity before approving mission-critical travel. This section  
 2478 does not apply to travel for law enforcement purposes, military  
 2479 purposes, emergency management activities, or public health  
 2480 activities. This section expires July 1, 2025.

2481 Section 74. In order to implement appropriations in the  
 2482 2024-2025 General Appropriations Act for state employee travel  
 2483 and notwithstanding s. 112.061, Florida Statutes, costs for  
 2484 lodging associated with a meeting, conference, or convention  
 2485 organized or sponsored in whole or in part by a state agency or  
 2486 the judicial branch may not exceed \$225 per day. An employee may  
 2487 expend his or her own funds for any lodging expenses in excess  
 2488 of \$225 per day. For purposes of this section, a meeting does  
 2489 not include travel activities for conducting an audit,  
 2490 examination, inspection, or investigation or travel activities  
 2491 related to a litigation or emergency response. This section  
 2492 expires July 1, 2025.

2493 Section 75. In order to implement the appropriations and  
 2494 reappropriations authorized in the 2024-2025 General  
 2495 Appropriations Act, paragraph (d) of subsection (11) of section  
 2496 216.181, Florida Statutes, is amended to read:

2497 216.181 Approved budgets for operations and fixed capital  
 2498 outlay.—

2499 (11)

2500 (d) Notwithstanding paragraph (b) and paragraph (2) (b),

2501 and for the 2024-2025 ~~2023-2024~~ fiscal year only, the  
 2502 Legislative Budget Commission may approve budget amendments for  
 2503 new fixed capital outlay projects or increase the amounts  
 2504 appropriated to state agencies for fixed capital outlay  
 2505 projects. This paragraph expires July 1, 2025 ~~2024~~.

2506  
 2507 The provisions of this subsection are subject to the notice and  
 2508 objection procedures set forth in s. 216.177.

2509 Section 76. In order to implement the salaries and  
 2510 benefits, expenses, other personal services, contracted  
 2511 services, special categories, and operating capital outlay  
 2512 categories of the 2024-2025 General Appropriations Act,  
 2513 paragraph (a) of subsection (2) of section 216.292, Florida  
 2514 Statutes, is amended to read:

2515 216.292 Appropriations nontransferable; exceptions.—

2516 (2) The following transfers are authorized to be made by  
 2517 the head of each department or the Chief Justice of the Supreme  
 2518 Court whenever it is deemed necessary by reason of changed  
 2519 conditions:

2520 (a) The transfer of appropriations funded from identical  
 2521 funding sources, except appropriations for fixed capital outlay,  
 2522 and the transfer of amounts included within the total original  
 2523 approved budget and plans of releases of appropriations as  
 2524 furnished pursuant to ss. 216.181 and 216.192, as follows:

2525 1. Between categories of appropriations within a budget

2526 entity, if no category of appropriation is increased or  
 2527 decreased by more than 5 percent of the original approved budget  
 2528 or \$250,000, whichever is greater, by all action taken under  
 2529 this subsection.

2530 2. Between budget entities within identical categories of  
 2531 appropriations, if no category of appropriation is increased or  
 2532 decreased by more than 5 percent of the original approved budget  
 2533 or \$250,000, whichever is greater, by all action taken under  
 2534 this subsection.

2535 3. Any agency exceeding salary rate established pursuant  
 2536 to s. 216.181(8) on June 30th of any fiscal year shall not be  
 2537 authorized to make transfers pursuant to subparagraphs 1. and 2.  
 2538 in the subsequent fiscal year.

2539 4. Notice of proposed transfers under subparagraphs 1. and  
 2540 2. shall be provided to the Executive Office of the Governor and  
 2541 the chairs of the legislative appropriations committees at least  
 2542 3 days prior to agency implementation in order to provide an  
 2543 opportunity for review. The review shall be limited to ensuring  
 2544 that the transfer is in compliance with the requirements of this  
 2545 paragraph.

2546 5. For the 2024-2025 ~~2023-2024~~ fiscal year, the review  
 2547 shall ensure that transfers proposed pursuant to this paragraph  
 2548 comply with this chapter, maximize the use of available and  
 2549 appropriate trust funds, and are not contrary to legislative  
 2550 policy and intent. This subparagraph expires July 1, 2025 ~~2024~~.

2551           Section 77. In order to implement appropriations in the  
 2552 2024-2025 General Appropriations Act for the acquisitions of  
 2553 motor vehicles, and notwithstanding chapter 287, Florida  
 2554 Statutes, relating to the purchase of motor vehicles from a  
 2555 state term contract, state agencies may purchase vehicles from  
 2556 nonstate term contract vendors without prior approval from the  
 2557 Department of Management Services, provided the cost of the  
 2558 motor vehicle is equal to or less than the cost of a similar  
 2559 class of vehicle found on a state term contract and provided the  
 2560 funds for the purchase have been specifically appropriated. This  
 2561 section expires July 1, 2025.

2562           Section 78. In order to implement Specific Appropriation  
 2563 2880 in the 2024-2025 General Appropriations Act, and  
 2564 notwithstanding s. 255.25(3)(a), Florida Statutes, the  
 2565 Department of Management Services, the Executive Office of the  
 2566 Governor, the Commissioner of Agriculture, the Chief Financial  
 2567 Officer, the Legislature, and the Attorney General are  
 2568 authorized to enter into a lease as a lessee for the use of  
 2569 space in a privately owned building, even if such space is 5,000  
 2570 square feet or more, without having to advertise or receive  
 2571 competitive solicitations. This section expires July 1, 2025.

2572           Section 79. In order to implement Specific Appropriations  
 2573 2916 through 2933 of the 2024-2025 General Appropriations Act,  
 2574 paragraph (a) of subsection (9) of section 110.12315, Florida  
 2575 Statutes, is amended to read:



2576           110.12315 Prescription drug program.—The state employees'  
 2577 prescription drug program is established. This program shall be  
 2578 administered by the Department of Management Services, according  
 2579 to the terms and conditions of the plan as established by the  
 2580 relevant provisions of the annual General Appropriations Act and  
 2581 implementing legislation, subject to the following conditions:

2582           (9) (a) Beginning with the 2025 ~~2020~~ plan year, the  
 2583 department must implement formulary management for prescription  
 2584 drugs and supplies. Such management practices must require  
 2585 prescription drugs to be subject to formulary inclusion or  
 2586 exclusion but may not restrict access to the most clinically  
 2587 appropriate, clinically effective, and lowest net-cost  
 2588 prescription drugs and supplies. ~~Drugs excluded from the~~  
 2589 ~~formulary must be available for inclusion if a physician,~~  
 2590 ~~advanced practice registered nurse, or physician assistant~~  
 2591 ~~prescribing a pharmaceutical clearly states on the prescription~~  
 2592 ~~that the excluded drug is medically necessary.~~ Prescription  
 2593 drugs and supplies first made available in the marketplace after  
 2594 January 1, 2025 ~~2020~~, may not be covered by the prescription  
 2595 drug program until specifically included in the list of covered  
 2596 prescription drugs and supplies.

2597           Section 80. The amendments to s. 110.12315(9) (a), Florida  
 2598 Statutes, made by this act expire July 1, 2025, and the text of  
 2599 that subsection shall revert to that in existence on June 30,  
 2600 2024, except that any amendments to such text enacted other than

2601 by this act shall be preserved and continue to operate to the  
 2602 extent that such amendments are not dependent upon the portions  
 2603 of text which expire pursuant to this section.

2604 Section 81. In order to implement section 177 of the 2024-  
 2605 2025 General Appropriations Act, and notwithstanding ss. 216.181  
 2606 and 216.292, Florida Statutes, the Executive Office of the  
 2607 Governor's Office of Policy and Budget may submit a budget  
 2608 amendment to the Legislative Budget Commission pursuant to  
 2609 chapter 216, Florida Statutes, to realign funding, within and  
 2610 between agencies, in appropriation categories specifically  
 2611 authorized for the implementation of the state's award from the  
 2612 federal Coronavirus State Fiscal Recovery Fund (Public Law 117-  
 2613 2). The funding realignment shall address projected surpluses  
 2614 and deficits in existing programs and maximize the state's  
 2615 utilization of federal funds, which must be fully obligated by  
 2616 December 31, 2024. The Executive Office of the Governor shall  
 2617 submit a budget amendment to realign federal funds no later than  
 2618 August 1, 2024. This section expires July 1, 2025.

2619 Section 82. In order to implement specific appropriations  
 2620 containing salary rate in the 2024-2025 General Appropriations  
 2621 Act, and notwithstanding s. 216.181(8)(b), Florida Statutes, the  
 2622 annual salary rate for the Department of Corrections and the  
 2623 Department of Highway Safety and Motor Vehicles shall be  
 2624 controlled at the budget entity level. This section expires July  
 2625 1, 2025.

2626           Section 83. Any section of this act which implements a  
 2627 specific appropriation or specifically identified proviso  
 2628 language in the 2024-2025 General Appropriations Act is void if  
 2629 the specific appropriation or specifically identified proviso  
 2630 language is vetoed. Any section of this act which implements  
 2631 more than one specific appropriation or more than one portion of  
 2632 specifically identified proviso language in the 2024-2025  
 2633 General Appropriations Act is void if all the specific  
 2634 appropriations or portions of specifically identified proviso  
 2635 language are vetoed.

2636           Section 84. If any other act passed during the 2024  
 2637 Regular Session of the Legislature contains a provision that is  
 2638 substantively the same as a provision in this act, but that  
 2639 removes or is otherwise not subject to the future repeal applied  
 2640 to such provision by this act, the Legislature intends that the  
 2641 provision in the other act takes precedence and continues to  
 2642 operate, notwithstanding the future repeal provided by this act.

2643           Section 85. If any provision of this act or its  
 2644 application to any person or circumstance is held invalid, the  
 2645 invalidity does not affect other provisions or applications of  
 2646 the act which can be given effect without the invalid provision  
 2647 or application, and to this end the provisions of this act are  
 2648 severable.

2649           Section 86. Except as otherwise expressly provided in this  
 2650 act and except for this section, which shall take effect upon

2651 | this act becoming a law, this act shall take effect July 1,  
2652 | 2024, or, if this act fails to become a law until after that  
2653 | date, it shall take effect upon becoming a law and shall operate  
2654 | retroactively to July 1, 2024.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB APC 24-03 Collective Bargaining

**SPONSOR(S):** Appropriations Committee

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Appropriations Committee		Willson	Pridgeon

**SUMMARY ANALYSIS**

The bill directs that the resolution of collective bargaining issues at impasse for the 2024-2025 fiscal year regarding state employees will ultimately be resolved based on the spending decisions included in the General Appropriations Act or legislation implemented for that Act for the 2024-2025 fiscal year.

The bill has an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Chapter 447, F.S., specifies the process for collective bargaining for public employees. The bargaining agent and the negotiator for the state must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees within the bargaining unit. Any collective bargaining agreement reached must be reduced to writing, signed by the chief executive officer for the state and the bargaining agent for the union, and submitted to the members of the bargaining unit for ratification.

Upon execution of the collective bargaining agreement, the Governor must request the legislative body to appropriate amounts sufficient to fund the provisions of the agreement. If the Legislature appropriates funds that are not sufficient to fund the agreement, the agreement must be administered on the basis of the amounts actually appropriated.

Typically, at the state level, an agreement is not reached on all issues. In that instance, and pursuant to s. 216.163(6), F.S., an impasse is declared on all unresolved issues when the Governor's budget recommendations are released. By the first day of the regular legislative session, each party must notify the presiding officers of the Legislature of any unresolved issues.<sup>1</sup> A joint select committee of members of the Florida House of Representatives and the Senate is appointed to review the positions of the parties relating to the unresolved issues. No later than the 14th day of the regular session, the committee must hold a public meeting and take public testimony regarding the issues at impasse.<sup>2</sup> During the session, the Legislature must take action to resolve all issues remaining at impasse. Any actions taken by the Legislature are binding on the parties.<sup>3</sup>

Following the resolution of the impasse issues, the parties are required to reduce to writing an agreement that includes those issues agreed to by the parties as well as those issues resolved by the Legislature. As noted above, the agreement must be signed by the chief executive officer and the bargaining agent and presented to the members of the bargaining unit for ratification.

If the members ratify the agreement, all the provisions of the agreement take effect. If the members do not ratify the agreement, the issues resolved by the Legislature take effect for the next fiscal year that were the subject of the negotiations.

The certified bargaining units for state employees and the respective bargaining agents include:

#### American Federation of State, County and Municipal Employees, Council 79

- Administrative and Clerical Unit
- Operational Services Unit
- Human Services Unit
- Professional Unit

#### Florida Nurses Association

- Professional Health Care Unit

#### Florida State Lodge Fraternal Order of Police

- Special Agent Unit

#### Federation of Physicians and Dentists and State Employees Attorneys Guild

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<sup>1</sup> s. 447.403(5)(a), F.S.

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

<sup>3</sup> s. 447.403(5)(b), F.S.

- Supervisory Non-professional Unit
- Physicians Unit
- Attorneys Unit

Florida State Fire Service Association

- Fire Service Unit

Police Benevolent Association

- Law Enforcement Unit
- Florida Highway Patrol Unit
- Lottery Law Enforcement Unit
- Security Services Unit

Federation of Public Employees

- Lottery Administrative and Support Unit

**Effect of the Bill**

The bill provides that all economic issues at impasse for the 2024-2025 fiscal year regarding state employees will be resolved pursuant to instructions provided in the General Appropriations Act for the 2024-2025 fiscal year and the relevant provisions of any legislation enacted to implement the General Appropriations Act.

**B. SECTION DIRECTORY:**

Section 1: Provides for resolution of collective bargaining issues at impasse between the State of Florida and certified collective bargaining units pursuant to specified instructions.

Section 2: Provides effective date of July 1, 2024.

**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:**



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**

1                                   A bill to be entitled  
2           An act relating to collective bargaining; providing  
3           for resolution pursuant to specified instructions of  
4           collective bargaining issues at impasse between the  
5           state and certified representatives of the bargaining  
6           units for state employees; providing an effective  
7           date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

10  
11           Section 1. All collective bargaining issues for which  
12 negotiations have reached an impasse for the 2024-2025 fiscal  
13 year between the State of Florida and the certified  
14 representatives of the bargaining units for state employees  
15 shall be resolved pursuant to instructions provided in the  
16 General Appropriations Act and relevant provisions of any  
17 legislation enacted to implement the General Appropriations Act  
18 for the 2024-2025 fiscal year.

19           Section 2. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB APC 24-04 Compensation of Elected Officers and Judges

**SPONSOR(S):** Appropriations Committee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Willson	Pridgeon

### SUMMARY ANALYSIS

The bill conforms current law to the funding decisions related to the compensation of elected officer and judges included in the House proposed General Appropriations Act for Fiscal Year 2024-2025.

The Florida Constitution provides that the compensation and method of payment of state and county officers shall be fixed by law.

Currently, the General Appropriations Act (GAA) provides for the compensation of a number of elected officers and judges, but not elected members of the Legislature.

Section 11.13, F.S., provides for the annual salaries of members of the Senate and House of Representatives and requires that members' annual salaries be adjusted each July 1 by the average percentage increase in the salaries of state career service employees in the previous fiscal year.

Beginning in 2010, the Legislature has maintained the annual salaries for members at the levels in effect on July 1, 2010, through a provision in each year's bill implementing the General Appropriations Act.

The bill repeals s. 11.13(1), F.S., providing for:

- the annual salaries of members of the Senate and House of Representatives, and
- the annual adjustment of member salaries relative to the average salary increase for state career service employees in the previous fiscal year.

Additionally, the bill provides that, beginning in Fiscal Year 2027-2028, the Legislature will establish annual salaries, relative to the salary of a Supreme Court Justice, for the Governor, Lieutenant Governor, Cabinet members, and certain judges in the General Appropriations Act.

Section 8 of the proposed House General Appropriations Act establishes salaries for members of the Legislature at the same levels currently in effect. See FISCAL COMMENTS.

The bill provides for an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Current Situation**

##### Compensation of Public Officers – Florida Constitution

The Florida Constitution provides that the powers, duties, compensation and method of payment of state and county officers shall be fixed by law.<sup>1</sup> The Constitution further provides that laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.<sup>2</sup>

##### General Appropriations Act

Section 8 of the General Appropriations Act (GAA) provides for the compensation of elected officers and judges, including the Governor, Lieutenant Governor, Chief Financial Officer, Attorney General, Commissioner of Agriculture,<sup>3</sup> Supreme Court Justices, and District Courts of Appeal, Circuit, and County Court Judges.<sup>4</sup> These salaries may be reduced on a voluntary basis.<sup>5</sup>

##### Members of the Legislature

In 1985,<sup>6</sup> the Legislature amended s. 11.13(1), F.S., to adjust the annual salaries of members of the Senate and House of Representatives (members) as follows:

- The President of the Senate and Speaker of the House of Representatives, \$25,000 each.
- All other members of the Senate and House of Representatives, \$18,000 each.

In the same year, the Legislature specified that members' annual salaries must be adjusted annually by the average percentage increase in the salaries of state career service employees in the previous fiscal year.<sup>7</sup>

Beginning in 2010,<sup>8</sup> the Legislature has maintained the annual salaries for members at the levels in effect on July 1, 2010, through a provision in each year's bill implementing the General Appropriations Act.<sup>9</sup>

#### **Effect of Bill**

The bill repeals s. 11.13(1), F.S., providing for:

- the annual salaries of members of the Senate and House of Representatives, and
- the annual adjustment of member salaries relative to the average salary increase for state career service employees in the previous fiscal year.

Additionally, the bill provides that, beginning in Fiscal Year 2027-2028, the Legislature will establish annual salaries for elected officers and judges in the General Appropriations Act, as follows:

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<sup>1</sup> art. II, s. 5, Fla. Const.

<sup>2</sup> art. III, s. 12, Fla. Const.

<sup>3</sup> Section 570.13, F.S., provides that the annual salary of the commissioner of agriculture "shall be the amount as provided by law."

<sup>4</sup> Article V, section 14(a) of the Florida Constitution provides that "all justices and judges shall be compensated only by state salaries fixed by general law."

<sup>5</sup> See, e.g., s. 8, ch. 2023-239, Laws of Fla. (Fiscal Year 2023-2024 General Appropriations Act)

<sup>6</sup> s. 8, ch. 85-322, Laws of Fla.

<sup>7</sup> *Id.*

<sup>8</sup> s. 58, ch. 2010-153, Laws of Fla. (Fiscal Year 2010-2011 Implementing Bill)

<sup>9</sup> See, e.g., s. 84., ch. 2022-137, Laws of Fla. (Fiscal Year 2023-2024 Implementing Bill)

Governor	At least 100% of Supreme Court Justice Salary
Lieutenant Governor	At least 95% of Governor Salary
Chief Financial Officer	At least 95% of Governor Salary
Attorney General	At least 95% of Governor Salary
Commissioner of Agriculture	At least 95% of Governor Salary
District Court of Appeal Judge	At least 90% of Supreme Court Justice Salary
Circuit Court Judge	At least 80% of Supreme Court Justice Salary
County Court Judge	At least 75% of Supreme Court Justice Salary

The bill specifies that these salaries may be reduced on a voluntary basis.

The bill provides for an effective date of July 1, 2024.

**B. SECTION DIRECTORY:**

Section 1 Amends s. 11.13, F.S., removing provisions specifying and providing for an annual adjustment of the annual salaries of members of the Senate and the House of Representatives.

Section 2 Requires the Legislature to establish annual salaries for elected officers and judges in a certain manner beginning in a certain fiscal year; specifies minimum annual salaries; authorizes the voluntary reduction of such salaries.

Section 3 Provides an effective date.

**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:**

Section 8 of the proposed House General Appropriations Act establishes salaries for members of the Legislature at the same levels currently in effect, which are as follows:

- The President of the Senate and Speaker of the House of Representatives, \$41,181 each, and
- All other members of the Senate and House of Representatives, \$29,697 each.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to compensation of elected officers  
 3           and judges; amending s. 11.13, F.S.; removing  
 4           provisions specifying and providing for an annual  
 5           adjustment of the annual salaries of members of the  
 6           Senate and the House of Representatives; requiring the  
 7           Legislature to establish annual salaries for elected  
 8           officers and judges in a certain manner beginning in a  
 9           certain fiscal year; specifying minimum annual  
 10          salaries; authorizing the voluntary reduction of such  
 11          salaries; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14

15           Section 1. Subsections (2) through (6) of section 11.13,  
 16           Florida Statutes, are renumbered as subsections (1) through (5),  
 17           respectively, and present subsections (1) and (4) of that  
 18           section are amended to read:

- 19           11.13 Compensation of members.—  
 20           ~~(1)(a) The annual salaries of members of the Senate and~~  
 21           ~~House of Representatives, payable in 12 equal monthly~~  
 22           ~~installments, shall be:~~  
 23           ~~1. The President of the Senate and Speaker of the House of~~  
 24           ~~Representatives, \$25,000 each.~~  
 25           ~~2. All other members of the Senate and House of~~



26 | ~~Representatives, \$18,000 each.~~

27 |       ~~(b) Effective July 1, 1986, and each July 1 thereafter,~~  
 28 | ~~the annual salaries of members of the Senate and House of~~  
 29 | ~~Representatives shall be adjusted by the average percentage~~  
 30 | ~~increase in the salaries of state career service employees for~~  
 31 | ~~the fiscal year just concluded. The Appropriations Committee of~~  
 32 | ~~each house shall certify to the Office of Legislative Services~~  
 33 | ~~the average percentage increase in the salaries of state career~~  
 34 | ~~service employees before July 1 of each year. The Office of~~  
 35 | ~~Legislative Services shall, as of July 1 of each year, determine~~  
 36 | ~~the adjusted annual salaries as provided herein.~~

37 |       (3)~~(4)~~ Each member of the Legislature shall be entitled to  
 38 | receive a monthly allowance for intradistrict expenses in an  
 39 | amount set annually by the President of the Senate for members  
 40 | of the Senate and the Speaker of the House of Representatives  
 41 | for members of the House. In setting the amount, the costs of  
 42 | maintaining a legislative district office or offices that  
 43 | provide an appropriate level of constituent services shall be  
 44 | considered. The procedure for disbursement of the monthly  
 45 | intradistrict expense allowed shall be set from time to time by  
 46 | the Office of Legislative Services, with the approval of the  
 47 | President of the Senate and the Speaker of the House of  
 48 | Representatives or their respective designees. Such expenses  
 49 | shall be a proper expense of the Legislature and shall be  
 50 | disbursed from the appropriation for legislative expense. The

51 expenses provided under this subsection shall not include any  
 52 travel and per diem reimbursed under subsections (1) and (2)  
 53 ~~subsections (2) and (3)~~ or the rules of either house.

54 Section 2. (1) Beginning in fiscal year 2027-2028, the  
 55 Legislature shall establish annual salaries for elected officers  
 56 and judges in the General Appropriations Act as follows:

57 (a) The annual salary for the Governor must be at least  
 58 100 percent of the annual salary established for a Supreme Court  
 59 justice.

60 (b) The annual salary for the Lieutenant Governor must be  
 61 at least 95 percent of the annual salary established for the  
 62 Governor.

63 (c) The annual salary for the Chief Financial Officer must  
 64 be at least 95 percent of the annual salary established for the  
 65 Governor.

66 (d) The annual salary for the Attorney General must be at  
 67 least 95 percent of the annual salary established for the  
 68 Governor.

69 (e) The annual salary for the Commissioner of Agriculture  
 70 must be at least 95 percent of the annual salary established for  
 71 the Governor.

72 (f) The annual salary for a district court of appeal judge  
 73 must be at least 90 percent of the annual salary established for  
 74 a Supreme Court justice.

75 (g) The annual salary for a circuit court judge must be at

76 | least 80 percent of the annual salary established for a Supreme  
77 | Court justice.

78 | (h) The annual salary for a county court judge must be at  
79 | least 75 percent of the annual salary established for a Supreme  
80 | Court justice.

81 | (2) Annual salaries established under subsection (1) may  
82 | be reduced on a voluntary basis.

83 | Section 3. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 83 Trust Funds/Re-creation/State-Operated Institutions Inmate Welfare Trust Fund/DOC

**SPONSOR(S):** Lopez, V. and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 520

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Justice Appropriations Subcommittee	13 Y, 0 N	Smith	Keith
2) Appropriations Committee		Smith	Pridgeon

### SUMMARY ANALYSIS

Article III, Section 19(f) of the Florida Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or re-creating that trust fund. The State-Operated Institutions Inmate Welfare Trust Fund, FLAIR number 20-2-523, was created in the Florida Department of Corrections (FDC) effective July 1, 2020, and is scheduled to terminate on July 1, 2024.

The bill re-creates the State-Operated Institutions Inmate Welfare Trust Fund in the FDC, provided that it is enacted by three-fifths of the membership of both houses of the Legislature.

The bill has no fiscal impact on state and local government.

The bill is effective upon becoming a law.

**Art. III s.19(f) of the Florida Constitution requires a three-fifths vote of the membership for final passage of a newly created or re-created trust fund. The bill re-creates a trust fund; thus, it requires a three-fifths vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

#### 1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 19(f), Article III of the Florida Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or recreating that trust fund. The State-Operated Institutions Inmate Welfare Trust Fund was created in the Florida Department of Corrections (FDC), effective July 1, 2020, by chapter 2020-97, Laws of Florida, in s. 944.73, F.S., and is scheduled to terminate on July 1, 2024.

#### 2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is used to provide for the benefit and welfare of inmates in state-operated correctional institutions, to include fixed capital outlay for educational facilities, environmental wellness upgrades to facilities, and maintenance and repairs that could improve environmental conditions.

#### 3. MAJOR SOURCES OF REVENUE FOR THE FUND:

Moneys credited to the trust fund consist of proceeds from:

- Contracted telephone commissions;
- Operation of inmate canteens;
- Vending machines used primarily by inmates and visitors;
- Hobby shops and other such facilities;
- Funds that may be assigned by inmates or donated to the FDC by the general public or an inmate service organization;
- Collection of damages pursuant to s. 960.293(2), F.S.;
- Cost of incarceration liens pursuant to s. 960.292(2), F.S.;
- Copayments made by inmates for nonemergency visits to a healthcare provider;
- The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
- Disciplinary fines imposed against inmates;
- Forfeitures of inmate earnings; and
- Unexpended balances in individual inmate trust fund accounts of less than \$1.

#### 4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

Total projected receipts into the Trust Fund for Fiscal Year 2024-25 are \$31,841,035. The Fiscal Year 2023-24 appropriation from the Trust Fund is \$31,923,805.

#### Effect of Proposed Changes

The bill re-creates the State-Operated Institutions Inmate Welfare Trust Fund without modification and repeals the scheduled termination of the trust fund.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 944.73, F.S., re-creating the State-Operated Institutions Inmate Welfare Trust Fund.

**Section 2:** Amends s. 944.73(4), F.S., repealing the scheduled termination of the State-Operated Institutions Inmate Welfare Trust Fund.

**Section 3:** Provides that the bill is effective upon becoming a 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:

The bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It re-creates, without modification, an existing state trust fund and continues the current use of the fund.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Article III, s. 19(f) of the Florida Constitution requires all newly created trust funds to terminate not more than four years after the initial creation of the fund. In addition, the State Constitution requires a newly created or re-created trust fund to be adopted by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or recreating the fund.

The bill re-creates a trust fund; thus, it requires a three-fifths vote for final passage.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1                                   A bill to be entitled  
 2           An act relating to trust funds; re-creating the State-  
 3           Operated Institutions Inmate Welfare Trust Fund within  
 4           the Department of Corrections; amending s. 944.73,  
 5           F.S.; abrogating provisions relating to the  
 6           termination of the trust fund; providing an effective  
 7           date.

8  
 9           WHEREAS, the Legislature wishes to extend the life of the  
 10          State-Operated Institutions Inmate Welfare Trust Fund within the  
 11          Department of Corrections, which is otherwise scheduled to be  
 12          terminated pursuant to constitutional mandate, and

13          WHEREAS, the Legislature has reviewed the trust fund before  
 14          its scheduled termination date and has found that it continues  
 15          to meet an important public purpose, and

16          WHEREAS, the Legislature has found that existing public  
 17          policy concerning the trust fund sets adequate parameters for  
 18          its use, NOW, THEREFORE,

19  
 20          Be It Enacted by the Legislature of the State of Florida:

21  
 22          Section 1.   The State-Operated Institutions Inmate Welfare  
 23          Trust Fund within the Department of Corrections, FLAIR number  
 24          20-2-523, which is to be terminated pursuant to Section 19 (f),  
 25          Article III of the State Constitution on July 1, 2024, is re-

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



HB 83

2024

26 | created.

27 | Section 2. Subsection (4) of section 944.73, Florida  
28 | Statutes, is amended to read:

29 | 944.73 State-Operated Institutions Inmate Welfare Trust  
30 | Fund.—

31 | ~~(4) In accordance with s. 19(f), Art. III of the State~~  
32 | ~~Constitution, the State-Operated Institutions Inmate Welfare~~  
33 | ~~Trust Fund, unless terminated sooner, shall be terminated on~~  
34 | ~~July 1, 2024. Before its scheduled termination, the trust fund~~  
35 | ~~shall be reviewed as provided in s. 215.3206(1) and (2).~~

36 | Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 151 Florida Retirement System  
**SPONSOR(S):** Appropriations Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Helpling	Pridgeon

### SUMMARY ANALYSIS

The bill conforms law to the House proposed 2024-2025 General Appropriations Act (GAA) as retirement contributions are included in the GAA.

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits for employees of state and county government agencies, district school boards, state colleges and state universities. It also serves as the retirement plan for employees of the cities, special districts, and independent hospitals 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 Department of Management Services (DMS) must compile an annual actuarial valuation of the FRS and report the results to the Legislature by December 31 of each year. Thereafter, the Legislature uses the results of the actuarial valuation to establish uniform employer contribution rates during the next legislative session to ensure the FRS is funded in a sound actuarial manner.

The bill:

- Restores a 3 percent cost-of-living adjustment (COLA) for eligible FRS pension plan members initially enrolled in the FRS before July 1, 2011. The bill limits the 3 percent COLA to the first \$150,000 of annual benefit. For any benefit above \$150,000, the COLA adjustment is limited to service credit earned for service prior to July 1, 2011.
- Increases member contribution rates to better align with the benefits earned by each employee class.
- Increases the allocations to the investment plan accounts for each membership class.
- Closes the FRS Preservation of Benefits Plan to new members effective July 1, 2026.
- Allows FRS retirees to receive both compensation from an employer that participates in the FRS and retirement benefits, provided the retiree is not reemployed within the 6 months following the date of retirement.
- Authorizes certain elected officers that have completed a DROP participation period as of June 30, 2023, to remain in elective office and receive his or her accumulated DROP proceeds.
- Adjusts the employer contribution rates for the FRS based on the annual actuarial valuation and additional actuarial studies.
- Declares that the act fulfills an important state interest.

Application of the rates will have a significant fiscal impact on the amount of funds appropriated by the Legislature associated with employee salaries and benefits. Provisions of the bill relating to employer retirement contribution rates will increase the amounts that FRS Employers will pay for employee retirement benefits. See Fiscal Comments.

# 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 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 under the Regular Class of the FRS as a closed group. The FRS was amended in 1998 to add the Deferred Retirement Option Program (DROP) under the defined benefit plan and amended again in 2000 to provide a defined contribution plan alternative to the defined benefit plan for FRS members effective July 1, 2002.<sup>1</sup>

The FRS is a multiple-employer, contributory plan<sup>2</sup> governed by the Florida Retirement System Act.<sup>3</sup> As of June 30, 2023, the FRS provides retirement income benefits to 646,277 active members,<sup>4</sup> 448,846 retired members and beneficiaries, and 27,767 members in DROP.<sup>5</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and state universities. The FRS also serves as the retirement plan for the employees of the 181 cities, 153 special districts, and two independent hospitals that have elected to join the system.<sup>6</sup>

The FRS is a low-cost system compared to other retirement systems. The cost to administer the FRS in 2022 was \$19 per active member and annuitant compared to the peer average of \$115 for other similar pension systems. Further, the number of staff to administer the FRS is 1.3 positions per 10,000 members versus an average of 3.4 per 10,000 members of other similar retirement systems.<sup>7</sup>

Membership of the FRS is divided into the following membership classes:<sup>8</sup>

- Regular Class<sup>9</sup> consists of 550,931 members (85.2 percent of the total 2023 FRS membership). This class is for all members who are not assigned to another class.
- Special Risk Class<sup>10</sup> includes 75,495 members (11.7 percent). This class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency medical technicians, among others.
- Special Risk Administrative Support Class<sup>11</sup> has 104 members (0.016 percent). This class is for former Special Risk Class members who provide administrative support within an FRS special

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<sup>1</sup> DMS *Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2023*, at p. 33.

[http://www.dms.myflorida.com/workforce\\_operations/retirement/publications/annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports) [hereinafter *Annual Report*] (Last visited Jan. 24, 2024).

<sup>2</sup> Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class members or 6 percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011.

<sup>3</sup> Ch. 121, F.S.

<sup>4</sup> As of June 30, 2023, the FRS Pension Plan, which is a defined benefit plan, had 441,816 members, and the investment plan, which is a defined contribution plan, had 204,461 members. *Annual Report*, *supra* note 1, at p. 188.

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

<sup>6</sup> *Id.*, at 226.

<sup>7</sup> Email from Jeff Ivey, Deputy Chief of Staff, Department of Management Services, RE: 2022 CEM Slides (Mar. 13, 2023).

<sup>8</sup> *Annual Report*, *supra* note 1, at 191.

<sup>9</sup> S. 121.021(12), F.S.

<sup>10</sup> S. 121.0515, F.S.

risk employing agency. Members of this class must maintain the certification required for their former Special Risk Class position and be subject to recall into those positions if needed.

- Elected Officers' Class<sup>12</sup> has 2,105 members (0.33 percent). This 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.
- Senior Management Service Class<sup>13</sup> has 7,875 members (1.2 percent). This 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 Class designation.

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

<b>Total FRS Membership by Plan<sup>14</sup></b>			
	2022	2023	Percent Change
<b>Investment Plan</b>	184,923	204,461	10.57%
<b>Pension Plan</b>	444,150	441,816	-0.53%
<b>Total Membership</b>	629,073	646,277	2.73%

<b>Total FRS Membership by Source<sup>15</sup></b>		<b>Percentage of Members</b>
<b>2023</b>		
<b>School Districts</b>	308,076	47.7%
<b>Counties</b>	154,648	23.9%
<b>State Agencies</b>	94,449	14.6%
<b>State Universities</b>	30,549	4.7%
<b>Others</b>	38,195	5.9%
<b>State Colleges</b>	20,360	3.2%

#### 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.<sup>16</sup> The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>17</sup> A member vests immediately in all employee contributions paid to the investment plan.<sup>18</sup> With respect to the

<sup>11</sup> 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.

<sup>12</sup> S. 121.052, F.S.

<sup>13</sup> S. 121.055, F.S.

<sup>14</sup> *Annual Report, supra* note 1, at 188.

<sup>15</sup> *Annual Report, supra* note 1, at 189.

<sup>16</sup> S. 121.4501(8), F.S.

<sup>17</sup> Art. IV, s. 4(e), Fla. Const.

<sup>18</sup> S. 121.4501(6)(a), F.S.

employer contributions, a member vests after completing one work year with an FRS employer.<sup>19</sup> Vested benefits are payable upon termination of employment with the FRS employer or death, as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>20</sup>

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. The amount of money contributed to each member's account varies by class as follows:<sup>21</sup>

Membership Class	Percentage of Gross Compensation
Regular Class	11.30%
Special Risk Class	19.00%
Special Risk Administrative Support Class	12.95%
Elected Officers' Class	
• Justices and Judges	18.23%
• County Elected Officers	16.34%
• Others	14.38%
Senior Management Service Class	12.67%

The above table reflects the rates in effect since July 1, 2023. Between July 1, 2022, through June 30, 2023, the Percentage of Gross Compensation was 2 percent less for each class.<sup>22</sup> The additional 2 percent for each class was provided in the 2023 Legislative Session.<sup>23</sup>

#### 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 (division).<sup>24</sup> 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.<sup>25</sup> For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>26</sup> A member vests immediately in all employee contributions paid to the pension plan.

For non-special risk members of the pension plan initially enrolled before July 1, 2011, normal retirement is the earlier of 30 years of service or age 62.<sup>27</sup> Non-special risk members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65. For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earlier of 25 years of service or age 55.<sup>28</sup>

<sup>19</sup> If a member terminates 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.

<sup>20</sup> S. 121.591, F.S.

<sup>21</sup> S. 121.72(7), F.S.

<sup>22</sup> S. 121.72(6), F.S.

<sup>23</sup> Ch. 2023-193, Laws of Fla.

<sup>24</sup> S. 121.025, F.S.

<sup>25</sup> S. 121.021(45)(a), F.S.

<sup>26</sup> S. 121.021(45)(b), F.S.

<sup>27</sup> S. 121.021(29)(a)1., F.S.

<sup>28</sup> S. 121.021(29)(b), F.S.

### Employee Contribution Rates

From 1975 to July 1, 2011, employees were not required to contribute to the FRS. Beginning July 1, 2011, employees of both retirement plans were required to begin contributions to the FRS.<sup>29</sup> Each member class of the FRS is required to pay 3 percent<sup>30</sup> which is deducted by the employer from the employee's monthly salary and submitted to the Division of Retirement.<sup>31</sup> The contribution rates have not been modified since they were initially required in 2011.

In response to the 2008-2009 market decline, public pension plans increased employee contributions. Nearly all employees of state and local government share in the cost of their retirement benefits. Employee rates vary by state and may be dependent on the type of employee, hire date, and income. Some states include rates in excess of 9 percent. In 2023, the national average across all pension plans for non-public safety employee contributions was 6.3 percent.<sup>32</sup>

### Normal Retirement Pension Benefit

Statute sets the calculation used to determine a member's benefit. A member earns a set percentage for years of service, depending on class.<sup>33</sup> Pension plan benefits are calculated as a product of a statutorily set percent and creditable years of service. The product of the percent and creditable years of service is applied to the member's average compensation.<sup>34</sup> Below are the statutorily set percentages<sup>35</sup> and the calculations based on credible years of service.

Class	Percent per Year	Percent Earned after 25 Years	Percent Earned after 30 Years
Regular	1.6%	40.0%	48.0%
Senior Management	2.0%	50.0%	60.0%
Special Risk	3.0%	75.0%	90.0%
Elected Class - Others	3.0%	75.0%	90.0%
Elected Class - Judges	3.3%	83.3%	99.9%

### Cost-of-Living Adjustment

For a member whose effective retirement date is before July 1, 2011, the member receives a 3 percent cost-of-living adjustment (COLA).<sup>36</sup> In the 2011 Legislative Session, the COLA adjustment was reduced for future retirees.<sup>37</sup> For members enrolled on or after July 1, 2011, the COLA is zero. For retirees with years of service prior to 2011, the COLA amount is prorated.<sup>38</sup>

Below are examples of potential COLAs, dependent on the years of service before and after July 1, 2011.

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<sup>29</sup> Ch. 2011-68, Laws of Fla.

<sup>30</sup> S. 121.71(3), F.S.

<sup>31</sup> S. 121.71(2), F.S.

<sup>32</sup> National Association of State Retirement Administrators, *NASRA Issue Brief: Employee Contributions to Public Pension Plans*, <https://www.nasra.org/files/Issue%20Briefs/NASRAContribBrief.pdf> (last visited Jan. 25, 2024).

<sup>33</sup> S. 121.091(1), F.S.

<sup>34</sup> S. 121.091(1)(a), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> S. 121.101(3)(b), F.S.

<sup>37</sup> Ch. 2011-68, Laws of Fla.

<sup>38</sup> Section 121.101(4)(c), F.S., provides that the COLA is prorated by taking the product of 3 percent multiplied by the quotient of the sum of the member's service credit earned for service before July 1, 2011, divided by the sum of the member's total service credit earned. Example: A member with 10 years of service prior to July 1, 2011 retires after 30 years of service. Divide 10 by 30 and multiply by 3 percent. In this example, the member's COLA would be 1.0%.

Total Years of Service	Years of Service before July 1, 2011	COLA
30	30	3.00%
30	25	2.50%
30	20	2.00%
30	15	1.50%
30	10	1.00%
30	5	0.50%
30	0	0.00%

The charts below provide the number of retirees receiving a full COLA and a reduced COLA.<sup>39</sup> As more members of the FRS Pension Plan retire post July 1, 2011, members with a 3 percent COLA will continue to decrease and members with a partial COLA will continue to increase.

Number of Retirees Receiving a 3% COLA	
1. State	61,167
2. State Universities	14,430
3. Counties	64,904
4. School Boards	135,984
5. State Colleges	9,402
6. Others	8,868
<b>TOTAL</b>	<b>294,755</b>

Number of Retirees Receiving 0.00% to 2.99% COLA	
1. State	25,570
2. State Universities	6,236
3. Counties	37,009
4. School Boards	72,628
5. State Colleges	4,972
6. Others	6,723
<b>TOTAL</b>	<b>151,913</b>

Section 121.101(5), F.S., provides for the restoration of the COLA:

Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the expiration of the cost-of-living adjustment specified in subsection (4), in accordance with s. 14, Art. X of the State Constitution, the cost-of-living adjustment formula provided for in subsection (4) shall expire effective June 30, 2016, and the benefit of each retiree and annuitant shall be adjusted on each July 1 thereafter, as provided in subsection (3).

To date, the Legislature has not provided funding to restore the COLA to current or future retirees.

#### Deferred Retirement Option Program

DROP<sup>40</sup> allows eligible members<sup>41</sup> of the FRS Pension Plan to participate in the program and defer receipt of retirement benefits while continuing employment with his or her FRS employer. The deferred monthly benefits accrue, plus interest, on behalf of the employee, for the period of time the member participates in DROP. Upon termination of the employment, the member receives the total DROP benefits and begins to receive the previously determined normal retirement amounts.<sup>42</sup> For retirements after July 1, 2010, for termination of employment to occur, an employee cannot be employed for six

<sup>39</sup> Data as of March 3, 2023, provided by the Department of Management Services, Division of Retirement.

<sup>40</sup> S. 121.091(13), F.S.

<sup>41</sup> S. 121.091(13)(a), F.S.

<sup>42</sup> *Id.*



calendar months.<sup>43</sup> Elected officers participating in DROP are also subject to the same termination requirements to access their accrued drop benefit.<sup>44</sup>

### Employment After Retirement

The FRS is a 401(a) qualified plan under the Internal Revenue Code (IRC). Accordingly, FRS contributions qualify for tax deductions and investment earnings are tax deferred until distributed to retirees. Federal regulations require 401(a) qualified plans to be established by an employer primarily to provide regular and clearly defined benefits to its employees over an extended period, typically for life, following retirement or upon reaching the normal retirement age.<sup>45</sup> Retirement involves more than just a decrease in the hours worked by an employee. Therefore, retirement benefits cannot be distributed solely because an employee's hours have been reduced before reaching normal retirement age.<sup>46</sup>

Florida law prohibits a pension benefit from being made prior to participation in DROP or termination of employment.<sup>47</sup> The law applies the same definition of termination of employment for retirements occurring either before and after normal retirement age. Thus, determining whether a bona fide termination of employment has occurred is crucial for both the tax-exempt qualification of the FRS and state statutory compliance purposes.<sup>48</sup>

The Internal Revenue Service (IRS), the federal agency responsible for administering the IRC, has not provided an objective test for determining whether a bona fide termination of employment has occurred. Instead the IRS has applied Treasury Regulation 1.409A-1(h)(I)(ii), which states whether a termination of employment has occurred is determined based on whether the facts and circumstances indicate that the employer and employee reasonably anticipated that no further services would be performed after a certain date<sup>49</sup> or that the level of bona fide services the employee would perform after such date would permanently decrease to no more than 20 percent of the average level of bona fide services performed over the immediately preceding 36-month period.<sup>50</sup> However, when applying the regulation in the context of a 401(a) plan, the IRS has opined that "if both the employer and employee know at the time of 'retirement' that the employee will, with reasonably [sic] certainty, continue to perform services for the employer, a termination of employment has not occurred upon 'retirement' and the employee has not legitimately retired."<sup>51</sup>

In order to apply the requirement of a bona fide termination, Florida law has incorporated the federal regulation and further has implemented a reemployment limitation period in which an FRS retiree may not be reemployed<sup>52</sup> by an FRS employer within 6 months of termination.<sup>53</sup> In addition, if the retiree is reemployed by an FRS employer during months 7 through 12, the retiree's retirement benefit for those

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<sup>43</sup> S. 121.021(39)(a)2., F.S.

<sup>44</sup> S. 121.053(3)(b), F.S.

<sup>45</sup> 26 CFR § 1.401(a)-1(b)(1)(i).

<sup>46</sup> 26 CFR § 1.401(a)-1(b)(3).

<sup>47</sup> S. 121.091, F.S.

<sup>48</sup> Memorandum to David DiSalvo, Director, Division of Retirement, *Re: Bona Fide Terminations from Employment and Bona Vide Volunteer Services* (dated January 8, 2021) on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

<sup>49</sup> The regulation provides that the employment relationship is treated as continuing intact while the individual is on a bona fide leave of absence if the leave does not exceed 6 months, or if longer, as long as the individual retains a right to reemployment pursuant to statute or contract. The IRS explains in the preamble to the regulation that "a bona fide leave of absence refers to a leave of absence where there is a reasonable expectation the service provider will return to service with the service recipient." Department of the Treasury, Internal Revenue Service, *Application of Section 409A to Nonqualified Deferred Compensation Plans*, 26 CFR Part I [TD 9321], RIN 1545-BE79 (Dated April 17, 2007).

<sup>50</sup> See IRS PLR 201147038; see also Memorandum to David DiSalvo, Director, Division of Retirement, *Re: Bona Fide Terminations from Employment and Bona Vide Volunteer Services* (dated January 8, 2021) on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

<sup>51</sup> IRS PLR 201147038.

<sup>52</sup> For purposes of the reemployment limitation period, the term "employment" includes the provision of services. S. 121.021(39), F.S.

<sup>53</sup> S. 121.021(39), F.S.

months is suspended and forfeited.<sup>54</sup> After the 12-month reemployment limitation period, there are no restrictions on receiving both a salary and retirement benefits when reemployed by an FRS employer.<sup>55</sup>

A retiree employed in violation of the reemployment limitation period and the FRS employer employing such retiree are jointly and severally liable for reimbursement to the retirement trust fund from which the benefits were paid. Pension benefits remain suspended until repayment has been made. Benefits suspended beyond the reemployment limitation period are applied towards repaying the benefits received in violation of the reemployment limitation period.<sup>56</sup>

Florida law currently provides two exceptions to the reemployment limitation period. The first authorizes retirees to provide civic, charitable, and humanitarian services to an FRS employer during the first 12 months following retirement provided the following criteria are met:

- Before the date of retirement, there is no agreement or understanding between the employer and the retiree that the retiree will return to provide services for the employer;
- The employer or a third party does not provide any form of compensation, including any cash equivalents, to the volunteer for the volunteer service;
- Except as otherwise provided in law, a volunteer cannot be provided any employee benefits, including health or life insurance benefits. However, a volunteer may be provided certain perquisites necessary for, and for the limited purpose of, completing tasks associated with the volunteer program, such as an assigned uniform or the provision of equipment;
- The number of volunteer hours per week, including training hours, that the volunteer provides is no more than 20 percent of the number of hours that the volunteer was expected to work per week before the date of retirement;
- There is a clear distinction between the duties of a volunteer and the duties of an employee;
- The schedule of a volunteer, including the number of hours volunteered and the number and type of assignments for which he or she agrees to volunteer, is controlled by the volunteer; and
- The employer and retiree maintain adequate records to document adherence to the above criteria, which must be made available to DMS or the SBA upon request.<sup>57</sup>

The second exception to the reemployment limitation period applies to law enforcement officers that are reemployed as school resource officers and authorizes such retirees to be reemployed during months 7 through 12 after retirement and receive both a salary and retirement benefits. The reemployed retired law enforcement officer may not renew membership in the FRS except as provided in law.<sup>58</sup>

### Preservation of Benefits

Internal Revenue Code 415(b) is a federal provision that limits the benefit amount that a retired employee may receive from a defined benefit plan. The limit is adjusted by the IRS each year. Effective July 1, 2024, the limitation on the annual benefit under a defined benefit plan is \$275,000. Statute establishes the Florida Retirement System Preservation of Benefits Plan as a qualified governmental excess benefit arrangement pursuant to s. 415(m) of the Internal Revenue Code<sup>59</sup> to allow qualifying FRS members to receive a benefit that is in excess of the adjusted yearly limit.

### Actuarial Study - Contribution Rates

Section 121.031, F.S., requires DMS to compile an annual actuarial study of the FRS, the results of which must be reported to the Legislature by December 31 of each year.<sup>60</sup> Thereafter, the Legislature

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<sup>54</sup> S. 121.021(9)(c), F.S.

<sup>55</sup> However, for reemployed members, the FRS employer must pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to the contributions for social security and for the retiree health insurance subsidy. S. 121.091(9)(c)2., F.S.

<sup>56</sup> S. 121.091(9)(b)1. and (9)(c)3., F.S.

<sup>57</sup> S. 121.091(15), F.S.

<sup>58</sup> S. 121.091(9)(f), F.S.

<sup>59</sup> S. 121.1001, F.S.

<sup>60</sup> S. 121.031(3), F.S.

uses the report to establish the uniform contribution rates in law during the next regular legislative session. The employer contribution rate is the same percentage regardless of whether the member participates in the pension plan or the investment plan.<sup>61</sup> The rate is determined annually based on the actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under the plan. FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the division to be distributed into the FRS Contributions Clearing Trust Fund.

## Effects of Proposed Changes

### Investment Plan

The bill increases the allocations to the investment plan accounts for each membership class in the investment plan. The revised contribution percentages, by class, are as follows:

<b>Membership Class</b>	<b>Percentage of Gross Compensation</b>
Regular Class	13.30%
Special Risk Class	22.00%
Special Risk Administrative Support Class	14.95%
Elected Officers Class <ul style="list-style-type: none"> <li>• Justices and Judges</li> <li>• County Elected Officers</li> <li>• Others</li> </ul>	22.23%
	20.34%
	18.38%
Senior Management Service Class	14.67%

The increase is equivalent to the additional member contribution rates required in the bill and an additional 1 percent employer contribution.

### FRS Pension Plan – Cost-of-Living Adjustment

Beginning July 1, 2024, the bill restores a 3 percent COLA for eligible FRS pension plan members initially enrolled in the FRS before July 1, 2011. The bill limits the 3 percent COLA to the first \$150,000 of annual benefit. Any benefit above \$150,000, the COLA adjustment is limited to service credit earned for service prior to July 1, 2011. The bill states that the \$150,000 limit shall be adjusted annually to reflect changes in the Consumer Price Index compiled by the United States Department of Labor. Additionally, the bill states that any benefit made in accordance with this portion shall only be made prospectively.

The bill eliminates the current COLA restoration language in statute and provides that beginning July 1, 2033, and annually thereafter, DMS must submit an actuarial analysis to the Legislature on the feasibility and cost of providing a COLA for employees that initially enrolled in the FRS after July 1, 2011.

### Contribution Rates

The bill increases member contribution rates to better align with the benefits earned by each employee class to FRS as follows:

<b>Membership Class</b>	<b>Percentage of Gross Compensation</b>
Regular Class	4.00%
Special Risk Class	5.00%
Special Risk Administrative Support Class	4.00%
Elected Officers Class	
• Justices and Judges	6.00%
• County Elected Officers	6.00%
• Others	6.00%
Senior Management Service Class	4.00%

### Deferred Retirement Option Program

The bill authorizes specified elected officers that have completed DROP participation period as of June 30, 2023, to remain in elective office and receive his or her accumulated DROP proceeds, subject to any minimum age requirements specified in 26 U.S.C. s. 401(a)(36), including interest.<sup>62</sup>

### Employment After Retirement

The bill provides that any person whose retirement is effective on or after July 1, 2024, or whose participation in DROP terminates on or after July 1, 2024, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer.<sup>63</sup> The person may not be reemployed by an employer participating in the Florida Retirement System before meeting the termination definition in s. 121.021, F.S.

Effectively the bill allows FRS specified retirees to receive both compensation from an employer that participates in the FRS and retirement benefits, provided the retiree is not reemployed within 6 months, instead of 12 months, following the date of retirement.

The bill states that the reemployed retiree may not renew membership in the FRS unless as provided in s. 121.122, F.S., and that the employer shall pay retirement contribution in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to the contributions required by s. 121.76, F.S.

Additionally, the bill states that a retiree initially reemployed in violation of the above requirements and an employer that employs or appoints such a person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Florida Retirement System Investment Plan Trust Fund, as appropriate. The bill specifies that the employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system. Further the bill specifies that benefits shall remain suspended until repayment is made. Benefits that are suspended beyond the end of the retiree's 6-month reemployment limitation period shall apply toward the repayment of benefits specified in the bill.

### Preservation of Benefits

The bill closes the Florida Retirement System Preservation of Benefits Plan to new members effective July 1, 2026.

<sup>62</sup> United States Code section 401(a)(36), was amended by Section 104 of the Bipartisan American Miners Act of 2019, to reduce the permissible age for in-service distributions from 62 to 59-1/2, effective after December 31, 2019.

<sup>63</sup> The bill excludes retirees under the disability provisions of subsection (4) of the amended statute or in s. 121.053, F.S.

### Actuarial Study - Contribution Rates

The bill revises the employer contribution rates for the normal costs and the unfunded actuarial liability (UAL) of the FRS based on the annual actuarial study and the actuarial studies relating to the modifications to the FRS included in the bill.

The bill declares that it fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

#### B. SECTION DIRECTORY:

- Section 1:** Amends s. 121.053, F.S., revising collection of DROP proceeds for specified elected officers.
- Section 2:** Amends s. 121.091, F.S., revising requirements for reemployment.
- Section 3:** Amends s. 121.1001, F.S., closing the Florida Retirement System Preservation of Benefits Plan to new members by a specified date.
- Section 4:** Amends s. 121.101, F.S., revising provisions for the COLA for certain retirees.
- Section 5:** Amends s. 121.71, F.S., revising required employee and employer retirement contribution rates.
- Section 6:** Amends s. 121.72, F.S., revising specified allocations to the investment plan.
- Section 7:** Amends s. 121.591, F.S., conforming provisions to changes made by the act.
- Section 8:** Provides a declaration of important state interest.
- Section 9:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:  
See Fiscal Comments.
- 2. Expenditures:  
See Fiscal Comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:  
See Fiscal Comments.
- 2. Expenditures:  
See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill revises the employer contribution rates as determined by the July 1, 2023, Annual Valuation.<sup>64</sup> Further, the bill includes the rates necessary to fund the program for each modification to the FRS included in the bill.<sup>65</sup> The proposed employer contributions for Fiscal Year 2024-2025 compared to the rates currently in effect are contained in the table below.

Membership Class	"Blended" Normal Costs		Unfunded Actuarial Liability		Combined Contribution Rates	
	7/1/2023	7/1/2024	7/1/2023	7/1/2024	7/1/2023	7/1/2024
Regular Class	6.73%	7.91%	4.78%	7.55%	11.51%	15.46%
Special Risk Class	18.66%	21.02%	11.95%	17.76%	30.61%	38.78%
Special Risk Administrative Class	11.54%	13.37%	26.22%	32.39%	37.76%	45.76%
Elected Officer Class						
Leg/Gov/SAs/PDs	10.45%	12.28%	50.21%	53.84%	60.66%	66.12%
Judges	14.90%	17.06%	27.93%	33.74%	42.83%	50.80%
County Officers	12.39%	13.89%	44.23%	48.84%	56.62%	62.73%
Senior Management	8.56%	9.88%	23.90%	26.96%	32.46%	36.84%
DROP	8.49%	10.12%	10.64%	16.57%	19.13%	26.69%

The revised employer contribution rates based on the 2023 Actuarial Valuation and other actuarial studies will have a significant fiscal impact on funds paid into the Florida Retirement System Trust Fund.

The total combined employer contributions estimated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2024-2025 will increase by approximately \$2.1 billion above the contributions paid in Fiscal Year 2023-2024. The estimated increase in contributions by employer contribution group for Fiscal Year 2024-2025 are provided on the following series of tables:

2023 Actuarial Valuation for Normal Cost and Unfunded Liability for Fiscal Year 2023-2024

Employer Contribution Group	Estimated Increase/(Decrease) in Contributions
State Agencies	(\$8.7) Million
School Boards	(\$3.2) Million
State Universities	\$0.8 Million
Colleges	(\$0.6) Million
Counties	(\$15.6) Million
Other	(\$2.8) Million
<b>Total:</b>	<b>(\$30.0) Million</b>

<sup>64</sup> The July 1, 2023, Annual Valuation resulted in a reduction in rates and a corresponding savings for employer contributions. The reduced rates offset the increased contributions required by the additional modifications included in the bill.

<sup>65</sup> Actuarial studies were requested to be performed by the Milliman actuarial and consulting firm through DMS for modifications to FRS included in the bill. The studies for COLA modifications are included in this analysis. However, at the time of this analysis, studies for Reemployment and increases to the investment plan have not been received. For those modifications, studies received in Fiscal Year 2023-24 were used to determine those impacts.

Cost Reflecting 1.00% Employer Increase for the FRS Investment Plan

<b>Employer Contribution Group</b>	<b>Estimated Increase in Contributions</b>
State Agencies	\$11.7 Million
School Boards	\$38.5 Million
State Universities	\$4.4 Million
Colleges	\$2.9 Million
Counties	\$26.5 Million
Other	\$5.6 Million
<b>Total:</b>	<b>\$89.6 Million</b>

Reemployment Modification

<b>Employer Contribution Group</b>	<b>Estimated Increase in Contributions</b>
State Agencies	\$4.6 Million
School Boards	\$9.4 Million
State Universities	\$2.5 Million
Colleges	\$0.7 Million
Counties	\$11.6 Million
Other	\$1.9 Million
<b>Total:</b>	<b>\$30.6 Million</b>

COLA Modifications

<b>Employer Contribution Group</b>	<b>Estimated Increase in Contributions</b>
State Agencies	\$290.6 Million
School Boards	\$656.8 Million
State Universities	\$183.6 Million
Colleges	\$50.7 Million
Counties	\$690.7 Million
Other	\$118.9 Million
<b>Total:</b>	<b>\$1,991.4 Million</b>

The total combined employer contributions estimated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2024-2025:

<b>Employer Contribution Group</b>	<b>Estimated Increase In Contributions</b>
State Agencies	\$298.2 Million
School Boards	\$701.5 Million
State Universities	\$191.3 Million
Colleges	\$53.7 Million
Counties	\$713.2 Million
Other	\$123.6 Million
<b>Total:</b>	<b>\$2,081.6 Million</b>

Member Contribution Increase

Based on the results of the 2024-2025 blended rate study, the projected increase in Fiscal Year 2024-2025 for the increased member contributions to the FRS Pension Plan would be \$334 million.<sup>66</sup> That amount consists of \$211 million in additional Regular Class contributions, \$111 million in additional Special Risk Class contributions and \$12 million in additional contributions in all other membership classes. For a point for comparison, combined employer plus member contributions to the FRS Pension

<sup>66</sup> The state actuary, Milliman, determined that calculating the increase in member contributions did not need a study. However, an estimated total amount to be contributed to the Pension Plan, by class, was provided.

Plan for the most recently completed plan year (2022-2023) were \$5,595 million. This amount does not modify the estimated employer contributions outlined above for the impacts included in the bill. However, in future rate analyses, this additional employee contribution may decrease the required employer contribution. Additionally, the increased level of overall contributions in subsequent years may accelerate the projected date at which the current Unfunded Actuarial Liability (UAL) would be fully amortized.

### Closure of the Preservation of Benefits to Future Retirees

Single-year Preservation of Benefits payments for 2023 were made to 75 retirees and the cumulative single-year payments were approximately \$2.2 million.<sup>67</sup> Closing the plan would result in a small savings to the overall FRS in the near future. However, as of June 2023, there are 835 members whose salaries exceed the \$275,000 IRS limitation.<sup>68</sup> This increases the potential pool of recipients of the plan by a factor over ten. If each employee earned a benefit in excess of the limit, the potential cost avoidance would be \$25.5 million. As public employee salaries continue to rise, more employees may qualify for payment under the plan. Closing the plan may have a significant savings to the FRS in future years.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The mandates provision of art. VII, section 18 of the State Constitution may apply because this bill requires cities and counties to spend money or take an action that requires the expenditure of money; however, an exception may apply as the Legislature has determined that this bill satisfies an important state interest and similarly situated persons are all required to comply.

#### 2. Other:

The actuarial requirements provision of art. X, section 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes. --A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, section 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

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<sup>67</sup> The state actuary, Milliman, determined that closing the Preservation of Benefits Plan did not require a full study to determine the overall impacts to the retirement system. However, Milliman provided an analysis of the financial impact of closing the plan.

<sup>68</sup> Email from Jake Holmgreen, Deputy Legislative Affairs Director, Department of Management Services, RE: Section 121.30, F.S. (Nov. 3, 2023).



B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to the Florida Retirement System;  
 3           amending s. 121.053, F.S.; authorizing certain elected  
 4           officers to receive a specified payment while  
 5           remaining in office; amending s. 121.091, F.S.;  
 6           authorizing certain retirees to be reemployed after  
 7           terminating employment; providing conditions for such  
 8           reemployment; requiring reimbursement of certain  
 9           payments in specified circumstances; revising an  
 10          obsolete provision; amending s. 121.1001, F.S.;  
 11          prohibiting new participation in a specified plan  
 12          beginning on a specified date; amending s. 121.101,  
 13          F.S.; revising the calculation for the cost-of-living  
 14          factor for certain members; requiring the Department  
 15          of Management Services to annually adjust a specified  
 16          value beginning on a specified date; providing  
 17          applicability; requiring the Division of Retirement to  
 18          annually submit a specified analysis beginning on a  
 19          specified date; revising a provision requiring the  
 20          expiration of a specified formula; amending s. 121.71,  
 21          F.S.; increasing employee contributions to the Florida  
 22          Retirement System; amending s. 121.72, F.S.;  
 23          increasing the allocations to investment plan member  
 24          accounts; amending s. 121.591, F.S.; conforming a  
 25          cross-reference; providing a declaration of important

26 state interest; providing an effective date.

27

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

29

30 Section 1. Paragraph (c) of subsection (7) of section  
 31 121.053, Florida Statutes, is amended, paragraph (d) is added to  
 32 that subsection, and paragraph (b) of that subsection is  
 33 republished to read:

34 121.053 Participation in the Elected Officers' Class for  
 35 retired members.—

36 (7) A member who is elected or appointed to an elective  
 37 office and who is participating in the Deferred Retirement  
 38 Option Program is not subject to termination as defined in s.  
 39 121.021, or reemployment limitations as provided in s.  
 40 121.091(9), until the end of his or her current term of office  
 41 or, if the officer is consecutively elected or reelected to an  
 42 elective office eligible for coverage under the Florida  
 43 Retirement System, until he or she no longer holds an elective  
 44 office, as follows:

45 (b) An elected officer may voluntarily terminate his or  
 46 her elective office at any time and receive his or her DROP  
 47 proceeds. However, until termination occurs, an elected officer  
 48 whose termination limitations are extended by this section is  
 49 ineligible for renewed membership in the system and may not  
 50 receive pension payments, DROP lump sum payments, or any other

51 state payment other than the statutorily determined salary,  
 52 travel, and per diem for the elective office.

53 (c) Except as provided in paragraph (d), upon termination,  
 54 the officer shall receive his or her accumulated DROP account,  
 55 plus interest, and shall accrue and commence receiving monthly  
 56 retirement benefits, which must be paid on a prospective basis  
 57 only.

58 (d) Notwithstanding paragraph (b), an elected officer who  
 59 qualifies under this subsection as of June 30, 2023, and who has  
 60 completed his or her DROP participation period as of June 30,  
 61 2023, may remain in elective office and receive, subject to any  
 62 minimum age requirements specified in 26 U.S.C. s. 401(a)(36),  
 63 his or her accumulated DROP proceeds, including interest.

64 Section 2. Paragraphs (d) and (e) of subsection (9) of  
 65 section 121.091, Florida Statutes, are redesignated as  
 66 paragraphs (e) and (f), respectively, paragraph (c) and present  
 67 paragraph (f) are amended, and a new paragraph (d) is added to  
 68 that subsection, to read:

69 121.091 Benefits payable under the system.—Benefits may  
 70 not be paid under this section unless the member has terminated  
 71 employment as provided in s. 121.021(39)(a) or begun  
 72 participation in the Deferred Retirement Option Program as  
 73 provided in subsection (13), and a proper application has been  
 74 filed in the manner prescribed by the department. The department  
 75 may cancel an application for retirement benefits when the

76 member or beneficiary fails to timely provide the information  
 77 and documents required by this chapter and the department's  
 78 rules. The department shall adopt rules establishing procedures  
 79 for application for retirement benefits and for the cancellation  
 80 of such application when the required information or documents  
 81 are not received.

82 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

83 (c) Any person whose retirement is effective on or after  
 84 July 1, 2010, or whose participation in the Deferred Retirement  
 85 Option Program terminates on or after July 1, 2010, who is  
 86 retired under this chapter, except under the disability  
 87 retirement provisions of subsection (4) or as provided in s.  
 88 121.053, may be reemployed by an employer that participates in a  
 89 state-administered retirement system and receive retirement  
 90 benefits and compensation from that employer. However, a person  
 91 may not be reemployed by an employer participating in the  
 92 Florida Retirement System before meeting the definition of  
 93 termination in s. 121.021 and may not receive both a salary from  
 94 the employer and retirement benefits for 6 calendar months after  
 95 meeting the definition of termination, except as provided in  
 96 paragraph (d) ~~(f)~~. However, a DROP participant shall continue  
 97 employment and receive a salary during the period of  
 98 participation in the Deferred Retirement Option Program, as  
 99 provided in subsection (13).

100 1. The reemployed retiree may not renew membership in the

101 Florida Retirement System, except as provided in s. 121.122.

102 2. The employer shall pay retirement contributions in an  
 103 amount equal to the unfunded actuarial liability portion of the  
 104 employer contribution that would be required for active members  
 105 of the Florida Retirement System in addition to the  
 106 contributions required by s. 121.76.

107 3. A retiree initially reemployed in violation of this  
 108 paragraph and an employer that employs or appoints such person  
 109 are jointly and severally liable for reimbursement of any  
 110 retirement benefits paid to the retirement trust fund from which  
 111 the benefits were paid, including the Florida Retirement System  
 112 Trust Fund and the Florida Retirement System Investment Plan  
 113 Trust Fund, as appropriate. The employer must have a written  
 114 statement from the employee that he or she is not retired from a  
 115 state-administered retirement system. Retirement benefits shall  
 116 remain suspended until repayment is made. Benefits suspended  
 117 beyond the end of the retiree's 6-month reemployment limitation  
 118 period shall apply toward the repayment of benefits received in  
 119 violation of this paragraph.

120 (d) Any person whose retirement is effective on or after  
 121 July 1, 2024, or whose participation in the Deferred Retirement  
 122 Option Program terminates on or after July 1, 2024, who is  
 123 retired under this chapter, except under the disability  
 124 provisions of subsection (4) or as provided in s. 121.053, may  
 125 be reemployed by an employer that participates in a state-

126 administered retirement system and receive retirement benefits  
 127 and compensation from that employer. However, a person may not  
 128 be reemployed by an employer participating in the Florida  
 129 Retirement System before meeting the definition of termination  
 130 in s. 121.021. A DROP participant shall continue employment and  
 131 receive a salary during the period of participation in the  
 132 Deferred Retirement Option Program, as provided in subsection  
 133 (13).

134 1. The reemployed retiree may not renew membership in the  
 135 Florida Retirement System, except as provided in s. 121.122.

136 2. The employer shall pay retirement contributions in an  
 137 amount equal to the unfunded actuarial liability portion of the  
 138 employer contribution that would be required for active members  
 139 of the Florida Retirement System in addition to the  
 140 contributions required by s. 121.76.

141 3. A retiree initially reemployed in violation of this  
 142 paragraph and an employer that employs or appoints such person  
 143 are jointly and severally liable for reimbursement of any  
 144 retirement benefits paid to the retirement trust fund from which  
 145 the benefits were paid, including the Florida Retirement System  
 146 Trust Fund and the Florida Retirement System Investment Plan  
 147 Trust Fund, as appropriate. The employer must have a written  
 148 statement from the employee that he or she is not retired from a  
 149 state-administered retirement system. Retirement benefits shall  
 150 remain suspended until repayment is made. Benefits suspended

151 beyond the end of the retiree's 6-month reemployment limitation  
 152 period shall apply toward the repayment of benefits received in  
 153 violation of this paragraph.

154 ~~(f) A retired law enforcement officer may be reemployed as~~  
 155 ~~a school resource officer by an employer that participates in~~  
 156 ~~the Florida Retirement System and receive compensation from that~~  
 157 ~~employer and retirement benefits after meeting the definition of~~  
 158 ~~termination in s. 121.021, but may not receive both a salary~~  
 159 ~~from the employer and retirement benefits for 6 calendar months~~  
 160 ~~immediately subsequent to the date of retirement. The reemployed~~  
 161 ~~retired law enforcement officer may not renew membership in the~~  
 162 ~~Florida Retirement System, except as provided in s. 121.122.~~

163 Section 3. Subsection (5) is added to section 121.1001,  
 164 Florida Statutes, to read:

165 121.1001 Florida Retirement System Preservation of  
 166 Benefits Plan.—Effective July 1, 1999, the Florida Retirement  
 167 System Preservation of Benefits Plan is established as a  
 168 qualified governmental excess benefit arrangement pursuant to s.  
 169 415(m) of the Internal Revenue Code. The Preservation of  
 170 Benefits Plan is created as a separate portion of the Florida  
 171 Retirement System, for the purpose of providing benefits to a  
 172 payee (retiree or beneficiary) of the Florida Retirement System  
 173 whose benefits would otherwise be limited by s. 415(b) of the  
 174 Internal Revenue Code.

175 (5) CLOSURE TO NEW MEMBERS.—Effective July 1, 2026, the



176 Florida Retirement System Preservation of Benefits Plan is  
 177 closed to new members.

178 Section 4. Paragraph (c) of subsection (4) and subsection  
 179 (5) of section 121.101, Florida Statutes, are amended to read:

180 121.101 Cost-of-living adjustment of benefits.—

181 (4) For members whose effective retirement date is on or  
 182 after July 1, 2011, the benefit of each retiree and annuitant  
 183 shall be adjusted annually on July 1 as follows:

184 (c) Beginning July 1, 2024, the department shall calculate  
 185 a cost-of-living factor for each retiree and beneficiary  
 186 retiring on or after July 1, 2011. This factor shall:

187 1. For a member initially enrolled before July 1, 2011,  
 188 equal 3 percent for the first \$150,000 of benefit payable  
 189 annually, and for any additional benefit payable shall equal the  
 190 product of 3 percent multiplied by the quotient of the sum of  
 191 the member's service credit earned for service before July 1,  
 192 2011, divided by the sum of the member's total service credit  
 193 earned. The \$150,000 amount shall be adjusted annually by the  
 194 department to reflect changes in the Consumer Price Index  
 195 compiled by the United States Department of Labor. Any benefits  
 196 paid in accordance with this subparagraph shall only be made  
 197 prospectively.

198 2. For a member initially enrolled on or after July 1,  
 199 2011, equal the product of 3 percent multiplied by the quotient  
 200 of the sum of the member's service credit earned for service

201 before July 1, 2011, divided by the sum of the member's total  
 202 service credit earned.

203 (5) Beginning July 1, 2033, and annually thereafter, the  
 204 division shall submit an actuarial analysis to the Legislature  
 205 on the feasibility and cost of providing a cost-of-living  
 206 adjustment for employees that initially enrolled in the Florida  
 207 Retirement System after July 1, 2011 ~~Subject to the availability~~  
 208 ~~of funding and the Legislature enacting sufficient employer~~  
 209 ~~contributions specifically for the purpose of funding the~~  
 210 ~~expiration of the cost-of-living adjustment specified in~~  
 211 ~~subsection (4), in accordance with s. 14, Art. X of the State~~  
 212 ~~Constitution, the cost-of-living adjustment formula provided for~~  
 213 ~~in subsection (4) shall expire effective June 30, 2016, and the~~  
 214 ~~benefit of each retiree and annuitant shall be adjusted on each~~  
 215 ~~July 1 thereafter, as provided in subsection (3).~~

216 Section 5. Subsections (3), (4), and (5) of section  
 217 121.71, Florida Statutes, are amended to read:

218 121.71 Uniform rates; process; calculations; levy.—

219 (3) Required employee retirement contribution rates for  
 220 each membership class and subclass of the Florida Retirement  
 221 System for both retirement plans are as follows:  
 222

Membership Class	Percentage of Gross Compensation,
------------------	---

	Effective July 1, <u>2024</u> <del>2011</del>
223	
224	
225	Regular Class <u>4.00%</u> <del>3.00%</del>
226	Special Risk Class <u>5.00%</u> <del>3.00%</del>
227	Special Risk Administrative Support Class <u>4.00%</u> <del>3.00%</del>
228	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders <u>6.00%</u> <del>3.00%</del>
229	Elected Officers' Class— Justices, Judges <u>6.00%</u> <del>3.00%</del>
	Elected Officers' Class— County Elected Officers <u>6.00%</u> <del>3.00%</del>

230	Senior Management Service Class	<u>4.00%</u> <del>3.00%</del>
231	DROP	0.00%
232		
233	(4) Required employer retirement contribution rates for	
234	each membership class and subclass of the Florida Retirement	
235	System for both retirement plans are as follows:	
236		
		Percentage of Gross Compensation, Effective July 1, <u>2024</u> <del>2023</del>
237	Membership Class	
238		
239	Regular Class	<u>7.91%</u> <del>6.73%</del>
240	Special Risk Class	<u>21.02%</u> <del>18.66%</del>
241	Special Risk Administrative Support Class	<u>13.37%</u> <del>11.54%</del>

242	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>12.28%</u> <del>10.45%</del>
243	Elected Officers' Class— Justices, Judges	<u>17.06%</u> <del>14.90%</del>
244	Elected Officers' Class— County Elected Officers	<u>13.89%</u> <del>12.39%</del>
245	Senior Management Service Class	<u>9.88%</u> <del>8.56%</del>
246	DROP	<u>10.12%</u> <del>8.49%</del>

247 (5) In order to address unfunded actuarial liabilities of  
 248 the system, the required employer retirement contribution rates  
 249 for each membership class and subclass of the Florida Retirement  
 250 System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation,
------------------	---

		Effective	
		July 1, <u>2024</u> <del>2023</del>	
252			
253	Regular Class	<u>7.55%</u>	<del>4.78%</del>
254	Special Risk Class	<u>17.76%</u>	<del>11.95%</del>
255	Special Risk Administrative Support Class	<u>32.39%</u>	<del>26.22%</del>
256	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>53.84%</u>	<del>50.21%</del>
257	Elected Officers' Class— Justices, Judges	<u>33.74%</u>	<del>27.93%</del>
258	Elected Officers' Class— County Elected Officers	<u>48.84%</u>	<del>44.23%</del>

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Senior Management Service Class 26.96% ~~23.90%~~

DROP 16.57% ~~10.64%~~

Section 6. Subsection (7) of section 121.72, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

121.72 Allocations to investment plan member accounts; percentage amounts.—

(7) Effective July 1, 2023, through June 30, 2024, allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts are as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	11.30%
Special Risk Class	19.00%

276	Special Risk Administrative Support Class	12.95%
277	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	14.38%
278	Elected Officers' Class— Justices, Judges	18.23%
279	Elected Officers' Class— County Elected Officers	16.34%
280	Senior Management Service Class	12.67%

281       (8) Effective July 1, 2024, allocations from the Florida  
 282 Retirement System Contributions Clearing Trust Fund to  
 283 investment plan member accounts are as follows:  
 284

<u>Membership Class</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation</u>
-------------------------	---

285  
286



287	<u>Regular Class</u>	<u>13.30%</u>
288	<u>Special Risk Class</u>	<u>22.00%</u>
289	<u>Special Risk Administrative Support Class</u>	<u>14.95%</u>
290	<u>Elected Officers' Class—</u> <u>Legislators, Governor,</u> <u>Lt. Governor, Cabinet Officers,</u> <u>State Attorneys, Public Defenders</u>	<u>18.38%</u>
291	<u>Elected Officers' Class—</u> <u>Justices, Judges</u>	<u>22.23%</u>
292	<u>Elected Officers' Class—</u> <u>County Elected Officers</u>	<u>20.34%</u>
293	<u>Senior Management Service Class</u>	<u>14.67%</u>

294 Section 7. Paragraph (a) of subsection (1) of section  
295 121.591, Florida Statutes, is amended to read:

296 121.591 Payment of benefits.—Benefits may not be paid  
297 under the Florida Retirement System Investment Plan unless the  
298 member has terminated employment as provided in s.  
299 121.021(39) (a) or is deceased and a proper application has been

300 | filed as prescribed by the state board or the department.  
 301 | Benefits, including employee contributions, are not payable  
 302 | under the investment plan for employee hardships, unforeseeable  
 303 | emergencies, loans, medical expenses, educational expenses,  
 304 | purchase of a principal residence, payments necessary to prevent  
 305 | eviction or foreclosure on an employee's principal residence, or  
 306 | any other reason except a requested distribution for retirement,  
 307 | a mandatory de minimis distribution authorized by the  
 308 | administrator, or a required minimum distribution provided  
 309 | pursuant to the Internal Revenue Code. The state board or  
 310 | department, as appropriate, may cancel an application for  
 311 | retirement benefits if the member or beneficiary fails to timely  
 312 | provide the information and documents required by this chapter  
 313 | and the rules of the state board and department. In accordance  
 314 | with their respective responsibilities, the state board and the  
 315 | department shall adopt rules establishing procedures for  
 316 | application for retirement benefits and for the cancellation of  
 317 | such application if the required information or documents are  
 318 | not received. The state board and the department, as  
 319 | appropriate, are authorized to cash out a de minimis account of  
 320 | a member who has been terminated from Florida Retirement System  
 321 | covered employment for a minimum of 6 calendar months. A de  
 322 | minimis account is an account containing employer and employee  
 323 | contributions and accumulated earnings of not more than \$5,000  
 324 | made under the provisions of this chapter. Such cash-out must be

325 a complete lump-sum liquidation of the account balance, subject  
 326 to the provisions of the Internal Revenue Code, or a lump-sum  
 327 direct rollover distribution paid directly to the custodian of  
 328 an eligible retirement plan, as defined by the Internal Revenue  
 329 Code, on behalf of the member. Any nonvested accumulations and  
 330 associated service credit, including amounts transferred to the  
 331 suspense account of the Florida Retirement System Investment  
 332 Plan Trust Fund authorized under s. 121.4501(6), shall be  
 333 forfeited upon payment of any vested benefit to a member or  
 334 beneficiary, except for de minimis distributions or minimum  
 335 required distributions as provided under this section. If any  
 336 financial instrument issued for the payment of retirement  
 337 benefits under this section is not presented for payment within  
 338 180 days after the last day of the month in which it was  
 339 originally issued, the third-party administrator or other duly  
 340 authorized agent of the state board shall cancel the instrument  
 341 and credit the amount of the instrument to the suspense account  
 342 of the Florida Retirement System Investment Plan Trust Fund  
 343 authorized under s. 121.4501(6). Any amounts transferred to the  
 344 suspense account are payable upon a proper application, not to  
 345 include earnings thereon, as provided in this section, within 10  
 346 years after the last day of the month in which the instrument  
 347 was originally issued, after which time such amounts and any  
 348 earnings attributable to employer contributions shall be  
 349 forfeited. Any forfeited amounts are assets of the trust fund

350 and are not subject to chapter 717.

351 (1) NORMAL BENEFITS.—Under the investment plan:

352 (a) Benefits in the form of vested accumulations as  
 353 described in s. 121.4501(6) are payable under this subsection in  
 354 accordance with the following terms and conditions:

355 1. Benefits are payable only to a member, an alternate  
 356 payee of a qualified domestic relations order, or a beneficiary.

357 2. Benefits shall be paid by the third-party administrator  
 358 or designated approved providers in accordance with the law, the  
 359 contracts, and any applicable board rule or policy.

360 3. The member must be terminated from all employment with  
 361 all Florida Retirement System employers, as provided in s.  
 362 121.021(39).

363 4. Benefit payments may not be made until the member has  
 364 been terminated for 3 calendar months, except that the state  
 365 board may authorize by rule for the distribution of up to 10  
 366 percent of the member's account after being terminated for 1  
 367 calendar month if the member has reached the normal retirement  
 368 date as defined in s. 121.021.

369 5. If a member or former member of the Florida Retirement  
 370 System receives an invalid distribution, such person must either  
 371 repay the full amount within 90 days after receipt of final  
 372 notification by the state board or the third-party administrator  
 373 that the distribution was invalid, or, in lieu of repayment, the  
 374 member must terminate employment from all participating

375 employers. If such person fails to repay the full invalid  
 376 distribution within 90 days after receipt of final notification,  
 377 the person may be deemed retired from the investment plan by the  
 378 state board and is subject to s. 121.122. If such person is  
 379 deemed retired, any joint and several liability set out in s.  
 380 121.091(9)(e)2. ~~s. 121.091(9)(d)2.~~ is void, and the state board,  
 381 the department, or the employing agency is not liable for gains  
 382 on payroll contributions that have not been deposited to the  
 383 person's account in the investment plan, pending resolution of  
 384 the invalid distribution. The member or former member who has  
 385 been deemed retired or who has been determined by the state  
 386 board to have taken an invalid distribution may appeal the  
 387 agency decision through the complaint process as provided under  
 388 s. 121.4501(9)(g)3. As used in this subparagraph, the term  
 389 "invalid distribution" means any distribution from an account in  
 390 the investment plan which is taken in violation of this section,  
 391 s. 121.091(9), or s. 121.4501.

392 Section 8. The Legislature finds that a proper and  
 393 legitimate state purpose is served when employees and retirees  
 394 of the state and its political subdivisions, and the dependents,  
 395 survivors, and beneficiaries of such employees and retirees, are  
 396 extended the basic protections afforded by governmental  
 397 retirement systems that provide fair and adequate benefits and  
 398 that are managed, administered, and funded in an actuarially  
 399 sound manner as required by s. 14, Art. X of the State

400 | Constitution and part VII of chapter 112, Florida Statutes.  
401 | Therefore, the Legislature determines and declares that this act  
402 | fulfills an important state interest.

403 |       Section 9. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 189 Gaming Control

**SPONSOR(S):** Regulatory Reform & Economic Development Subcommittee, Salzman

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	7 Y, 5 N, As CS	Thompson	Anstead
2) Appropriations Committee		Helping	Pridgeon
3) Judiciary Committee			

### SUMMARY ANALYSIS

The Florida Gaming Control Commission (Commission), is responsible for exercising all regulatory and executive powers of the state with respect to gambling, excluding the state lottery. The Commission's Division of Gaming Enforcement (Division) is a criminal justice agency tasked with the enforcement of Florida's gambling laws to combat illegal gambling activities, and is the first law enforcement agency with illegal gambling as its primary responsibility. The Division director and all investigators are certified law enforcement officers, have the power to investigate, apprehend, and make arrests for any alleged violation of the state's gambling laws, or any law of this state, and are authorized to seize, store, and test contraband in accordance with the Florida Contraband Forfeiture Act.

Recently, illegal gambling operations using unregulated slot machines have been increasing. The devices are similar to regulated gambling devices, but can be manipulated by the operators to control the outcome and ratio of winnings in a fraudulent manner. The operations (adult arcades or internet cafes), target vulnerable populations, and are often tied to criminal activity, including money laundering, drug trafficking, and violent crime. The Division has participated in numerous enforcement actions along with local law enforcement, including raids, resulting in arrests and closures; however, the activity persists. According to the Commission, Florida law contains many low-level penalties for criminal violations related to illegal gambling, which does not deter the criminal activity and leads to adult arcades operating slot machines illegally across the state.

The bill revises certain criminal penalties in Florida law related to illegal gambling, as follows:

- Prohibits falsely impersonating personnel or representatives of the Commission.
- Increases the penalty for keeping an illegal gambling house from a second degree misdemeanor to a third degree felony.
- Increases the penalty for the manufacture, sale, and possession of illegal slot machines from a second degree misdemeanor to a first degree misdemeanor, and to a felony for managers with prior convictions.
- Makes it a first degree felony for trafficking more than 15 illegal slot machines or any parts thereof, and imposes certain monetary fines.
- Makes it a third degree felony to make a false or misleading statement to facilitate the sale of illegal slot machines, and a second degree felony when such violation involves five or more machines.
- Makes it a first degree misdemeanor to transport five or more persons into or within the state to facilitate illegal gambling, and a third degree felony when violations include a minor or person 65 years old or older, or 12 or more persons.
- Makes it a first degree misdemeanor to make certain gambling or gaming advertisements.
- Prohibits counties, municipalities, or other political subdivisions from regulating gaming, gambling, lotteries, or other activities described in s. 546.10, F.S., or ch. 849, F.S.
- Requires courts to consider the amount of currency seized in connection with certain gambling violations when determining bail conditions.
- Conforms the offense severity ranking chart to the changes made by the bill.

The fiscal impact to the state is indeterminate. The Commission may see an increase in revenues as a result in an increase of confiscated contraband and fines levied pursuant to the bill. See Fiscal Comments.

The effective date of the bill is July 1, 2024.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0189.APC

**DATE:** 1/29/2024



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Gambling in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Gambling is defined in Florida law as playing or engaging in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value.<sup>1</sup> The standard jury instructions for criminal cases in Florida provide that in order to prove the crime of gambling, the state must prove the following three elements beyond a reasonable doubt:<sup>2</sup>

- Playing or engaging in a game of chance.
- Risking money or property on the outcome of the game.
- Expecting to gain or lose money or property as a result of the game.

Florida does not allow gambling on games of skill of all types. Gambling on games of skill is highly regulated, and wagers on such games that are not specifically authorized are considered illegal.

Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida.

Slot machines that are not operated by a licensed pari-mutuel facility or in accordance with a tribal compact or specific law are illegal in Florida.

Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house, engaging in bookmaking, and running a lottery. However, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel<sup>3</sup> wagering;<sup>4</sup>
- Gaming on tribal reservations in accordance with the federal Indian Gaming Regulatory Act and the 2021 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;<sup>5</sup> and
- Cardrooms<sup>6</sup> at certain pari-mutuel facilities.

Under the Florida Contraband Forfeiture Act,<sup>7</sup> gambling proceeds, paraphernalia, and property may be seized as contraband. For example, a vehicle used for transporting an illegal slot machine is subject to seizure.<sup>8</sup>

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<sup>1</sup> S. 849.08, F.S.

<sup>2</sup> The Florida Bar, Criminal Jury Instructions Chapter 22, 22.1 Gambling, <https://www.floridabar.org/rules/florida-standard-jury-instructions/criminal-jury-instructions-home/criminal-jury-instructions/sji-criminal-chapter-22/> (last visited Jan. 2, 2024).

<sup>3</sup> “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

<sup>4</sup> *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

<sup>5</sup> *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

<sup>6</sup> S. 849.086(2)(c), F.S., defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,<sup>9</sup> bingo,<sup>10</sup> charitable drawings,<sup>11</sup> game promotions (sweepstakes),<sup>12</sup> bowling tournaments,<sup>13</sup> and skill-based amusement games and machines at specified locations.<sup>14</sup>

## Florida Gaming Control Commission

The Florida Gaming Control Commission (Commission) is a five-member regulatory body that is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts, and other forms of gambling authorized by the State Constitution or law, excluding the state lottery.<sup>15</sup> The Commission is also the State Compliance Agency responsible for monitoring compliance with the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.<sup>16</sup>

The Division of Gaming Enforcement (Division) is a criminal justice agency<sup>17</sup> tasked with the enforcement of Florida's gambling laws to combat illegal gambling activities.<sup>18</sup> While every law enforcement officer in the state of Florida has the authority to make arrests for violations of Florida's gambling laws, the Division is the first law enforcement agency with illegal gambling as its primary responsibility.<sup>19</sup>

The Division director and all investigators are certified and designated law enforcement officers, and have the power to detect, apprehend, and arrest for any alleged violation of the state's gambling laws, or any law of this state.<sup>20</sup> Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass.<sup>21</sup>

Such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Investigators employed by the Commission are required to have access to, and the right to inspect, premises licensed by the Commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the Commission.<sup>22</sup>

The Division and its investigators are specifically authorized to seize, store, and test any contraband<sup>23</sup> in accordance with the Florida Contraband Forfeiture Act.<sup>24</sup>

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<sup>7</sup> Ss. 932.701-932.706, F.S., comprise the Florida Contraband Forfeiture Act.

<sup>8</sup> S. 849.36, F.S.

<sup>9</sup> S. 849.085, F.S.

<sup>10</sup> S. 849.0931, F.S.

<sup>11</sup> S. 849.0935, F.S.

<sup>12</sup> S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>13</sup> S. 849.141, F.S.

<sup>14</sup> S. 546.10, F.S.

<sup>15</sup> See ss. 16.71-16.716, F.S.

<sup>16</sup> S. 285.710, F.S.

<sup>17</sup> S. 16.711(1), F.S.

<sup>18</sup> Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, pg. 6, <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last visited Jan. 2, 2024).

<sup>19</sup> Florida Gaming Control Commission, *Gaming Enforcement*, <https://flgaming.gov/enforcement/> (last visited Jan. 3, 2024).

<sup>20</sup> S. 16.711(3), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> The term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2, F.S., which is defined as "any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state, including any violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849."

According to the Commission, the Division:<sup>25</sup>

- Participates in direct enforcement activities involving proactive investigations initiated by reports of illegal gambling, confidential sources, and investigative leads. Upon obtaining sufficient evidence, agents execute search warrants, resulting in arrests and the seizure of illegal gambling devices and contraband.
- Serves as a valuable resource for state and local law enforcement partners, providing expert guidance on the intricacies of Florida's gambling laws and regulations. Agents share their knowledge and experience, assisting other law enforcement agencies in identifying illegal gambling activities, gathering evidence, and building strong cases for prosecution. This collaborative approach ensures that illegal gambling operations are effectively investigated and disrupted.

## Illegal Gambling Machines

According to the American Gaming Association, “there are a growing number of companies that design, manufacture, sell, or operate machines that mimic regulated gambling devices but operate without complying with state and federal laws. These games are extremely similar to regulated gambling devices, using drums or reels with insignia or other symbols that players “spin” to win prizes, including money. The manufacturers of such machines argue that their games are “skill-based” or operate in other “gray areas” of the law, thereby exempting them from regulation. However, these machines function similarly to traditional slot machines, and in fact, many consumers do not know the difference between regulated gambling devices and these “skill-based” or “gray” machines.”<sup>26</sup>

These machines have been found to put consumers at risk by targeting the most vulnerable populations. In addition, they are often tied to criminal activity, including money laundering, drug trafficking, violent crime, and more.<sup>27</sup>

Regulated gambling device manufacturers that seek to manufacture, sell, or ship a gambling device in interstate commerce are required by the federal Johnson Act to register annually with the U.S. Department of Justice.<sup>28</sup> The Johnson Act makes it unlawful to transport a gambling device in interstate or foreign commerce, unless the device is shipped to a state or tribal jurisdiction that has otherwise made such shipment or operation of these games lawful.

Gambling devices are defined in the Johnson Act as any slot machine or other machine or device that is designed primarily for use in gambling, where as a result of application of an element of chance and any money or property, a person may be entitled to win money or property.<sup>29</sup>

Failure to comply with the Johnson Act carries penalties of fines up to \$5,000 and up to two years of imprisonment, along with forfeiture of the unregistered gambling devices.<sup>30</sup>

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<sup>24</sup> S. 16.711(4), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> American Gaming Association, *Re: Comments Requested on Registration Under the Gambling Devices Act of 1962*, 86 *Fed. Reg.* 53, 682, OMB No. 1123-0010, <https://www.americangaming.org/wp-content/uploads/2022/03/AGA-Comment-Gambling-Devices-Act-Nov.-29-202198.pdf> (last visited Jan. 23, 2024).

<sup>27</sup> See American Gaming Association, *SKILLED AT DECEPTION: How Unregulated Gaming Machines Endanger Consumers and Dilute Investments in Local Economies*, <https://www.americangaming.org/wp-content/uploads/2021/04/Unregulated-Gaming-Machines-White-Paper-Final.pdf> (last visited Jan. 3, 2024).

<sup>28</sup> Gambling Devices Act of 1962, 15 U.S.C. §§ 1171–78 (the “Johnson Act”).

<sup>29</sup> 15 U.S.C. § 1171(a).

<sup>30</sup> 15 U.S.C. §§ 1176, 1177

## Allied Veterans of the World

In March 2013, a three-year, multi-state, multi-agency investigation into the operations of illegal gambling at so-called Internet cafes affiliated with Allied Veterans of the World (Allied Veterans) concluded with the arrest of 57 people, and seizure of about 300 bank accounts and approximately \$64.7 million. Charges included racketeering and money laundering.<sup>31</sup>

The Florida Attorney General's Office of Statewide Prosecution, alleged that the establishments purported to provide customers with access to the Internet. Customers purchased prepaid cards that they could use for Internet time, and while on the computer could participate in contests that were similar to playing a slot machine. Winnings were posted to the prepaid cards, which could be turned in for cash.<sup>32</sup>

Allied Veterans operated centers out of about 50 strip malls throughout Florida. Prosecutors said the centers were mini-casinos, and most people who bought Internet time didn't use it because they came to gamble. Defense attorneys said the centers offered sweepstakes, not gambling.<sup>33</sup> Under Florida law, sweepstakes may be conducted in connection with and incidental to the sale of consumer products or services, and in which the elements of chance and prize are present, only after filing, and providing certain information regarding winnings, with the Department of Agriculture and Consumer Services.<sup>34</sup> This allows businesses such as McDonald's to offer games of chance without being in violation of illegal gambling.

In spite of the large number of people arrested, only one person was sentenced to prison after being found guilty of racketeering, helping to run a lottery, and possession of an illegal slot machine or device. The conviction was subsequently overturned by the Fifth District Court of Appeal, and the Florida Supreme Court declined to overturn the appellate court's decision and reinstate the conviction.<sup>35</sup>

As a result of the arrests, in 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The Legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prizes are prohibited slot machines.<sup>36</sup>

In 2015, the Legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The Legislature clarified regulations related to the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.<sup>37</sup>

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<sup>31</sup> Mary Ellen Klas, *Bill Banning Internet Cafes Becomes Law in Florida*, *Governing*, The States and Localities (April 11, 2013), <https://www.governing.com/archive/mct-bill-banning-internet-cafes-becomes-law-in-florida.html#:~:text=The%20measure%2C%20HB%20155%2C%20was,workers%20in%20now%2Dshuttered%20operations> (last visited Jan. 3, 2024).

<sup>32</sup> The National Registry of Exonerations, *Kelly Mathis*, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5122> (last visited Jan. 3, 2024).

<sup>33</sup> Larry Hannan, *Allied Veterans of the World: A massive scandal -- or just overreach?*, *The Florida Times Union*, <https://www.jacksonville.com/story/news/crime/2015/02/22/allied-veterans-scandal-didnt-live-its-billing/15651951007/> (last visited Jan. 3, 2024).

<sup>34</sup> S. 849.094, F.S.

<sup>35</sup> Eileen Kelley, *State Attorney General's Office drops Allied Veterans charges against embattled Jacksonville lawyer*, *The Florida Times Union*, <https://www.jacksonville.com/story/news/crime/2015/02/22/allied-veterans-scandal-didnt-live-its-billing/15651951007/> (last visited Jan. 3, 2024).

<sup>36</sup> Florida House of Representatives Select Committee on Gaming, *Final Bill Analysis of 2013 CS/HB 155*, p. 1 (Apr. 19, 2013).

<sup>37</sup> S. 546.10, F.S.

## Recent Activity

According to reports, illegal gambling operations targeting vulnerable aging populations in Florida are increasing. The activity has especially grown since the pandemic with an “explosion of illegal gambling lounges opening up with unregulated slot machines.”<sup>38</sup>

According to the Commission, “some of them register as amusement arcades through the Department of Revenue, which means they're acting like a Dave and Buster's or a Chuck E. Cheese, but in reality, they're offering illegal gambling devices such as slot machines. If the game has any element of chance built into it, under Florida statute, it's considered an illegal gambling device. They have the ability to dial up the winnings to entice play. Once they get a packed house, they dial down the winnings to almost zero. Then at that point, they're just stealing and using predatory practices and taking money from Florida's senior population.”<sup>39</sup>

On May 9, 2023, special agents from the Commission and local law enforcement executed search warrants simultaneously in Fort Pierce, Delray Beach, St. Petersburg, and Tampa. They targeted illegal gambling operations at adult arcades and seized more than \$1.0 million in assets, cash, slot-style gaming machines, computers, and ATMs. The raid resulted in seven arrests and the seizure of 360 slot machines. After the May raid, St. Lucie County sheriff's deputies went to every known adult arcade location in St. Lucie County to hand-deliver a Jan. 27 warning letter initially mailed to each arcade.<sup>40</sup>

Many arcades in St. Lucie County and some in Indian River County closed out of fear. However, some arcades never closed, and most eventually reopened. It appears only a handful shut down permanently. State officials said they would continue to monitor those open adult arcades and continue to work with local law enforcement.<sup>41</sup>

In 2023, the Commission investigated several illegal slot machine businesses operating in the state, and found that:<sup>42</sup>

- The scope of the problem is much larger than initially anticipated.
- There are significant adverse harms associated with the activity.
- Success will require collaborative and coordinated efforts.
- Obstacles will continue to evolve but can be overcome.

During the 2022-2023 fiscal year, the Division received 1,266 total location based complaints of illegal gambling. From those complaints, 493 letters were sent to the local law enforcement departments informing them of possible illegal gambling activities at these locations. From those complaints, 506 letters were sent directly to businesses informing them of their possible participation in illegal gambling activities and providing copies of the gambling laws and associated criminal punishments.<sup>43</sup>

During the 2022-2023 fiscal year, the Division conducted joint investigation operations with the Chipley Police Department, Hillsborough Sheriff's Office, Holmes County Sheriff's Office, Manatee County

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<sup>38</sup> Jordan Brown, *Florida seniors warned to be cautious of shady slot machines*, FOX 13 Tampa Bay (May 23, 2023), <https://www.fox13news.com/news/illegal-gambling-operations-in-florida-re-targeting-aging-populations> (last visited Jan. 4, 2024).

<sup>39</sup> *Id.*

<sup>40</sup> TCPalm, *Florida investigators shut down arcades with illegal slot machines. Here's what we know*, <https://www.tcpalm.com/story/news/crime/st-lucie-county/2023/09/14/what-we-know-investigators-raid-adult-arcades-with-illegal-slots-treasure-coast/70853727007/> (last visited Jan. 12, 2024).

<sup>41</sup> *Id.*

<sup>42</sup> Florida Gaming Control Commission, Presentation to the House Regulatory Reform & Economic Development Subcommittee, (Oct. 17, 2023), at pg. 12.

<sup>43</sup> Florida Gaming Control Commission, *Gaming Enforcement Investigations and Actions, Annual Report 2022-2023*, at pg. 7, <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last vi

Sheriff's Office, Palm Beach Sheriff's Office, St. Lucie County Sheriff's Office, and St. Petersburg Police Department resulting in 52 arrests and the seizure of:<sup>44</sup>

- 858 illegal slot machines.
- \$1,151,000 in cash.
- Approximately \$2,000,000 in real estate.
- 40 grams of fentanyl.
- 10 grams of methamphetamine.

## Slot Machines

In Florida, a slot machine is defined as a machine or device that:<sup>45</sup>

- Is activated by inserting something of value (money, coin, account number, code, or other object or information);
- Is caused to operate or operated by a user **by application of skill, element of chance, or other outcome that is unpredictable to the user**; and
- The user receives or is entitled to receive something of value or additional chances or rights to use the device or machine.

There is a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value.<sup>46</sup>

Slot machines are only authorized in licensed pari-mutuel facilities located in Miami-Dade and Broward counties and on tribal property.<sup>47</sup> Off of licensed pari-mutuel facilities, it is a violation to “manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of any slot machine or device or any part thereof.”<sup>48</sup>

Violations of the provisions<sup>49</sup> prohibiting the manufacture, sale, possession, etc., of slot machines or devices, are a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S. A second violation is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S. Any person violating these provisions after having been twice convicted is deemed a “common offender,” and guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.<sup>50</sup>

Unlicensed slot machines are illegal in Florida and are considered “contraband.” Florida law provides, as contraband, “the right of property to an illegal slot machine and all the money or other things of value within the slot machine, does not exist and shall be forfeited to the county in which the seizure took place.”<sup>51</sup>

Florida law also provides that all sums of money and other value used, displayed in, or connected with illegal gambling or an illegal gambling device contrary to the laws of this state shall be forfeited.<sup>52</sup>

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<sup>44</sup> *Id.*

<sup>45</sup> S. 849.16(1), F.S.

<sup>46</sup> S. 849.16(3), F.S.

<sup>47</sup> S. 551.101, F.S.

<sup>48</sup> S. 849.15(1)(a), F.S.

<sup>49</sup> Ss. 849.15, F.S. – 849.22, F.S.

<sup>50</sup> S. 849.23, F.S.

<sup>51</sup> S. 849.19, F.S.

<sup>52</sup> S. 849.12, F.S.

Pursuant to the federal Johnson Act, Florida law allows shipment of gaming devices including slot machines into this state provided the destination of the shipment is an eligible slot machine facility, or the facility of a slot machine manufacturer or slot machine distributor.<sup>53</sup>

## **False Personation**

Current law prohibits falsely assuming or pretending to be a state, local, or federal law enforcement officer, or requiring assistance in a matter pertaining to the duty of such officer (false personation).<sup>54</sup>

The list of officers and individuals who may not be falsely personated include:

- Firefighters;
- Sheriffs or sheriffs deputies;
- Florida Highway Patrol officers;
- Fish and Wildlife Conservation Commission officers;
- Department of Environmental Protection officers;
- Department of Financial Services officers;
- Division of Investigative and Forensic Services personnel or representatives;
- Department of Corrections officers;
- State attorney or an assistant state attorney;
- Statewide prosecutor or an assistant statewide prosecutor;
- State attorney investigator;
- Coroner;
- Police officer;
- Lottery special agent or lottery investigator;
- Beverage enforcement agent;
- School guardian;
- Security officer;
- Member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; and
- Any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.15.05, F.S.<sup>55</sup>

False personation violations are a third degree felony, punishable by up to five years in prison and a \$5,000 fine,<sup>56</sup> unless committed during the course of a felony.<sup>57</sup> A person who poses as an officer in order to facilitate a felony crime would also face a second degree felony, punishable by up to 15 years in prison and a \$10,000 fine.<sup>58</sup>

The Commission is currently not listed as a law enforcement agency for the criminal offense of false personation of a law enforcement officer.

## **Keeping a Gambling House**

Current law makes it is a second degree misdemeanor to keep a gambling house.<sup>59</sup> Specifically, a person is guilty of this offense if he or she:

- Habitually keeps, exercises, or maintains, for the purpose of gaming or gambling:<sup>60</sup>

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<sup>53</sup> S. 849.15(2), F.S.

<sup>54</sup> S. 843.08, F.S.

<sup>55</sup> S. 901.1505., F.S., defines the term “federal law enforcement officer” as “a person who is employed by the Federal Government as a full-time law enforcement officer as defined by the applicable provisions of the United States Code, who is empowered to effect an arrest for violations of the United States Code, who is authorized to carry firearms in the performance of her or his duties, and who has received law enforcement training equivalent to that prescribed in s. 943.13.”

<sup>56</sup> See ss. 775.082 and 775.083, F.S.

<sup>57</sup> S. 843.08, F.S.

<sup>58</sup> *Id.*

<sup>59</sup> S. 849.01, F.S.

- A gaming table or room;
- Gaming implements;
- Gaming apparatus; or
- A house, booth, tent, shelter, or other place.

A second degree misdemeanor is punishable by up to 60 days in jail and a fine up to \$500.<sup>61</sup>

### **Criminal Punishment Code**

The Criminal Punishment Code (Code) applies to all felony offenses, except capital felonies, committed on or after October 1, 1998.<sup>62</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10), either by being specifically listed in the offense severity ranking chart<sup>63</sup> or by default.<sup>64</sup> Judges must use the Code worksheet to compute a sentence score for each felony offender.<sup>65</sup>

Sentence points are assigned and accrue based on the level ranking assigned to the primary offense, additional offenses, and prior offenses.<sup>66</sup> Sentence points increase as the offense severity level increases from Level 1 (least severe) to Level 10 (most severe). Sentence points are added for victim injury, and increase based on the type of injury and severity.<sup>67</sup> Sentence points may also be added or multiplied for other factors including possession of a firearm or the commission of certain offenses, such as drug trafficking.<sup>68</sup> If an offense is unlisted on the offense severity ranking chart, the Code provides a ranking based on felony level.<sup>69</sup> For example, an unranked third degree felony is a level one offense.<sup>70</sup>

If total sentence points equal or are less than 44 points, the lowest permissible sentence is any nonstate prison sanction, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>71</sup> Absent mitigation,<sup>72</sup> the permissible range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>73</sup>

The offense severity ranking chart ranks the following third degree felony lottery violations as a level 1:<sup>74</sup>

- Set up, promote, or conduct any lottery for money or for anything of value;<sup>75</sup>
- Dispose of any money or other property of any kind whatsoever by means of any lottery;<sup>76</sup>

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<sup>60</sup> S. 849.01, F.S.; *Ferguson v. State*, 377 So. 2d 709, 711 (Fla. 1979) (requiring an element of "habitualness" for a conviction under s. 849.01, F.S.).

<sup>61</sup> See ss. 775.082 and 775.083, F.S.

<sup>62</sup> S. 921.002, F.S.

<sup>63</sup> S. 921.0022, F.S.

<sup>64</sup> S. 921.0023, F.S., addresses ranking unlisted felony offenses. For example, an unlisted felony of the third degree is ranked within offense level 1.

<sup>65</sup> S. 921.0024, F.S.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> S. 921.0023, F.S.

<sup>70</sup> *Id.*

<sup>71</sup> S. 921.0022(2), F.S.

<sup>72</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>73</sup> S. 921.0022(2), F.S.

<sup>74</sup> S. 921.022(3)(a), F.S.

<sup>75</sup> S. 849.09(1)(a)-(d), F.S.

<sup>76</sup> *Id.*



- Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise;<sup>77</sup> or
- Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing.<sup>78</sup>
- Engaging in bookmaking.<sup>79</sup>

## **Bail Determinations**

The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant.<sup>80</sup>

When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court is required to consider certain factors, including:<sup>81</sup>

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct.
- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail or procure an appearance bond.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.

The bail determination provisions currently do not require courts to consider specific factors related to currency seized that is involved in state gambling law violations.

## **Effect of Proposed Changes**

### **False Personation**

The bill adds personnel or representatives of the Commission to the statute that prohibits falsely impersonating a law enforcement officer.

### **Keeping a Gambling House**

The bill increases the penalty for keeping an illegal gambling house from a second degree misdemeanor to a third degree felony.

### **Slot Machines**

Regarding penalties for the manufacture, sale, and possession of illegal slot machines, the bill:

- Increases general violations from a second degree misdemeanor to a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.
- Increases violations by a manager from a first degree misdemeanor to a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., if:
  - At the time of the violation the person is acting as a manager.

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> S. 849.25(2), F.S.

<sup>80</sup> S. 903.046(1), F.S.

<sup>81</sup> S. 903.046(2), F.S.

- The person in violation has one prior conviction for such violation.
- Increases violations by a manager from a third degree felony to a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., if:
  - At the time of the violation the person is acting as a manager; and
    - The violation involves five or more slot machines or devices.
    - Has two or more prior convictions for such violation.
- Defines “conviction” to mean “a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.
- Defines “manager” to mean “a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:
  - Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;
  - Authorization to supervise another employee or employees; or
  - Any ownership interest in the business, establishment, premises, or other location.”

Regarding trafficking in slot machines or devices, the bill makes it a:

- First degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., to knowingly sell, purchase, manufacture, transport, deliver, or bring into this state more than 15 slot machines or devices or any part thereof; and
  - Includes an additional fine of \$100,000, if the quantity of slot machines or devices or any part thereof involved is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof.
  - Includes an additional fine of \$250,000, if the quantity of slot machines or devices or any part thereof involved is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof.
  - Includes an additional fine of \$500,000, if the quantity of slot machines or devices or any part thereof involved is 50 slot machines or devices or any part thereof or more.
- Requires all fines imposed and collected pursuant to these provisions to be deposited into the Pari-mutuel Wagering Trust Fund and authorizes such funds to be used for the enforcement of chapters 546, F.S., 550, F.S., 551, F.S., and 849, F.S., by the Commission.

Regarding false or misleading statements to facilitate the sale of illegal slot machines, the bill makes it a:

- Third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., to knowingly and willfully:
  - Make a materially false or misleading statement regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration; or
  - Disseminate false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration.
- Second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices.

### **Transporting Persons to Facilitate Illegal Gambling**

The bill makes it a:

- First degree misdemeanor, punishable as provided in s. 775.082, or s. 775.083, F.S., to knowingly and willfully for profit or hire transport, or procure the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling.
- Third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., for such violations to also include the transport, or procurement of transportation of:
  - A minor or a person 65 years of age or older.

- Twelve or more persons.

For purposes of these provisions, the bill defines the term “illegal gambling” as any criminal violation of chapters 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location which operates for profit.

### **Gambling or Gaming Advertisements**

The bill prohibits, except as otherwise specifically authorized by law:

- Knowingly and intentionally making, publishing, disseminating, circulating or placing before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling.
- Setting up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

The bill:

- Makes violations a first degree misdemeanor, punishable as provided in s. 775.082, or s. 775.083, F.S.
- Specifies that nothing in these provisions prohibit the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of this state, where such gambling is not prohibited.
- Defines the term “illegal gambling” as any criminal violation of chapters 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location which operates for profit.

### **Preemption**

The bill prohibits a county, municipality, or other political subdivision of the state from enacting or enforcing any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10, F.S., or chapter 849, F.S., except as otherwise expressly provided by the state constitution or general law.

### **Bail Determinations**

The bill requires courts to consider the amount of currency seized that is connected to or involved in a violation of chapters 546, 550, 551, or 849, F.S., when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be.

### **Criminal Punishment Code**

The bill:

- Confirms the offense severity ranking chart to the changes made by the bill.
- Reclassifies the offense of engaging in bookmaking as a level 3 offense.
- Ranks the offense of keeping a gambling house as a level 3 offense.
- Ranks the lottery offenses relating to setting up, promoting, assisting, conducting or advertising a drawing for prizes, or disposing of property or money by means of lottery as a level 3 offense.
- Ranks second or subsequent violations of each of the following offenses related to conducting an unlawful lottery as a level 3 offense:
  - Attempting to operate, conduct, or advertise any lottery scheme or device.

- Possession of a lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value.
- Selling, offering for sale, or transmitting, in person or by mail or in any other manner, a lottery ticket, coupon, or share, of any lottery ticket.
- Possession of a lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played.
- Aiding or assisting in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery.
- Possession of a lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings.
- Possession of so-called “run down sheets,” tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.
- Ranks each of the following offenses related to slot machines as a level 3 offense:
  - Manufacture, sale, or possession of slot machine; by manager or with prior conviction.
  - False or misleading statement to facilitate sale of slot machines or devices.
  - Transporting persons to facilitate illegal gambling; minor or person 65 years of age or older or 12 or more persons.
- Ranks each of the following offenses related to slot machines as a level 5 offense:
  - Manufacture, sale, or possession of a slot machine; by a manager of five or more machines or two or more prior convictions.
  - False or misleading statement to facilitate sale of slot machines or devices; five or more machines.
  - Bookmaking; second or subsequent offense.
- Ranks trafficking in slot machines or devices or any part thereof a level 7 offense.

## B. SECTION DIRECTORY:

- Section 1: Amends s. 843.08, F.S., relating to false personation.
- Section 2: Amends s. 849.01, F.S., relating to keeping gambling houses.
- Section 3: Amends s. 849.15, F.S., relating to manufacture, sale, possession, etc., of slot machines or devices prohibited.
- Section 4: Creates s. 849.155, F.S., relating to trafficking in slot machines or devices or any parts thereof.
- Section 5: Creates s. 849.157, F.S., relating to making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.
- Section 6: Repeals s. 849.23, F.S., relating to Penalty for violations of ss. 849.15-849.22, F.S.
- Section 7: Creates s. 849.47, F.S., relating to transporting or procuring the transportation of persons to facilitate illegal gambling.
- Section 8: Creates s. 849.48, F.S., relating to gambling or gaming advertisements; prohibited.
- Section 9: Creates s. 849.49, F.S., relating to preemption.
- Section 10: Amends s. 903.046, F.S., relating to purpose of and criteria for bail determination.

Section 11: Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 12: Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may prevent or reduce illegal gambling, which will protect vulnerable populations, and reduce secondary criminal activity, including money laundering, drug trafficking, violent crime, and more.

### D. FISCAL COMMENTS:

The fiscal impact to the state and local government is indeterminate. The bill increases and creates new criminal penalties for violations relating to illegal gambling. This may create a positive fiscal impact to the state and local governmental entities that receive proceeds from the related fines. This may also create a negative fiscal impact to those entities relating to administration of enforcement. The Criminal Justice Impact Conference has not yet analyzed this bill.

Regarding trafficking in slot machines or devices, the bill:

- Requires all fines imposed and collected pursuant to these provisions to be deposited into the Pari-mutuel Wagering Trust Fund; and
- Authorizes such funds to be used for the enforcement of chapters 546, 550, 551, and 849, F.S., by the Commission.

## 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 appear to create a need for additional rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2024, the Regulatory Reform & Economic Development Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removes the provision that exempted the Commission from chapter 255, F.S.
- Revises the penalty for keeping an illegal gambling house.
- Removes the provision that creates a rebuttable presumption that the presence of one or more slot machines at a house, room, booth, tent, shelter or place is being illegally rented for gambling or gaming purposes and subject to a third degree felony for keeping an illegal gambling house.
- Removes provisions that increase the penalties for:
  - Allowing a minor, a mentally incompetent person, or a person under guardianship to gamble.
  - A licensed pool hall owner that allows persons to play for money.
  - Illegal lottery offenses.
- Revises penalties for the manufacture, sale, and possession of illegal slot machines.
- Increases penalties for making false or misleading statements regarding legality of slot machines to facilitate sale.
- Creates penalties for transporting persons to facilitate illegal gambling.
- Revises bail funding guidelines for courts to consider.
- Revises the offense severity ranking chart in the criminal punishment code.
- Preempts local governments from enacting or enforcing ordinances or local rules relating to gaming, gambling, lotteries, or any activities described in s. 546.10 or ch. 849, except as otherwise expressly provided by the state constitution or general law.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1                                   A bill to be entitled  
2           An act relating to gaming control; amending s. 843.08,  
3           F.S.; prohibiting a person from falsely personating  
4           any personnel or representative from the Florida  
5           Gaming Control Commission; providing a criminal  
6           penalty; amending s. 849.01, F.S.; specifying a  
7           violation of the prohibition against keeping a  
8           gambling house must be committed knowingly; increasing  
9           the criminal penalty for a violation; amending s.  
10          849.15, F.S.; providing definitions; increasing the  
11          criminal penalty for specified violations involving a  
12          slot machine or device; creating s. 849.155, F.S.;  
13          prohibiting a person from trafficking in slot machines  
14          or devices; providing a criminal penalty; requiring a  
15          court to order an offender to pay a specified fine if  
16          he or she is convicted of trafficking in a specified  
17          number of slot machines or devices; providing for  
18          deposit of fines collected and use of proceeds;  
19          creating s. 849.157, F.S.; prohibiting a person from  
20          making false statements or disseminating false  
21          information regarding the legality of a slot machine  
22          or device to facilitate the sale or delivery of such  
23          device; providing criminal penalties; repealing s.  
24          849.23, F.S., relating to penalties for specified  
25          violations; creating s. 849.47, F.S.; prohibiting a

26 person from, for profit or hire, transporting or  
27 procuring the transportation of a specified number of  
28 other persons to facilitate illegal gambling;  
29 providing criminal penalties; defining the term  
30 "illegal gambling"; creating s. 849.48, F.S.;  
31 prohibiting a person from making or disseminating  
32 specified advertisements to promote or facilitate  
33 illegal gambling; prohibiting activities for creation  
34 of specified advertisements if a person knows or  
35 reasonably should know such material will be used to  
36 promote or facilitate illegal gambling; providing a  
37 criminal penalty; providing an exception; defining the  
38 term "illegal gambling"; creating s. 849.49, F.S.;  
39 specifying that the regulation of gambling is  
40 expressly preempted to the state; providing an  
41 exception; amending s. 903.046, F.S.; requiring a  
42 court to consider the amount of currency seized that  
43 is connected to specified violations relating to  
44 illegal gambling when determining bail; amending s.  
45 921.0022, F.S.; ranking offenses created by the act on  
46 the offense severity ranking chart of the Criminal  
47 Punishment Code; re-ranking specified offenses on the  
48 offense severity ranking chart of the Criminal  
49 Punishment Code; conforming provisions to changes made  
50 by the act; amending ss. 772.102 and 895.02, F.S.;



51 conforming provisions to changes made by the act;  
52 providing an effective date.

53

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

55

56 Section 1. Section 843.08, Florida Statutes, is amended to  
57 read:

58 843.08 False personation.—A person who falsely assumes or  
59 pretends to be a firefighter, a sheriff, an officer of the  
60 Florida Highway Patrol, an officer of the Fish and Wildlife  
61 Conservation Commission, an officer of the Department of  
62 Environmental Protection, an officer of the Department of  
63 Financial Services, any personnel or representative of the  
64 Division of Investigative and Forensic Services, any personnel  
65 or representative of the Florida Gaming Control Commission, an  
66 officer of the Department of Corrections, a correctional  
67 probation officer, a deputy sheriff, a state attorney or an  
68 assistant state attorney, a statewide prosecutor or an assistant  
69 statewide prosecutor, a state attorney investigator, a coroner,  
70 a police officer, a lottery special agent or lottery  
71 investigator, a beverage enforcement agent, a school guardian as  
72 described in s. 30.15(1)(k), a security officer licensed under  
73 chapter 493, any member of the Florida Commission on Offender  
74 Review or any administrative aide or supervisor employed by the  
75 commission, any personnel or representative of the Department of

76 Law Enforcement, or a federal law enforcement officer as defined  
 77 in s. 901.1505, and takes upon himself or herself to act as  
 78 such, or to require any other person to aid or assist him or her  
 79 in a matter pertaining to the duty of any such officer, commits  
 80 a felony of the third degree, punishable as provided in s.  
 81 775.082, s. 775.083, or s. 775.084. However, a person who  
 82 falsely personates any such officer during the course of the  
 83 commission of a felony commits a felony of the second degree,  
 84 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 85 If the commission of the felony results in the death or personal  
 86 injury of another human being, the person commits a felony of  
 87 the first degree, punishable as provided in s. 775.082, s.  
 88 775.083, or s. 775.084. In determining whether a defendant has  
 89 violated this section, the court or jury may consider any  
 90 relevant evidence, including, but not limited to, whether the  
 91 defendant used lights in violation of s. 316.2397 or s. 843.081.

92 Section 2. Section 849.01, Florida Statutes, is amended to  
 93 read:

94 849.01 Keeping gambling houses, etc.—Whoever by herself or  
 95 himself, her or his servant, clerk or agent, or in any other  
 96 manner knowingly has, keeps, exercises or maintains a gaming  
 97 table or room, or gaming implements or apparatus, or house,  
 98 booth, tent, shelter or other place for the purpose of gaming or  
 99 gambling or in any place of which she or he may directly or  
 100 indirectly have charge, control or management, either

101 exclusively or with others, procures, suffers or permits any  
102 person to play for money or other valuable thing at any game  
103 whatever, whether heretofore prohibited or not, commits a felony  
104 of the third ~~misdemeanor of the second~~ degree, punishable as  
105 provided in s. 775.082, ~~or~~ s. 775.083, or 775.084.

106 Section 3. Section 849.15, Florida Statutes, is amended to  
107 read:

108 849.15 Manufacture, sale, possession, etc., of slot  
109 machines or devices prohibited.—

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

111 (a) "Conviction" means a determination of guilt that is  
112 the result of a plea or a trial, regardless of whether  
113 adjudication is withheld or a plea of nolo contendere is  
114 entered.

115 (b) "Manager" means a person who, at any business,  
116 establishment, premises, or other location at which a slot  
117 machine or device is offered for play, has:

118 1. Authorization to operate or hold open the business,  
119 establishment, premises, or other location without any other  
120 employee present;

121 2. Authorization to supervise another employee or  
122 employees; or

123 3. Any ownership interest in the business, establishment,  
124 premises, or other location.

125 (2)-(1) It is unlawful:

126 (a) To manufacture, own, store, keep, possess, sell, rent,  
127 lease, let on shares, lend or give away, transport, or expose  
128 for sale or lease, or to offer to sell, rent, lease, let on  
129 shares, lend or give away, or permit the operation of, or for  
130 any person to permit to be placed, maintained, or used or kept  
131 in any room, space, or building owned, leased or occupied by the  
132 person or under the person's management or control, any slot  
133 machine or device or any part thereof; or

134 (b) To make or to permit to be made with any person any  
135 agreement with reference to any slot machine or device, pursuant  
136 to which the user thereof, as a result of any element of chance  
137 or other outcome unpredictable to him or her, may become  
138 entitled to receive any money, credit, allowance, or thing of  
139 value or additional chance or right to use such machine or  
140 device, or to receive any check, slug, token or memorandum  
141 entitling the holder to receive any money, credit, allowance or  
142 thing of value.

143 (3) (a) Except as provided in paragraphs (b) and (c), a  
144 person who violates subsection (2) commits a misdemeanor of the  
145 first degree, punishable as provided in s. 775.082 or s.  
146 775.083.

147 (b) A person commits a felony of the third degree,  
148 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
149 if he or she violates subsection (2) and:

150 1. At the time of the violation the person is acting as a

151 manager.

152 2. Has one prior conviction for a violation of this  
 153 section.

154 (c) A person commits a felony of the second degree,  
 155 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 156 if he or she violates subsection (2) and:

157 1.a. At the time of the violation the person is acting as  
 158 a manager; and

159 b. The violation involves five or more slot machines or  
 160 devices.

161 2. Has two or more prior convictions for a violation of  
 162 this section.

163 (4)~~(2)~~ Pursuant to section 2 of that chapter of the  
 164 Congress of the United States entitled "An act to prohibit  
 165 transportation of gaming devices in interstate and foreign  
 166 commerce," approved January 2, 1951, being ch. 1194, 64 Stat.  
 167 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State  
 168 of Florida, acting by and through the duly elected and qualified  
 169 members of its Legislature, does hereby in this section, and in  
 170 accordance with and in compliance with the provisions of section  
 171 2 of such chapter of Congress, declare and proclaim that any  
 172 county of the State of Florida within which slot machine gaming  
 173 is authorized pursuant to chapter 551 is exempt from the  
 174 provisions of section 2 of that chapter of the Congress of the  
 175 United States entitled "An act to prohibit transportation of

176 gaming devices in interstate and foreign commerce," designated  
177 as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All  
178 shipments of gaming devices, including slot machines, into any  
179 county of this state within which slot machine gaming is  
180 authorized pursuant to chapter 551 and the registering,  
181 recording, and labeling of which have been duly performed by the  
182 manufacturer or distributor thereof in accordance with sections  
183 3 and 4 of that chapter of the Congress of the United States  
184 entitled "An act to prohibit transportation of gaming devices in  
185 interstate and foreign commerce," approved January 2, 1951,  
186 being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C.  
187 ss. 1171-1177, shall be deemed legal shipments thereof into this  
188 state provided the destination of such shipments is an eligible  
189 facility as defined in s. 551.102 or the facility of a slot  
190 machine manufacturer or slot machine distributor as provided in  
191 s. 551.109(2)(a).

192 Section 4. Section 849.155, Florida Statutes, is created  
193 to read:

194 849.155 Trafficking in slot machines or devices or any  
195 parts thereof.—Any person who knowingly sells, purchases,  
196 manufactures, transports, delivers, or brings into this state  
197 more than 15 slot machines or devices or any part thereof,  
198 commits a felony of the first degree, punishable as provided in  
199 s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot  
200 machines or devices or any part thereof involved:

201       (1) Is more than 15 slot machines or devices or any part  
 202 thereof, but less than 25 slot machines or devices or any part  
 203 thereof, such person must be ordered to pay a fine of \$100,000.

204       (2) Is 25 slot machines or devices or any part thereof or  
 205 more, but less than 50 slot machines or devices or any part  
 206 thereof, such person must be ordered to pay a fine of \$250,000.

207       (3) Is 50 slot machines or devices or any part thereof or  
 208 more, such person must be ordered to pay a fine of \$500,000.

209  
 210 All fines imposed and collected pursuant to this section must be  
 211 deposited into the Pari-mutuel Wagering Trust Fund and may be  
 212 used for the enforcement of chapters 546, 550, 551, and this  
 213 chapter by the Florida Gaming Control Commission.

214       Section 5. Section 849.157, Florida Statutes, is created  
 215 to read:

216       849.157 Making a false or misleading statement regarding  
 217 the legality of slot machines or devices to facilitate sale.-

218       (1) Except as provided in subsection (2), a person who  
 219 knowingly and willfully makes a materially false or misleading  
 220 statement or who knowingly and willfully disseminates false or  
 221 misleading information regarding the legality of a slot machine  
 222 or device for the purpose of facilitating the sale or delivery  
 223 of a slot machine or device for any money or other valuable  
 224 consideration commits a felony of the third degree, punishable  
 225 as provided in s. 775.082, s. 775.083, or s. 775.084.

226        (2) A person who violates subsection (1) when such a  
227 violation involves the sale or delivery, or attempted sale or  
228 delivery, of five or more slot machines or devices commits a  
229 felony of the second degree, punishable as provided in s.  
230 775.082, s. 775.083, or s. 775.084.

231        Section 6. Section 849.23, Florida Statutes, is repealed.

232        Section 7. Section 849.47, Florida Statutes, is created to  
233 read:

234        849.47 Transporting or procuring the transportation of  
235 persons to facilitate illegal gambling.—

236        (1) Except as provided in subsection (2), a person who  
237 knowingly and willfully for profit or hire transports, or  
238 procures the transportation of, five or more other persons into  
239 or within this state when he or she knows or reasonably should  
240 know such transportation is for the purpose of facilitating  
241 illegal gambling commits a misdemeanor of the first degree,  
242 punishable as provided in s. 775.082 or s. 775.083.

243        (2)(a) A person who transports, or procures the  
244 transportation of, a minor or a person 65 years of age or older  
245 in violation of subsection (1) commits a felony of the third  
246 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
247 775.084.

248        (b) A person who transports, or procures the  
249 transportation of, 12 or more persons in violation of subsection  
250 (1) commits a felony of the third degree, punishable as provided



251 in s. 775.082, s. 775.083, or s. 775.084.

252 (3) As used in this section, the term "illegal gambling"  
253 means any criminal violation of chapter 546, chapter 550,  
254 chapter 551, or this chapter that occurs at any business,  
255 establishment, premises, or other location which operates for  
256 profit.

257 Section 8. Section 849.48, Florida Statutes, is created to  
258 read:

259 849.48 Gambling or gaming advertisements; prohibited.—

260 (1)(a) Except as otherwise specifically authorized by law,  
261 a person may not knowingly and intentionally make, publish,  
262 disseminate, circulate or place before the public, or cause,  
263 directly or indirectly, to be made, published, disseminated or  
264 circulated or placed before the public in this state, in any  
265 manner, any advertisement, circular, bill, poster, pamphlet,  
266 list, schedule, announcement, or notice for the purpose of  
267 promoting or facilitating illegal gambling.

268 (b) Except as otherwise specifically authorized by law, a  
269 person may not set up any type or plate for any type of  
270 advertisement, circular, bill, poster, pamphlet, list, schedule,  
271 announcement, or notice when he or she knows or reasonably  
272 should know that such material will be used for the purpose of  
273 promoting or facilitating illegal gambling.

274 (2) A person who violates subsection (1) commits a  
275 misdemeanor of the first degree, punishable as provided in s.

276 775.082 or s. 775.083.

277 (3) This section does not prohibit the printing or  
278 producing of any advertisement, circular, bill, poster,  
279 pamphlet, list, schedule, announcement, or notice to be used for  
280 the purpose of promoting or facilitating gambling conducted in  
281 any other state or nation, outside of this state, where such  
282 gambling is not prohibited.

283 (4) As used in this section, the term "illegal gambling"  
284 means any criminal violation of chapter 546, chapter 550,  
285 chapter 551, or this chapter that occurs at any business,  
286 establishment, premises, or other location which operates for  
287 profit.

288 Section 9. Section 849.49, Florida Statutes, is created to  
289 read:

290 849.49 Preemption.— No county, municipality, or other  
291 political subdivision of the state shall enact or enforce any  
292 ordinance or local rule relating to gaming, gambling, lotteries,  
293 or any activities described in s. 546.10 or this chapter, except  
294 as otherwise expressly provided by the state constitution or  
295 general law.

296 Section 10. Paragraphs (i) through (m) of subsection (2)  
297 of section 903.046, Florida Statutes, are redesignated as  
298 paragraphs (j) through (n), respectively, and a new paragraph  
299 (i) is added to that subsection, to read:

300 903.046 Purpose of and criteria for bail determination.—

301 (2) When determining whether to release a defendant on  
 302 bail or other conditions, and what that bail or those conditions  
 303 may be, the court shall consider:

304 (i) The amount of currency seized that is connected to or  
 305 involved in a violation of chapter 546, chapter 550, chapter  
 306 551, or this chapter.

307 Section 11. Paragraphs (a), (c), (e), and (g) of  
 308 subsection (3) of section 921.0022, Florida Statutes, are  
 309 amended to read:

310 921.0022 Criminal Punishment Code; offense severity  
 311 ranking chart.—

312 (3) OFFENSE SEVERITY RANKING CHART

313 (a) LEVEL 1

314

Florida Statute	Felony Degree	Description
24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.

315

316

317	212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
318	212.15(2)(b)	3rd	Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000.
319	316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
320	319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
321	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
322	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
323	322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully

issued driver license;  
possession of simulated  
identification.

324

322.212 (4) 3rd Supply or aid in supplying  
unauthorized driver license or  
identification card.

325

322.212 (5) (a) 3rd False application for driver  
license or identification card.

326

414.39 (3) (a) 3rd Fraudulent misappropriation of  
public assistance funds by  
employee/official, value more  
than \$200.

327

443.071 (1) 3rd False statement or  
representation to obtain or  
increase reemployment  
assistance benefits.

328

509.151 (1) 3rd Defraud an innkeeper, food or  
lodging value \$1,000 or more.

329

517.302 (1) 3rd Violation of the Florida

Securities and Investor  
Protection Act.

330

713.69                      3rd      Tenant removes property upon  
which lien has accrued, value  
\$1,000 or more.

331

812.014 (3) (c)              3rd      Petit theft (3rd conviction);  
theft of any property not  
specified in subsection (2).

332

815.04 (4) (a)              3rd      Offense against intellectual  
property (i.e., computer  
programs, data).

333

817.52 (2)                      3rd      Hiring with intent to defraud,  
motor vehicle services.

334

817.569 (2)                      3rd      Use of public record or public  
records information or  
providing false information to  
facilitate commission of a  
felony.

335

826.01                      3rd      Bigamy.

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336	828.122 (3)	3rd	Fighting or baiting animals.
337	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
338	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
339	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
340	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
341	838.15 (2)	3rd	Commercial bribe receiving.
342	838.16	3rd	Commercial bribery.

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343	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
344	847.011 (1) (a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
345	<del>849.09(1) (a) - (d)</del>	3rd	<del>Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.</del>
346	<del>849.23</del>	3rd	<del>Gambling-related machines; "common offender" as to property rights.</del>
347	<del>849.25(2)</del>	3rd	<del>Engaging in bookmaking.</del>
348	860.08	3rd	Interfere with a railroad signal.
349	860.13(1) (a)	3rd	Operate aircraft while under the influence.



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359

893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
(c) LEVEL 3		
Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude

law enforcement officer in  
patrol vehicle with siren and  
lights activated.

360 319.30(4) 3rd Possession by junkyard of motor  
vehicle with identification  
number plate removed.

361 319.33(1)(a) 3rd Alter or forge any certificate  
of title to a motor vehicle or  
mobile home.

362 319.33(1)(c) 3rd Procure or pass title on stolen  
vehicle.

363 319.33(4) 3rd With intent to defraud,  
possess, sell, etc., a blank,  
forged, or unlawfully obtained  
title or registration.

364 327.35(2)(b) 3rd Felony BUI.

365 328.05(2) 3rd Possess, sell, or counterfeit  
fictitious, stolen, or  
fraudulent titles or bills of

sale of vessels.

366

328.07(4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

367

376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

368

379.2431 3rd Taking, disturbing, mutilating, (1) (e) 5. destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

369

379.2431 3rd Possessing any marine turtle (1) (e) 6. species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection

Act.

370

379.2431  
(1) (e) 7.

3rd

Soliciting to commit or  
conspiring to commit a  
violation of the Marine Turtle  
Protection Act.

371

400.9935(4) (a)  
or (b)

3rd

Operating a clinic, or offering  
services requiring licensure,  
without a license.

372

400.9935(4) (e)

3rd

Filing a false license  
application or other required  
information or failing to  
report information.

373

440.1051(3)

3rd

False report of workers'  
compensation fraud or  
retaliation for making such a  
report.

374

501.001(2) (b)

2nd

Tampers with a consumer product  
or the container using  
materially false/misleading  
information.

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375	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
376	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
377	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
378	697.08	3rd	Equity skimming.
379	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
380	794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
381	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or

equipment used in firefighting.

382

806.10(2) 3rd Interferes with or assaults  
firefighter in performance of  
duty.

383

810.09(2)(c) 3rd Trespass on property other than  
structure or conveyance armed  
with firearm or dangerous  
weapon.

384

812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but  
less than \$10,000.

385

812.0145(2)(c) 3rd Theft from person 65 years of  
age or older; \$300 or more but  
less than \$10,000.

386

812.015(8)(b) 3rd Retail theft with intent to  
sell; conspires with others.

387

812.081(2) 3rd Theft of a trade secret.

388

815.04(4)(b) 2nd Computer offense devised to  
defraud or obtain property.

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389	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
390	817.233	3rd	Burning to defraud insurer.
391	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
392	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
393	817.236	3rd	Filing a false motor vehicle insurance application.
394	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
395	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.

396 | 817.49(2)(b)1. | 3rd | Willful making of a false  
 report of a crime causing great  
 bodily harm, permanent  
 disfigurement, or permanent  
 disability.

397 | 831.28(2)(a) | 3rd | Counterfeiting a payment  
 instrument with intent to  
 defraud or possessing a  
 counterfeit payment instrument  
 with intent to defraud.

398 | 831.29 | 2nd | Possession of instruments for  
 counterfeiting driver licenses  
 or identification cards.

399 | 836.13(2) | 3rd | Person who promotes an altered  
 sexual depiction of an  
 identifiable person without  
 consent.

400 | 838.021(3)(b) | 3rd | Threatens unlawful harm to  
 public servant.

401



402	<u>849.01</u>	<u>3rd</u>	<u>Keeping a gambling house.</u>
403	<u>849.09(1) (a) - (d)</u>	<u>3rd</u>	<u>Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.</u>
404	<u>849.09(1) (e), (f), (g), (i), or (k)</u>	<u>3rd</u>	<u>Conducting an unlawful lottery; second or subsequent offense.</u>
405	<u>849.09(1) (h) or (j)</u>	<u>3rd</u>	<u>Conducting an unlawful lottery; second or subsequent offense.</u>
406	<u>849.15(3) (b)</u>	<u>3rd</u>	<u>Manufacture, sale, or possession of slot machine; by manager or with prior conviction.</u>
407	<u>849.157(1)</u>	<u>3rd</u>	<u>False or misleading statement to facilitate sale of slot machines or devices.</u>
	<u>849.25(2)</u>	<u>3rd</u>	<u>Engaging in bookmaking.</u>

408	<u>849.47(2) (a) &amp;</u> <u>(b)</u>	3rd	<u>Transporting persons to</u> <u>facilitate illegal gambling;</u> <u>minor or person 65 years of age</u> <u>or older or 12 or more persons.</u>
409	860.15(3)	3rd	Overcharging for repairs and parts.
410	870.01(2)	3rd	Riot.
411	870.01(4)	3rd	Inciting a riot.
412	893.13(1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (2) (c)10., (3), or (4) drugs).
413	893.13(1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (2) (c)10., (3), or (4) drugs

within 1,000 feet of  
university.

414

893.13(1)(f)2.            2nd    Sell, manufacture, or deliver  
s. 893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3., (2)(c)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) drugs  
within 1,000 feet of public  
housing facility.

415

893.13(4)(c)            3rd    Use or hire of minor; deliver  
to minor other controlled  
substances.

416

893.13(6)(a)            3rd    Possession of any controlled  
substance other than felony  
possession of cannabis.

417

893.13(7)(a)8.           3rd    Withhold information from  
practitioner regarding previous  
receipt of or prescription for  
a controlled substance.

418

893.13(7)(a)9.           3rd    Obtain or attempt to obtain

controlled substance by fraud,  
 forgery, misrepresentation,  
 etc.

419

893.13(7)(a)10. 3rd Affix false or forged label to  
 package of controlled  
 substance.

420

893.13(7)(a)11. 3rd Furnish false or fraudulent  
 material information on any  
 document or record required by  
 chapter 893.

421

893.13(8)(a)1. 3rd Knowingly assist a patient,  
 other person, or owner of an  
 animal in obtaining a  
 controlled substance through  
 deceptive, untrue, or  
 fraudulent representations in  
 or related to the  
 practitioner's practice.

422

893.13(8)(a)2. 3rd Employ a trick or scheme in the  
 practitioner's practice to  
 assist a patient, other person,

or owner of an animal in  
obtaining a controlled  
substance.

423

893.13(8)(a)3.            3rd    Knowingly write a prescription  
for a controlled substance for  
a fictitious person.

424

893.13(8)(a)4.            3rd    Write a prescription for a  
controlled substance for a  
patient, other person, or an  
animal if the sole purpose of  
writing the prescription is a  
monetary benefit for the  
practitioner.

425

918.13(1)                    3rd    Tampering with or fabricating  
physical evidence.

426

944.47  
(1)(a)1. & 2.                3rd    Introduce contraband to  
correctional facility.

427

944.47(1)(c)                2nd    Possess contraband while upon  
the grounds of a correctional  
institution.

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428	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
429			
430	(e) LEVEL 5		
431			
	Florida Statute	Felony Degree	Description
432	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
433	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
434	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
435	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

436

327.30(5) 3rd Vessel accidents involving personal injury; leaving scene.

437

379.365(2)(c)1. 3rd Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

438

379.367(4) 3rd Willful molestation of a commercial harvester's spiny

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lobster trap, line, or buoy.

439

379.407 (5) (b) 3. 3rd Possession of 100 or more  
undersized spiny lobsters.

440

381.0041 (11) (b) 3rd Donate blood, plasma, or organs  
knowing HIV positive.

441

440.10 (1) (g) 2nd Failure to obtain workers'  
compensation coverage.

442

440.105 (5) 2nd Unlawful solicitation for the  
purpose of making workers'  
compensation claims.

443

440.381 (2) 3rd Submission of false,  
misleading, or incomplete  
information with the purpose of  
avoiding or reducing workers'  
compensation premiums.

444

624.401 (4) (b) 2. 2nd Transacting insurance without a  
certificate or authority;  
premium collected \$20,000 or  
more but less than \$100,000.



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445	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
446	790.01 (3)	3rd	Unlawful carrying of a concealed firearm.
447	790.162	2nd	Threat to throw or discharge destructive device.
448	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
449	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
450	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
451	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
452			

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453	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
454	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
455	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
456	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
457	812.015 (8) (a) & (c) - (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
458	812.015 (8) (f)	3rd	Retail theft; multiple thefts within specified period.
	812.019 (1)	2nd	Stolen property; dealing in or

trafficking in.

459

812.081 (3) 2nd Trafficking in trade secrets.

460

812.131 (2) (b) 3rd Robbery by sudden snatching.

461

812.16 (2) 3rd Owning, operating, or  
conducting a chop shop.

462

817.034 (4) (a) 2. 2nd Communications fraud, value  
\$20,000 to \$50,000.

463

817.234 (11) (b) 2nd Insurance fraud; property value  
\$20,000 or more but less than  
\$100,000.

464

817.2341 (1), 3rd Filing false financial  
(2) (a) & statements, making false  
(3) (a) entries of material fact or  
false statements regarding  
property values relating to the  
solvency of an insuring entity.

465

817.568 (2) (b) 2nd Fraudulent use of personal  
identification information;

value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

466

817.611 (2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

467

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

468

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

469

827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.

470

471	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
472	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
473	836.14 (4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
474	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
	843.01 (1)	3rd	Resist officer with violence to person; resist arrest with

violence.

475

847.0135(5) (b)            2nd    Lewd or lascivious exhibition  
using computer; offender 18  
years or older.

476

847.0137                    3rd    Transmission of pornography by  
(2) & (3)                    electronic device or equipment.

477

847.0138                    3rd    Transmission of material  
(2) & (3)                    harmful to minors to a minor by  
electronic device or equipment.

478

849.15(3) (c)            2nd    Manufacture, sale, or  
possession of a slot machine;  
by a manager of five or more  
machines or two or more prior  
convictions.

479

849.157(2)                2nd    False or misleading statement  
to facilitate sale of slot  
machines or devices; five or  
more machines.

480

849.25(3)                2nd    Bookmaking; second or

subsequent offense.

481

874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

482

874.05(2)(a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

483

893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

484

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or

state, county, or municipal park or publicly owned recreational facility or community center.

485

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

486

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

487

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s.



893.03(1) (a), (1) (b), (1) (d),  
 or (2) (a), (2) (b), or (2) (c) 5.  
 drugs) within 1,000 feet of  
 public housing facility.

488

893.13(4) (b)                      2nd      Use or hire of minor; deliver  
 to minor other controlled  
 substance.

489

893.1351(1)                      3rd      Ownership, lease, or rental for  
 trafficking in or manufacturing  
 of controlled substance.

490

491                      (g)      LEVEL 7

492

Florida	Felony	
Statute	Degree	Description

493

316.027(2) (c)	1st	Accident involving death, failure to stop; leaving scene.
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494

316.193(3) (c) 2.	3rd	DUI resulting in serious bodily injury.
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495

316.1935(3) (b)	1st	Causing serious bodily injury
-----------------	-----	-------------------------------

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or death to another person;  
 driving at high speed or with  
 wanton disregard for safety  
 while fleeing or attempting to  
 elude law enforcement officer  
 who is in a patrol vehicle with  
 siren and lights activated.

496 327.35(3)(c)2. 3rd Vessel BUI resulting in serious  
 bodily injury.

497 402.319(2) 2nd Misrepresentation and  
 negligence or intentional act  
 resulting in great bodily harm,  
 permanent disfiguration,  
 permanent disability, or death.

498 409.920 3rd Medicaid provider fraud;  
 (2)(b)1.a. \$10,000 or less.

499 409.920 2nd Medicaid provider fraud; more  
 (2)(b)1.b. than \$10,000, but less than  
 \$50,000.

500 456.065(2) 3rd Practicing a health care

profession without a license.

501

456.065 (2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

502

458.327 (1) 3rd Practicing medicine without a license.

503

459.013 (1) 3rd Practicing osteopathic medicine without a license.

504

460.411 (1) 3rd Practicing chiropractic medicine without a license.

505

461.012 (1) 3rd Practicing podiatric medicine without a license.

506

462.17 3rd Practicing naturopathy without a license.

507

463.015 (1) 3rd Practicing optometry without a license.

508

509	464.016 (1)	3rd	Practicing nursing without a license.
510	465.015 (2)	3rd	Practicing pharmacy without a license.
511	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
512	467.201	3rd	Practicing midwifery without a license.
513	468.366	3rd	Delivering respiratory care services without a license.
514	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
515	483.901 (7)	3rd	Practicing medical physics without a license.
516	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.

517	484.053	3rd	Dispensing hearing aids without a license.
518	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
519	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
520	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

521	775.21(10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
522	775.21(10) (b)	3rd	Sexual predator working where children regularly congregate.
523	775.21(10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
524	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
525	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

526	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
527	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
528	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
529	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
530	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
531	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
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533	784.048 (7)	3rd	Aggravated stalking; violation of court order.
534	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
535	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
536	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
537	784.081 (1)	1st	Aggravated battery on specified official or employee.
538	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
539	784.083 (1)	1st	Aggravated battery on code inspector.
	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services



of an adult.

540 787.06(3)(e)2. 1st Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

541 790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

542 790.16(1) 1st Discharge of a machine gun under specified circumstances.

543 790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

544 790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

545 790.166(3) 2nd Possessing, selling, using, or

546			attempting to use a hoax weapon of mass destruction.
	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
547			
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
548			
	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
549			
	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
550			
	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent

offense.

551 800.04(5)(c)1. 2nd Lewd or lascivious molestation;  
victim younger than 12 years of  
age; offender younger than 18  
years of age.

552 800.04(5)(c)2. 2nd Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years of  
age; offender 18 years of age  
or older.

553 800.04(5)(e) 1st Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years;  
offender 18 years or older;  
prior conviction for specified  
sex offense.

554 806.01(2) 2nd Maliciously damage structure by  
fire or explosive.

555 810.02(3)(a) 2nd Burglary of occupied dwelling;  
unarmed; no assault or battery.

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556	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
557	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
558	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
559	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
560	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
561	812.014(2)(b)3.	2nd	Property stolen, emergency

			medical equipment; 2nd degree grand theft.
562	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
563	812.014 (2) (f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014 (2) (c) 5.
564	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
565	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
566	812.131 (2) (a)	2nd	Robbery by sudden snatching.
567	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
568			

569	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
570	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
571	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
572	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
573	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
	817.418 (2) (a)	3rd	Offering for sale or advertising personal protective equipment with intent to

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defraud.

574 817.504 (1) (a) 3rd Offering or advertising a  
vaccine with intent to defraud.

575 817.535 (2) (a) 3rd Filing false lien or other  
unauthorized document.

576 817.611 (2) (b) 2nd Traffic in or possess 15 to 49  
counterfeit credit cards or  
related documents.

577 825.102 (3) (b) 2nd Neglecting an elderly person or  
disabled adult causing great  
bodily harm, disability, or  
disfigurement.

578 825.103 (3) (b) 2nd Exploiting an elderly person or  
disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

579 827.03 (2) (b) 2nd Neglect of a child causing  
great bodily harm, disability,  
or disfigurement.

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580	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
581	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
582	838.015	2nd	Bribery.
583	838.016	2nd	Unlawful compensation or reward for official behavior.
584	838.021(3)(a)	2nd	Unlawful harm to a public servant.
585	838.22	2nd	Bid tampering.
586	843.0855(2)	3rd	Impersonation of a public officer or employee.
587	843.0855(3)	3rd	Unlawful simulation of legal process.
588			



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589	843.0855(4)	3rd	Intimidation of a public officer or employee.
590	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
591	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
592	<u>849.155</u>	<u>1st</u>	<u>Trafficking in slot machines or devices or any part thereof.</u>
593	872.06	2nd	Abuse of a dead human body.
594	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
595	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

596	893.13(1)(c)1.	1st	<p>Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</p>
597	893.13(1)(e)1.	1st	<p>Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.</p>
598	893.13(4)(a)	1st	<p>Use or hire of minor; deliver to minor other controlled substance.</p>

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599	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
600	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
601	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
602	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
603	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
604	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
	893.135	1st	Trafficking in oxycodone, 14

605	(1) (c) 3.b.		grams or more, less than 25 grams.
606	893.135 (1) (c) 4.b. (I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
607	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
608	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
609	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
610	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1

611	893.135 (1) (j) 1.a.	1st	kilogram or more, less than 5 kilograms. Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
612	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
613	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
614	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
615	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
616	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing

of controlled substance.

617 896.101 (5) (a) 3rd Money laundering, financial  
 transactions exceeding \$300 but  
 less than \$20,000.

618 896.104 (4) (a) 1. 3rd Structuring transactions to  
 evade reporting or registration  
 requirements, financial  
 transactions exceeding \$300 but  
 less than \$20,000.

619 943.0435 (4) (c) 2nd Sexual offender vacating  
 permanent residence; failure to  
 comply with reporting  
 requirements.

620 943.0435 (8) 2nd Sexual offender; remains in  
 state after indicating intent  
 to leave; failure to comply  
 with reporting requirements.

621 943.0435 (9) (a) 3rd Sexual offender; failure to  
 comply with reporting  
 requirements.

622	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
623	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
624	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
625	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
626	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
627			

628 944.607(13) 3rd Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

629 985.4815(10) 3rd Sexual offender; failure to  
submit to the taking of a  
digitized photograph.

630 985.4815(12) 3rd Failure to report or providing  
false information about a  
sexual offender; harbor or  
conceal a sexual offender.

631 985.4815(13) 3rd Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

632 Section 12. Paragraph (a) of subsection (1) and paragraph  
633 (a) of subsection (2) of section 772.102, Florida Statutes, are  
634 amended to read:  
635 772.102 Definitions.—As used in this chapter, the term:



636 (1) "Criminal activity" means to commit, to attempt to  
637 commit, to conspire to commit, or to solicit, coerce, or  
638 intimidate another person to commit:

639 (a) Any crime that is chargeable by indictment or  
640 information under the following provisions:

641 1. Section 210.18, relating to evasion of payment of  
642 cigarette taxes.

643 2. Section 414.39, relating to public assistance fraud.

644 3. Section 440.105 or s. 440.106, relating to workers'  
645 compensation.

646 4. Part IV of chapter 501, relating to telemarketing.

647 5. Chapter 517, relating to securities transactions.

648 6. Section 550.235 or s. 550.3551, relating to dogracing  
649 and horseracing.

650 7. Chapter 550, relating to jai alai frontons.

651 8. Chapter 552, relating to the manufacture, distribution,  
652 and use of explosives.

653 9. Chapter 562, relating to beverage law enforcement.

654 10. Section 624.401, relating to transacting insurance  
655 without a certificate of authority, s. 624.437(4)(c)1., relating  
656 to operating an unauthorized multiple-employer welfare  
657 arrangement, or s. 626.902(1)(b), relating to representing or  
658 aiding an unauthorized insurer.

659 11. Chapter 687, relating to interest and usurious  
660 practices.

- 661           12. Section 721.08, s. 721.09, or s. 721.13, relating to  
 662 real estate timeshare plans.
- 663           13. Chapter 782, relating to homicide.
- 664           14. Chapter 784, relating to assault and battery.
- 665           15. Chapter 787, relating to kidnapping or human  
 666 trafficking.
- 667           16. Chapter 790, relating to weapons and firearms.
- 668           17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,  
 669 relating to prostitution.
- 670           18. Chapter 806, relating to arson.
- 671           19. Section 810.02(2)(c), relating to specified burglary  
 672 of a dwelling or structure.
- 673           20. Chapter 812, relating to theft, robbery, and related  
 674 crimes.
- 675           21. Chapter 815, relating to computer-related crimes.
- 676           22. Chapter 817, relating to fraudulent practices, false  
 677 pretenses, fraud generally, and credit card crimes.
- 678           23. Section 827.071, relating to commercial sexual  
 679 exploitation of children.
- 680           24. Chapter 831, relating to forgery and counterfeiting.
- 681           25. Chapter 832, relating to issuance of worthless checks  
 682 and drafts.
- 683           26. Section 836.05, relating to extortion.
- 684           27. Chapter 837, relating to perjury.
- 685           28. Chapter 838, relating to bribery and misuse of public

686 office.

687 29. Chapter 843, relating to obstruction of justice.

688 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or

689 s. 847.07, relating to obscene literature and profanity.

690 31. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23~~, or s.

691 849.25, relating to gambling.

692 32. Chapter 893, relating to drug abuse prevention and

693 control.

694 33. Section 914.22 or s. 914.23, relating to witnesses,

695 victims, or informants.

696 34. Section 918.12 or s. 918.13, relating to tampering

697 with jurors and evidence.

698 (2) "Unlawful debt" means any money or other thing of

699 value constituting principal or interest of a debt that is

700 legally unenforceable in this state in whole or in part because

701 the debt was incurred or contracted:

702 (a) In violation of any one of the following provisions of

703 law:

704 1. Section 550.235 or s. 550.3551, relating to dogracing

705 and horseracing.

706 2. Chapter 550, relating to jai alai frontons.

707 3. Section 687.071, relating to criminal usury and loan

708 sharking.

709 4. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23~~, or s.

710 849.25, relating to gambling.

711 Section 13. Paragraph (a) of subsection (12) of section  
 712 895.02, Florida Statutes, is amended to read:

713 895.02 Definitions.—As used in ss. 895.01–895.08, the  
 714 term:

715 (12) "Unlawful debt" means any money or other thing of  
 716 value constituting principal or interest of a debt that is  
 717 legally unenforceable in this state in whole or in part because  
 718 the debt was incurred or contracted:

719 (a) In violation of any one of the following provisions of  
 720 law:

721 1. Section 550.235 or s. 550.3551, relating to dogracing  
 722 and horseracing.

723 2. Chapter 550, relating to jai alai frontons.

724 3. Section 551.109, relating to slot machine gaming.

725 4. Chapter 687, relating to interest and usury.

726 5. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23~~, or s.  
 727 849.25, relating to gambling.

728 Section 14. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 569 Suits Against the Government

**SPONSOR(S):** Civil Justice Subcommittee, McFarland

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	17 Y, 1 N, As CS	Mathews	Jones
2) Appropriations Committee		Willson	Pridgeon
3) Judiciary Committee			

### SUMMARY ANALYSIS

Sovereign immunity is a principle under which a government cannot be sued without its consent. Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In turn, s. 768.28(1), F.S., allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct.

However, s. 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident. Although a court may enter a judgment in excess of these caps, it is impossible, absent a claim bill passed by the Legislature, for a claimant to collect more than the caps allow. Further, s. 768.28(6), F.S., imposes pre-suit requirements upon a claimant seeking to recover against a state or local government entity, allowing a general six-month period for the government entity to review and dispose of a claim before the claimant may file a lawsuit.

CS/HB 569:

- Abolishes the common law doctrine of “home venue privilege” in relation to negligence suits against the state.
- Increases the sovereign immunity caps for damages against state and local government entities to \$400,000 per individual and \$600,000 per incident.
- Allows a local government to settle a claim and pay the settled amount without the need for a claim bill.
- Prohibits an insurance policy from conditioning the payment of benefits on the enactment of a claim bill.
- Requires the Department of Financial Services (DFS) to automatically adjust the statutory caps in accordance with the Consumer Price Index (CPI) on an annual basis, and provides that the cap in effect when a final judgment is entered controls.
- Reduces the statute of limitations for filing a claim against a government entity for claims based in negligence from four to two years.
- Provides a fifteen-year statute of limitations for filing a claim against a government entity for sexual battery of a victim under the age of 16 from the time the victim has reached the age of majority.
- Reduces the time period by which a claimant must provide written notice of the claim to the state, agency, or subdivision in certain types of cases.
- Reduces from six months to four months the general pre-suit statutory time period for a government entity to review and dispose of a claim.
- Applies to all claims arising on or after October 1, 2024.

The bill will likely have an indeterminate, significant negative fiscal impact on state and local governments. The bill will affect the State Risk Management Trust Fund and the budgets of local governments and agencies.

The bill provides an effective date of October 1, 2024.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0569a.APC

DATE: 1/29/2024

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Common Law Doctrine of Home Venue Privilege

Common law is “law” that is derived from judicial decisions instead of from statutes.<sup>1</sup> Under the common law in Florida, the “home venue privilege” provides that venue for civil actions brought against the state or one of its agencies or subdivisions, absent waiver or exception, is proper in the county where the state, agency, or subdivision maintains its principal headquarters.<sup>2</sup> As such, absent waiver or exception, an action brought against a state agency in a county other than that of its official residence may be dismissed, severed, or transferred to the proper venue.<sup>3</sup>

##### Sovereign Immunity

Sovereign immunity is a principle under which a government cannot be sued without its consent.<sup>4</sup> Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In accordance with article X, section 13 of the Florida Constitution, Florida law allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment.<sup>5</sup> This liability exists only where a private person would be liable for the same conduct. The waiver of sovereign immunity provided under section 768.28, F.S., applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment.”<sup>6</sup>

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident.<sup>7</sup> Although a court may enter an excess judgment, absent a claim bill passed by the Legislature, a claimant may not collect more than the caps provide.<sup>8</sup>

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>9</sup> A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>10</sup>

##### Presuit Procedures for a Claim Against the Government

Before a claimant files a lawsuit against a government entity, the claimant generally must present the claim in writing to the government entity within a time period prescribed by law, which is generally three years.<sup>11</sup> If the claim is brought against the state, the claimant must also present the claim to the Department of Financial Services (DFS). The government entity generally then has six months to

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<sup>1</sup> Legal Information Institute, *Common Law*, [https://www.law.cornell.edu/wex/common\\_law](https://www.law.cornell.edu/wex/common_law) (last visited Dec. 7, 2023).

<sup>2</sup> 56 Fla. Jur. 2d Venue § 43; *Bush v. State*, 945 So. 2d 1207 (Fla. 2006)

<sup>3</sup> 56 Fla. Jur. 2d Venue § 43.

<sup>4</sup> *Sovereign immunity*, Legal Information Institute, [https://www.law.cornell.edu/wex/sovereign\\_immunity](https://www.law.cornell.edu/wex/sovereign_immunity) (last visited Dec. 7, 2023).

<sup>5</sup> S. 768.28(1), F.S.

<sup>6</sup> *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.) (internal punctuation omitted).

<sup>7</sup> S. 768.28(5), F.S.

<sup>8</sup> *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

<sup>9</sup> S. 768.28(9)(a), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> See s. 768.28(6)(a), F.S.

review the claim. If the government entity does not dispose of the claim within that six-month period, the claimant may generally proceed with the lawsuit.<sup>12</sup>

### Damages

Generally, damages are of two kinds: compensatory and punitive.<sup>13</sup> Compensatory damages are awarded as compensation for the loss sustained to make the party whole, insofar as that is possible.<sup>14</sup> They arise from actual and indirect pecuniary loss.<sup>15</sup> Section 768.28, F.S., does not allow for the recovery of punitive damages, but only for the recovery of compensatory damages.

The liability caps in s. 768.28(5), F.S., of \$200,000 per person and \$300,000 per incident, apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.”<sup>16</sup> In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

### Claim Bills

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.<sup>17</sup> Such obligations typically arise from the negligence of officers or employees of the State or a local governmental entity.<sup>18</sup> Legislative claim bills are typically pursued after procurement of a judgment or settlement in an action at law.<sup>19</sup> The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.<sup>20</sup> Unlike civil judgments, claim bills are not obtainable by right upon the claimant’s proof of his entitlement; rather, they are granted as a matter of legislative grace.<sup>21</sup>

Once a legislative claim bill is formally introduced, a special master usually conducts a quasi-judicial hearing.<sup>22</sup> This hearing may resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may be substituted for witness testimony. Testifying witnesses are sworn and subject to cross-examination.<sup>23</sup> A respondent may present a defense to contest the claim, and the special master may then prepare a report with an advisory recommendation to the Legislature if the bill is placed on an agenda.<sup>24</sup>

Alternatively, a government entity may, without the need for a claim bill, settle a claim or pay a judgment against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of its insurance coverage.<sup>25</sup>

### Statute of Limitations for Sexual Battery on a Person Under 16

Section 95.11, F.S., provides statutes of limitation for various types of civil actions. In 2010, the Legislature amended s. 95.11 to remove any statute of limitations applying to a civil action against a private entity for sexual battery if the victim was under 16 at the time of the crime.<sup>26</sup> The Legislature

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<sup>12</sup> See s. 768.28(6)(d), F.S.

<sup>13</sup> 22 Am. Jur. 2d s. 1 at 13 (1965).

<sup>14</sup> *Fisher v. City of Miami*, 172 So. 2d 455 (Fla. 1965).

<sup>15</sup> *Margaret Ann Supermarkets, Inc. v. Dent*, 64 So. 2d 291 (Fla. 1953).

<sup>16</sup> *Gallagher v. Manatee Cty.*, 927 So. 2d 914, 918 (Fla. 2d DCA 2006).

<sup>17</sup> *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007)

<sup>18</sup> *Id.*

<sup>19</sup> *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

<sup>20</sup> *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).

<sup>21</sup> *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

<sup>22</sup> *Wagner*, 960 So. 2d at 788 (citing Kahn at 26).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> S. 768.28(5), F.S.

<sup>26</sup> Ch. 2010-54, s. 1, Laws of Fla.; s. 95.11(9), F.S.



provided, however, that this amendment would not resuscitate any civil claims that were already barred by the statute of limitations at the time.<sup>27</sup>

## **Effect of Proposed Changes**

### Home Venue Privilege

CS/HB 569 amends s. 47.011, F.S., to abolish the common law doctrine of home venue privilege with respect to suits against the state. Therefore, the standard venue provisions would apply to claims against the state, and venue would be proper in the county where the defendant resides, the county where the cause of action accrued, or the county in which the property in litigation is located.

### Statutory Caps

The bill also amends s. 768.28, F.S., to increase the statutory caps on judgments against the state or an agency or subdivision thereof from \$200,000 per person and \$300,000 per incident to \$400,000 per person and \$600,000 per incident. As such, a judgment against the state could be paid without action by the Legislature if it does not exceed \$400,000 per person or \$600,000 per incident.

Further, the bill authorizes a subdivision of the state to agree to settle a claim made or judgment rendered against it in excess of the statutory limits without further action by the Legislature. Thus, a county or municipality could agree to pay a claim that exceeds the \$400,000/\$600,000 caps without the need for a claim bill. However, a claimant suing the state or an agency of the state would still have to seek legislative approval in the form of a claim bill for any judgment exceeding the statutory caps.

The bill clarifies that when determining the liability limits for a claim, the applicable caps are those that are in effect on the date a final judgment is entered in the matter. The bill also prohibits an insurance policy from conditioning the payment of benefits, in whole or in part, on the enactment of a claim bill.

### Annual Adjustment

The bill requires the Department of Financial Services (DFS) to annually adjust the caps to reflect the changes in the Consumer Price Index (CPI) for the Southeast as calculated by the United States Department of Labor. Such CPI adjustment must be done beginning July 1, 2025, and continuing each year thereafter.

### Timeframes for Filing an Action

The bill imposes various statutes of limitations on the ability to file a claim against the state or an agency or subdivision thereof. As such, a claim against the state or an agency or subdivision of the state is forever barred unless civil action is commenced as follows:

- For claims based on negligence: within two years.<sup>28</sup>
- For claims based on contribution: within the limitations established in s. 768.31(4), F.S.
- For claims based on medical malpractice or wrongful death: within the limitations established in s. 95.11(4), F.S.
- For claims based on sexual battery on a victim under 16: within 15 years after the victim has reached the age of majority, except for an action that would have been time-barred on or before July 1, 2010.
- For any other claim: within four years.

The bill decreases the allotted time for a claimant to present the required written notice of the claim to the appropriate agency from three years to 18 months. Similarly, the bill decreases the time period in which a claimant must present written notice of a claim for wrongful death from two years to 18 months.

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<sup>27</sup> *Id.* (“This subsection applies to any such action other than one which would have been time barred on or before July 1, 2010”).

<sup>28</sup> This two-year period is the same as the statute of limitations for bringing a negligence claim against a private party. See s. 95.11(4)(a), F.S.

However, if the claim is based on a sexual battery of a victim under the age of 16, in violation of s. 794.011, the claimant must present written notice of the claim within 13 years after the claimant reaches the age of majority. However, the bill does not resuscitate any such claims which would have been time-barred as of July 1, 2010.

The bill also decreases from six months to four months the time period in which DFS or the appropriate agency must make final disposition of a claim. As such, the responding agency must make final disposition of a claim within four months of such claim being filed or it is deemed a final denial. However, the bill does not change the time period by which an agency must make a final disposition of a claim for medical malpractice or wrongful death. As such, a final disposition for a claim made for medical malpractice or wrongful death must still be made within 90 days from the date of filing or it is deemed a final denial of the claim.

### Applicability and Conforming Changes

The bill amends a number of statutory sections for the purpose of incorporating the changes made by the language of the bill and provides that the provisions of the bill are applicable to claims accruing on or after October 1, 2024.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 47.011, F.S., relating to where actions may be begun.

**Section 2:** Amends s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

**Section 3:** Reenacts provisions within the Florida Statutes for the purpose of incorporating the amendments made by the act.

**Section 4:** Provides that the act applies to claims accruing on or after October 1, 2024.

**Section 5:** Provides an effective date of October 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

By abolishing the Home Venue Privilege, representatives of the state government may be required to travel farther and more frequently to assist in litigation against the state. This may increase expenditures.

*See also* Fiscal Comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

The cost resulting from the change to a local government's ability to settle claims without regard to any statutory limit on damages under s. 768.28, F.S., is indeterminate. However, local government expenditures may increase for settlements, awards, and other legal costs.

*See also* Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts paid to satisfy tort claims.

D. FISCAL COMMENTS:

By increasing the sovereign immunity cap, the bill increases the possibility that the state and its agencies and subdivisions will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary for claimants.

By reducing the statute of limitations for suits against the government arising in negligence, the bill may reduce the number of cases initiated and the potential damages sought by claimants from the government. Further, by reducing the pre-suit time period for a government entity or DFS to review and dispose of a claim against the state, the bill may affect the pre-suit settlement process.

By increasing the statute of limitations for sexual battery on a victim under 16, the bill may increase the number of claims against the government for such sexual battery. The bill may reduce the workload of the Legislature by reducing the number of claim bills filed but may also reduce the legislative oversight of claims against local government entities.

Further, by automatically adjusting the caps on an annual basis to reflect the CPI, the bill will have a negative fiscal impact on both state and local governments. As the annual change in CPI is almost always positive, the annual adjustment will increase the caps in most years, requiring the state and local governments to continuously pay out increased amounts. On the other hand, the annual CPI adjustment will positively increase the amount a private citizen is able to recover in future years.

### 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 11, 2024, the Civil Justice Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the bill in that it maintained the current 25 percent cap on attorney fees.

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



26 claims against the state or one of its agencies or  
 27 subdivisions and exceptions thereto; reenacting ss.  
 28 45.061, 110.504, 111.071, 125.01015, 163.01, 190.043,  
 29 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,  
 30 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395,  
 31 375.251, 381.0056, 393.075, 394.9085, 395.1055,  
 32 403.706, 409.175, 409.993, 420.504, 420.507, 455.221,  
 33 455.32, 456.009, 456.076, 471.038, 472.006, 497.167,  
 34 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611,  
 35 760.11, 766.1115, 766.112, 768.1355, 768.1382,  
 36 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,  
 37 1002.333, 1002.34, 1002.351, 1002.37, 1002.55,  
 38 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to  
 39 incorporate the amendments made to s. 768.28, F.S., in  
 40 references thereto; providing applicability; providing  
 41 an effective date.

42  
 43 Be It Enacted by the Legislature of the State of Florida:

44  
 45 Section 1. Section 47.011, Florida Statutes, is amended to  
 46 read:

47 47.011 Where actions may be begun.—  
 48 (1) Actions shall be brought only in the county where the  
 49 defendant resides, where the cause of action accrued, or where  
 50 the property in litigation is located. This section shall not

51 apply to actions against nonresidents.

52 (2) The common-law doctrine of home venue privilege is  
 53 abolished with respect to civil actions brought against the  
 54 state. This subsection does not affect any venue provision  
 55 otherwise established in law.

56 Section 2. Subsection (5), paragraphs (a) and (d) of  
 57 subsection (6), and subsection (14) of section 768.28, Florida  
 58 Statutes, are amended to read:

59 768.28 Waiver of sovereign immunity in tort actions;  
 60 recovery limits; civil liability for damages caused during a  
 61 riot; limitation on attorney fees; statute of limitations;  
 62 exclusions; indemnification; risk management programs.—

63 (5)(a) The state and its agencies and subdivisions shall  
 64 be liable for tort claims in the same manner and to the same  
 65 extent as a private individual under like circumstances, but  
 66 liability shall not include punitive damages or interest for the  
 67 period before judgment. Neither the state nor its agencies or  
 68 subdivisions shall be liable to pay a claim or a judgment by any  
 69 one person which exceeds the sum of \$400,000 ~~\$200,000~~ or any  
 70 claim or judgment, or portions thereof, which, when totaled with  
 71 all other claims or judgments paid by the state or its agencies  
 72 or subdivisions arising out of the same incident or occurrence,  
 73 exceeds the sum of \$600,000 ~~\$300,000~~. However, a judgment or  
 74 judgments may be claimed and rendered in excess of these amounts  
 75 ~~and may be settled~~ and paid pursuant to this act up to \$400,000

76 | or \$600,000 ~~\$200,000 or \$300,000~~, as the case may be; and that  
77 | portion of the judgment that exceeds these amounts may be  
78 | reported to the Legislature, and ~~but~~ may be paid in part or in  
79 | whole ~~only~~ by further act of the Legislature.

80 |       **(b)** Notwithstanding the limited waiver of sovereign  
81 | immunity provided in paragraph (a):

82 |       **1.** ~~herein~~, The state or an agency ~~or subdivision~~ thereof  
83 | may agree, within the limits of insurance coverage provided, to  
84 | settle a claim made or a judgment rendered against it in excess  
85 | of the waiver provided in paragraph (a) without further action  
86 | by the Legislature.

87 |       **2.** A subdivision of the state may agree to settle a claim  
88 | made or a judgment rendered against it in excess of the waiver  
89 | provided in paragraph (a) without further action by the  
90 | Legislature.

91 |  
92 | However, ~~but~~ the state or an agency or subdivision thereof shall  
93 | not be deemed to have waived any defense of sovereign immunity  
94 | or to have increased the limits of its liability as a result of  
95 | its obtaining insurance coverage for tortious acts in excess of  
96 | the ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a). An  
97 | insurance policy may not condition the payment of benefits, in  
98 | whole or in part, on the enactment of a claim bill ~~above~~.

99 |       **(c)** The limitations of liability set forth in this  
100 | subsection ~~shall~~ apply to the state and its agencies and

101 subdivisions whether or not the state or its agencies or  
 102 subdivisions possessed sovereign immunity before July 1, 1974.

103 ~~(d)-(b)~~ A municipality has a duty to allow the municipal  
 104 law enforcement agency to respond appropriately to protect  
 105 persons and property during a riot or an unlawful assembly based  
 106 on the availability of adequate equipment to its municipal law  
 107 enforcement officers and relevant state and federal laws. If the  
 108 governing body of a municipality or a person authorized by the  
 109 governing body of the municipality breaches that duty, the  
 110 municipality is civilly liable for any damages, including  
 111 damages arising from personal injury, wrongful death, or  
 112 property damages proximately caused by the municipality's breach  
 113 of duty. The sovereign immunity recovery limits in paragraph (a)  
 114 do not apply to an action under this paragraph.

115 (e) When determining liability limits for a claim, the  
 116 limitations of liability in effect on the date a final judgment  
 117 is entered shall apply to the claim.

118 (f) Beginning July 1, 2025, and every July 1 thereafter,  
 119 the Department of Financial Services shall adjust the  
 120 limitations of liability in this subsection to reflect changes  
 121 in the Consumer Price Index for the Southeast or a successor  
 122 index as calculated by the United States Department of Labor.

123 (6) (a) An action may not be instituted on a claim against  
 124 the state or one of its agencies or subdivisions unless the  
 125 claimant presents the claim in writing to the appropriate



126 agency, and also, except as to any claim against a municipality,  
 127 county, or the Florida Space Authority, presents such claim in  
 128 writing to the Department of Financial Services, within 18  
 129 months ~~3 years~~ after such claim accrues and the Department of  
 130 Financial Services or the appropriate agency denies the claim in  
 131 writing; except that, if:

132 1. Such claim is for contribution pursuant to s. 768.31,  
 133 it must be so presented within 6 months after the judgment  
 134 against the tortfeasor seeking contribution has become final by  
 135 lapse of time for appeal or after appellate review or, if there  
 136 is no such judgment, within 6 months after the tortfeasor  
 137 seeking contribution has either discharged the common liability  
 138 by payment or agreed, while the action is pending against her or  
 139 him, to discharge the common liability; or

140 2. Such action arises from a violation of s. 794.011  
 141 involving a victim who was younger than the age of 16 at the  
 142 time of the act, the claimant must present the claim in writing  
 143 within 13 years after the victim reaches the age of majority.  
 144 This subparagraph applies to any such action other than one  
 145 which would have been time barred on or before July 1, 2010,  
 146 under s. 95.11(9) is for wrongful death, the claimant must  
 147 present the claim in writing to the Department of Financial  
 148 Services within 2 years after the claim accrues.

149 (d) For purposes of this section, complete, accurate, and  
 150 timely compliance with the requirements of paragraph (c) shall

151 occur prior to settlement payment, close of discovery or  
152 commencement of trial, whichever is sooner; provided the ability  
153 to plead setoff is not precluded by the delay. This setoff shall  
154 apply only against that part of the settlement or judgment  
155 payable to the claimant, minus claimant's reasonable attorney's  
156 fees and costs. Incomplete or inaccurate disclosure of unpaid  
157 adjudicated claims due the state, its agency, officer, or  
158 subdivision, may be excused by the court upon a showing by the  
159 preponderance of the evidence of the claimant's lack of  
160 knowledge of an adjudicated claim and reasonable inquiry by, or  
161 on behalf of, the claimant to obtain the information from public  
162 records. Unless the appropriate agency had actual notice of the  
163 information required to be disclosed by paragraph (c) in time to  
164 assert a setoff, an unexcused failure to disclose shall, upon  
165 hearing and order of court, cause the claimant to be liable for  
166 double the original undisclosed judgment and, upon further  
167 motion, the court shall enter judgment for the agency in that  
168 amount. Except as provided otherwise in this subsection, the  
169 failure of the Department of Financial Services or the  
170 appropriate agency to make final disposition of a claim within 4  
171 ~~6~~ months after it is filed shall be deemed a final denial of the  
172 claim for purposes of this section. For purposes of this  
173 subsection, in medical malpractice actions and in wrongful death  
174 actions, the failure of the Department of Financial Services or  
175 the appropriate agency to make final disposition of a claim

176 within 90 days after it is filed shall be deemed a final denial  
177 of the claim. The statute of limitations for medical malpractice  
178 actions and wrongful death actions is tolled for the period of  
179 time taken by the Department of Financial Services or the  
180 appropriate agency to deny the claim. The provisions of this  
181 subsection do not apply to such claims as may be asserted by  
182 counterclaim pursuant to s. 768.14.

183 (14) Every claim against the state or one of its agencies  
184 or subdivisions for damages for a negligent or wrongful act or  
185 omission pursuant to this section shall be forever barred unless  
186 the civil action is commenced by filing a complaint in the court  
187 of appropriate jurisdiction:

188 (a) Within 2 4 years for an action founded on negligence.

189 (b) Within the limitations provided in s. 768.31(4) for an  
190 action for contribution.

191 (c) Within the limitations provided in s. 95.11(4) for an  
192 action for damages arising from medical malpractice or wrongful  
193 death.

194 (d) Within 15 years after the victim reaches the age of  
195 majority for any action arising from acts constituting a  
196 violation of s. 794.011 involving a victim who was younger than  
197 the age of 16 at the time of the act. This paragraph applies to  
198 any such action other than one which would have been time barred  
199 on or before July 1, 2010, under s. 95.11(9).

200 (e) Within 4 years for any other action not specified in

201 ~~this subsection after such claim accrues; except that an action~~  
 202 ~~for contribution must be commenced within the limitations~~  
 203 ~~provided in s. 768.31(4), and an action for damages arising from~~  
 204 ~~medical malpractice or wrongful death must be commenced within~~  
 205 ~~the limitations for such actions in s. 95.11(4).~~

206 Section 3. Sections 45.061, 110.504, 111.071, 125.01015,  
 207 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125,  
 208 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395,  
 209 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706,  
 210 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009,  
 211 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,  
 212 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355,  
 213 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,  
 214 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88,  
 215 1006.24, and 1006.261, Florida Statutes, are reenacted for the  
 216 purpose of incorporating the amendments made by this act to s.  
 217 768.28, Florida Statutes, in references thereto.

218 Section 4. This act applies to claims accruing on or after  
 219 October 1, 2024.

220 Section 5. This act shall take effect October 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative McFarland offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 116-122 and insert:  
6 limitations of liability in effect on the date the claim accrues  
7 shall apply to the claim.

8  
9  
10 -----  
11 **T I T L E A M E N D M E N T**

12 Remove lines 14-17 and insert:  
13 limitations in effect on the date the claim accrues apply to  
14 that claim;



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 589 Criminal Conflict and Civil Regional Counsel Membership in the Senior Management Service Class

**SPONSOR(S):** Brannan

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	13 Y, 0 N	Villa	Miller
2) Appropriations Committee		Smith	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

In 2007, the Legislature established five Offices of Criminal Conflict and Civil Regional Counsel (CCCRC). When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, the CCCRC is appointed to represent the defendant. The CCCRC has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by law in civil proceedings, such as proceedings to terminate parental rights. Each CCCRC district is led by a regional counsel, appointed by the Governor for a term of four years, subject to Senate confirmation.

The Florida Retirement System (FRS) is a contributory retirement system, with active members contributing 3.0 percent of their salaries. FRS Members have two primary plan options available for participation: the defined benefit plan, known as the pension plan, and the defined contribution plan, known as the investment plan. The membership of the FRS is divided into five membership classes:

- The Regular Class;
- The Special Risk Class;
- The Special Risk Administrative Support Class;
- The Elected Officers' Class; and
- The Senior Management Service Class (SMSC).

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. The Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service while the SMSC earns a 2.0 percent accrual value each year.

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. The amount of money contributed to each member's account varies by class with the Regular Class receiving 11.3 percent of salary and SMSC receiving 12.67 percent.

The bill makes assistant regional counsel supervisors of the CCCRC members of the SMSC of the FRS, rather than the Regular Class. For each employee participating in the pension plan, this change means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent. For an employee participating in the investment plan, the employee will receive contributions into the investment account equal to 12.67 percent of salary rather than 11.3 percent. Any employee moved from the Regular Class to the SMSC may purchase additional retirement credit, retroactive to October 1, 2007, and may upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member's employer.

The bill provides an appropriation of \$950,000 in recurring funds from the General Revenue Fund to the offices of the CCCRC for the purpose of funding the inclusion of assistant regional counsel supervisors in the FRS's Senior Management Service Class.

The effective date of the bill is July 1, 2024.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0589b.APC

**DATE:** 1/29/2024

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Criminal Conflict and Civil Regional Counsel (CCCRC)

In 2007, the Legislature established five offices of the CCCRC.<sup>1</sup> When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, a CCCRC is appointed to represent the defendant. The CCCRC has primary responsibility for representing persons entitled to court-appointed counsel under the federal or state Constitutions or as authorized by law in civil proceedings, such as proceedings to terminate parental rights.<sup>2</sup> Each regional counsel, who serves as the lead in each CCCRC region, is recommended as part of a list of qualified candidates by the Supreme Court Judicial Nominating Commission.<sup>3</sup> Thereafter, the Governor appoints the regional counsel from amongst those listed for a term of four years.<sup>4</sup> The appointment is subject to Senate confirmation.<sup>5</sup> Each CCCRC is housed, for administrative purposes, in the Justice Administrative Commission.<sup>6</sup> Regional counsels serve on a full-time basis and may not engage in the private practice of law while holding office.<sup>7</sup>

Effective July 1, 2020, each appointed CCCRC and each district's assistant regional counsel chiefs, administrative directors, and chief investigators are part of the Senior Management Service Class (SMSC) of the Florida Retirement System (FRS).<sup>8</sup> All other employees of the offices of the CCCRC, including assistant regional counsel supervisors, are part of the Regular Class of the FRS.

##### State Board of Administration

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the Florida Constitution, and is composed of the Governor as Chair, the Chief Financial Officer, and the Attorney General, commonly referred to as the "Board of Trustees."<sup>9</sup> The SBA has responsibility for investing the assets of the Florida Retirement System (FRS) Pension Plan<sup>10</sup> and administering the FRS Investment Plan,<sup>11</sup> which combined represent approximately \$194.7 billion, or approximately 84.5 percent of the \$230.2 billion in assets managed by the SBA, as of July 31, 2023.<sup>12</sup> The SBA also manages over 25 other investment portfolios, with combined assets of approximately \$35.5 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.

##### Florida Retirement System

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

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<sup>1</sup> Ch. 2007-62, Laws of Fla., codified in s. 27.511, F.S.

<sup>2</sup> S. 27.511(5) and (6), F.S.

<sup>3</sup> S. 27.511(3)(a), F.S.

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

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

<sup>6</sup> S. 27.511(2), F.S.

<sup>7</sup> S. 27.511(4), F.S.

<sup>8</sup> See ch. 2020-120, Laws of Fla.

<sup>9</sup> See also Art. XII, s. 9, FLA. CONST.

<sup>10</sup> S. 121.151, F.S.

<sup>11</sup> S. 121.4501(8), F.S. See also, rule 19-13.001, F.A.C.

<sup>12</sup> See State Board of Administration, *Performance Report Month Ending: September 30, 2023*,

<https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Trustees/9.23.September%202023%20Monthly%20Trustee%20Report.Posted.pdf?ver=2023-11-21-095016-763> (last visited January 26, 2024).



Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group. The FRS was amended in 1998 to include the Deferred Retirement Option Program (DROP) under the defined benefit plan and in 2000 was amended to provide a defined contribution plan alternative to the defined benefit plan for FRS members effective July 1, 2002.<sup>13</sup>

The FRS is a multiple-employer, contributory plan<sup>14</sup> governed by the Florida Retirement System Act.<sup>15</sup> As of June 30, 2023, the FRS had 646,277 active members,<sup>16</sup> 455,601 retired members and beneficiaries, and 27,767 members in DROP.<sup>17</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and state universities. The FRS also serves as the retirement plan for the employees of the 181 cities, 153 special districts, and two independent hospitals that have elected to join the system.<sup>18</sup>

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

- The Regular Class<sup>19</sup> has 550,931 active members and 8,433 in renewed membership.
- The Special Risk Class<sup>20</sup> has 75,495 active members and 1,168 in renewed membership.
- The Special Risk Administrative Support Class<sup>21</sup> has 93 active members and one in renewed membership.
- The Elected Officers' Class<sup>22</sup> has 2,105 active members and 106 in renewed membership.
- The SMSC<sup>23</sup> has 7,714 active members and 227 in renewed membership.<sup>24</sup>

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

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

### *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 (Division).<sup>25</sup> Investment management is provided 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.<sup>26</sup> For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>27</sup> A member vests immediately in all employee contributions paid to the pension plan.<sup>28</sup> Benefits payable under the

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<sup>13</sup> Florida Department of Management Services, *Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2023*, p. 33.

[https://employer.frs.fl.gov/forms/2022-23\\_ACFR.pdf](https://employer.frs.fl.gov/forms/2022-23_ACFR.pdf) [hereinafter *Annual Report*] (Last visited Jan. 26, 2024).

<sup>14</sup> Prior to 1975, members of the FRS were required to make employee contributions of either four percent of their salaries for Regular Class members or six percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011, at three percent of their salary regardless of membership class.

<sup>15</sup> Ch. 121, F.S.

<sup>16</sup> As of June 30, 2023, the FRS Pension Plan, which is a defined benefit plan, had 441,816 members, and the investment plan, which is a defined contribution plan, had 204,461 members. *Annual Report*, *supra* note 13, at p. 188.

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

<sup>18</sup> *Id.*, at 226.

<sup>19</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>20</sup> 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.

<sup>21</sup> 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.

<sup>22</sup> 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.

<sup>23</sup> 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.

<sup>24</sup> FRS Comprehensive Annual Report, *supra* note 9 at p. 191.

<sup>25</sup> See s. 121.025, F.S.

<sup>26</sup> S. 121.021(45)(a), F.S.

<sup>27</sup> S. 121.021(45)(b), F.S.

<sup>28</sup> See s. 121.091(5)(a), F.S.

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.<sup>29</sup>

For non-special risk members of the pension plan initially enrolled before July 1, 2011, normal retirement is the earlier of 30 years of service or age 62.<sup>30</sup> Those members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of credible service or attain age 65.<sup>31</sup> For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earlier of 25 years of credible service or age 55.<sup>32</sup>

The Regular Class and the SMSC share the same normal retirement dates, average final compensation calculation, and disability/survivor benefits. However, the Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service while the SMSC earns a 2.0 percent accrual value each year.<sup>33</sup>

A member of the SMSC may upgrade service credit in the same position from Regular Class accrual value to the SMSC accrual value.<sup>34</sup> Generally, the service credit may be purchased by the employer on behalf of the member.<sup>35</sup>

### *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 SBA is primarily responsible for administering the investment plan.<sup>36</sup>

A member vests immediately in all employee contributions paid to the investment plan.<sup>37</sup> With respect to the employer contributions, a member vests after completing one work year with an FRS employer.<sup>38</sup> Vested benefits are payable upon termination of employment with the FRS employer or death, as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>39</sup> The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.<sup>40</sup> An FRS member who qualifies for disability while enrolled in the investment plan may 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.<sup>41</sup>

The table below shows the allocation of contributions made into the FRS for members of the investment plan participating in the Regular Class and SMSC. The contributions are based on the percentage of the member's gross compensation for the month.<sup>42</sup>

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<sup>29</sup> S. 121.091, F.S.

<sup>30</sup> S. 121.021(29)(a)1., F.S.

<sup>31</sup> S. 121.021(29)(a)2., F.S.

<sup>32</sup> S. 121.021(29)(b), F.S.

<sup>33</sup> S. 121.091(1)(a), F.S.

<sup>34</sup> S. 121.055(1)(j), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> S. 121.4501(8), F.S.

<sup>37</sup> S. 121.4501(6)(a), F.S.

<sup>38</sup> If a member terminates 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. S. 121.4501(6)(b)-(d), F.S.

<sup>39</sup> S. 121.591, F.S.

<sup>40</sup> S. 121.4501(16), F.S.

<sup>41</sup> Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. S. 121.091(4)(f), F.S.

<sup>42</sup> S. 121.72(7), F.S.

<b>Membership Class</b>	<b>Percentage of Gross Compensation<sup>43</sup></b>
Regular Class	11.30%
Special Risk Class	19.00%
Special Risk Administrative Support Class	12.95%
Elected Officers' Class	
• Justices and Judges	18.23%
• County Elected Officers	16.34%
• Others	14.38%
Senior Management Service Class	12.67%

### *Contribution Rates*

FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the Division to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.<sup>44</sup> The rate is determined annually based on an actuarial study provided by DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

As of July 1, 2023, the current employer contribution for the Regular Class is 6.73 percent and the employer contribution rate for the SMSC is 8.56 percent. In order to address unfunded liabilities in the system, the required employer contribution is 4.78 percent for the Regular Class and 23.90 percent for the SMSC.<sup>45</sup> This represents a total blended contribution rate of 11.51 percent for the Regular Class and 32.46 percent for the SMSC.

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.<sup>46</sup>

### **Effect of the Bill**

The bill makes assistant regional counsel supervisors of the CCCRC offices members of the SMSC of the FRS, rather than the Regular Class. For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 12.67 percent of salary rather than 11.3 percent.

Any employee moved from the Regular Class to the SMSC may purchase additional retirement credit, retroactive to October 7, 2007, and may upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member's employer.

The bill provides an appropriation of \$950,000 in recurring funds from the General Revenue Fund to the offices of the CCCRC for the purpose of funding the inclusion of assistant regional counsel supervisors in the FRS's Senior Management Service Class.

<sup>43</sup> Includes the three percent employee contribution.

<sup>44</sup> S. 121.70(1), F.S.

<sup>45</sup> S. 121.71(4) and (5), F.S.

<sup>46</sup> S. 121.71(3), F.S.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 121.055, F.S., relating to the Senior Management Service Class.

**Section 2:** Provides an appropriation to the Office of the Criminal Conflict and Civil Regional Counsel.

**Section 3:** Provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill provides an appropriation of \$950,000 in recurring funds from the General Revenue Fund to the offices of the CCCRC for the purpose of funding the inclusion of assistant regional counsel supervisors in the FRS's Senior Management Service Class.

**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.

1 A bill to be entitled  
 2 An act relating to criminal conflict and civil  
 3 regional counsel membership in the Senior Management  
 4 Service Class; amending s. 121.055, F.S.; providing  
 5 that participation in the Senior Management Service  
 6 Class of the Florida Retirement System is compulsory  
 7 for each district's assistant regional counsel  
 8 supervisors, beginning on a specified date; providing  
 9 an appropriation; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13 Section 1. Paragraph (m) of subsection (1) of section  
 14 121.055, Florida Statutes, is amended to read:

15 121.055 Senior Management Service Class.—There is hereby  
 16 established a separate class of membership within the Florida  
 17 Retirement System to be known as the "Senior Management Service  
 18 Class," which shall become effective February 1, 1987.

19 (1)

20 (m)1. Effective July 1, 2020, participation in the Senior  
 21 Management Service Class is compulsory for each appointed  
 22 criminal conflict and civil regional counsel and each district's  
 23 assistant regional counsel chiefs, administrative directors, and  
 24 chief investigators.

25 2. Effective July 1, 2024, participation in the Senior

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2024

26 Management Service Class is compulsory for each district's  
27 assistant regional counsel supervisors.

28 ~~3.2.~~ A Senior Management Service Class member under this  
29 paragraph may purchase additional retirement credit in the class  
30 for creditable service within the purview of the Senior  
31 Management Service Class retroactive to October 1, 2007, and may  
32 upgrade retirement credit for such service in accordance with  
33 paragraph (j). However, this service credit may not be purchased  
34 by the employer on behalf of the member.

35 Section 2. For the 2024-2025 fiscal year, the sum of  
36 \$950,000 in recurring funds is appropriated from the General  
37 Revenue Fund to the offices of the Criminal Conflict and Civil  
38 Regional Counsel for the purpose of paying retirement benefits  
39 for specified positions within those offices.

40 Section 3. This act shall take effect July 1, 2024.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 637 Treatment by a Medical Specialist  
**SPONSOR(S):** Insurance & Banking Subcommittee, Yeager and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 808

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	17 Y, 0 N, As CS	Herrera	Lloyd
2) Appropriations Committee		Perez	Pridgeon
3) Commerce Committee			

### SUMMARY ANALYSIS

Florida's Workers' Compensation Law requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require. The Department of Financial Services (DFS), Division of Workers' Compensation (DWC), provides regulatory oversight of Florida's workers' compensation system, including the Workers' Compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate Workers' Compensation health care providers that provide medical services to injured employees.

If a firefighter, law enforcement officer, correctional officer, or correctional probation officer becomes disabled by tuberculosis, heart disease, or hypertension, Florida law presumes that the disease has been contracted in the line of duty, subject to certain limitations, and is therefore compensable under workers compensation law, unless the contrary can be shown by competent evidence.

To be eligible for this legal presumption, the officer or firefighter must have taken a pre-employment physical exam that failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

The bill permits firefighters, law enforcement officers, correctional officers, or correctional probation officers in need of medical treatment for a compensable, presumptive condition to file a written notice with their employer/carrier to obtain authorization of treatment from the selected medical specialist. The employer/carrier may approve the selected medical specialist or authorize an alternative specialist with equal or greater qualifications. The authorization must be resolved within 5 business days and the appointment date must be within 30 business days of the written notice. If the authorization is not timely, the firefighter's or officer's selected medical specialist is automatically authorized.

Also, the bill allows a maximum reimbursement to such medical specialists to 200 percent of the reimbursement allowed by Medicare, rather than 110 percent (non-surgeons) and 140 percent (surgeons).

The bill will likely have an indeterminate, but significant fiscal impact on the State Risk Management Trust Fund. Local governments may experience increased costs. See *Fiscal Analysis*.

The bill has an effective date of October 1, 2024.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### *Qualifications for Employment as a Firefighter, Law Enforcement, Correctional, or Probation Officer*

Florida law sets forth the minimum requirements for any person to be employed or appointed in a full- or part-time capacity, or in an auxiliary capacity, as a law enforcement officer, correctional officer, or correctional probation officer; or to be appointed as an auxiliary correctional officer by a private entity contracting with the Department of Corrections.

To become a law enforcement, correctional, or correctional probation officer, an applicant must satisfy age, education, and citizenship requirements; complete a training course; pass a certification exam; pass a criminal background check; and pass a physical examination.<sup>1</sup>

The physical examination requires screening for evidence of tuberculosis, heart disease, or hypertension.<sup>2</sup>

In addition to law enforcement, correctional, and correctional probation officers, the presumption applies to firefighters working for any unit of Florida government.<sup>3</sup>

##### *Workers' Compensation Presumption*

A legal presumption makes it easier for an employee to obtain Workers' Compensation benefits by shifting the burden of proof in a disability determination from the employee to the employer.<sup>4</sup>

In general, occupational diseases are compensable if:

- A condition peculiar to the occupation causes the disease;
- The employee contracts the disease on the job;
- The job is associated with a particular hazard of the disease;
- The incidence of the disease is substantially higher in the occupation than in the public;
- The nature of the employment was a major contributing cause of the disease; and
- Epidemiological studies show that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.<sup>5</sup>

Florida law includes a presumption that treats tuberculosis, heart disease, or hypertension as an occupational disease associated with firefighters, law enforcement officers, correctional officers, and correctional probation officers. If these employees become temporarily or partially disabled by tuberculosis, heart disease, or hypertension, the law presumes that the employee contracted the disease in the line of duty unless the contrary can be shown by competent evidence.<sup>6</sup>

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<sup>1</sup> S. 943.13, F.S.

<sup>2</sup> S. 943.13(6), F.S.

<sup>3</sup> Ss. 112.18(1)(a) and 175.231, F.S.

<sup>4</sup> *Caldwell v. Division of Retirement, Florida Dept. of Administration*, 372 So. 2d 438, (Fla. 1979).

<sup>5</sup> S. 440.151(2), F.S.

<sup>6</sup> Ss. 112.18(1)(a) and 175.231, F.S.

However, firefighters, law enforcement officers, correctional officers, and correctional probation officers are entitled to the presumption only if the officer passed a pre-employment physical exam that failed to reveal any evidence of tuberculosis, heart disease, or hypertension.<sup>7</sup>

If the employee's pre-employment physical failed to reveal any evidence of disease, the employee must demonstrate the he or she suffers from tuberculosis, heart disease, or hypertension, but does not have to present evidence of causation that is typically required to demonstrate that an occupational disease is compensable.<sup>8</sup>

To overcome the statutory presumption, the employer must present clear and convincing evidence that the disease was caused by a non-work-related event or exposure.<sup>9</sup>

### *Pre-Employment Physicals*

To be employed as a law enforcement, correctional, or correctional probation officer, an applicant must pass a physical exam.<sup>10</sup> The law that establishes minimum employment standards states that such officers are eligible for the presumption of s. 112.18, F.S., only if the physical exam fails to reveal any evidence of tuberculosis, heart disease, or hypertension.<sup>11</sup>

To enroll in firefighting training courses and be certified as a firefighter, an applicant must be in good physical condition, as determined by a doctor or nurse practitioner.<sup>12</sup> The law does not mention specific screening for tuberculosis, heart disease, or hypertension. The medical professional must certify that the applicant is medically fit to engage in firefighting training and does not have any pre-existing or current condition, illness, injury, or deficiency.<sup>13</sup>

### *Division of Workers' Compensation*

Florida's Workers' Compensation Law<sup>14</sup> requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.<sup>15</sup> The Department of Financial Services (DFS) provides regulatory oversight of Florida's Workers' Compensation system, including the Workers' Compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers<sup>16</sup> that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.<sup>17</sup> DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals<sup>18</sup> through the rulemaking process provided by the Administrative Procedures Act.<sup>19</sup> In 2023, CS/CS/HB 487 eliminated the authority of the Three-Member Panel to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical

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<sup>7</sup> S. 112.18(1)(a), F.S.

<sup>8</sup> *McDonald v. City of Jacksonville*, 286 So. 3d 792 (Fla. 1st DCA 2019), citing *Walters v. State, DOC/Div. of Risk Management*, 100 So. 3d 1173 (Fla. 1st DCA 2019), rehearing denied, review denied 108 So. 3d 654 (The presumption is an adequate substitute for evidence of occupational causation, and compels the legal result that a claimant has proven occupational causation).

<sup>9</sup> *Butler v. City of Jacksonville*, 980 So. 2d 1250 (Fla. 1st DCA 2008).

<sup>10</sup> S. 943.13(6), F.S.

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

<sup>12</sup> S. 633.412(5), F.S.

<sup>13</sup> Rule 69A-37.037 and Form DFS-K3-1022.

<sup>14</sup> Ch. 440, F.S.

<sup>15</sup> S. 440.13(2)(a), F.S.

<sup>16</sup> The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under chapter 395 and any health care institution licensed under chapter 400 or chapter 429. S. 440.13(1)(g), F.S.

<sup>17</sup> S. 440.13(12), F.S.

<sup>18</sup> Ss. 440.13(12) and (13), F.S., and Ch. 69L-7, F.A.C.

<sup>19</sup> Ch. 120, F.S.

equipment providers.<sup>20</sup> Instead, it mandates DFS to annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1<sup>st</sup>, effective the following January 1<sup>st</sup>.<sup>21</sup>

### *Medical Services*

The Division of Workers' Compensation (DWC) is responsible for ensuring that employers provide medically necessary treatment, care, and attendance for injured workers. Healthcare providers must receive authorization from the insurer before providing treatment and submit treatment reports to the insurer. Insurers must reimburse healthcare providers based on statewide schedules of maximum reimbursement allowances developed by the DWC or an agreed-upon contract price. DWC mediates utilization and reimbursement disputes.<sup>22</sup>

### *Eligibility for the Workers' Compensation Presumption*

In a disputed Workers' Compensation determination, the legal presumption does not apply if a law enforcement, correctional, or correctional probation officer:

- Departed from the course of treatment prescribed by his or her physician, resulting in a significant aggravation of the disease or disability or need for medical treatment; or
- Was previously compensated for the disabling disease and departed from the treatment prescribed by his or her physician, resulting in disability or increasing the disability or need for medical treatment.<sup>23</sup>

To be eligible for workers' compensation benefits, a law enforcement officer, correctional officer, or correctional probation officer must make a claim for benefits prior to or within 180 days of leaving the employment or the employing agency.<sup>24</sup>

Firefighters are not subject to the exclusion for prior treatment or compensation and they are not covered by the claim-filing deadline that lets a law enforcement officer, correctional officer or correctional probation officer file a claim up to 180 days after leaving the employment.

Thus, a firefighter suffering from tuberculosis, heart disease, or hypertension must advise his or her employer of the injury within 90 days of the initial manifestation of the disease or 90 days after the firefighter obtains a medical opinion that the injury (occupational disease) is due to the nature of the firefighter's employment.<sup>25</sup>

### *Reimbursement for Healthcare Providers*

A three-member panel (panel), consisting of the Chief Financial Officer (CFO) or their designee and two Governor appointees, sets the MRAs.<sup>26</sup> Beginning with rates developed in 2024 and implemented with rates effective January 1, 2025, health care providers and non-hospital rates are annually published by DFS, instead of being included in the reimbursement manuals.<sup>27</sup> DFS incorporates the statewide schedules of the MRAs through rulemaking. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;<sup>28</sup> the cost impact to employers for providing reimbursement that ensures that injured workers have access to

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<sup>20</sup> Ch. 2023-144, Laws of Fla.

<sup>21</sup> *Id.*

<sup>22</sup> S. 440.13, F.S.

<sup>23</sup> S. 112.18(1)(b)(1), F.S.

<sup>24</sup> S. 112.18(1)(b)(4), F.S.

<sup>25</sup> S. 440.151(6) and 440.185(1), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Ch. 2023-144, Laws of Fla.

<sup>28</sup> S. 440.13(12)(i)(1), F.S.

necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.<sup>29</sup> Florida law requires the panel to develop MRA manuals that are reasonable, promote the Workers' Compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.<sup>30</sup>

There are three different reimbursement manuals that determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual, developed by the DWC, limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,<sup>31</sup> while reimbursement for surgical procedures is limited to 140 percent of Medicare.<sup>32</sup> The hospital manual, developed by the panel, sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,<sup>33</sup> while other outpatient services are limited to 75 percent of usual and customary charges.<sup>34</sup> Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.<sup>35</sup> The ambulatory surgical centers manual, developed by the panel, limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.<sup>36</sup> Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.<sup>37</sup> Fees may not exceed the schedules adopted under ch. 440, F.S., and department rule.<sup>38</sup>

## Effect of the Bill

The bill permits firefighters, law enforcement officers, correctional officers, or correctional probation officers in need of medical treatment for a compensable, presumptive condition to file a written notice with their employer/carrier to obtain authorization of treatment from the selected medical specialist. The employer/carrier may approve the selected medical specialist or authorize an alternative specialist with equal or greater qualifications. The employer/carrier must authorize the selected medical specialist within 5 business days of receiving the written notice. The appointment date with the authorized medical specialist must be within 30 days of the written notice.

In the event that the employer/carrier fails to provide timely authorization, the firefighter's or officer's selected medical specialist is automatically authorized. This notice and authorization process is an express exception to the standard employer-directed provider selection process under the Workers' Compensation law, wherein the employer/carrier selects the specialist.

The bill also increases the maximum reimbursement for medical specialists licensed under ch. 458 or ch. 459, F.S. The maximum reimbursement is raised from 110 percent (non-surgeons) and 140 percent (surgeons) to 200 percent of the Medicare allowance for both non-surgeons and surgeons.

This bill provides an effective date as of October 1, 2024.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 112.18, F.S., relating to firefighters and law enforcement or correctional officers; special provisions relative to disability.

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<sup>29</sup> S. 440.13(12)(i)(2), F.S.

<sup>30</sup> S. 440.13(12)(i)(3), F.S.

<sup>31</sup> S. 440.13(12)(f), F.S.

<sup>32</sup> S. 440.13(12)(g), F.S.

<sup>33</sup> S. 440.13(12)(d), F.S.

<sup>34</sup> S. 440.13(12)(a), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> S. 440.13(12)(h), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> S. 440.13(12)(f), F.S.

**Section 2.** Providing an effective date of October 1, 2024.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill will likely have an indeterminate, but significant impact on the State Risk Management Trust Fund. The state may experience an increase in claims costs related to the increase in the maximum reimbursement, and to claimants selecting providers of their choice<sup>39</sup>.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Local government may experience increased expenses associated with specialist treatment of presumed conditions under the bill due to the increased fee allowed.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Specialist workers' compensation medical providers may receive increased fees for treatment of presumed conditions as provided for by the bill.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires county/municipality governments that employ firefighters, law enforcement officers, correctional officers, or correctional probation officers to fund additional expenses related to those employees accessing specialist care for presumed conditions at a rate higher than currently applicable Workers' Compensation rates; however, an exception may apply. The bill applies to all similarly situated persons, i.e., every county/municipality government that employs such individuals, in addition to the state, which also employs such individuals.

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

None provided by the bill.

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<sup>39</sup> Email from Chase Mitchell, Director of Legislative Affairs and Policy, Department of Financial Services, RE: HB 637 – Treatment by a Medical Specialist (Jan. 24, 2024).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 18, 2024, the Insurance & Banking Subcommittee considered the bill, adopted an amendment, and reported the bill favorably as a committee substitute. The amendment made the following changes:

- Required written notice of the medical specialist permitted by the bill.
- Allowed the employer/carrier to authorize an alternative specialist with equal or greater qualifications.
- Required authorization of treatment within 5 business days of receiving the notice and scheduling of an appointment within 30 days.
- Clarified that the bill creates an exception applicable to the usual provider selection process provided under the Workers' Compensation law.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

1                   A bill to be entitled  
2           An act relating to treatment by a medical specialist;  
3           amending s. 112.18, F.S.; authorizing a firefighter,  
4           law enforcement officer, correctional officer, and  
5           correctional probation officer to receive medical  
6           treatment by a medical specialist for certain  
7           conditions under certain circumstances; providing  
8           requirements for the firefighter's or officer's  
9           workers compensation carrier, self-insured employer,  
10          or third-party administrator; requiring the continuing  
11          care and treatment by a medical specialist to be  
12          reasonable, necessary, and related to the  
13          firefighter's or officer's condition and authorized by  
14          the workers compensation carrier, self-insured  
15          employer, or third-party administrator; specifying a  
16          reimbursement percentage for such treatment; defining  
17          the term "medical specialist"; providing an effective  
18          date.

19  
20   Be It Enacted by the Legislature of the State of Florida:

21  
22          Section 1. Subsection (3) is added to section 112.18,  
23          Florida Statutes, to read:

24          112.18 Firefighters and law enforcement or correctional  
25          officers; special provisions relative to disability.-



26        (3)(a) Notwithstanding s. 440.13(2)(c), a firefighter, law  
27 enforcement officer, correctional officer, or correctional  
28 probation officer requiring medical treatment for a compensable  
29 presumptive condition listed in subsection (1) may be treated by  
30 a medical specialist. Except in emergency situations, a  
31 firefighter, law enforcement officer, correctional officer, or  
32 correctional probation officer entitled to access a medical  
33 specialist under this subsection must provide written notice of  
34 his or her selection of a medical specialist to the  
35 firefighter's or officer's workers compensation carrier, self-  
36 insured employer, or third-party administrator, and the carrier,  
37 self-insured employer, or third-party administrator must  
38 authorize the selected medical specialist or authorize an  
39 alternative medical specialist with the same or greater  
40 qualifications. Within 5 business days after receipt of the  
41 written notice, the workers compensation carrier, self-insured  
42 employer, or third-party administrator must authorize treatment  
43 and schedule an appointment, which must be held within 30 days  
44 after receipt of the written notice, with the selected medical  
45 specialist or the alternative medical specialist. If the workers  
46 compensation carrier, self-insured employer, or third-party  
47 administrator fails to authorize an alternative medical  
48 specialist within 5 business days after receipt of the written  
49 notice, the medical specialist selected by the firefighter or  
50 officer is authorized. The continuing care and treatment by a

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51 medical specialist must be reasonable, necessary, and related to  
52 tuberculosis, heart disease, or hypertension; be reimbursed at  
53 no more than 200 percent of the Medicare rate; and be authorized  
54 by the firefighter's or officer's workers compensation carrier,  
55 self-insured employer, or third-party administrator.

56 (b) For purposes of this subsection, the term "medical  
57 specialist" means a physician licensed under chapter 458 or  
58 chapter 459 who has board certification in a medical specialty  
59 inclusive of care and treatment of tuberculosis, heart disease,  
60 or hypertension.

61 Section 2. This act shall take effect October 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1459 Advanced Technology  
**SPONSOR(S):** Commerce Committee, McFarland  
**TIED BILLS:** CS/HB 1461 **IDEN./SIM. BILLS:** SB 1680

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Commerce Committee	20 Y, 0 N, As CS	Wright	Hamon
2) Appropriations Committee		Mullins	Pridgeon
3) Judiciary Committee			

### SUMMARY ANALYSIS

Artificial intelligence (AI) encompasses a large field of existing and emerging technologies, methodologies, and application areas. AI is generally thought of as computerized systems that work and react in ways commonly thought to require intelligence. The application of AI extends to areas such as natural language processing, facial recognition, and robotics. As the use of AI technologies has grown, so too have discussions of whether and how to regulate them. Potential regulatory options include a broad regulation of AI technologies that could be used across sectors, or a more targeted approach, regulating the use of AI technologies in particular sectors.

The bill:

- Requires an entity or person who produces or offers for use or interaction AI content or technology for a commercial purpose, and makes such content or technology available to the Florida public, to create safety and transparency standards that:
  - Alert consumers that such content or technology is generated by AI.
  - Allow such content or technology to be recognizable as generated by AI to other AI.
- Requires an entity or a person to provide a clear and conspicuous notice on its Internet homepage or landing page if it provides an AI mechanism to communicate or interact with Florida consumers for a commercial purpose.
- Prohibits any entity or person from knowingly using an image of an identifiable child in producing, generating, incorporating, or synthesizing child pornography through AI.
- Requires any state agency that uses AI to disclose if a person is interacting with AI when interacting with the agency and ensure that any confidential information accessible to an AI system remains confidential.

Any violation of the provisions of the bill by a person or entity is an unfair and deceptive trade practice actionable under FDUTPA solely by the Department of Legal Affairs at the Attorney General's Office. The bill does not establish a private cause of action.

The bill amends the definition of child pornography to include "any image or presentation produced, generated, incorporated, or synthesized through artificial intelligence that uses an image of an identifiable minor to depict or portray a minor engaged in sexual conduct," which makes using such technology for such purposes a crime.

The bill also creates an advisory council called the Government Technology Modernization Council to study and monitor the development and deployment of AI systems and provide reports on such systems and ransomware incidents to the Governor and the Legislature.

See Fiscal Comments for fiscal impact.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Artificial Intelligence

In the 1950s, a generation of scientists, mathematicians, and philosophers, including Alan Turing, conceptualized the possibility of artificial intelligence (AI). In his 1950 paper *Computing Machinery and Intelligence*, Turing discussed “how to build intelligent machines and how to test their intelligence.”<sup>1</sup>

The term “artificial intelligence” itself was coined at the Dartmouth Summer Research Project on Artificial Intelligence, a conference held in 1956. Since 2010, there has been a lot of advancement in AI research, which has been attributed to the “availability of large datasets, improved machine learning approaches and algorithms, and more powerful computers.”<sup>2</sup>

AI encompasses a large field of existing and emerging technologies, methodologies, and application areas. The Congressional Research Service has recently stated that AI is “generally thought of as computerized systems that work and react in ways commonly thought to require intelligence.”<sup>3</sup> The application of AI extends to areas such as “natural language processing, facial recognition, and robotics.”<sup>4</sup>

##### Generative Artificial Intelligence

Generative AI (GenAI) refers to “machine learning (ML) models developed through training on large volumes of data” for the purpose of generating new content, and has undergone rapid advancement over the past few years.<sup>5</sup>

GenAI, and subsets called large language models (LLMs) and generative adversarial networks (GANs), are developed through training on data sets, largely collected from public internet sites, in order to generate content. When a user provides a prompt, the model may generate text, image, video, and computer code responses with “human-like quality.” The Congressional Research Service found that recent technological advances combined with the open availability of these tools to the public has led to widespread use.<sup>6</sup>

Specifically, to synthesize content, a GAN pits two neural networks—a generator and discriminator—against each other. Two scholars from the University of Texas at Austin describe the functionality as follows: “To synthesize an image of a fictional person, the generator starts with a random array of pixels and iteratively learns to synthesize a realistic face. On each iteration, the discriminator learns to distinguish the synthesized face from a corpus of real faces; if the synthesized face is distinguishable from the real faces, then the discriminator penalizes the generator. Over multiple iterations, the generator learns to synthesize increasingly more realistic faces until the discriminator is unable to distinguish it from real faces.”<sup>7</sup>

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<sup>1</sup> Rockwell Anyoha, *Can Machines Think?*, Harvard University, Aug. 28, 2017, <https://sitn.hms.harvard.edu/flash/2017/history-artificial-intelligence/> (last visited Jan. 20, 2024).

<sup>2</sup> Congressional Research Service, *Artificial Intelligence: Overview, Recent Advances, and Considerations for the 118<sup>th</sup> Congress*, available at <https://crsreports.congress.gov/product/pdf/R/R47644> (last visited Jan. 20, 2024).

<sup>3</sup> *Id.*

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

<sup>5</sup> *Id.*; See also Congressional Research Service, *Generative Artificial Intelligence: Overview, Issues, and Questions for Congress*, available at <https://crsreports.congress.gov/product/pdf/IF/IF12426> (last visited Jan. 14, 2024).

<sup>6</sup> CRS, *supra* note 1.

<sup>7</sup> Sophie Nightingale and Hany Ford, *AI-synthesized faces are indistinguishable from real faces and more trustworthy*, Proceedings of the National Academy of Sciences of the United States of America (PNAS), Feb. 14, 2022, <https://www.pnas.org/doi/10.1073/pnas.2120481119> (last visited Jan. 20, 2024).

## Potential Benefits and Risks of Artificial Intelligence

According to PricewaterhouseCoopers, “AI technologies could increase global GDP by \$15.7 trillion, a full 14%, by 2030,” with health, retail, and financial services experiencing the most growth.<sup>8</sup> Some potential benefits include:

- **Financial sector** –The use of AI and algorithms in the financial sector may:<sup>9</sup>
  - Make decision-making more efficient, less emotional, and more analytic for investing, portfolio management, loan applications, mortgages and retirement planning.
  - Prevent fraud and detect financial anomalies in large institutions.
- **Health Sector** – The use of AI and algorithms in the health sector may:<sup>10</sup>
  - Help diagnose and predict disease or illness.
  - Help predict potential challenges and allocate resources to patient education, sensing, and proactive interventions to keep patients out of the hospital.
  - Create a multifaceted and highly personalized picture of person’s well-being.
- **Transportation Sector** – The use of AI and algorithms in the transportation sector may:
  - Develop vehicle guidance, braking, and lane-changing systems for cars, trucks, buses, and drone delivery systems.
  - Develop systems to prevent collisions with the use of cameras and sensors.
  - Provide real-time information analysis and safety measures for the development of autonomous vehicles.
- **Government Sector** – The use of AI and algorithms in the government sector may:<sup>11</sup>
  - Help to create smart cities and e-governance. Examples include:
    - The George AI chatbot, a customer service virtual assistant created by the Georgia Department of Labor.
    - AI monitoring of live footage from cameras in forests and mountains for signs of smoke by western states including California, Nevada, and Oregon.
  - Help metropolitan areas adopt systems for citizen service delivery, urban and environmental planning, energy use, and crime prevention.
- **Customer Service** – The use of AI and algorithms in customer service may:<sup>12</sup>
  - Provide customer service to consumers through the use of chatbots and other customer service-oriented tools to increase customer engagement, resulting in increased sales opportunities with reduced costs to the business.

However, developments in AI raise important policy, regulatory and ethical issues. Potential risks are associated with removing humans from the decision-making process, as is the case when AI technology becomes more advanced over time.<sup>13</sup> Some potential risks include:

- **Bias:**<sup>14</sup>
  - Because AI algorithms are all based on data input by humans, and such data is based on human choices, responses or decisions, there is a risk that such algorithms can contain bias, inaccuracies, ethical considerations, and value choices, which can take many forms including historical, racial, or other discrimination, without intervention.
- **Workforce:**<sup>15</sup>
  - Integrating AI into the workforce brings uncertainty and challenge to the labor market, e.g., to what extent will AI replace jobs. There may need to be significant investments from business leaders and governments for retraining and reskilling the workforce.
- **Legal Liability:**<sup>16</sup>

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<sup>8</sup> National Conference of State Legislatures, *Approaches to Regulating Artificial Intelligence: A Primer*, Aug. 10, 2023, <https://www.ncsl.org/technology-and-communication/approaches-to-regulating-artificial-intelligence-a-primer> (last visited Jan. 20, 2024).

<sup>9</sup> *Id.*; Darrell West and John Allen, *How artificial intelligence is transforming the world*, Brookings Institute, Apr. 24, 2018, <https://www.brookings.edu/articles/how-artificial-intelligence-is-transforming-the-world/> (last visited Jan. 20, 2024).

<sup>10</sup> NCSL, *supra* note 6.

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

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

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

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

<sup>15</sup> *Id.*

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

- There are questions concerning who is legally liable when AI systems harm or discriminate against people, especially as new and emerging use cases for AI platforms are developed and integrated.
- **Security Risks:**<sup>17</sup>
  - AI systems present cybersecurity and national security risks, including:
    - AI companies collecting large amounts of personal data for AI training and use.
    - Bad actors developing advanced cyberattacks, bypassing security measures, and exploiting vulnerabilities in various private and public systems.
  - Traditional cybersecurity risk assessment tools are generally inadequate for addressing such risks.

## Efforts to Regulate Artificial Intelligence

As the use of AI technologies has grown, so too have discussions of whether and how to regulate them. Potential regulatory options include a broad regulation of AI technologies that could be used across sectors, or a more targeted approach, regulating the use of AI technologies in particular sectors.<sup>18</sup>

In 2023, 31 states introduced at least 191 bills concerning AI, with 14 of the bills becoming laws.<sup>19</sup> As reported by the National Conference of State Legislatures:<sup>20</sup>

- Connecticut required the state Department of Administrative Services to conduct an inventory of all systems that employ AI and are in use by any state agency and, beginning Feb. 1, 2024, perform ongoing assessments of systems that employ AI and are in use by state agencies to ensure that no such system results in unlawful discrimination or disparate impact.
- Louisiana adopted a resolution requesting the Joint Committee on Technology and Cybersecurity to study the impact of AI in operations, procurement and policy.
- Maryland established the Industry 4.0 Technology Grant Program to assist certain small and medium-sized manufacturing enterprises with implementing new “industry 4.0” technology or related infrastructure. The definition of industry 4.0 includes AI.
- Texas, North Dakota, Puerto Rico, and West Virginia created AI advisory councils to study and monitor AI systems developed, employed or procured by state agencies.

Additionally, the following laws were passed in previous years:

- California prohibits any person from using a bot to communicate or interact with another person online with the intent to mislead the other person about its artificial identity in order to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election.<sup>21</sup>
- Illinois requires an employer that asks applicants to record video interviews and uses an AI analysis of applicant-submitted videos to:<sup>22</sup>
  - Notify each applicant in writing before the interview that AI may be used to analyze the applicant's facial expressions and consider the applicant's fitness for the position;
  - Provide each applicant with an information sheet before the interview explaining how the AI works and what characteristics it uses to evaluate applicants; and
  - Obtain written consent from the applicant to be evaluated by the AI program.

While there is no broad framework for AI regulation in the United States, federal laws on AI have been enacted over the past few years to guide actions within the federal government. For example, the

<sup>17</sup> *Id*; Bernard Marr, *The 15 Biggest Risks Of Artificial Intelligence*, Forbes, Jun. 2, 2023, <https://www.forbes.com/sites/bernardmarr/2023/06/02/the-15-biggest-risks-of-artificial-intelligence/?sh=603d66292706> (last visited Jan. 20, 2024).

<sup>18</sup> CRS, *supra* note 2.

<sup>19</sup> National Conference of State Legislatures, *State of Play | An Inside Look at Artificial Intelligence Policy and State Actions*, Jan. 9, 2024, <https://www.ncsl.org/state-legislatures-news/details/state-of-play-an-inside-look-at-artificial-intelligence-policy-and-state-actions> (last visited Jan. 20, 2024).

<sup>20</sup> National Conference of State Legislatures, *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation> (last visited Jan. 20, 2024).

<sup>21</sup> Cal. B&P Code §§ 17940-17943

<sup>22</sup> 2019 IL Public Act 101-0260

National Artificial Intelligence Initiative Act of 2020, establishes the American AI Initiative and provides directions for AI research, development, and evaluation activities at federal science agencies.<sup>23</sup>

The European Union has proposed the Artificial Intelligence Act (AIA), which would create broad regulatory oversight for the development and use of a wide range of AI applications, with requirements varying by risk category, from banning systems with unacceptable risk to allowing free use of those with minimal or no risk.<sup>24</sup> In an effort to begin implementation of the AIA, a related new rule was agreed to in December, 2023, which includes requiring human oversight in creating and deploying the systems and banning indiscriminate scraping of images from the internet to create a facial recognition database.<sup>25</sup>

## Artificial Intelligence Used to Create Child Pornography

Recently, there has been an increase in AI production of child pornography. Offenders may use downloadable open source GenAI and GAN models, which can produce images quickly, to devastating effects.<sup>26</sup> Hidden inside the foundation of popular AI image-generators are thousands of images of child sexual abuse, which have made it easier for offenders and AI systems to produce realistic and explicit imagery of fake children as well as transform social media photos of fully clothed children into child sexual abuse material (CSAM).<sup>27</sup>

In September, 2023, analysts at the Internet Watch Foundation (IWF) found in one dark web CSAM forum, a total of 20,254 AI-generated photos posted within the prior month. The analysts spent 87.5 hours assessing 11,108 of these images. In total, the IWF judged 2,978 images to be criminal. Most were realistic enough to be treated the same way as non-AI CSAM.<sup>28</sup>

Additionally, Stanford Internet Observatory recently found more than 3,200 images of suspected child sexual abuse in the giant AI database LAION, an index of online images and captions that's been used to train leading AI image-makers.<sup>29</sup>

Nishant Vishwamitra, an assistant professor at the University of Texas at San Antonio who is working on the detection of deepfakes and AI CSAM images online, stated that "the scale at which such images can be created is worrisome."<sup>30</sup>

## Child Pornography Laws

### Federal Law

Generally, the First Amendment does not protect child pornography. In *New York v. Ferber*,<sup>31</sup> the United States Supreme Court (Supreme Court) recognized that states have a compelling interest in safeguarding the physical and psychological well-being of minors and in preventing their sexual exploitation and abuse. The Supreme Court noted that it was "unlikely that visual depictions of children . . . lewdly exhibiting their genitals would often constitute an important and necessary part of a literary performance or scientific or educational work."<sup>32</sup> Under these principles, states have criminalized possessing, distributing, and other acts involving child pornography. However, the constitutionality of

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<sup>23</sup> CRS, *supra* note 2.

<sup>24</sup> Id; European Commission, *Regulatory Framework Proposal on Artificial Intelligence*, <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai> (last visited Jan. 20, 2024).

<sup>25</sup> Adam Satariano, *E.U. Agrees on Landmark Artificial Intelligence Rules*, NY Times, Dec. 8, 2024, <https://www.nytimes.com/2023/12/08/technology/eu-ai-act-regulation.html> (last visited Jan. 20, 2024).

<sup>26</sup> Matt Burgess, *The AI-Generated Child Abuse Nightmare Is Here*, Wired, Oct. 24, 2023, <https://www.wired.com/story/generative-ai-images-child-sexual-abuse/> (last visited Jan. 20, 2024).

<sup>27</sup> Matt O'Brien and Halleluya Hadero, *Study shows AI image-generators are being trained on explicit photos of children*, PBS NewsHour, Dec. 20, 2023, <https://www.pbs.org/newshour/science/study-shows-ai-image-generators-are-being-trained-on-explicit-photos-of-children> (Last visited Jan. 21, 2024).

<sup>28</sup> *Id.*

<sup>29</sup> O'Brien and Hadero, *supra* note 27.

<sup>30</sup> *Id.*

<sup>31</sup> 458 U.S. 747 (1982).

<sup>32</sup> *Id.* at 762-63.



criminalizing such acts is less clear when the images at issue are morphed pornography, which is created when the innocent image of a child is combined with a separate, sexually explicit image, usually of an adult. The children depicted in these images were not harmed in the image, as they were not photographed while engaging in a sexual or obscene act.<sup>33</sup>

### *Child Pornography Prevention Action of 1996*

Prior to 1996, federal law criminalized a variety of acts relating to child pornography.<sup>34</sup> At that time, federal statutes described images of a minor actually engaging in sexually explicit conduct.<sup>35</sup> In 1996, Congress passed the Child Pornography Prevention Action of 1996 (CPPA),<sup>36</sup> creating a definition of “child pornography” that for the first time criminalized acts relating to morphed child pornography.

In 2002, the Supreme Court decided *Ashcroft v. Free Speech Coalition*,<sup>37</sup> a case in which a California trade association for the adult entertainment industry challenged the CPPA as unconstitutionally overbroad. A provision made it a crime to possess or distribute images depicting sexually explicit conduct which could be created by using advanced computer imaging techniques to “create realistic images of children who do not exist” (i.e., virtual child pornography).<sup>38</sup>

The Supreme Court held that the speech criminalized in the challenged provision of the CPPA violated the First Amendment since it extended the federal prohibition against child pornography to sexually explicit images that **“appeared to” depict minors but were “produced without using any real children.”**<sup>39</sup> The Supreme Court decided that “by prohibiting child pornography that did not depict an actual child,” the CPPA “abridged the freedom to engage in a substantial amount of lawful speech” and was therefore overbroad and unconstitutional.<sup>40</sup>

While the *Ashcroft* decision did not specifically address the constitutionality of the CPPA provision that prohibits *morphed* child pornography, it did note, in dictum, that **“[a]lthough morphed images may fall within the definition of virtual child pornography, they implicate the interests of real children...”**<sup>41</sup> This suggests that morphed child pornography may not be protected by the First Amendment.<sup>42</sup>

Congress attempted to remedy the constitutional issues raised in *Ashcroft* by passing the “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act” (Protect Act) in 2003.<sup>43</sup> The Protect Act, in part, narrowed the definition of virtual child pornography in the CPPA to include only virtual or computer-generated images that are “indistinguishable from” images of actual minors engaging in sexually explicit conduct.<sup>44</sup> The definition of morphed child pornography in the CPPA remained unchanged by the Protect Act.

To date, the federal statutes relating to morphed child pornography have been upheld.<sup>45</sup>

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<sup>33</sup> Stacey Steinberg, *Changing Faces: Morphed Child Pornography Images and the First Amendment*, 68 Emory L.J. 909 (2019).

<sup>34</sup> See, e.g., 18 USC §2252 (1994 ed.).

<sup>35</sup> *U.S. v. Hotaling*, 599 F.Supp.2d 306, 309 (N.D.N.Y. 2008); see also 18 USC §§ 2252 and 2256 (1994 ed.).

<sup>36</sup> Pub. L. No. 104-208.

<sup>37</sup> 535 U.S. 234 (2002).

<sup>38</sup> *Supra*, note 8.

<sup>39</sup> *Supra*, note 9, at 256.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 242.

<sup>42</sup> *McFadden v. Alabama*, 67 So.3d 169, 181-82 (Ala. Crim. App. 2010).

<sup>43</sup> Pub. L. No. 108-21.

<sup>44</sup> 18 USC §2256(8)(B).

<sup>45</sup> In *United States v. Bach*, the defendant was convicted of possessing morphed child pornography. The image at issue showed a young nude boy sitting in a tree, grinning, with his pelvis tilted upward, his legs opened wide, and a full erection. The photograph of a well-known child entertainer’s head had been “skillfully inserted onto the photograph of the nude boy so that the resulting image appeared to be a nude picture of the child entertainer sitting in the tree.” The defendant appealed, arguing that his conviction was invalid because the definition of morphed child pornography violated the First Amendment. The United States Court of Appeals for the Eighth Circuit disagreed, holding that morphed child pornography “implicate[s] the interests of real children” and creates a lasting record of an identifiable minor child seemingly engaged in sexually explicit activity. *United States v. Bach*, 400 F.3d 622, 632 (8th Cir. 2005); *United States v. Ramos*, 685 F.3d 120, 134 (2d Cir. 2012), cert. denied, 133 S.Ct. 567 (2012); see also *Doe v. Boland*, 630 F.3d 491, 497 (6th Cir. 2011); see also *United States v. Hotaling*, 634 F.3d 725 (2d Cir. 2008), cert. denied, 132

In 2014, in *United States v. Anderson*,<sup>46</sup> the defendant was charged with distribution of morphed child pornography relating to an image in which the face of a minor female was superimposed over the face of an adult female engaging in sex with an adult male.<sup>47</sup> The defendant moved to dismiss the charge, arguing that the definition of morphed child pornography was unconstitutionally overbroad.<sup>48</sup> The court noted that in the image at issue “no minor was sexually abused.”<sup>49</sup> However, the court held that because such images falsely portray identifiable children engaging in sexual activity, such images implicate the compelling governmental interest in protecting minors.<sup>50</sup> Using this reasoning, the court applied a strict scrutiny balancing test and held that the definition of morphed child pornography was constitutional as applied to the facts of *Anderson*.

In an MSNBC report, the U.S. Justice Department claims AI-generated CSAM may be prosecutable under existing federal child pornography laws. However, the U.S. Justice Department could not show such a prosecution to date.<sup>51</sup>

### *Florida Law*

Currently, Florida law defines “child pornography” as:

- Any image depicting a minor engaged in sexual conduct; or
- Any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.<sup>52</sup>

Current law defines “sexual conduct” as:

- Actual or simulated<sup>53</sup> sexual intercourse, deviate sexual intercourse, sexual bestiality,<sup>54</sup> masturbation, or sadomasochistic abuse,<sup>55</sup>
- Actual or simulated lewd exhibition of the genitals;
- Actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or
- Any act or conduct which constitutes sexual battery<sup>56</sup> or simulates that sexual battery is being or will be committed.<sup>57, 58</sup>

As it relates to child pornography, Florida law defines “identifiable child” as a person:

- Who was a minor at the time the image was created, altered, adapted, or modified, or whose image as a minor was used in the creating, altering, adapting, or modifying of the image; and
- Who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature.<sup>59, 60</sup>

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S.Ct. 843 (2011) (citing *Bach*, the Court held that “child pornography created by digitally altering sexually explicit photographs of adults to display the face of a child is not protected expressive speech under the First Amendment.”)

<sup>46</sup> 759 F.3d 891 (8th Cir. 2014).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 895.

<sup>50</sup> *Id.* at 896.

<sup>51</sup> Frank Figliuzzi, *A loophole makes it hard to punish these despicable AI-generated nude photos*, MSNBC, Nov. 7, 2023, <https://www.msnbc.com/opinion/msnbc-opinion/ai-generated-nudes-new-jersey-students-rcna123931> (last visited Jan. 20, 2024).

<sup>52</sup> S. 827.071(1)(b), F.S.

<sup>53</sup> “Simulated” means the explicit depiction of conduct set forth in current law which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks. S. 827.071(1)(n), F.S.

<sup>54</sup> “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or female genitals of the other. S. 827.071(1)(k), F.S.

<sup>55</sup> “Sadomasochistic abuse” means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself. S. 827.071(1)(i), F.S.

<sup>56</sup> “Sexual battery” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose. S. 827.071(1)(j), F.S.

<sup>57</sup> S. 827.071(1)(l), F.S.

<sup>58</sup> A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.” *Id.*

<sup>59</sup> S. 827.071(1)(e), F.S.

<sup>60</sup> The term may not be construed to require proof of the actual identity of the identifiable minor. *Id.*

Florida law contains a variety of provisions prohibiting acts relating to child pornography, including under ch. 827, F.S., relating to “Abuse of Children,” and ch. 847, F.S., relating to “Obscenity.”

Current law makes it a:

- Second degree felony for a person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography. Possession of three or more copies of such photographs, etc., is prima facie evidence of a person’s intent to promote.<sup>61</sup>
- Third degree felony for any person to knowingly possess, control, or intentionally view<sup>62</sup> a photograph, motion picture, or other image that, in whole or in part, he or she knows includes any child pornography.<sup>63</sup>
- Third degree felony for any person who knew or reasonably should have known that he or she was transmitting child pornography to another.<sup>64</sup>

## Advisory Councils

Under Florida law, an “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis. Generally, an advisory council is enacted to study the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.<sup>65</sup>

The Code of Ethics for Public Officers and Employees<sup>66</sup> establishes ethical standards for public officials, which includes any person elected or appointed to hold office in any agency and any person serving on an advisory council.<sup>67</sup> The code is intended to ensure that public officials conduct themselves independently and impartially, and do not use their offices for private gain other than compensation provided by law. The code pertains to various ethical issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, and standards of conduct.<sup>68</sup>

### *Florida Cybersecurity Advisory Council*

The Department of Management Services (DMS) oversees information technology (IT)<sup>69</sup> governance and security for the executive branch in Florida.<sup>70</sup> The Florida Digital Service (FLDS) is housed within DMS and was established in 2020 to replace the Division of State Technology.<sup>71</sup> FLDS works under DMS to implement policies for information technology and cybersecurity for state agencies.<sup>72</sup>

An advisory council under Chapter 282, F.S., regulating communications, technology, and cybersecurity, is the Florida Cybersecurity Advisory Council (CAC) within DMS.<sup>73</sup> CAC assists state agencies in protecting IT resources from cyber threats and incidents.<sup>74</sup> The CAC must assist FLDS in

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<sup>61</sup> S. 827.071(4), F.S.

<sup>62</sup> “Intentionally view” means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation was viewed over any period of time. S. 827.071(1)(b), F.S.

<sup>63</sup> S. 827.071(5)(a), F.S. The statute also specifies that the possession, control, or intentional viewing of each such photograph, or other image, is a separate offense. If such photograph or other image includes child pornography depicting more than one child, then each child in each photograph or image that is knowingly possessed, controlled, or intentionally viewed is a separate offense.

<sup>64</sup> S. 847.0137, F.S.

<sup>65</sup> S. 20.03(7), F.S.; *See also* s. 20.052, F.S.

<sup>66</sup> *See* Part III, Chapter 112, F.S.

<sup>67</sup> S. 112.313(1), F.S.

<sup>68</sup> *See* Part III, Chapter 112, F.S.

<sup>69</sup> The term “information technology” means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. S. 282.0041(19), F.S.

<sup>70</sup> *See* s. 20.22, F.S.

<sup>71</sup> Ch. 2020-161, L.O.F.

<sup>72</sup> *See* s. 20.22(2)(b), F.S.

<sup>73</sup> S. 282.319(1), F.S.

<sup>74</sup> S. 282.319(2), F.S.

implementing best cybersecurity practices, taking into consideration the final recommendations of the Florida Cybersecurity Task Force – a task force created to review and assess the state’s cybersecurity infrastructure, governance, and operations.<sup>75</sup> The CAC meets at least quarterly to:

- Review existing state agency cybersecurity policies;
- Assess ongoing risks to state agency IT;
- Recommend a reporting and information sharing system to notify state agencies of new risks;
- Recommend data breach simulation exercises;
- Assist FLDS in developing cybersecurity best practice recommendations; and
- Examine inconsistencies between state and federal law regarding cybersecurity.<sup>76</sup>

The CAC must work with NIST<sup>77</sup> and other federal agencies, private sector businesses, and private security experts to identify which local infrastructure sectors, not covered by federal law, are at the greatest risk of cyber-attacks and to identify categories of critical infrastructure as critical cyber infrastructure if cyber damage to the infrastructure could result in catastrophic consequences.<sup>78</sup>

The CAC must also prepare and submit a comprehensive report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes data, trends, analysis, findings, and recommendations for state and local action regarding ransomware incidents as stated below:

- A summary of recommendations by relevant national entities on technology systems in state government, including, but not limited to, artificial intelligence, cloud computing, identity management, and financial technology.
- An assessment of the impact of using artificial intelligence systems on the liberty, finances, livelihood, and privacy interests of residents of this state.
- Recommended policies necessary to:
  - Protect the privacy interests of residents of this state from any decrease in employment caused by artificial intelligence systems.
  - Ensure that residents of this state are free from unfair discrimination caused or compounded by the employment of artificial intelligence systems.
  - Promote the development and deployment of artificial intelligence systems in this state.
- Any other information the council considers relevant

### **Florida Deceptive and Unfair Trade Practices Act (FDUTPA)**

FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.<sup>79</sup> FDUTPA was modeled after the Federal Trade Commission (FTC) Act.<sup>80</sup>

The Department of Legal Affairs (DLA) or the Office of the State Attorney (SAO) may bring actions on behalf of consumers or governmental entities when it is a matter of public interest.<sup>81</sup> The SAO may enforce violations of FDUTPA if the violations take place within its jurisdiction. The DLA has enforcement authority when the violation is multi-jurisdictional, the state attorney defers to the DLA in

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<sup>75</sup> S. 282.319(3), F.S.

<sup>76</sup> S. 282.319(9), F.S.

<sup>77</sup> NIST, otherwise known as the National Institute of Standards and Technology, “is a non-regulatory government agency that develops technology, metrics, and standards to drive innovation and economic competitiveness at U.S.-based organizations in the science and technology industry.” Nate Lord, *What is NIST Compliance*, DataInsider (Dec. 1, 2020), <https://www.digitalguardian.com/blog/what-nist-compliance> (last visited Jan. 20, 2024).

<sup>78</sup> S. 282.319(10), F.S.

<sup>79</sup> Ch. 73-124, L.O.F.; s. 501.202, F.S.

<sup>80</sup> D. Matthew Allen, et. al., *The Federal Character of Florida’s Deceptive and Unfair Trade Practices Act*, 65 U. MIAMI L. REV. 1083 (Summer 2011).

<sup>81</sup> S. 501.207(1)(c) and (2), F.S.; see s. 501.203(2), F.S. (defining “enforcing authority” and referring to the office of the state attorney if a violation occurs in or affects the judicial circuit under the office’s jurisdiction; or the Department of Legal Affairs if the violation occurs in more than one circuit; or if the office of the state attorney defers to the department in writing; or fails to act within a specified period); see also David J. Federbush, *FDUTPA for Civil Antitrust: Additional Conduct, Party, and Geographic Coverage; State Actions for Consumer Restitution*, 76 FLORIDA BAR JOURNAL 52, Dec. 2002 (analyzing the merits of FDUTPA and the potential for deterrence of anticompetitive conduct in Florida), available at [http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!OpenDocument&Highlight=0.business.Division\\*](http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!OpenDocument&Highlight=0.business.Division*) (last visited on Jan. 6, 2024).

writing, or the state attorney fails to act within 90 days after a written complaint is filed.<sup>82</sup> In certain circumstances, consumers may also file suit through private actions.<sup>83</sup>

The DLA and the SAO have powers to investigate FDUTPA claims, which include:<sup>84</sup>

- Administering oaths and affirmations;
- Subpoenaing witnesses or matter; and
- Collecting evidence.

The DLA and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.<sup>85</sup>

FDUTPA may not be applied to certain entities in certain circumstances, including:<sup>86</sup>

- Any person or activity regulated under laws administered by the Office of Insurance Regulation or the Department of Financial Services; or
- Banks, credit unions, and savings and loan associations regulated by the Office of Financial Regulation or federal agencies.

## **Effect of the Bill**

### **Government Technology Modernization Council**

The bill creates an advisory council the Government Technology Modernization Council (council) within DMS under Chapter 282, F.S.

The bill provides that the purpose of the council is to study and monitor the development and deployment of AI systems and provide reports on such systems to the Governor and the Legislature.

The bill requires the council to meet at least quarterly to:

- Assess and provide guidance on necessary legislative reforms and the creation of a state code of ethics for AI systems in state government.
- Assess the effect of automated decision systems on constitutional and other legal rights, duties, and privileges of residents of this state.
- Study the potential benefits, liabilities, and risks that this state, residents of this state, and businesses may incur as a result of implementing automated decision systems.
- Recommend legislative and administrative actions that the Legislature and state agencies may take to promote the development of data modernization in Florida.
- Assess where AI is deployed today.
- Evaluate common standards for AI safety and security measures.
- Assess how governmental entities and the private sector are using AI with a focus on opportunity areas for deployments in systems across this state.
- Determine how AI is being exploited by bad actors, including foreign countries of concern.<sup>87</sup>

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<sup>82</sup> S. 501.203(2), F.S.

<sup>83</sup> S. 501.211, F.S.

<sup>84</sup> S. 501.206(1), F.S.

<sup>85</sup> Ss. 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. S. 501.2105, F.S.

<sup>86</sup> S. 501.212(4), F.S.

<sup>87</sup> Section 287.138(1), F.S., lists the following as foreign countries of concern: People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, and the Syrian Arab Republic.

The bill requires the council to submit annual legislative recommendations it considers necessary to modernize government technology to the President of the Senate and the Speaker of the House of Representatives any legislative, beginning June 30, 2024.

The bill requires the council to submit an annual comprehensive report that includes data, trends, analysis, findings, and recommendations for state and local action regarding ransomware incidents to the Governor, the President of the Senate, and the Speaker of the House of Representatives, beginning December 1, 2024. At a minimum, the report must include:

- A summary of recommendations by relevant national entities on technology systems in state government, including, but not limited to, AI, cloud computing, identity management, and financial technology.
- An assessment of the impact of using AI systems on the liberty, finances, livelihood, and privacy interests of residents of Florida.
- Recommended policies necessary to:
  - Protect the privacy interests of Florida residents from any decrease in employment caused by AI systems.
  - Ensure that residents of this state are free from unfair discrimination caused or compounded by the employment of AI systems.
  - Promote the development and deployment of AI systems in Florida.
- Any other information the council considers relevant.

The bill provides that the council is comprised of the following members:

- The Lieutenant Governor.
- The state chief information officer.
- The State Surgeon General.
- The Secretary of Health Care Administration.
- A representative of the computer crime center of the Department of Law Enforcement, appointed by the executive director of the Department of Law Enforcement.
- The Chief Inspector General.
- Thirteen representatives of institutions of higher education located in this state or the private sector with senior level experience or expertise in AI, cloud computing, identity management, data science, machine learning, government procurement, and constitutional law, with seven appointed by the Governor, three appointed by the President of the Senate, and three appointed by the Speaker of the House of Representatives.
- One member of the Senate, appointed by the President of the Senate or his or her designee.
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives or his or her designee.
- The Secretary of DMS, or his or her designee, who serves as the ex officio, nonvoting executive director of the council.

The bill provides that members serve a term of 4 years, except that sitting members of the Senate and the House of Representatives serve terms that correspond with their terms of office.<sup>88</sup> A vacancy is filled for the remainder of the unexpired term in the same manner as the initial appointment. All members of the council are eligible for reappointment.

The bill provides that members of the council serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses.<sup>89</sup>

Members of the council must maintain the confidential and exempt status of information received in the performance of their duties and responsibilities. A current or former member of the council must follow the Code of Ethics for Public Officers and Employees, and may not disclose or use information not available to the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal

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<sup>88</sup> For the purpose of providing staggered terms, the initial appointments of members made by the Governor are for terms of 2 years.

<sup>89</sup> As allowed under s. 112.061, F.S.

gain or benefit of any other person or business entity. Members of the council must sign an agreement acknowledging such requirements.

## **Artificial Intelligence Transparency**

The bill provides that "artificial intelligence" means software that is developed with machine-learning, logic and knowledge-based, or statistical approaches and can, for a given set of human-defined objectives, generate or synthesize outputs such as content, predictions, recommendations, or decisions influencing certain environments.

The bill requires an entity or person who produces or offers for use or interaction AI content or technology for a commercial purpose, and makes such content or technology available to the Florida public, to create safety and transparency standards that:

- Alert consumers that such content or technology is generated by AI.
- Allow such content or technology to be recognizable as generated by AI to other AI.

If a natural person in Florida is able to communicate or interact with an entity or person for commercial purposes through an AI mechanism, the bill requires such entity or a person to provide a clear and conspicuous statement on its Internet homepage or landing page that such mechanism is generated by AI.

The bill prohibits any entity or person from knowingly using an image of an identifiable child in producing, generating, incorporating, or synthesizing child pornography through AI.

Any violation of the bill by a person or entity is an unfair and deceptive trade practice actionable under FDUTPA solely by DLA<sup>90</sup> In addition to other FDUTPA remedies, DLA may collect a civil penalty of up to \$50,000 per violation. DLA may also adopt rules to implement the bill.

The bill does not establish a private cause of action.

For purposes of bringing an action pursuant to the bill, any entity or person who produces or uses AI that is distributed to or viewable by the public in this state is considered to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business, and doing business in this state, and is therefore subject to the jurisdiction of the courts of this state.

The bill requires any state agency<sup>91</sup> that uses AI to disclose if a person is interacting with AI when interacting with the agency and ensure that any confidential information accessible to an AI system remains confidential.

## **Criminal Acts**

The bill amends the definition of child pornography to include any image or presentation produced, generated, incorporated, or synthesized through artificial intelligence that uses an image of an identifiable minor to depict or portray a minor engaged in sexual conduct, which makes using such technology for such purposes a crime

This definition will apply to criminal acts related to child pornography.

The bill provides an effective date of July 1, 2024.

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<sup>90</sup> Unlike under general FDUTPA actions, DLA is not prohibited from bringing an action against a social media platform that is also a:

- Person or activity regulated under laws administered by OIR or DFS; and
- Bank, credit union, and savings and loan association regulated by OFR or federal agencies.

<sup>91</sup> As defined in s. 282.318(2), which is any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities.

**B. SECTION DIRECTORY:**

- Section 1: Creates s. 282.802, F.S.; creating the Government Technology Modernization Council.
- Section 2: Creates s. 501.174, F.S.; providing requirements for entities using AI systems; providing penalties.
- Section 3: Amends s. 775.0847, F.S.; amending a definition.
- Section 4: Amends s. 827.071, F.S.; amending a definition.
- Section 5: Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

There may be an increase in civil penalties collected by DLA.

2. Expenditures:

The bill requires new additional expenditures by DMS for creating and running the council. There may be an increase of regulatory costs to DLA from enforcing the bill.

See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will require entities that use AI in certain circumstances to provide disclaimers.

**D. FISCAL COMMENTS:**

Based on the provisions of the bill, DMS will likely incur the following recurring costs that can be absorbed by existing resources:

1. Administrative support staffing.
2. AI subject matter experts.
3. Travel expenses for council members and administration staff.
4. Policy analysts for drafting annual legislative recommendations and comprehensive reports.
5. Technical and business analysts to conduct state agency systems analysis and to assist in the monitoring of AI systems development and deployment.
6. Cybersecurity reporting software and analysis capabilities to include required information for the annual ransomware comprehensive report.

**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:

Generally, the First Amendment does not protect child pornography. In *New York v. Ferber*,<sup>92</sup> the United States Supreme Court recognized that states have a compelling interest in safeguarding the physical and psychological well-being of minors and in preventing their sexual exploitation and abuse. Under these principles, states have criminalized possessing, distributing, and other acts involving child pornography. The constitutionality of criminalizing such acts when the images at issue are morphed pornography has generally been upheld,<sup>93</sup> but the constitutionality of criminalizing such acts when the images are generated or synthesized using AI from a database of identifiable children, but creating an image not of an identifiable child, is less clear.

### B. RULE-MAKING AUTHORITY:

The bill allows DLA to adopt rules related to enforcing provisions related to AI disclaimers, and use of AI in certain material.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

1. On Line 116, the bill provides for submission of legislative recommendations by June 30, 2024 and each June 30 thereafter. The effective date of the bill is July 1, 2024.
2. Lines 128-144 appear as sub-paragraphs to the wrong paragraph. The content of the sub-paragraphs are not specific to the main paragraph about a comprehensive report on ransomware.
3. The bill requires the Technology Modernization Council to submit an annual comprehensive report about state and local action regarding ransomware incidents. However, while several other technical competencies such as cloud computing, identity management, and data science are required expertise for some of the membership, there is no cybersecurity expertise required for any members in the bill.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 23, 2024, the Commerce Committee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute changed the bill in the following ways:

- Removed provisions requiring certain permissions or disclosures for political advertisements produced and image and likeness used by AI, and conformed related provisions.
- Expanded the criminal definition of “child pornography” to include AI creations.
- Clarified language.
- Changed the enacting clause from “An act related to artificial intelligence transparency” to “An act relating to advanced technology”.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.

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<sup>92</sup> 458 U.S. 747 (1982).

<sup>93</sup> *United States v. Bach*, 400 F.3d 622, 632 (8th Cir. 2005); *United States v. Ramos*, 685 F.3d 120, 134 (2d Cir. 2012), *cert. denied*, 133 S.Ct. 567 (2012); *see also Doe v. Boland*, 630 F.3d 491, 497 (6th Cir. 2011); *see also United States v. Hotaling*, 634 F.3d 725 (2d Cir. 2008), *cert. denied*, 132 S.Ct. 843 (2011).

1                           A bill to be entitled  
2           An act relating to advanced technology; creating s.  
3           282.802, F.S.; creating the Government Technology  
4           Modernization Council within the Department of  
5           Management Services for a specified purpose; providing  
6           for council membership, meetings, and duties;  
7           requiring the council to submit specified  
8           recommendations to the Legislature and specified  
9           reports to the Governor and the Legislature by  
10          specified dates; creating s. 501.174, F.S.; providing  
11          definitions; requiring certain entities and persons to  
12          create safety and transparency standards for  
13          artificial intelligence content or technology;  
14          requiring certain entities and persons to provide  
15          certain statements; prohibiting a person or entity  
16          from producing child pornography through artificial  
17          intelligence; requiring certain state agencies to  
18          provide certain disclosures; authorizing the  
19          Department of Legal Affairs to bring an action for  
20          violations under the Florida Deceptive and Unfair  
21          Trade Practices Act; providing civil penalties;  
22          providing that the act does not establish private  
23          causes of action; providing that certain entities and  
24          persons are subject to the jurisdiction of state  
25          courts; authorizing the department to adopt rules;

26 | amending ss. 775.0847 and 827.071, F.S.; revising the  
 27 | definition of the term "child pornography"; providing  
 28 | an effective date.

29 |  
 30 | Be It Enacted by the Legislature of the State of Florida:

31 |  
 32 | Section 1. Section 282.802, Florida Statutes, is created  
 33 | to read:

34 | 282.802 Government Technology Modernization Council.—

35 | (1) The Government Technology Modernization Council, an  
 36 | advisory council as defined in s. 20.03(7), is created within  
 37 | the department. Except as otherwise provided in this section,  
 38 | the advisory council shall operate in a manner consistent with  
 39 | s. 20.052.

40 | (2) The purpose of the council is to study and monitor the  
 41 | development and deployment of artificial intelligence systems  
 42 | and provide reports on such systems to the Governor and the  
 43 | Legislature.

44 | (3) The council shall be comprised of the following  
 45 | members:

46 | (a) The Lieutenant Governor.

47 | (b) The state chief information officer.

48 | (c) The State Surgeon General.

49 | (d) The Secretary of Health Care Administration.

50 | (e) A representative of the computer crime center of the

51 Department of Law Enforcement, appointed by the executive  
52 director of the Department of Law Enforcement.

53 (f) The Chief Inspector General.

54 (g) Thirteen representatives of institutions of higher  
55 education located in this state or the private sector with  
56 senior level experience or expertise in artificial intelligence,  
57 cloud computing, identity management, data science, machine  
58 learning, government procurement, and constitutional law, with  
59 seven appointed by the Governor, three appointed by the  
60 President of the Senate, and three appointed by the Speaker of  
61 the House of Representatives.

62 (h) One member of the Senate, appointed by the President  
63 of the Senate or his or her designee.

64 (i) One member of the House of Representatives, appointed  
65 by the Speaker of the House of Representatives or his or her  
66 designee.

67 (4) Members shall serve for terms of 4 years, except that  
68 sitting members of the Senate and the House of Representatives  
69 shall serve terms that correspond with their terms of office.  
70 For the purpose of providing staggered terms, the initial  
71 appointments of members made by the Governor shall be for terms  
72 of 2 years. A vacancy shall be filled for the remainder of the  
73 unexpired term in the same manner as the initial appointment.  
74 All members of the council are eligible for reappointment.

75 (5) The Secretary of Management Services, or his or her

76 designee, shall serve as the ex officio, nonvoting executive  
 77 director of the council.

78 (6) Members of the council shall serve without  
 79 compensation but are entitled to receive reimbursement for per  
 80 diem and travel expenses pursuant to s. 112.061.

81 (7) Members of the council shall maintain the confidential  
 82 and exempt status of information received in the performance of  
 83 their duties and responsibilities as members of the council. In  
 84 accordance with s. 112.313, a current or former member of the  
 85 council may not disclose or use information not available to the  
 86 general public and gained by reason of his or her official  
 87 position, except for information relating exclusively to  
 88 governmental practices, for his or her personal gain or benefit  
 89 or for the personal gain or benefit of any other person or  
 90 business entity. Members of the council shall sign an agreement  
 91 acknowledging the provisions of this subsection.

92 (8) The council shall meet at least quarterly to:

93 (a) Assess and provide guidance on necessary legislative  
 94 reforms and the creation of a state code of ethics for  
 95 artificial intelligence systems in state government.

96 (b) Assess the effect of automated decision systems on  
 97 constitutional and other legal rights, duties, and privileges of  
 98 residents of this state.

99 (c) Study the potential benefits, liabilities, and risks  
 100 that this state, residents of this state, and businesses may

101 incur as a result of implementing automated decision systems.

102 (d) Recommend legislative and administrative actions that  
103 the Legislature and state agencies as defined in s. 282.318(2)  
104 may take to promote the development of data modernization in  
105 this state.

106 (e) Assess where artificial intelligence is deployed  
107 today.

108 (f) Evaluate common standards for artificial intelligence  
109 safety and security measures.

110 (g) Assess how governmental entities and the private  
111 sector are using artificial intelligence with a focus on  
112 opportunity areas for deployments in systems across this state.

113 (h) Determine how artificial intelligence is being  
114 exploited by bad actors, including foreign countries of concern  
115 as defined in s. 287.138(1).

116 (9) By June 30, 2024, and each June 30 thereafter, the  
117 council shall submit to the President of the Senate and the  
118 Speaker of the House of Representatives any legislative  
119 recommendations considered necessary by the council to modernize  
120 government technology.

121 (10) By December 1, 2024, and each December 1 thereafter,  
122 the council shall submit to the Governor, the President of the  
123 Senate, and the Speaker of the House of Representatives a  
124 comprehensive report that includes data, trends, analysis,  
125 findings, and recommendations for state and local action

126 regarding ransomware incidents. At a minimum, the report must  
 127 include:

128 (a) A summary of recommendations by relevant national  
 129 entities on technology systems in state government, including,  
 130 but not limited to, artificial intelligence, cloud computing,  
 131 identity management, and financial technology.

132 (b) An assessment of the impact of using artificial  
 133 intelligence systems on the liberty, finances, livelihood, and  
 134 privacy interests of residents of this state.

135 (c) Recommended policies necessary to:

136 1. Protect the privacy interests of residents of this  
 137 state from any decrease in employment caused by artificial  
 138 intelligence systems.

139 2. Ensure that residents of this state are free from  
 140 unfair discrimination caused or compounded by the employment of  
 141 artificial intelligence systems.

142 3. Promote the development and deployment of artificial  
 143 intelligence systems in this state.

144 (d) Any other information the council considers relevant.

145 Section 2. Section 501.174, Florida Statutes, is created  
 146 to read:

147 501.174 Artificial intelligence transparency.—

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

149 (a) "Artificial intelligence" means software that is  
 150 developed with machine-learning, logic and knowledge-based, or

151 statistical approaches and can, for a given set of human-defined  
 152 objectives, generate or synthesize outputs such as content,  
 153 predictions, recommendations, or decisions influencing certain  
 154 environments.

155 (b) "Department" means the Department of Legal Affairs.

156 (2) An entity or person who produces or offers for use or  
 157 interaction artificial intelligence content or technology for a  
 158 commercial purpose, and makes such content or technology  
 159 available to the Florida public, must create safety and  
 160 transparency standards that:

161 (a) Alert consumers that such content or technology is  
 162 generated by artificial intelligence.

163 (b) Allow such content or technology to be recognizable as  
 164 generated by artificial intelligence to other artificial  
 165 intelligence.

166 (3) If a natural person in this state is able to  
 167 communicate or interact with an entity or person for commercial  
 168 purposes through an artificial intelligence mechanism, such  
 169 entity or person must provide a clear and conspicuous statement  
 170 on the entity's or person's Internet homepage or landing page  
 171 that such mechanism is generated by artificial intelligence.

172 (4) An entity or person may not knowingly produce,  
 173 generate, incorporate, or synthesize through artificial  
 174 intelligence child pornography as defined in s. 775.0847(1).

175 (5) Any state agency as defined in s. 282.318(2) which



176 uses artificial intelligence must disclose if a person is  
177 interacting with artificial intelligence when interacting with  
178 the agency and ensure that any confidential information  
179 accessible to an artificial intelligence system remains  
180 confidential.

181 (6) (a) Any violation of subsection (2), subsection (3), or  
182 subsection (4) is an unfair and deceptive trade practice  
183 actionable under part II of chapter 501 solely by the  
184 department. If the department has reason to believe that a  
185 violation of this section has occurred, the department, as the  
186 enforcing authority, may bring an action for an unfair or  
187 deceptive act or practice. For the purpose of bringing an action  
188 pursuant to this section, ss. 501.211 and 501.212 do not apply.  
189 In addition to other remedies under part II of chapter 501, the  
190 department may collect a civil penalty of up to \$50,000 per  
191 violation of this section.

192 (b) This section does not establish a private cause of  
193 action.

194 (7) For purposes of bringing an action pursuant to this  
195 section, any entity or person who produces or uses artificial  
196 intelligence that is distributed to or viewable by the public in  
197 this state is considered to be both engaged in substantial and  
198 not isolated activities within this state and operating,  
199 conducting, engaging in, or carrying on a business, and doing  
200 business in this state, and is therefore subject to the

201 jurisdiction of the courts of this state.

202 (8) The department may adopt rules to implement this  
 203 section.

204 Section 3. Paragraph (b) of subsection (1) of section  
 205 775.0847, Florida Statutes, is amended to read:

206 775.0847 Possession or promotion of certain images of  
 207 child pornography; reclassification.—

208 (1) For purposes of this section:

209 (b) "Child pornography" means:

210 1. Any image depicting a minor engaged in sexual conduct;  
 211 ~~or~~

212 2. Any image that has been created, altered, adapted, or  
 213 modified by electronic, mechanical, or other means, ~~7~~ to portray  
 214 an identifiable minor engaged in sexual conduct; or

215 3. Any image or presentation produced, generated,  
 216 incorporated, or synthesized through artificial intelligence as  
 217 defined in s. 501.174 which uses an image of an identifiable  
 218 minor to depict or portray a minor engaged in sexual conduct.

219  
 220 For purposes of sentencing under chapter 921 and determining  
 221 incentive gain-time eligibility under chapter 944, a felony  
 222 offense that is reclassified under this section is ranked one  
 223 level above the ranking under s. 921.0022 or s. 921.0023 of the  
 224 offense committed.

225 Section 4. Paragraph (b) of subsection (1) of section

226 | 827.071, Florida Statutes, is amended to read:

227 |       827.071 Sexual performance by a child; child pornography;  
228 | penalties.—

229 |       (1) As used in this section, the following definitions  
230 | shall apply:

231 |       (b) "Child pornography" means:

232 |       1. Any image depicting a minor engaged in sexual conduct;  
233 | ~~or~~

234 |       2. Any image that has been created, altered, adapted, or  
235 | modified by electronic, mechanical, or other means, ~~to~~ to portray  
236 | an identifiable minor engaged in sexual conduct; or

237 |       3. Any image or presentation produced, generated,  
238 | incorporated, or synthesized through artificial intelligence as  
239 | defined in s. 501.174 which uses an image of an identifiable  
240 | minor to depict or portray a minor engaged in sexual conduct.

241 |       Section 5. This act shall take effect July 1, 2024.

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

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative McFarland offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 41-144 and insert:

6 development and deployment of new technologies and provide  
7 reports on recommendations for procurement and regulation of  
8 such systems to the Governor, the President of the Senate, and  
9 the Speaker of the House of Representatives.

10 (3) The council shall be comprised of the following  
11 members:

12 (a) The Lieutenant Governor.

13 (b) The state chief information officer.

14 (c) The Secretary of Commerce.

15 (d) The Secretary of Health Care Administration.

16 (e) The Commissioner of Education.

Amendment No. 1

17 (f) Seven representatives with senior level experience or  
18 expertise in artificial intelligence, cloud computing, identity  
19 management, data science, machine learning, government  
20 procurement, financial technology, education technology, and  
21 constitutional law, with five appointed by the Governor, one  
22 appointed by the President of the Senate, and one appointed by  
23 the Speaker of the House of Representatives.

24 (g) One member of the Senate, appointed by the President  
25 of the Senate or his or her designee.

26 (h) One member of the House of Representatives, appointed  
27 by the Speaker of the House of Representatives or his or her  
28 designee.

29 (4) Members shall serve for terms of 4 years, except that  
30 sitting members of the Senate and the House of Representatives  
31 shall serve terms that correspond with their terms of office.  
32 For the purpose of providing staggered terms, the initial  
33 appointments of members made by the Governor shall be for terms  
34 of 2 years. A vacancy shall be filled for the remainder of the  
35 unexpired term in the same manner as the initial appointment.  
36 All members of the council are eligible for reappointment.

37 (5) The Secretary of Management Services, or his or her  
38 designee, shall serve as the ex officio, nonvoting executive  
39 director of the council.

40 (6) Members of the council shall serve without  
41 compensation but are entitled to receive reimbursement for per

Amendment No. 1

42 diem and travel expenses pursuant to s. 112.061.

43 (7) Members of the council shall maintain the confidential  
44 and exempt status of information received in the performance of  
45 their duties and responsibilities as members of the council. In  
46 accordance with s. 112.313, a current or former member of the  
47 council may not disclose or use information not available to the  
48 general public and gained by reason of his or her official  
49 position, except for information relating exclusively to  
50 governmental practices, for his or her personal gain or benefit  
51 or for the personal gain or benefit of any other person or  
52 business entity. Members of the council shall sign an agreement  
53 acknowledging the provisions of this subsection.

54 (8) (a) The council shall meet at least quarterly to:

55 1. Recommend legislative and administrative actions that  
56 the Legislature and state agencies as defined in s. 282.318(2)  
57 may take to promote the development of data modernization in  
58 this state.

59 2. Assess and provide guidance on necessary legislative  
60 reforms and the creation of a state code of ethics for  
61 artificial intelligence systems in state government.

62 3. Assess the effect of automated decision systems or  
63 identity management on constitutional and other legal rights,  
64 duties, and privileges of residents of this state.

65 4. Evaluate common standards for artificial intelligence  
66 safety and security measures, including the benefits of

Amendment No. 1

67 requiring disclosure of the digital provenance for all images  
68 and audio created using generative artificial intelligence as a  
69 means of revealing the origin and edit of the image or audio, as  
70 well as the best methods for such disclosure.

71 5. Assess how governmental entities and the private sector  
72 are using artificial intelligence with a focus on opportunity  
73 areas for deployments in systems across this state.

74 6. Determine how artificial intelligence is being  
75 exploited by bad actors, including foreign countries of concern  
76 as defined in s. 287.138(1).

77 7. Evaluate the need for curriculum to prepare school-age  
78 audiences with the digital media and visual literacy skills  
79 needed to navigate the digital information landscape.

80 (b) At least one quarterly meeting of the council must be  
81 a joint meeting with the Florida Cybersecurity Advisory Council.

82 (9) By June 30, 2024, and each June 30 thereafter, the  
83 council shall submit to the Governor, the President of the  
84 Senate, and the Speaker of the House of Representatives any  
85 legislative recommendations considered necessary by the council  
86 to modernize government technology, including:

87 (a) Recommendations for policies necessary to:

88 1. Accelerate adoption of technologies that will increase  
89 productivity of state enterprise information technology systems,  
90 improve customer service levels of government, and reduce  
91 administrative or operating costs.

Amendment No. 1

92        2. Promote the development and deployment of artificial  
93 intelligence systems, financial technology, education  
94 technology, or other enterprise management software in this  
95 state.

96        3. Protect Floridians from bad actors who use artificial  
97 intelligence.

98        (b) Any other information the council considers relevant.

99

100

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101

**T I T L E   A M E N D M E N T**

102

Remove line 8





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5101 PCB PKA 24-01 Education  
**SPONSOR(S):** PreK-12 Appropriations Subcommittee, Tomkow  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Appropriations Subcommittee	12 Y, 0 N	Bailey	Potvin
1) Appropriations Committee		Bailey	Pridgeon

### SUMMARY ANALYSIS

HB 5101 conforms law to the General Appropriations Act proposed by the House of Representatives for Fiscal Year 2024-2025 for prekindergarten through grade 12 education. Specifically, the bill:

- Establishes a transportation stipend that a public school student enrolled in kindergarten through grade 8 may receive from an eligible nonprofit scholarship-funding organization (SFO) for transportation to a Florida nonvirtual public school that is different from the school the student is assigned to or to a developmental research (lab) school.
  - Deletes transportation as an eligible use of the Family Empowerment Scholarship for Educational Options (FES EO) and the Florida Tax Credit (FTC) scholarships and deletes the funding amount of the transportation scholarship.
  - Repeals the Driving Choice Grant Program.
- Codifies:
  - the transfer of the students enrolled at the Florida Atlantic University Charter Lab K-12 School in St. Lucie County to the St. Lucie School District; and
  - the establishment of the Florida State University Charter Lab K-12 School in Leon County.
- Requires that students enrolled at a charter school sponsored by a Florida College System (FCS) institution or state university are funded in the Florida Education Finance Program (FEFP) and establishes the FEFP calculation methodology for such charter school students.
- Establishes the funding source and calculation methodology for capital outlay funds for a charter school sponsored by a FCS institution or state university.
- Establishes the Voluntary Prekindergarten (VPK) summer bridge program.
- Clarifies that the education foundation of the Florida Virtual School (FLVS) is eligible to participate in the matching grant program funded by the Florida Academic Improvement Trust Fund.

The bill provides for an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Developmental Research (Lab) Schools**

##### Present Situation

There is a category of public schools established as developmental research (lab) schools.<sup>1</sup> A non-charter lab school must be affiliated with the college of education within the state university of closest geographic proximity. A charter lab school must be affiliated with the college of education within the state university that issued the charter but is not subject to the requirement that the state university be of closest geographic proximity. For purposes of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University (FAU), Florida State University (FSU), the University of Florida, and other universities approved by the State Board of Education (SBE) and the Legislature are authorized to sponsor a lab school.<sup>2</sup>

The limitation of one lab school per university does not apply to the following legislatively allowed charter lab schools:

- FSU Charter Lab K-12 School in Broward County,
- FAU Charter Lab K-12 School in Palm Beach County, and
- FAU Charter Lab K-12 School in St. Lucie County.<sup>3</sup>

For purposes of adopting the Fiscal Year 2024-2025 Public Schools PreK-12 Enrollments forecast, the Department of Education (DOE) provided information to the principals of the Education Estimating Conference that verified beginning in Fiscal Year 2024-2025, the FAU Charter Lab K-12 in St. Lucie County would no longer be a charter lab school and the school's current year full-time equivalent (FTE) students would be transferred to St. Lucie School District. The Public Schools PreK-12 Enrollments forecast adopted at the January 10, 2024, Education Estimating Conference includes this transfer.<sup>4</sup>

##### Effects of Proposed Changes

The bill deletes the FAU Charter Lab K-12 School in St. Lucie County as an authorized charter lab school and the student currently attending this school will be transferred to the St. Lucie School District.

#### **Charter Schools**

##### Present Situation

Charter schools are tuition-free public schools created through an agreement or "charter" that provides flexibility relative to regulations created for traditional public schools.<sup>5</sup> During the 2022-2023 school year, over 382,367 students were enrolled in 726 charter schools in 46 Florida school districts.<sup>6</sup>

Prior to 2021, a district school board was authorized to sponsor a charter school in the county over which the board had jurisdiction. In addition, a state university was authorized to sponsor a charter lab school.<sup>7</sup> A Florida College System (FCS) institution was authorized to work with school districts in the FCS institution's designated service area to develop a charter school that offered secondary education,

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<sup>1</sup> Section 1002.32(2), F.S.

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

<sup>3</sup> *Id.*

<sup>4</sup> See, [Education Estimating Conference Public Schools PreK-12 Enrollment \(state.fl.us\)](https://www.fl.gov/education/education-estimating-conference-public-schools-prek-12-enrollment). (Last visited January 18, 2024).

<sup>5</sup> Florida Department of Education, Fact Sheet Office of School Choice, *Florida's Charter Schools* (October 2023), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2022.pdf>. (Last visited January 17, 2024).

<sup>6</sup> *Id.*

<sup>7</sup> Section 1002.33(5)(a)1. and 2., F.S.

including an option for students to receive an associate degree upon high school graduation. If a FCS institution offered a teacher preparation program, it was authorized to operate one charter school for students in kindergarten through grade 12 and had to implement innovative blended learning instructional models for students in kindergarten through grade 8.<sup>8</sup>

In 2021, to address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district's boundaries, the Legislature passed legislation<sup>9</sup> that modified the law to:

- Authorize the FCS institutions and state universities to solicit applications and sponsor charter schools upon approval by the State Board of Education (SBE). Additionally:
  - A state university-sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands.
  - A FCS-sponsored charter school may exist in any county within its service area<sup>10</sup> to meet workforce demands. A FCS-sponsored charter school may offer postsecondary programs leading to industry certifications for eligible charter school students.
- Remove the requirements that a FCS institution that operates an approved teacher preparation program:
  - May operate only one charter school; and
  - Must implement an innovative blended learning instructional model for students in kindergarten through grade 8 at a charter school it operates.
- Prohibit a FCS institution from reporting the FTE for any students participating in FCS-sponsored charter schools who receive FTE funding through the Florida Education Finance Program (FEFP).
- Clarify that a student enrolled in a charter school sponsored by a FCS institution or state university may not be included in the calculation of the school district's grade.

Additionally, the legislation established a methodology for determining the amount of funding students enrolled in a charter school sponsored by a FCS institution or state university would receive which is the sum of the total operating funds from the FEFP for the school district in which the school is located including gross state and local funds; discretionary lottery funds; and funds from each school district's current operating discretionary millage, divided by the total funded weighted FTE, and multiplied by the FTE membership of the charter school.<sup>11</sup>

The DOE is required to develop a tool that each FCS institution and state university sponsoring a charter school must 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 (GAA) to the charter school.<sup>12</sup>

Capital outlay funding for a charter school sponsored by a FCS institution or state university is provided the same as a charter school sponsored by a district school board and consists of state funds when such funds are appropriated in the GAA and revenue resulting from the discretionary millage authorized in statute.<sup>13</sup>

### *Tallahassee Collegiate Academy*

In January 2023, the SBE approved Tallahassee Community College's application to sponsor a charter school.<sup>14</sup> On August 10, 2023, the Tallahassee Collegiate Academy (TCA) opened its doors to welcome the school's first students.<sup>15</sup>

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<sup>8</sup> Section 1002.33(5)(b)4., F.S.

<sup>9</sup> Chapter 2021-35, Laws of Fla.

<sup>10</sup> FCS institution service areas are defined in s. 1000.21(3), F.S.

<sup>11</sup> Section 1002.33(17)(b)2.a., F.S.

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

<sup>13</sup> Section 1002.33(17)(b)2.b., F.S.

<sup>14</sup> State Board of Education, January 18, 2023, meeting.

**STORAGE NAME:** h5101.APC

**DATE:** 1/26/2024

The TCA is a STEM charter public high school and allows students to earn an associate in science degree while in high school. The enrollment for the 2023-2024 school year is 142 students as follows<sup>16</sup>:

Grade Level	Number	Percentage
9 <sup>th</sup>	82	57%
10 <sup>th</sup>	49	35%
11 <sup>th</sup>	11	8%

For Fiscal Year 2023-2024, \$1.6 million in recurring funds from the General Revenue Fund is appropriated to the TCA; this funding is not included in the FEFP.<sup>17</sup>

Effect of Proposed Changes

The bill establishes that funding for a charter school sponsored by a FCS institution or state university is included in the FEFP; this aligns with how charter schools sponsored by district school boards and charter lab schools that are funded.

The bill establishes the methodology for calculating the amount of FEFP funds that a student enrolled at a charter school sponsored by a FCS institution or state university will receive. This methodology includes the sum of the basic amount for current operations established in s. 1011.62(1)(s), F.S., the discretionary millage compression supplement established in s. 1011.62(5), F.S., and the state-funded discretionary contribution established in s. 1011.62(6), F.S. 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 FEFP.

Additionally, the bill provides that:

- The nonvoted required local millage established pursuant to s. 1011.71(1), F.S., that would otherwise be required for the charter schools, will be allocated from state funds.
- An equivalent amount of funds for the operating discretionary millage authorized in s. 1011.71(1), F.S., will be allocated to each charter school through a state-funded discretionary contribution established pursuant to s. 1011.62(6), F.S.
- The comparable wage factor as provided in s. 1011.62(2), F.S., is established as 1.000.

The bill also specifies that capital outlay funding for a charter school sponsored by a FCS institution or state university is determined as follows: multiply the maximum allowable nonvoted discretionary millage under s. 1011.71(2), F.S., by 96 percent of the current year’s taxable value for school purposes for the district in which the charter school is located; divide the result by the total FTE student membership; and multiply the result by the FTE student membership of the charter school. The amount obtained is the discretionary capital improvement funds; these funds are from state funds provided in the GAA.

**School Choice Scholarships for Transportation**

Present Situation

With the establishment of the Florida Tax Credit (FTC) scholarship program in 2001 and the Family Empowerment Scholarship Program for Educational Options (FES EO) in 2019, Florida has two scholarship programs that allow parents to apply for and receive a scholarship for their students to attend an eligible private school.

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<sup>15</sup> See, [Home - Tallahassee Collegiate Academy \(fl.edu\)](http://Home - Tallahassee Collegiate Academy (fl.edu)). (Last visited January 17, 2024.)  
<sup>16</sup> See, *Charter Schools Program*, Presentation by Tallahassee Community College at the December 6, 2023, PreK-12 Appropriations Subcommittee meeting.  
<sup>17</sup> Specific appropriation 97A of ch. 2023-239, Laws of Fla.  
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**DATE:** 1/26/2024

In 2021, the Legislature expanded the eligible uses of the FTC and FES-EO scholarship funds to include transportation to a Florida public school if the student elected to attend a Florida public school that is different from the public school the student is assigned to attend or to a lab school as defined in s. 1002.32, F.S. The amount of the transportation scholarship was \$750, if the school district does not provide the student with transportation to the public school.<sup>18</sup>

The Student Transportation Allocation in the FEFP is the funding source for the transportation scholarship. The Student Transportation Allocation is a categorical in the FEFP and provides funds to assist school districts with their costs associated with providing transportation to public school programs, including charter schools, for kindergarten through grade 12 student and migrant and exceptional student programs below kindergarten.<sup>19</sup>

For Fiscal Year 2021-2022, no transportation scholarships were funded.<sup>20</sup>

In 2022, the Legislature adjusted the amount of the transportation scholarship as follows: a scholarship of \$750 or an amount equal to the school district expenditure per student riding a school bus, as determined by the DOE, whichever is greater.<sup>21</sup>

For Fiscal Year 2022-2023, a total of 696 transportation scholarships were funded for a total of \$415,875. All transportation scholarships were funded as either a full scholarship at \$750 or a half scholarship at \$375.<sup>22</sup>

For Fiscal Year 2023-2024, based on the 3<sup>rd</sup> calculation of the FEFP, a total of 4,504 transportation scholarships have been funded for a total of \$5.9 million.<sup>23</sup> The amounts of the transportation scholarships range from \$750 to \$2,232.<sup>24</sup> As a result of the removal of the income eligibility requirement for the FES-EO scholarship beginning in Fiscal Year 2023-2024, the number of funded transportation scholarships increased by 547% compared to Fiscal Year 2022-2023.

### Effect of Proposed Changes

The bill establishes a transportation stipend, contingent upon a legislative appropriation and on a first-come, first-served basis, for kindergarten through grade 8 public school students who enroll in a Florida nonvirtual public school which is not the public school the student is assigned to attend or to a lab school. The amount of the stipend is established in the GAA and an eligible nonprofit scholarship-funding organization (SFO) is the administrator of the stipend program.

With the establishment of the transportation stipend program, the bill also eliminates transportation as an eligible use of the FTC and FES-EO scholarships.

### **Driving Choice Grant Program**

The Driving Choice Grant Program was established in 2022<sup>25</sup> within the DOE to improve access to reliable and safe transportation for students who participate in public educational school choices and to support innovative solutions that increase the efficiency of public school transportation. Grant proposals may include:

- Transportation resource planning and sharing among school districts and local governments.
- Developing or contracting with rideshare programs or developing carpool strategies.

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<sup>18</sup> Chapter 2021-27, Laws of Fla.

<sup>19</sup> Section 1011.68, F.S.

<sup>20</sup> See [Florida Education Finance Program \(FEFP\) Calculations \(fldoe.org\)](https://fldoe.org/FEFP-Calculations). (Last visited January 18, 2024).

<sup>21</sup> Chapter 2022-154, Laws of Fla.

<sup>22</sup> See [Florida Education Finance Program \(FEFP\) Calculations \(fldoe.org\)](https://fldoe.org/FEFP-Calculations). (Last visited January 18, 2024).

<sup>23</sup> See 2023-224 FEFP Third Calc on file with the PreK-12 Appropriations Subcommittee.

<sup>24</sup> See [Transportation-Scholarship-Award-Amounts-2023-24-V1.pdf \(stepupforstudents.org\)](https://stepupforstudents.org/Transportation-Scholarship-Award-Amounts-2023-24-V1.pdf) (Last visited January 18, 2024)

<sup>25</sup> Chapter 2022-154, Laws of Fla.

- Developing options to reduce costs and increase efficiencies while improving access to transportation options for families.
- Developing options to address personnel challenges.
- Expanding the use of transportation funds under the FTC and FES-EO scholarship programs and the Student Transportation Allocation in the FEFP to help cover the cost of transporting students to and from school.<sup>26</sup>

The DOE is required to publish on its website, by December 31, 2023, an interim report and by December 31, 2024, a final report that includes:

- Best practices used by grant recipients to increase transportation options for students, including any transportation barriers addressed by grant recipients.
- The number of students served by grant recipients including the number of students transported to a school that is different from the school to which the student is assigned.

The DOE provided the following data on December 21, 2023:<sup>27</sup>

<b>District Usage by Category</b>	<b>Number of Districts</b>	<b>Number of Students Served</b>
Driver Incentive Programs	14	15,619
Contracted Transportation	6	1,790
Van (multi-purpose van) Purchase	16	1,111
School Bus Purchase(s)	6	898
Ridership Tracking or Routing Software	3	89,834
<b>TOTAL</b>	<b>45*</b>	<b>249,252</b>

\*It is unclear if this is an unduplicated number.

For Fiscal Year 2022-23, \$15 million in nonrecurring funds from the General Revenue Fund was appropriated to the DOE for the Driving Choice Grant Program.<sup>28</sup> Section 23 of the Fiscal Year 2023-2024 GAA reverted the unexpended balance of funds (\$9,655,319) for the Driving Choice Grant Program and appropriated these funds for Fiscal Year 2023-2024 to the DOE for the same purpose.<sup>29</sup>

### Effect of Proposed Changes

The bill repeals the Driving Choice Grant Program.

## **Coordinated Screening and Progress Monitoring System**

### Present Situation

In 2021, the Legislature<sup>30</sup> required the DOE to design a coordinated screening and progress monitoring system (system) to assess emergent literacy and mathematics skills for Voluntary Prekindergarten (VPK) through grade 3 students based on identified standards. The results of implementing the system are required to be reported to the DOE and maintained in the education data warehouse.<sup>31</sup>

<sup>26</sup> Section 1006.27(3)(a), F.S.

<sup>27</sup> See email from the Department of Education on December 21, 2023, on file in the PreK-12 Appropriations Subcommittee.

<sup>28</sup> Specific Appropriation 101 of ch. 2022-156, Laws of Fla.

<sup>29</sup> Section 34, ch. 2023-239, Laws of Fla.

<sup>30</sup> Chapter 2021-10, Laws of Fla

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

The DOE procured the system that measures student progress in the VPK program and public schools to identify the educational strengths and needs of students.<sup>32</sup> The system measures student progress in meeting the appropriate expectations in early literacy and mathematics skills and in English language arts and mathematics standards.

To facilitate timely interventions and supports, the system must provide results from the first two administrations of the system to a student's teacher within 1 week and to the student's parent within 2 weeks of the administration of the progress monitoring.<sup>33</sup>

### Effects of Proposed Changes

The bill provides for early learning literacy skill instructional support through a summer bridge program to VPK students who exhibit a substantial deficiency and scored below the 10<sup>th</sup> percentile on the final administration of the system.

## **Educational Enrichment Allocation - FEFP**

### Present Situation

The Educational Enrichment Allocation is a categorical funded in the FEFP.<sup>34</sup> This categorical was established to assist school districts in providing educational enrichment activities and services that support and increase the academic achievement of students in grades kindergarten through 12.<sup>35</sup> Educational enrichment activities and services may be provided in a manner, and at any time during or beyond the regular 180-day term, identified by the school district as being the most effective and efficient way to best help the student progress from grade to grade and graduate from high school.<sup>36</sup>

For Fiscal Year 2023-2024, the Educational Enrichment Allocation consists of a base amount as specified in the GAA. Beginning in Fiscal Year 2024-2025, the allocation must consist of the base amount that includes a workload adjustment based on changes in the unweighted FTE membership.<sup>37</sup>

### Effects of Proposed Changes

The bill clarifies that unless the school district's total FEFP funds per unweighted FTE student is greater than the statewide FEFP funds per student, the base amount of each school district's Educational Enrichment Allocation is the greater of either the school district's allocation base per eligible FTE student or the allocation factor specified in the GAA.

## **Voluntary Prekindergarten Assessments**

### Present Situation

The 2023 Implementing Bill<sup>38</sup> amends s. 1002.68(4), (5), and (6), F.S., to extend the timelines for the development and implementation of the methodology relating to performance metrics for the VPK providers and removes the provision that disqualifies VPK providers based on a failure to meet minimum program assessment composite scores. As these changes were made in the 2023 Implementing Bill, which expire on July 1, 2024.

### Effects of Proposed Changes

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<sup>32</sup> Section 1008.25(9)(a)1., F.S.

<sup>33</sup> Section 1008.25(9)(c), F.S.

<sup>34</sup> Section 1011.62(7)(a), F.S.

<sup>35</sup> *Id.*

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

<sup>37</sup> *Id.*

<sup>38</sup> Section 4 of ch. 2023-240, Laws of Fla.



The bill codifies in permanent law the changes made in section 4 of chapter 2023-240, Laws of Florida.

**Florida Academic Improvement Trust Fund Matching Grants**

Present Situation

The Florida Academic Improvement Trust Fund is utilized to provide matching grants to the Florida School for the Deaf and the Blind Endowment Fund and to any public school district education foundation that is recognized by the school district as its designated K-12 education foundation.<sup>39</sup> For every year in which there is a legislative appropriation to the trust fund, an equal amount of the annual appropriation must be reserved for each public school district education foundation and the Florida School for the Deaf and the Blind Endowment Fund to provide each foundation with an opportunity to receive and match the appropriated funds.<sup>40</sup> Matching grants are proportionately allocated from the trust fund on the basis of matching each \$4 of state funds with \$6 of private funds.<sup>41</sup>

In the Fiscal Year 2023-2024, \$6 million in recurring funds from the General Revenue Fund is appropriated for the Florida Academic Improvement Trust Fund matching grant program.<sup>42</sup>

The Florida Virtual School (FLVS) is a component of the delivery of public education within Florida’s Early Learning-20 Education System<sup>43</sup>. The FLVS is a public school, is authorized to serve any student in the state who meets the profile for success in this educational delivery context,<sup>44</sup> and is funded in the FEFP.<sup>45</sup> Additionally the FLVS has an established education foundation.<sup>46</sup>

Effects of Proposed Changes

The bill clarifies that for purposes of the matching grants funded by the Florida Academic Improvement Trust Fund, an education foundation includes the education foundation established by the FLVS.

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 1002.31, F.S., establishing the transportation stipend for kindergarten to grade 8 students who enroll in a Florida nonvirtual public school that is different from the public school the student is assigned to attend or to a lab school under s. 1002.32, F.S.; establishing requirements for receiving a stipend; and requiring an eligible nonprofit SFO to administer the stipend program.
- Section 2:** Amends s. 1002.32, F.S., deleting the FAU Charter K-12 Lab school as a legislatively authorized charter lab school in the state.
- Section 3:** Amends s. 1002.33, F.S., clarifying that charter schools sponsored by a FCS institution or state university are funded in the FEFP; describing the calculation methodology for determining the amount of FEFP funding for each charter school student; and clarifying the methodology for calculating the capital outlay funds for charter schools sponsored by a FCS institution or state university.
- Section 4:** Amends s. 1002.394, F.S., deleting transportation as an eligible use of the FES-EO scholarship and deleting the funding amount for the transportation scholarship.

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<sup>39</sup> Section 1011.765(1), F.S.  
<sup>40</sup> Section 1011.765(1)(a), F.S.  
<sup>41</sup> Section 1011.765(1)(b), F.S.  
<sup>42</sup> Specific Appropriation 89 of chapter 2023-239, Laws of Fla.  
<sup>43</sup> Section 1000.04(4), F.S.  
<sup>44</sup> Section 1002.37(1)(b), F.S.  
<sup>45</sup> Section 1002.37(3), F.S.  
<sup>46</sup> See, [Home :: FLVS Foundation](#). (Last visited January 19, 2024).

- Section 5:** Amends s. 1002.395, F.S., deleting transportation as an eligible use of the FTC scholarship and deleting the funding amount for the transportation scholarship.
- Section 6:** Amends s. 1002.68, F.S., codifying in permanent law section 4 of chapter 2023-240, Laws of Florida.
- Section 7:** Amends s. 1006.27, F.S., deleting the Driving Choice Grant Program.
- Section 8:** Amends s. 1008.25, F.S., establishing the VPK summer bridge program and specifying the minimum number of total hours of instruction for the program.
- Section 9:** Amends s. 1011.62, F.S., clarifying the base amount of the Educational Enrichment allocation and conforming provision to changes made by the bill.
- Section 10:** Amends s. 1011.765, F.S., clarifying the education foundations eligible to participate in the matching grant program funds by the Florida Academic Improvement Trust Fund.
- Section 11:** Amends s. 1013.62, F.S., conforming provision to changes made by the bill.
- Section 12:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill conforms statutes to the budget proposed by the House of Representatives for Fiscal Year 2024-2025, which includes:

- \$1.6 million for the Tallahassee Collegiate Academy transferred to the FEFP and 300 unweighted FTE and \$2.5 million for the academy in the FEFP.
- \$13.2 million for the transportation stipend.
- \$6.9 million for the VPK summer bridge program.
- \$1.0 million for the Florida Academic Improvement Trust Fund matching grant program.
- Transfers 1,497.99 FTE from FAU Charter K-12 Lab School to St. Lucie School District; no FEFP funds are appropriated to the charter lab school; however, St. Lucie School District's FEFP funds reflect the addition of the 1,497.99 FTE.

### 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:

None.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1                   A bill to be entitled  
2           An act relating to education; amending s. 1002.31,  
3           F.S.; providing for certain students to receive a  
4           stipend for transportation to certain public schools,  
5           subject to legislative appropriation; providing  
6           eligibility requirements; providing requirements for  
7           the award and distribution of the stipends; providing  
8           duties for the Department of Education; providing for  
9           the amount of the stipend; providing that each  
10          household may only receive one stipend; providing that  
11          the stipend is not taxable income; providing  
12          liability; amending s. 1002.32, F.S.; revising the  
13          list of universities exempt from a certain limitation  
14          relating to charter lab schools; deleting the Lab  
15          School Educational Facility Trust Fund; conforming  
16          provisions to changes made by the act; amending s.  
17          1002.33, F.S.; revising provisions relating to budget  
18          projections for charter schools; requiring charter  
19          schools to report full-time equivalent student  
20          membership rather than student enrollments for funding  
21          purposes; providing that a specified funding  
22          calculation applies to charter schools sponsored by a  
23          school district; authorizing charter schools to  
24          receive specified funding under certain circumstances;  
25          providing that funding for students enrolled in

26 charter schools sponsored by state universities or  
27 Florida College System institutions is provided in the  
28 Florida Education Finance Program and General  
29 Appropriations Act; providing calculations for such  
30 funding; providing for the recalculation of such  
31 funding; providing a calculation for such charter  
32 school's capital outlay funding; deleting charter  
33 school eligibility for a specified incentive program;  
34 amending s. 1002.394, F.S.; revising the authorized  
35 uses of funds from the Family Empowerment Scholarship  
36 Program; conforming provisions to changes made by the  
37 act; amending s. 1002.395, F.S.; revising authorized  
38 uses of funds from the Florida Tax Credit Scholarship  
39 Program; conforming provisions to changes made by the  
40 act; amending s. 1002.68, F.S.; revising the program  
41 year for the Department of Education to adopt a  
42 specified methodology for the Voluntary  
43 Prekindergarten Education Program; revising the  
44 program year that specified provisions take effect  
45 relating to program providers and public schools;  
46 deleting provisions relating to program providers and  
47 public schools assessment composite scores; amending  
48 s. 1006.27, F.S.; deleting the Driving Choice Grant  
49 Program; amending s. 1008.25, F.S.; revising the  
50 criteria for a student to be referred to his or her

51 local school district to receive specified early  
52 literacy support; requiring such students to receive  
53 such support through a certain summer bridge program;  
54 providing requirements for such program; deleting a  
55 requirement for certain students with an individual  
56 education plan to receive instruction in early  
57 literacy skills; amending s. 1011.62, F.S.; revising  
58 specified percentages within the Florida Education  
59 Finance Program; providing that certain charter  
60 schools are eligible for the state-funded  
61 discretionary contribution; providing requirements for  
62 the calculation of the base amount for school  
63 districts' educational enrichment allocation; amending  
64 s. 1011.765, F.S.; including specified organizations  
65 and foundations as public school district education  
66 foundations for specified purposes; amending s.  
67 1013.62, F.S.; providing that charter schools  
68 sponsored by Florida College System institutions and  
69 state universities are ineligible for specified  
70 funding; conforming a cross-reference; providing an  
71 effective date.

72  
73 Be It Enacted by the Legislature of the State of Florida:

74  
75 Section 1. Subsection (7) is added to section 1002.31,

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76 Florida Statutes, to read:

77 1002.31 Controlled open enrollment; public school parental  
78 choice.—

79 (7) Contingent upon a legislative appropriation, and on a  
80 first-come, first-served basis, a public school student enrolled  
81 in kindergarten through grade 8 may receive a stipend from an  
82 eligible nonprofit scholarship-funding organization, as defined  
83 in s. 1002.395(2), for transportation to a Florida nonvirtual  
84 public school that is different from the school to which the  
85 student is assigned or to a developmental research school  
86 authorized under s. 1002.32.

87 (a) For an eligible student to receive a stipend, the  
88 student's parent must:

89 1. Submit an application to an eligible nonprofit  
90 scholarship-funding organization for the specified school year  
91 and by the deadline established by the organization.

92 2. Provide the documentation necessary to verify the  
93 student's eligibility for the specified school year.

94 3. Be responsible for the payment of all transportation-  
95 related expenses in excess of the amount of the stipend.

96 (b) An eligible nonprofit scholarship-funding organization  
97 shall distribute the stipends to the parents of the eligible  
98 students in accordance with the requirements for the  
99 organization under this chapter.

100 (c) The Department of Education shall have the same duties

101 imposed by this chapter upon the department regarding the  
102 oversight of scholarship programs administered by an eligible  
103 nonprofit scholarship-funding organization.

104 (d) The amount of the stipend for an eligible student  
105 shall be as specified in the General Appropriations Act. A  
106 household that has more than one eligible student may only  
107 receive one stipend.

108 (e) Upon notification from the eligible nonprofit  
109 scholarship-funding organization that a student has been  
110 determined eligible for a stipend, the department shall release  
111 the student's stipend to the organization.

112 (f) Moneys received pursuant to this subsection do not  
113 constitute taxable income to the qualified student or his or her  
114 parent.

115 (g) No liability shall arise on the part of the state  
116 based on the stipend or use of the stipend.

117 Section 2. Subsection (2) and paragraphs (b) through (g)  
118 of subsection (9) of section 1002.32, Florida Statutes, are  
119 amended to read:

120 1002.32 Developmental research (laboratory) schools.—

121 (2) ESTABLISHMENT.—There is established a category of  
122 public schools to be known as developmental research  
123 (laboratory) schools (lab schools). Each lab school shall  
124 provide sequential instruction and shall be affiliated with the  
125 college of education within the state university of closest



126 geographic proximity. A lab school to which a charter has been  
 127 issued under s. 1002.33(5)(a)2. must be affiliated with the  
 128 college of education within the state university that issued the  
 129 charter, but is not subject to the requirement that the state  
 130 university be of closest geographic proximity. For the purpose  
 131 of state funding, Florida Agricultural and Mechanical  
 132 University, Florida Atlantic University, Florida State  
 133 University, the University of Florida, and other universities  
 134 approved by the State Board of Education and the Legislature are  
 135 authorized to sponsor a lab school. The limitation of one lab  
 136 school per university shall not apply to the following  
 137 legislatively allowed charter lab schools: Florida State  
 138 University Charter Lab K-12 School in Broward County, Florida  
 139 State University Charter Lab K-12 School in Leon County, and  
 140 Florida Atlantic University Charter Lab K-12 School in Palm  
 141 Beach County, ~~and Florida Atlantic University Charter Lab K-12~~  
 142 ~~School in St. Lucie County.~~ The limitation of one lab school per  
 143 university does not apply to a university that establishes a lab  
 144 school to serve families of a military installation that is  
 145 within the same county as a branch campus that offers programs  
 146 from the university's college of education.

147 (9) FUNDING.—Funding for a lab school, including a charter  
 148 lab school, shall be provided as follows:

149 ~~(b) There is created a Lab School Educational Facility~~  
 150 ~~Trust Fund to be administered by the Commissioner of Education.~~

151 ~~Allocations from such fund shall be expended solely for the~~  
152 ~~purpose of facility construction, repair, renovation,~~  
153 ~~remodeling, site improvement, or maintenance. The commissioner~~  
154 ~~shall administer the fund in accordance with ss. 1013.60,~~  
155 ~~1013.64, 1013.65, and 1013.66.~~

156 (b) ~~(e)~~ All operating funds provided under this section  
157 shall be deposited in a Lab School Trust Fund and shall be  
158 expended for the purposes of this section. The university  
159 assigned a lab school shall be the fiscal agent for these funds,  
160 and all rules of the university governing the budgeting and  
161 expenditure of state funds shall apply to these funds unless  
162 otherwise provided by law or rule of the State Board of  
163 Education. The university board of trustees shall be the public  
164 employer of lab school personnel for collective bargaining  
165 purposes for lab schools in operation prior to the 2002-2003  
166 fiscal year. Employees of charter lab schools authorized prior  
167 to June 1, 2003, but not in operation prior to the 2002-2003  
168 fiscal year shall be employees of the entity holding the charter  
169 and must comply with the provisions of s. 1002.33(12).

170 (c) ~~(d)~~ Each lab school shall receive funds for capital  
171 improvement purposes in an amount determined as follows:  
172 multiply the maximum allowable nonvoted discretionary millage  
173 for capital improvements pursuant to s. 1011.71(2) by 96 percent  
174 of the current year's taxable value for school purposes for the  
175 district in which each lab school is located; divide the result

176 by the total full-time equivalent membership of the district;  
 177 and multiply the result by the full-time equivalent membership  
 178 of the lab school. The amount obtained shall be discretionary  
 179 capital improvement funds and shall be appropriated from state  
 180 funds in the General Appropriations Act ~~to the Lab School~~  
 181 ~~Educational Facility Trust Fund.~~

182 (d)~~(e)~~ In addition to the funds appropriated for capital  
 183 outlay budget needs, lab schools may receive specific funding as  
 184 specified in the General Appropriations Act for upgrading,  
 185 renovating, and remodeling science laboratories.

186 (e)~~(f)~~ Each lab school is designated a teacher education  
 187 center and may provide inservice training to school district  
 188 personnel. The Department of Education shall provide funds to  
 189 the Lab School Trust Fund for this purpose from appropriations  
 190 for inservice teacher education.

191 ~~(g) A lab school to which a charter has been issued under~~  
 192 ~~s. 1002.33(5)(a)2. is eligible to receive funding for charter~~  
 193 ~~school capital outlay if it meets the eligibility requirements~~  
 194 ~~of s. 1013.62. If the lab school receives funds from charter~~  
 195 ~~school capital outlay, the school shall receive capital outlay~~  
 196 ~~funds otherwise provided in this subsection only to the extent~~  
 197 ~~that funds allocated pursuant to s. 1013.62 are insufficient to~~  
 198 ~~provide capital outlay funds to the lab school at one-fifteenth~~  
 199 ~~of the cost per student station.~~

200 Section 3. Paragraphs (b) and (c) of subsection (6) and

201 subsections (17) and (19) of section 1002.33, Florida Statutes,  
 202 are amended to read:

203 1002.33 Charter schools.—

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

206 (b) A sponsor shall receive and review all applications  
 207 for a charter school using the evaluation instrument developed  
 208 by the Department of Education. A sponsor shall receive and  
 209 consider charter school applications for charter schools to be  
 210 opened at a time determined by the applicant. A sponsor may not  
 211 charge an applicant for a charter any fee for the processing or  
 212 consideration of an application, and a sponsor may not base its  
 213 consideration or approval of a final application upon the  
 214 promise of future payment of any kind. Before approving or  
 215 denying any application, the sponsor shall allow the applicant,  
 216 upon receipt of written notification, at least 7 calendar days  
 217 to make technical or nonsubstantive corrections and  
 218 clarifications, including, but not limited to, corrections of  
 219 grammatical, typographical, and like errors or missing  
 220 signatures, if such errors are identified by the sponsor as  
 221 cause to deny the final application.

222 ~~1. In order to facilitate an accurate budget projection~~  
 223 ~~process, a sponsor shall be held harmless for FTE students who~~  
 224 ~~are not included in the FTE projection due to approval of~~  
 225 ~~charter school applications after the FTE projection deadline.~~

226 ~~In a further effort to facilitate an accurate budget projection,~~  
227 ~~within 15 calendar days after receipt of a charter school~~  
228 ~~application, a sponsor shall report to the Department of~~  
229 ~~Education the name of the applicant entity, the proposed charter~~  
230 ~~school location, and its projected FTE.~~

231 1.2. In order to ensure fiscal responsibility, an  
232 application for a charter school shall include a full accounting  
233 of expected assets, a projection of expected sources and amounts  
234 of income, including income derived from projected student  
235 enrollments and from community support, and an expense  
236 projection that includes full accounting of the costs of  
237 operation, including start-up costs.

238 ~~2.a.3.a.~~ A sponsor shall by a majority vote approve or  
239 deny an application no later than 90 calendar days after the  
240 application is received, unless the sponsor and the applicant  
241 mutually agree in writing to temporarily postpone the vote to a  
242 specific date, at which time the sponsor shall by a majority  
243 vote approve or deny the application. If the sponsor fails to  
244 act on the application, an applicant may appeal to the State  
245 Board of Education as provided in paragraph (c). If an  
246 application is denied, the sponsor shall, within 10 calendar  
247 days after such denial, articulate in writing the specific  
248 reasons, based upon good cause, supporting its denial of the  
249 application and shall provide the letter of denial and  
250 supporting documentation to the applicant and to the Department

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251 of Education.

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

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

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

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

267       (IV) The applicant has made a material misrepresentation  
268 or false statement or concealed an essential or material fact  
269 during the application process; or

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

273  
274 Material noncompliance is a failure to follow requirements or a  
275 violation of prohibitions applicable to charter school

276 applications, which failure is quantitatively or qualitatively  
277 significant either individually or when aggregated with other  
278 noncompliance. An applicant is considered to be replicating a  
279 high-performing charter school if the proposed school is  
280 substantially similar to at least one of the applicant's high-  
281 performing charter schools and the organization or individuals  
282 involved in the establishment and operation of the proposed  
283 school are significantly involved in the operation of replicated  
284 schools.

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

294 3.4. ~~For budget projection purposes,~~ The sponsor shall  
295 report to the Department of Education the approval or denial of  
296 an application within 10 calendar days after such approval or  
297 denial. In the event of approval, the report to the Department  
298 of Education shall include the final projected FTE for the  
299 approved charter school.

300 4.5. A charter school may defer the opening of the

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301 school's operations for up to 3 years to provide time for  
302 adequate facility planning. The charter school must provide  
303 written notice of such intent to the sponsor and the parents of  
304 enrolled students at least 30 calendar days before the first day  
305 of school.

306 (c)1. An applicant may appeal any denial of that  
307 applicant's application or failure to act on an application to  
308 the State Board of Education no later than 30 calendar days  
309 after receipt of the sponsor's decision or failure to act and  
310 shall notify the sponsor of its appeal. Any response of the  
311 sponsor shall be submitted to the State Board of Education  
312 within 30 calendar days after notification of the appeal. Upon  
313 receipt of notification from the State Board of Education that a  
314 charter school applicant is filing an appeal, the Commissioner  
315 of Education shall convene a meeting of the Charter School  
316 Appeal Commission to study and make recommendations to the State  
317 Board of Education regarding its pending decision about the  
318 appeal. The commission shall forward its recommendation to the  
319 state board at least 7 calendar days before the date on which  
320 the appeal is to be heard.

321 2. The Charter School Appeal Commission may reject an  
322 appeal submission for failure to comply with procedural rules  
323 governing the appeals process. The rejection shall describe the  
324 submission errors. The appellant shall have 15 calendar days  
325 after notice of rejection in which to resubmit an appeal that



326 meets the requirements set forth in State Board of Education  
 327 rule. An appeal submitted subsequent to such rejection is  
 328 considered timely if the original appeal was filed within 30  
 329 calendar days after receipt of notice of the specific reasons  
 330 for the sponsor's denial of the charter application.

331 3.a. The State Board of Education shall by majority vote  
 332 accept or reject the decision of the sponsor no later than 90  
 333 calendar days after an appeal is filed in accordance with State  
 334 Board of Education rule. The State Board of Education shall  
 335 remand the application to the sponsor with its written decision  
 336 that the sponsor approve or deny the application. The sponsor  
 337 shall implement the decision of the State Board of Education.  
 338 The decision of the State Board of Education is not subject to  
 339 the provisions of the Administrative Procedure Act, chapter 120.

340 b. If an appeal concerns an application submitted by a  
 341 high-performing charter school identified pursuant to s.  
 342 1002.331 or a high-performing charter school system identified  
 343 pursuant to s. 1002.332, the State Board of Education shall  
 344 determine whether the sponsor's denial was in accordance with  
 345 sub-subparagraph (b) 2.b. ~~(b) 3.b.~~

346 (17) FUNDING.—Students enrolled in a charter school,  
 347 regardless of the sponsorship, shall be funded based upon the  
 348 applicable program pursuant to s. 1011.62(1)(c) ~~as if they are~~  
 349 ~~in a basic program or a special program~~, the same as students  
 350 enrolled in ~~other~~ public schools in a school district. Funding

351 for a charter lab school shall be as provided in s. 1002.32.

352 (a) Each charter school shall report its full-time  
353 equivalent student membership enrollment to the sponsor as  
354 required in s. 1011.62 (1) (a) ~~s. 1011.62~~ and in accordance with  
355 the definitions in s. 1011.61. The sponsor shall include each  
356 charter school's full-time equivalent student membership  
357 enrollment in the sponsor's full-time equivalent student  
358 membership report to the Department of Education ~~of student~~  
359 ~~enrollment~~. All charter schools submitting full-time equivalent  
360 student membership record information required by the department  
361 ~~of Education~~ shall comply with the department's ~~Department of~~  
362 ~~Education's~~ guidelines for electronic data formats for such  
363 data, and all sponsors shall accept electronic data that  
364 complies with the department's ~~Department of Education's~~  
365 electronic format.

366 (b)1. ~~The basis for the agreement for~~ Funding students  
367 enrolled in a charter school sponsored by a school district  
368 shall be the sum of the school district's operating funds from  
369 the Florida Education Finance Program as defined in s.  
370 1011.61 (5) ~~provided in s. 1011.62~~ and the General Appropriations  
371 Act, including gross state and local funds, ~~discretionary~~  
372 ~~lottery funds,~~ and funds from the school district's current  
373 operating discretionary millage levy; divided by total funded  
374 weighted full-time equivalent students in the school district;  
375 and multiplied by the weighted full-time equivalent students for

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376 the charter school. Charter schools whose students or programs  
377 meet the eligibility criteria in law are entitled to their  
378 proportionate share of categorical program funds included in the  
379 total funds available in the Florida Education Finance Program  
380 by the Legislature, including the student transportation  
381 allocation, and the educational enrichment ~~evidence-based~~  
382 ~~reading~~ allocation. Total funding for each charter school shall  
383 be recalculated during the year to reflect the revised  
384 calculations under the Florida Education Finance Program by the  
385 state and the actual weighted full-time equivalent students  
386 reported by the charter school during the full-time equivalent  
387 student survey periods designated by the Commissioner of  
388 Education. For charter schools operated by a not-for-profit or  
389 municipal entity, any unrestricted current and capital assets  
390 identified in the charter school's annual financial audit may be  
391 used for other charter schools operated by the not-for-profit or  
392 municipal entity within the school district. For charter schools  
393 operated by a not-for-profit entity, any unrestricted current or  
394 capital assets identified in the charter school's annual audit  
395 may be used for other charter schools operated by the not-for-  
396 profit entity which are located outside of the originating  
397 charter school's school district, but within the state, through  
398 an unforgivable loan that must be repaid within 5 years to the  
399 originating charter school by the receiving charter school.  
400 Unrestricted current assets shall be used in accordance with s.

401 1011.62, and any unrestricted capital assets shall be used in  
402 accordance with s. 1013.62(2).

403 2.a. Funding for students enrolled in a charter school  
404 sponsored by a state university or Florida College System  
405 institution pursuant to paragraph (5)(a) shall be provided in  
406 ~~funded as if they are in a basic program or a special program in~~  
407 ~~the school district. The basis for funding these students is the~~  
408 ~~sum of the total operating funds from~~ the Florida Education  
409 Finance Program ~~for the school district in which the school is~~  
410 ~~located as defined provided in s. 1011.61(5) s. 1011.62 and~~  
411 specified in the General Appropriations Act. The calculation to  
412 determine the amount of state funds includes: the sum of the  
413 basic amount for current operations established in s.  
414 1011.62(1)(s), the discretionary millage compression supplement  
415 established in s. 1011.62(5), and the state-funded discretionary  
416 contribution established in s. 1011.62(6). Charter schools whose  
417 students or programs meet the eligibility criteria in law are  
418 entitled to their proportionate share of categorical program  
419 funds included in the total funds available in the Florida  
420 Education Finance Program. The Florida College System  
421 institution or state university sponsoring the charter school  
422 shall be the fiscal agent for these funds, and all rules of the  
423 institution governing the budgeting and expenditure of state  
424 funds shall apply to these funds unless otherwise provided by  
425 law or rule of the State Board of Education.

426 (I) The nonvoted required local millage established  
 427 pursuant to s. 1011.71(1) that would otherwise be required for  
 428 the charter schools shall be allocated from state funds.

429 (II) An equivalent amount of funds for the operating  
 430 discretionary millage authorized pursuant to s. 1011.71(1) shall  
 431 be allocated to each charter school through a state-funded  
 432 discretionary contribution established pursuant to s.  
 433 1011.62(6).

434 (III) The comparable wage factor as provided in s.  
 435 1011.62(2) shall be established as 1.000.

436 b. Total funding for each charter school shall be  
 437 recalculated during the year to reflect the revised calculations  
 438 under the Florida Education Finance Program by the state and the  
 439 actual weighted full-time equivalent students reported by the  
 440 charter school during the full-time equivalent student survey  
 441 periods designated by the Commissioner of Education., ~~including~~  
 442 ~~gross state and local funds, discretionary lottery funds, and~~  
 443 ~~funds from each school district's current operating~~  
 444 ~~discretionary millage levy, divided by total funded weighted~~  
 445 ~~full-time equivalent students in the district, and multiplied by~~  
 446 ~~the full-time equivalent membership of the charter school.~~

447 c. The Department of Education shall develop a tool that  
 448 each state university or Florida College System institution  
 449 sponsoring a charter school shall use for purposes of  
 450 calculating the funding amount for each eligible charter school

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451 student. ~~The total amount obtained from the calculation must be~~  
452 ~~appropriated from state funds in the General Appropriations Act~~  
453 ~~to the charter school.~~

454 ~~d.b.~~ Capital outlay funding for a charter school sponsored  
455 by a state university or Florida College System institution  
456 pursuant to paragraph (5) (a) is determined as follows: multiply  
457 the maximum allowable nonvoted discretionary millage under s.  
458 1011.71(2) by 96 percent of the current year's taxable value for  
459 school purposes for the district in which the charter school is  
460 located; divide the result by the total full-time equivalent  
461 student membership; and multiply the result by the full-time  
462 equivalent student membership of the charter school. The amount  
463 obtained shall be the discretionary capital improvement funds  
464 and shall be appropriated from state funds in ~~pursuant to s.~~  
465 ~~1013.62~~ and the General Appropriations Act.

466 (c) Pursuant to 20 U.S.C. 8061 s. 10306, all charter  
467 schools shall receive all federal funding for which the school  
468 is otherwise eligible, including Title I funding, not later than  
469 5 months after the charter school first opens and within 5  
470 months after any subsequent expansion of enrollment. Unless  
471 otherwise mutually agreed to by the charter school and its  
472 sponsor, and consistent with state and federal rules and  
473 regulations governing the use and disbursement of federal funds,  
474 the sponsor shall reimburse the charter school on a monthly  
475 basis for all invoices submitted by the charter school for

476 federal funds available to the sponsor for the benefit of the  
477 charter school, the charter school's students, and the charter  
478 school's students as public school students in the school  
479 district. Such federal funds include, but are not limited to,  
480 Title I, Title II, and Individuals with Disabilities Education  
481 Act (IDEA) funds. To receive timely reimbursement for an  
482 invoice, the charter school must submit the invoice to the  
483 sponsor at least 30 days before the monthly date of  
484 reimbursement set by the sponsor. In order to be reimbursed, any  
485 expenditures made by the charter school must comply with all  
486 applicable state rules and federal regulations, including, but  
487 not limited to, the applicable federal Office of Management and  
488 Budget Circulars; the federal Education Department General  
489 Administrative Regulations; and program-specific statutes,  
490 rules, and regulations. Such funds may not be made available to  
491 the charter school until a plan is submitted to the sponsor for  
492 approval of the use of the funds in accordance with applicable  
493 federal requirements. The sponsor has 30 days to review and  
494 approve any plan submitted pursuant to this paragraph.

495 (d) Charter schools shall be included by the Department of  
496 Education and the district school board in requests for federal  
497 stimulus funds in the same manner as district school board-  
498 operated public schools, including Title I and IDEA funds and  
499 shall be entitled to receive such funds. Charter schools are  
500 eligible to participate in federal competitive grants that are

501 available as part of the federal stimulus funds.

502 (e) Sponsors shall make timely and efficient payment and  
503 reimbursement to charter schools, including processing paperwork  
504 required to access special state and federal funding for which  
505 they may be eligible, including the timely review and  
506 reimbursement of federal grant funds. Payments of funds under  
507 paragraph (b) shall be made monthly or twice a month, beginning  
508 with the start of the sponsor's fiscal year. Each payment shall  
509 be one-twelfth, or one twenty-fourth, as applicable, of the  
510 total state and local funds described in paragraph (b) and  
511 adjusted as set forth therein. For the first 2 years of a  
512 charter school's operation, if a minimum of 75 percent of the  
513 projected enrollment is entered into the sponsor's student  
514 information system by the first day of the current month, the  
515 sponsor shall distribute funds to the school for the months of  
516 July through October based on the projected full-time equivalent  
517 student membership of the charter school as submitted in the  
518 approved application. If less than 75 percent of the projected  
519 enrollment is entered into the sponsor's student information  
520 system by the first day of the current month, the sponsor shall  
521 base payments on the actual number of student enrollment entered  
522 into the sponsor's student information system. Thereafter, the  
523 results of full-time equivalent student membership surveys shall  
524 be used in adjusting the amount of funds distributed monthly to  
525 the charter school for the remainder of the fiscal year. The



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526 | payments shall be issued no later than 10 working days after the  
527 | sponsor receives a distribution of state or federal funds or the  
528 | date the payment is due pursuant to this subsection. With  
529 | respect to federal grant funds submitted for reimbursement, the  
530 | sponsor shall have 60 calendar days from the date of the  
531 | submission to reimburse the charter school if the submission  
532 | provides all the necessary information to qualify for  
533 | reimbursement. If a warrant for payment is not issued within 10  
534 | working days after receipt of funding by the sponsor or within  
535 | 60 calendar days after an approved submittal for reimbursement  
536 | of federal grant funds, the sponsor shall pay to the charter  
537 | school, in addition to the amount of the scheduled disbursement,  
538 | interest at a rate of 1 percent per month calculated on a daily  
539 | basis on the unpaid balance from the expiration of the 10  
540 | working days or 60 calendar days for the reimbursement of  
541 | federal grant funds, until such time as the warrant is issued.  
542 | The district school board may not delay payment to a charter  
543 | school of any portion of the funds provided in paragraph (b)  
544 | based on the timing of receipt of local funds by the district  
545 | school board.

546 |       (f) Funding for a virtual charter school shall be as  
547 | provided in s. 1002.45(6).

548 |       (g) To be eligible for public education capital outlay  
549 | (PECO) funds, a charter school must be located in the State of  
550 | Florida.

551 ~~(h) A charter school that implements a schoolwide standard~~  
 552 ~~student attire policy pursuant to s. 1011.78 is eligible to~~  
 553 ~~receive incentive payments.~~

554 (19) CAPITAL OUTLAY FUNDING.—Charter schools sponsored by  
 555 a school district are eligible for capital outlay funds pursuant  
 556 to ss. 1011.71(2) and 1013.62. Capital outlay funds authorized  
 557 in ss. 1011.71(2) and 1013.62 which have been shared with a  
 558 charter school-in-the-workplace prior to July 1, 2010, are  
 559 deemed to have met the authorized expenditure requirements for  
 560 such funds.

561 Section 4. Paragraph (a) of subsection (4), paragraph (a)  
 562 of subsection (10), and paragraph (a) of subsection (12) of  
 563 section 1002.394, Florida Statutes, are amended to read:

564 1002.394 The Family Empowerment Scholarship Program.—

565 (4) AUTHORIZED USES OF PROGRAM FUNDS.—

566 (a) Program funds awarded to a student determined eligible  
 567 pursuant to paragraph (3) (a) may be used for:

568 1. Tuition and fees at an eligible private school.

569 ~~2. Transportation to a Florida public school in which a~~  
 570 ~~student is enrolled and that is different from the school to~~  
 571 ~~which the student was assigned or to a lab school as defined in~~  
 572 ~~s. 1002.32.~~

573 ~~2.3.~~ Instructional materials, including digital materials  
 574 and Internet resources.

575 ~~3.4.~~ Curriculum as defined in subsection (2).

576        ~~4.5.~~ Tuition and fees associated with full-time or part-  
577 time enrollment in an eligible postsecondary educational  
578 institution or a program offered by the postsecondary  
579 educational institution, unless the program is subject to s.  
580 1009.25 or reimbursed pursuant to s. 1009.30; an approved  
581 preapprenticeship program as defined in s. 446.021(5) which is  
582 not subject to s. 1009.25 and complies with all applicable  
583 requirements of the department pursuant to chapter 1005; a  
584 private tutoring program authorized under s. 1002.43; a virtual  
585 program offered by a department-approved private online provider  
586 that meets the provider qualifications specified in s.  
587 1002.45(2)(a); the Florida Virtual School as a private paying  
588 student; or an approved online course offered pursuant to s.  
589 1003.499 or s. 1004.0961.

590        ~~5.6.~~ Fees for nationally standardized, norm-referenced  
591 achievement tests, Advanced Placement Examinations, industry  
592 certification examinations, assessments related to postsecondary  
593 education, or other assessments.

594        ~~6.7.~~ Contracted services provided by a public school or  
595 school district, including classes. A student who receives  
596 contracted services under this subparagraph is not considered  
597 enrolled in a public school for eligibility purposes as  
598 specified in subsection (6) but rather attending a public school  
599 on a part-time basis as authorized under s. 1002.44.

600        ~~7.8.~~ Tuition and fees for part-time tutoring services or

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601 fees for services provided by a choice navigator. Such services  
602 must be provided by a person who holds a valid Florida  
603 educator's certificate pursuant to s. 1012.56, a person who  
604 holds an adjunct teaching certificate pursuant to s. 1012.57, a  
605 person who has a bachelor's degree or a graduate degree in the  
606 subject area in which instruction is given, a person who has  
607 demonstrated a mastery of subject area knowledge pursuant to s.  
608 1012.56(5), or a person certified by a nationally or  
609 internationally recognized research-based training program as  
610 approved by the department. As used in this subparagraph, the  
611 term "part-time tutoring services" does not qualify as regular  
612 school attendance as defined in s. 1003.01(16)(e).

613 (10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
614 PARTICIPATION.—

615 (a) A parent who applies for program participation under  
616 paragraph (3)(a) whose student will be enrolled full time in a  
617 private school must:

618 1. Select the private school and apply for the admission  
619 of his or her student.

620 2. Request the scholarship by a date established by the  
621 organization, in a manner that creates a written or electronic  
622 record of the request and the date of receipt of the request.

623 3. Inform the applicable school district when the parent  
624 withdraws his or her student from a public school to attend an  
625 eligible private school.

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626 4. Require his or her student participating in the program  
627 to remain in attendance throughout the school year unless  
628 excused by the school for illness or other good cause.

629 5. Meet with the private school's principal or the  
630 principal's designee to review the school's academic programs  
631 and policies, specialized services, code of student conduct, and  
632 attendance policies before enrollment.

633 6. Require that the student participating in the  
634 scholarship program takes the norm-referenced assessment offered  
635 by the private school. The parent may also choose to have the  
636 student participate in the statewide assessments pursuant to  
637 paragraph (7)(d). If the parent requests that the student  
638 participating in the program take all statewide assessments  
639 required pursuant to s. 1008.22, the parent is responsible for  
640 transporting the student to the assessment site designated by  
641 the school district.

642 7. Approve each payment before the scholarship funds may  
643 be deposited by funds transfer pursuant to subparagraph  
644 (12)(a)3. ~~(12)(a)4.~~ The parent may not designate any entity or  
645 individual associated with the participating private school as  
646 the parent's attorney in fact to approve a funds transfer. A  
647 participant who fails to comply with this paragraph forfeits the  
648 scholarship.

649 8. Agree to have the organization commit scholarship funds  
650 on behalf of his or her student for tuition and fees for which

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651 the parent is responsible for payment at the private school  
652 before using empowerment account funds for additional authorized  
653 uses under paragraph (4) (a). A parent is responsible for all  
654 eligible expenses in excess of the amount of the scholarship.

655 (12) SCHOLARSHIP FUNDING AND PAYMENT.—

656 (a)1. Scholarships for students determined eligible  
657 pursuant to paragraph (3) (a) may be funded once all scholarships  
658 have been funded in accordance with s. 1002.395(6) (1)2. The  
659 calculated scholarship amount for a participating student  
660 determined eligible pursuant to paragraph (3) (a) shall be based  
661 upon the grade level and school district in which the student  
662 was assigned as 100 percent of the funds per unweighted full-  
663 time equivalent in the Florida Education Finance Program for a  
664 student in the basic program established pursuant to s.  
665 1011.62(1) (c)1., plus a per-full-time equivalent share of funds  
666 for the categorical programs established in s. 1011.62(5),  
667 (7) (a), and (16), as funded in the General Appropriations Act.

668 ~~2. A scholarship of \$750 or an amount equal to the school~~  
669 ~~district expenditure per student riding a school bus, as~~  
670 ~~determined by the department, whichever is greater, may be~~  
671 ~~awarded to an eligible student who is enrolled in a Florida~~  
672 ~~public school that is different from the school to which the~~  
673 ~~student was assigned or in a lab school as defined in s. 1002.32~~  
674 ~~if the school district does not provide the student with~~  
675 ~~transportation to the school.~~

676        ~~2.3.~~ The organization must provide the department with the  
677 documentation necessary to verify the student's participation.  
678 Upon receiving the documentation, the department shall transfer,  
679 beginning August 1, from state funds only, the amount calculated  
680 pursuant to subparagraph 1. ~~2.~~ to the organization for quarterly  
681 disbursement to parents of participating students each school  
682 year in which the scholarship is in force. For a student exiting  
683 a Department of Juvenile Justice commitment program who chooses  
684 to participate in the scholarship program, the amount of the  
685 Family Empowerment Scholarship calculated pursuant to  
686 subparagraph 1. ~~2.~~ must be transferred from the school district  
687 in which the student last attended a public school before  
688 commitment to the Department of Juvenile Justice. When a student  
689 enters the scholarship program, the organization must receive  
690 all documentation required for the student's participation,  
691 including the private school's and the student's fee schedules,  
692 at least 30 days before the first quarterly scholarship payment  
693 is made for the student.

694        ~~3.4.~~ The initial payment shall be made after the  
695 organization's verification of admission acceptance, and  
696 subsequent payments shall be made upon verification of continued  
697 enrollment and attendance at the private school. Payment must be  
698 by funds transfer or any other means of payment that the  
699 department deems to be commercially viable or cost-effective. An  
700 organization shall ensure that the parent has approved a funds

701 transfer before any scholarship funds are deposited.

702 ~~4.5.~~ An organization may not transfer any funds to an  
 703 account of a student determined eligible pursuant to paragraph  
 704 (3)(a) which has a balance in excess of \$24,000.

705 Section 5. Paragraph (b) of subsection (2), paragraph (d)  
 706 of subsection (6), and paragraph (a) of subsection (11) of  
 707 section 1002.395, Florida Statutes, are amended to read:

708 1002.395 Florida Tax Credit Scholarship Program.—

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

710 (b) "Choice navigator" means an individual who meets the  
 711 requirements of sub-subparagraph (6)(d)2.g. ~~(6)(d)2.h.~~ and who  
 712 provides consultations, at a mutually agreed upon location, on  
 713 the selection of, application for, and enrollment in educational  
 714 options addressing the academic needs of a student; curriculum  
 715 selection; and advice on career and postsecondary education  
 716 opportunities. However, nothing in this section authorizes a  
 717 choice navigator to oversee or exercise control over the  
 718 curricula or academic programs of a personalized education  
 719 program.

720 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 721 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
 722 organization:

723 (d)1. For the 2023-2024 school year, may fund no more than  
 724 20,000 scholarships for students who are enrolled pursuant to  
 725 paragraph (7)(b). The number of scholarships funded for such



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726 students may increase by 40,000 in each subsequent school year.  
727 This subparagraph is repealed July 1, 2027.

728 2. Must establish and maintain separate empowerment  
729 accounts from eligible contributions for each eligible student.  
730 For each account, the organization must maintain a record of  
731 accrued interest retained in the student's account. The  
732 organization must verify that scholarship funds are used for:

733 a. Tuition and fees for full-time or part-time enrollment  
734 in an eligible private school.

735 ~~b. Transportation to a Florida public school in which a~~  
736 ~~student is enrolled and that is different from the school to~~  
737 ~~which the student was assigned or to a lab school as defined in~~  
738 ~~s. 1002.32.~~

739 ~~b.e.~~ Instructional materials, including digital materials  
740 and Internet resources.

741 ~~c.d.~~ Curriculum as defined in s. 1002.394(2).

742 ~~d.e.~~ Tuition and fees associated with full-time or part-  
743 time enrollment in a home education instructional program; an  
744 eligible postsecondary educational institution or a program  
745 offered by the postsecondary educational institution, unless the  
746 program is subject to s. 1009.25 or reimbursed pursuant to s.  
747 1009.30; an approved preapprenticeship program as defined in s.  
748 446.021(5) which is not subject to s. 1009.25 and complies with  
749 all applicable requirements of the Department of Education  
750 pursuant to chapter 1005; a private tutoring program authorized

751 under s. 1002.43; a virtual program offered by a department-  
752 approved private online provider that meets the provider  
753 qualifications specified in s. 1002.45(2)(a); the Florida  
754 Virtual School as a private paying student; or an approved  
755 online course offered pursuant to s. 1003.499 or s. 1004.0961.

756 ~~e.f.~~ Fees for nationally standardized, norm-referenced  
757 achievement tests, Advanced Placement Examinations, industry  
758 certification examinations, assessments related to postsecondary  
759 education, or other assessments.

760 ~~f.g.~~ Contracted services provided by a public school or  
761 school district, including classes. A student who receives  
762 contracted services under this sub-subparagraph is not  
763 considered enrolled in a public school for eligibility purposes  
764 as specified in subsection (11) but rather attending a public  
765 school on a part-time basis as authorized under s. 1002.44.

766 ~~g.h.~~ Tuition and fees for part-time tutoring services or  
767 fees for services provided by a choice navigator. Such services  
768 must be provided by a person who holds a valid Florida  
769 educator's certificate pursuant to s. 1012.56, a person who  
770 holds an adjunct teaching certificate pursuant to s. 1012.57, a  
771 person who has a bachelor's degree or a graduate degree in the  
772 subject area in which instruction is given, a person who has  
773 demonstrated a mastery of subject area knowledge pursuant to s.  
774 1012.56(5), or a person certified by a nationally or  
775 internationally recognized research-based training program as

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776 approved by the Department of Education. As used in this  
777 paragraph, the term "part-time tutoring services" does not  
778 qualify as regular school attendance as defined in s.  
779 1003.01(16)(e).

780

781 Information and documentation provided to the Department of  
782 Education and the Auditor General relating to the identity of a  
783 taxpayer that provides an eligible contribution under this  
784 section shall remain confidential at all times in accordance  
785 with s. 213.053.

786 (11) SCHOLARSHIP AMOUNT AND PAYMENT.—

787 (a) The scholarship amount provided to any student for any  
788 single school year by an eligible nonprofit scholarship-funding  
789 organization from eligible contributions shall be for total  
790 costs authorized under paragraph (6)(d), not to exceed annual  
791 limits, which shall be determined as follows:

792 1. For a student who received a scholarship in the 2018-  
793 2019 school year, who remains eligible, and who is enrolled in  
794 an eligible private school, the amount shall be the greater  
795 amount calculated pursuant to subparagraph 2. or a percentage of  
796 the unweighted FTE funding amount for the 2018-2019 state fiscal  
797 year and thereafter as follows:

798 a. Eighty-eight percent for a student enrolled in  
799 kindergarten through grade 5.

800 b. Ninety-two percent for a student enrolled in grade 6

801 through grade 8.

802 c. Ninety-six percent for a student enrolled in grade 9  
803 through grade 12.

804 2. For students initially eligible in the 2019-2020 school  
805 year or thereafter, the calculated amount for a student to  
806 attend an eligible private school shall be calculated in  
807 accordance with s. 1002.394(12)(a).

808 ~~3. The scholarship amount awarded to a student enrolled in~~  
809 ~~a Florida public school that is different from the school to~~  
810 ~~which the student was assigned, or in a lab school as defined in~~  
811 ~~s. 1002.32, must be an amount equal to the school district~~  
812 ~~expenditure per student riding a school bus, as determined by~~  
813 ~~the department, or \$750, whichever is greater.~~

814 Section 6. Paragraphs (a) and (f) of subsection (4),  
815 subsection (5), and paragraph (e) of subsection (6) of section  
816 1002.68, Florida Statutes, are amended to read:

817 1002.68 Voluntary Prekindergarten Education Program  
818 accountability.—

819 (4)(a) Beginning with the 2023-2024 ~~2022-2023~~ program  
820 year, the department shall adopt a methodology for calculating  
821 each private prekindergarten provider's and public school  
822 provider's performance metric, which must be based on a  
823 combination of the following:

824 1. Program assessment composite scores under subsection  
825 (2), which must be weighted at no less than 50 percent.

826           2. Learning gains operationalized as change-in-ability  
827 scores from the initial and final progress monitoring results  
828 described in subsection (1).

829           3. Norm-referenced developmental learning outcomes  
830 described in subsection (1).

831           (f) The department shall adopt procedures to annually  
832 calculate each private prekindergarten provider's and public  
833 school's performance metric, based on the methodology adopted in  
834 paragraphs (a) and (b), and assign a designation under paragraph  
835 (d). Beginning with the 2024-2025 ~~2023-2024~~ program year, each  
836 private prekindergarten provider or public school shall be  
837 assigned a designation within 45 days after the conclusion of  
838 the school-year Voluntary Prekindergarten Education Program  
839 delivered by all participating private prekindergarten providers  
840 or public schools and within 45 days after the conclusion of the  
841 summer Voluntary Prekindergarten Education Program delivered by  
842 all participating private prekindergarten providers or public  
843 schools.

844           ~~(5)(a) If a public school's or private prekindergarten~~  
845 ~~provider's program assessment composite score for its~~  
846 ~~prekindergarten classrooms fails to meet the minimum program~~  
847 ~~assessment composite score for contracting adopted in rule by~~  
848 ~~the department, the private prekindergarten provider or public~~  
849 ~~school may not participate in the Voluntary Prekindergarten~~  
850 ~~Education Program beginning in the consecutive program year and~~

851 ~~thereafter until the public school or private prekindergarten~~  
852 ~~provider meets the minimum composite score for contracting. A~~  
853 ~~public school or private prekindergarten provider may request~~  
854 ~~one program assessment per program year in order to requalify~~  
855 ~~for participation in the Voluntary Prekindergarten Education~~  
856 ~~Program, provided that the public school or private~~  
857 ~~prekindergarten provider is not excluded from participation~~  
858 ~~under ss. 1002.55(6), 1002.61(10)(b), 1002.63(9)(b), or~~  
859 ~~paragraph (5)(b) of this section. If a public school or private~~  
860 ~~prekindergarten provider would like an additional program~~  
861 ~~assessment completed within the same program year, the public~~  
862 ~~school or private prekindergarten provider shall be responsible~~  
863 ~~for the cost of the program assessment.~~

864 (5)(a) ~~(b)~~ If a private prekindergarten provider's or  
865 public school's performance metric or designation falls below  
866 the minimum performance metric or designation, the early  
867 learning coalition shall:

868 1. Require the provider or school to submit for approval  
869 to the early learning coalition an improvement plan and  
870 implement the plan.

871 2. Place the provider or school on probation.

872 3. Require the provider or school to take certain  
873 corrective actions, including the use of a curriculum approved  
874 by the department under s. 1002.67(2)(c) and a staff development  
875 plan approved by the department to strengthen instructional

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876 practices in emotional support, classroom organization,  
877 instructional support, language development, phonological  
878 awareness, alphabet knowledge, and mathematical thinking.

879 (b)~~(e)~~ A private prekindergarten provider or public school  
880 that is placed on probation must continue the corrective actions  
881 required under paragraph (a) ~~(b)~~ until the provider or school  
882 meets the minimum performance metric or designation adopted by  
883 the department. Failure to meet the requirements of  
884 subparagraphs (a)1. ~~(b)1.~~ and 3. shall result in the termination  
885 of the provider's or school's contract to deliver the Voluntary  
886 Prekindergarten Education Program for a period of at least 2  
887 years but no more than 5 years.

888 (c)~~(d)~~ If a private prekindergarten provider or public  
889 school remains on probation for 2 consecutive years and fails to  
890 meet the minimum performance metric or designation, or is not  
891 granted a good cause exemption by the department, the department  
892 shall require the early learning coalition to revoke the  
893 provider's eligibility and the school district to revoke the  
894 school's eligibility to deliver the Voluntary Prekindergarten  
895 Education Program and receive state funds for the program for a  
896 period of at least 2 years but no more than 5 years.

897 (6)

898 (e) A private prekindergarten provider or public school  
899 granted a good cause exemption shall continue to implement its  
900 improvement plan and continue the corrective actions required

901 under paragraph (5) (a) ~~(5) (b)~~ until the provider or school meets  
 902 the minimum performance metric.

903 Section 7. Subsection (3) of section 1006.27, Florida  
 904 Statutes, is amended to read:

905 1006.27 Pooling of school buses and other vehicles and  
 906 related purchases by district school boards; transportation  
 907 services contracts.—

908 ~~(3) The Driving Choice Grant Program is created within the~~  
 909 ~~department to improve access to reliable and safe transportation~~  
 910 ~~for students participating in public educational school choices~~  
 911 ~~pursuant to s. 1002.20 (6) (a) and to support innovative solutions~~  
 912 ~~that increase the efficiency of public school transportation.~~

913 ~~(a) Grant proposals may include:~~

914 ~~1. Transportation resource planning and sharing among~~  
 915 ~~school districts and local governments.~~

916 ~~2. Developing or contracting with rideshare programs or~~  
 917 ~~developing carpool strategies.~~

918 ~~3. Developing options to reduce costs and increase~~  
 919 ~~efficiencies while improving access to transportation options~~  
 920 ~~for families.~~

921 ~~4. Developing options to address personnel challenges.~~

922 ~~5. Expanding the use of transportation funds under ss.~~  
 923 ~~1002.394, 1002.395, and 1011.68 to help cover the cost of~~  
 924 ~~transporting students to and from school.~~

925 ~~(b) The department shall publish on its website, by~~



926 ~~December 31, 2023, an interim report and by December 31, 2024, a~~  
 927 ~~final report that includes:~~

928 ~~1. The best practices used by grant recipients to increase~~  
 929 ~~transportation options for students, including any~~  
 930 ~~transportation barriers addressed by grant recipients.~~

931 ~~2. The number of students served by grant recipients,~~  
 932 ~~including the number of students transported to a school that is~~  
 933 ~~different from the school to which the student is assigned.~~

934 Section 8. Paragraph (b) of subsection (5) of section  
 935 1008.25, Florida Statutes, is amended to read:

936 1008.25 Public school student progression; student  
 937 support; coordinated screening and progress monitoring;  
 938 reporting requirements.—

939 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

940 (b) A Voluntary Prekindergarten Education Program student  
 941 who exhibits a substantial deficiency and scored below the 10th  
 942 percentile on in early literacy skills based upon the results of  
 943 the administration of the final coordinated screening and  
 944 progress monitoring under subsection (9) shall be referred to  
 945 the local school district and may be eligible to receive early  
 946 literacy skill instructional support through a summer bridge  
 947 program the summer instruction in early literacy skills before  
 948 participating in kindergarten. The summer bridge program must  
 949 meet requirements adopted by the department and shall consist of  
 950 4 hours of instruction per day for a minimum of 100 total hours

951 ~~A student with an individual education plan who has been~~  
 952 ~~retained pursuant to paragraph (2)(g) and has demonstrated a~~  
 953 ~~substantial deficiency in early literacy skills must receive~~  
 954 ~~instruction in early literacy skills.~~

955 Section 9. Paragraph (a) of subsection (4), subsection  
 956 (6), and paragraph (a) of subsection (7) of section 1011.62,  
 957 Florida Statutes, are amended to read:

958 1011.62 Funds for operation of schools.—If the annual  
 959 allocation from the Florida Education Finance Program to each  
 960 district for operation of schools is not determined in the  
 961 annual appropriations act or the substantive bill implementing  
 962 the annual appropriations act, it shall be determined as  
 963 follows:

964 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The  
 965 Legislature shall prescribe the aggregate required local effort  
 966 for all school districts collectively as an item in the General  
 967 Appropriations Act for each fiscal year. The amount that each  
 968 district shall provide annually toward the cost of the Florida  
 969 Education Finance Program for kindergarten through grade 12  
 970 programs shall be calculated as follows:

971 (a) Estimated taxable value calculations.—

972 1.a. Not later than 2 working days before July 19, the  
 973 Department of Revenue shall certify to the Commissioner of  
 974 Education its most recent estimate of the taxable value for  
 975 school purposes in each school district and the total for all

976 school districts in the state for the current calendar year  
 977 based on the latest available data obtained from the local  
 978 property appraisers. The value certified shall be the taxable  
 979 value for school purposes for that year, and no further  
 980 adjustments shall be made, except those made pursuant to  
 981 paragraphs (c) and (d), or an assessment roll change required by  
 982 final judicial decisions as specified in paragraph (15) (b). Not  
 983 later than July 19, the Commissioner of Education shall compute  
 984 a millage rate, rounded to the next highest one one-thousandth  
 985 of a mill, which, when applied to 96 percent of the estimated  
 986 state total taxable value for school purposes, would generate  
 987 the prescribed aggregate required local effort for that year for  
 988 all districts. The Commissioner of Education shall certify to  
 989 each district school board the millage rate, computed as  
 990 prescribed in this subparagraph, as the minimum millage rate  
 991 necessary to provide the district required local effort for that  
 992 year.

993         b. The General Appropriations Act shall direct the  
 994 computation of the statewide adjusted aggregate amount for  
 995 required local effort for all school districts collectively from  
 996 ad valorem taxes to ensure that no school district's revenue  
 997 from required local effort millage will produce more than 85 ~~90~~  
 998 percent of the district's total Florida Education Finance  
 999 Program calculation as calculated and adopted by the  
 1000 Legislature, and the adjustment of the required local effort

1001 millage rate of each district that produces more than 85 ~~90~~  
 1002 percent of its total Florida Education Finance Program  
 1003 entitlement to a level that will produce only 85 ~~90~~ percent of  
 1004 its total Florida Education Finance Program entitlement in the  
 1005 July calculation.

1006 2. On the same date as the certification in sub-  
 1007 subparagraph 1.a., the Department of Revenue shall certify to  
 1008 the Commissioner of Education for each district:

1009 a. Each year for which the property appraiser has  
 1010 certified the taxable value pursuant to s. 193.122(2) or (3), if  
 1011 applicable, since the prior certification under sub-subparagraph  
 1012 1.a.

1013 b. For each year identified in sub-subparagraph a., the  
 1014 taxable value certified by the appraiser pursuant to s.  
 1015 193.122(2) or (3), if applicable, since the prior certification  
 1016 under sub-subparagraph 1.a. This is the certification that  
 1017 reflects all final administrative actions of the value  
 1018 adjustment board.

1019 (6) STATE-FUNDED DISCRETIONARY CONTRIBUTION.—The state-  
 1020 funded discretionary contribution is created to fund the  
 1021 nonvoted discretionary millage for operations pursuant to s.  
 1022 1011.71(1) and (3) for developmental research schools (lab  
 1023 schools) established in s. 1002.32, ~~and~~ and the Florida Virtual  
 1024 School established in s. 1002.37, and charter schools sponsored  
 1025 by a Florida College System institution or a state university

1026 | pursuant to s. 1002.33(5).

1027 |       (a) To calculate the state-funded discretionary  
 1028 | contribution for lab schools, multiply the maximum allowable  
 1029 | nonvoted discretionary millage for operations pursuant to s.  
 1030 | 1011.71(1) and (3) by the value of 96 percent of the current  
 1031 | year's taxable value for school purposes for the school district  
 1032 | in which the lab school is located; divide the result by the  
 1033 | total full-time equivalent membership of the school district;  
 1034 | and multiply the result by the full-time equivalent membership  
 1035 | of the lab school. The amount obtained shall be appropriated in  
 1036 | the General Appropriations Act to the Lab School Trust Fund  
 1037 | established pursuant to s. 1002.32(9).

1038 |       (b) To calculate the state-funded discretionary  
 1039 | contribution for the Florida Virtual School and for charter  
 1040 | schools sponsored by a Florida College System institution or a  
 1041 | state university pursuant to s. 1002.33(5), multiply the maximum  
 1042 | allowable nonvoted discretionary millage for operations pursuant  
 1043 | to s. 1011.71(1) and (3) by the value of 96 percent of the  
 1044 | current year's taxable value for school purposes for the state;  
 1045 | divide the result by the total full-time equivalent membership  
 1046 | of the state; and multiply the result by the full-time  
 1047 | equivalent membership of the Florida Virtual School.

1048 |       (7) EDUCATIONAL ENRICHMENT ALLOCATION.—

1049 |       (a)1. The educational enrichment allocation is created to  
 1050 | assist school districts in providing educational enrichment

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1051 activities and services that support and increase the academic  
1052 achievement of students in grades kindergarten through 12.  
1053 Educational enrichment activities and services may be provided  
1054 in a manner and at any time during or beyond the regular 180-day  
1055 term identified by the school district as being the most  
1056 effective and efficient way to best help the student progress  
1057 from grade to grade and graduate from high school. For fiscal  
1058 year 2023-2024, the educational enrichment allocation shall  
1059 consist of a base amount as specified in the General  
1060 Appropriations Act. Beginning in fiscal year 2024-2025, the  
1061 educational enrichment allocation shall consist of the base  
1062 amount that includes a workload adjustment based on changes in  
1063 the unweighted full-time equivalent membership.

1064 2. The base amount of each school district's educational  
1065 enrichment allocation shall be the greater of either the school  
1066 district's educational enrichment allocation base per eligible  
1067 full-time equivalent student or the educational enrichment  
1068 allocation factor as specified in the General Appropriations  
1069 Act, unless the school district's total Florida Education  
1070 Finance Program funds per unweighted full-time equivalent  
1071 student is greater than the statewide total Florida Education  
1072 Finance Program funds per unweighted full-time equivalent  
1073 student.

1074 Section 10. Subsection (1) of section 1011.765, Florida  
1075 Statutes, is amended to read:

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1076 1011.765 Florida Academic Improvement Trust Fund matching  
 1077 grants.—

1078 (1) MATCHING GRANTS.—The Florida Academic Improvement  
 1079 Trust Fund shall be utilized to provide matching grants to the  
 1080 Florida School for the Deaf and the Blind Endowment Fund and to  
 1081 any public school district education foundation that meets the  
 1082 requirements of this section. For purposes of this section, a  
 1083 public school district education foundation includes each  
 1084 district school board direct-support organization established  
 1085 pursuant to s. 1001.453 and the education foundation established  
 1086 by the Florida Virtual School established pursuant to s. 1002.37  
 1087 ~~and is recognized by the local school district as its designated~~  
 1088 ~~K-12 education foundation.~~ Donations, state matching funds, or  
 1089 proceeds from endowments established pursuant to this section  
 1090 shall be used at the discretion of the public school district  
 1091 education foundation or the Florida School for the Deaf and the  
 1092 Blind for academic achievement within the school district or  
 1093 school, and shall not be expended for the construction of  
 1094 facilities or for the support of interscholastic athletics. No  
 1095 public school district education foundation or the Florida  
 1096 School for the Deaf and the Blind shall accept or purchase  
 1097 facilities for which the state will be asked for operating funds  
 1098 unless the Legislature has granted prior approval for such  
 1099 acquisition.

1100 Section 11. Paragraph (b) of subsection (1) of section

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1101 1013.62, Florida Statutes, is amended to read:

1102 1013.62 Charter schools capital outlay funding.—

1103 (1) Charter school capital outlay funding shall consist of  
 1104 state funds when such funds are appropriated in the General  
 1105 Appropriations Act and revenue resulting from the discretionary  
 1106 millage authorized in s. 1011.71(2).

1107 (b) A charter school is not eligible to receive capital  
 1108 outlay funds if:

1109 1. It was created by the conversion of a public school and  
 1110 operates in facilities provided by the charter school's sponsor  
 1111 for a nominal fee, or at no charge, or if it is directly or  
 1112 indirectly operated by the school district;

1113 2. It is a developmental research (laboratory) school that  
 1114 receives state funding for capital improvement purposes pursuant  
 1115 to s. 1002.32(9)(d); ~~s. 1002.32(9)(e)~~; ~~or~~

1116 3. A member of the governing board, or his or her family  
 1117 member as defined in s. 440.13(1)(b), has an interest in or is  
 1118 an employee of the lessor, excluding charter schools operating  
 1119 pursuant to s. 1002.33(15); or

1120 4. It is a Florida College System institution or state  
 1121 university sponsored charter school that receives state funding  
 1122 for capital improvement purposes pursuant to s.  
 1123 1002.33(17)(b)2.d.

1124 Section 12. This act shall take effect July 1, 2024.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5201      PCB SAT 24-01      Trust Funds/Federal Law Enforcement Trust Fund/FGCC

**SPONSOR(S):** State Administration & Technology Appropriations Subcommittee, Busatta Cabrera

**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Helping	Topp
1) Appropriations Committee		Helping	Pridgeon

### SUMMARY ANALYSIS

The bill conforms current law to the proposed House of Representatives' Fiscal Year 2024-2025 General Appropriation Act (GAA). The Florida Gaming Control Commission (Commission) may use the trust fund created in the bill to deposit funds collected through gaming enforcement activities. The use of the funds may be requested in the commission's Legislative Budget Request which must be approved by the Legislature and included in the General Appropriations Act.

Section 16.71, F.S., establishes the Commission, within the Department of Legal Affairs (DLA). The commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the commission. The DGE is considered a criminal justice agency. The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.

The Commission does not currently have an established Federal Law Enforcement Trust Fund to deposit revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

The bill creates a Federal Law Enforcement Trust Fund within the Commission. The bill states that the Commission may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

The bill takes effect July 1, 2024.

The bill does not indirectly impact state revenues or expenditures. See Fiscal Comments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Florida Gaming Control Commission

Section 16.71, F.S., establishes the Florida Gaming Control Commission (Commission), within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE. The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.<sup>1</sup> The DGE director and all investigators employed by DGE are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, F.S., or any rule adopted pursuant thereto, or any law of this state.<sup>2</sup>

DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.<sup>3</sup> In any instance in which there is reason to believe that a violation has occurred, DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.

DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.<sup>4</sup>

##### Federal Law Enforcement Trust Funds

Multiple state agencies responsible for law enforcement have Federal Law Enforcement Trust Funds that have been statutorily created for various deposits related to criminal, administrative and civil forfeiture proceedings. Some of the agencies include the Department of Law Enforcement,<sup>5</sup> the Department of Financial Services,<sup>6</sup> the Department of Business and Professional Regulation,<sup>7</sup> the

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<sup>1</sup> Section 119.01(4), F.S., defines a “criminal justice agency” to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

<sup>2</sup> S. 16.711(3), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> S. 932.701(2)(a)2, F.S.

<sup>5</sup> S. 943.365, F.S.

<sup>6</sup> S. 17.43, F.S.

<sup>7</sup> S. 561.027, F.S.

Department of Agriculture and Consumer Services,<sup>8</sup> the Department of Military Affairs,<sup>9</sup> and the Department of Highway Safety and Motor Vehicles.<sup>10</sup>

The Commission does not currently have an established Federal Law Enforcement Trust Fund to deposit revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

Effect of the Bill:

The bill creates a Federal Law Enforcement Trust Fund within the Commission. The bill states that the Commission may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. Further, the bill states that funds deposited into the trust fund may be used for the operation of the Commission.

The bill takes effect July 1, 2024.

B. SECTION DIRECTORY:

**Section 1:** creates s. 16.717, F.S., creating the Federal Law Enforcement Trust Fund within the Florida Gaming Control Commission.

**Section 2:** provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

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<sup>8</sup> S. 570.205, F.S.

<sup>9</sup> S. 250.175, F.S.

<sup>10</sup> S. 932.705, F.S.

The bill does not directly impact state revenues or expenditures. However, the creation of the trust fund will allow funds that are acquired through the Commission's gaming enforcement activities to be deposited by the Commission. Once there are sufficient funds within the trust fund, the Commission may request budget authority to use the funds as part of their Legislative Budget Request.

### **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**



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26        (2) Notwithstanding the provisions of s. 216.301 and  
27 pursuant to s. 216.351, any balance in the trust fund at the end  
28 of any fiscal year shall remain in the trust fund at the end of  
29 the year and shall be available for carrying out the purposes of  
30 the trust fund.

31        (3) In accordance with s. 19(f)(2), Art. III of the State  
32 Constitution, the Federal Law Enforcement Trust Fund shall,  
33 unless terminated sooner, be terminated on July 1, 2028. Before  
34 its scheduled termination, the trust fund shall be reviewed as  
35 provided in s. 215.3206(1) and (2).

36        Section 2. This act shall take effect July 1, 2024.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5203      PCB SAT 24-02      Property Seized by the Florida Gaming Control Commission  
**SPONSOR(S):** State Administration & Technology Appropriations Subcommittee, Busatta Cabrera  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Helping	Topp
1) Appropriations Committee		Helping	Pridgeon

### SUMMARY ANALYSIS

The bill conforms current law to the proposed House of Representatives' Fiscal Year 2024-2025 General Appropriation Act (GAA). The Florida Gaming Control Commission (Commission) may use the specified funds in the bill for gaming enforcement activities. The use of the funds may be requested in the Commission's Legislative Budget Request which must be approved by the Legislature and included in the General Appropriations Act.

The Division of Gaming Enforcement (DGE) is created within the Commission. The DGE is considered a criminal justice agency. The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.

Currently, property rights from confiscated machines and money and other things of value therein are forfeited to the county in which the seizure was made and must be placed in the fine and forfeiture fund of the county.

If the seizing agency is a state agency, the remaining proceeds after satisfaction of liens, costs incurred with the storage, maintenance, security, and forfeiture of such property, and payment of court costs incurred in a forfeiture procedure, must be deposited into the General Revenue Fund.

The bill specifies that the property rights in machines and money and other things of value therein confiscated by the Commission are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. The bill further specifies sums received from a sale or other disposition of property that is seized by the Commission shall be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill provides an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutual Wagering Trust Fund or into the Commission's Federal Law Enforcement Trust Fund. The bill authorizes such proceeds to be used for the operation of the Commission.

The bill does not directly impact state revenues or expenditures. See Fiscal Comments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Florida Gaming Control Commission

Section 16.71, F.S., establishes the Florida Gaming Control Commission (Commission), within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE. The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.<sup>1</sup> The Division director and all investigators employed by the Division are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, F.S., or any rule adopted pursuant thereto, or any law of this state.<sup>2</sup>

DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.<sup>3</sup> In any instance in which there is reason to believe that a violation has occurred, DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.

The division and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.<sup>4</sup>

##### Disposition of Confiscated Items

Currently, property rights in confiscated machines and money and other things of value therein are forfeited to the county in which the seizure was made and must be placed in the fine and forfeiture fund of the county.<sup>5</sup> All sums received from the sale of seized property is paid into the county fine and forfeiture fund in which the seizure was made.<sup>6</sup> If the seizure occurs within a municipality that has

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<sup>1</sup> Section 119.01(4), F.S., defines a “criminal justice agency” to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

<sup>2</sup> S. 16.711(3), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> S. 932.701(2)(a)2, F.S.

<sup>5</sup> S. 849.19, F.S.

<sup>6</sup> S. 849.44, F.S.

forfeiture ordinances, the sums received from sale of the seized property is deposited into the municipality's general operating fund.<sup>7</sup>

### Pari-Mutuel Wagering Trust Fund

Section 550.0951(5), F.S., establishes the Pari-mutuel Wagering Trust Fund (trust fund). Specified license fee revenues<sup>8</sup> deposited into the trust fund and other collections are used to fund the operation of the Commission in accordance with authorized appropriations.<sup>9</sup> Additionally, slot machine license fees and other specified fees are used to fund the direct and indirect operating expenses of the Commission's operations and to provide funding for law enforcement activities in accordance with authorized appropriations.<sup>10</sup>

### Disposition of Liens and Forfeited Property

Under the Florida Contraband Forfeiture Act, an agency that receives final judgment granting forfeiture of real property or personal property may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder, except for real property which should be sold in a commercially reasonable manner after appraisal by listing on the market; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.<sup>11</sup>

If the forfeited property is subject to a lien, the agency must sell the property and use the proceeds to satisfy any liens or may have the lien satisfied prior to taking the above actions.<sup>12</sup>

The proceeds from the sale of forfeited property must be disbursed in the following priority:

- Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.
- Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property.
- Payment of court costs incurred in the forfeiture proceeding.<sup>13</sup>

If the seizing agency is a state agency, the remaining proceeds after satisfaction of liens, costs incurred with the storage, maintenance, security, and forfeiture of such property, and payment of court costs incurred in a forfeiture procedure, must be deposited into the General Revenue Fund.<sup>14</sup> However, various state agencies are provided an exemption, allowing the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act to be deposited into specified trust funds created within those agencies.<sup>15</sup> The Florida Gaming Control Commission does not currently have this exemption.

### **Effect of Proposed Changes**

The bill amends s. 849.19, F.S., to specify that the of property rights in machines and money and other things of value therein confiscated by the Commission are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. The bill amends s. 849.44, F.S., to specify sums received from a sale or other disposition of property that is seized by the Commission shall be deposited into the Pari-Mutuel Wagering Trust Fund.

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<sup>7</sup> *Id.*

<sup>8</sup> S. 550.0951(1), F.S.

<sup>9</sup> S. 550.135(1), F.S.

<sup>10</sup> S. 550.135(2), F.S.

<sup>11</sup> S. 932.7055(1), F.S.

<sup>12</sup> S. 932.7055(3), F.S.

<sup>13</sup> S. 932.7055(4), F.S.

<sup>14</sup> S. 932.7055(6), F.S.

<sup>15</sup> *Id.*

The bill amends s. 932.7055, F.S., to provide an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutuel Wagering Trust Fund or into the Commission's Federal Law Enforcement Trust Fund. The bill authorizes such proceeds to be used for the operation of the Commission.

The bill takes effect July 1, 2024.

**B. SECTION DIRECTORY:**

**Section 1:** amends s. 849.19, F.S., specifying deposits into the Pari-Mutuel Wagering Trust Fund.

**Section 2:** amends s. 849.44, F.S., specifying proceeds to be placed into the Pari-Mutuel Wagering Trust Fund.

**Section 3:** amends s. 932.7055, F.S., providing an exemption under the Florida Contraband Forfeiture Act.

**Section 4:** provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

**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 does not impact state revenues or expenditures directly. However, the authorization to deposit funds into the Pari-Mutuel Trust Fund will allow funds that are acquired through the Commission's gaming enforcement activities to be used for operations of the Commission. Once there are sufficient funds within the trust fund, the commission may request budget authority to use the funds as part of their Legislative Budget Request.

**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**

1                                   A bill to be entitled  
 2           An act relating to property seized by the Florida  
 3           Gaming Control Commission; amending s. 849.19, F.S.;  
 4           providing that any seized machine and the cash therein  
 5           shall be deposited into the Florida Gaming Control  
 6           Commission Pari-Mutuel Wagering Trust Fund; amending  
 7           s. 849.44, F.S.; providing that the proceeds from a  
 8           sale or other disposition of seized property shall be  
 9           deposited into the Florida Gaming Control Commission  
 10          Pari-Mutuel Wagering Trust Fund; amending s. 932.7055,  
 11          F.S.; providing an exemption for the proceeds accrued  
 12          under the provisions of the Florida Contraband  
 13          Forfeiture Act; providing an effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1.   Section 849.19, Florida Statutes, is amended to  
 18   read:

19           849.19   Property rights in confiscated machine.—The right  
 20   of property in and to any machine, apparatus or device as  
 21   defined in s. 849.16 and to all money and other things of value  
 22   therein, is declared not to exist in any person, and the same  
 23   shall be forfeited and deposited into the Florida Gaming Control  
 24   Commission's Pari-Mutuel Wagering Trust Fund if the Florida  
 25   Gaming Control Commission is the seizing agency. Otherwise, and

26 | such money or other things of value shall be forfeited to the  
 27 | county in which the seizure was made and shall be delivered  
 28 | forthwith to the clerk of the circuit court and shall by her or  
 29 | him be placed in the fine and forfeiture fund of said county.

30 | Section 2. Section 849.44, Florida Statutes, is amended to  
 31 | read:

32 | 849.44 Disposition of proceeds of forfeiture.—All sums  
 33 | received from a sale or other disposition of ~~the seized~~ property  
 34 | that is seized by the Florida Gaming Control Commission shall be  
 35 | deposited into the Pari-Mutuel Wagering Trust Fund. Otherwise,  
 36 | all sums received from a sale or other disposition of the seized  
 37 | property shall be deposited ~~paid~~ into the county fine and  
 38 | forfeiture fund ~~and shall become a part thereof~~; provided,  
 39 | however, that in instances where the seizure is by a municipal  
 40 | police officer within the limits of any municipality having an  
 41 | ordinance requiring such vehicles, vessels or conveyances to be  
 42 | forfeited, the city attorney shall act in behalf of the city in  
 43 | lieu of the state attorney and shall proceed to forfeit the  
 44 | property as herein provided, and all sums received ~~therefrom~~  
 45 | shall be deposited ~~go~~ into the city's general operating fund ~~of~~  
 46 | ~~the city~~.

47 | Section 3. Paragraph (n) is added to subsection (6) of  
 48 | section 932.7055, Florida Statutes, to read:

49 | 932.7055 Disposition of liens and forfeited property.—

50 | (6) If the seizing agency is a state agency, all remaining

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51 | proceeds shall be deposited into the General Revenue Fund.  
52 | However, if the seizing agency is:  
53 |       (n) The Florida Gaming Control Commission, the proceeds  
54 | accrued pursuant to the Florida Contraband Forfeiture Act shall  
55 | be deposited into the Pari-mutuel Wagering Trust Fund  
56 | established by s. 550.0951(5) or into the Florida Gaming Control  
57 | Commission's Federal Law Enforcement Trust Fund established by  
58 | s. 16.717, as applicable, to be used for the operation of the  
59 | Florida Gaming Control Commission in accordance with ss. 16.71-  
60 | 16.716.  
61 |       Section 4. This act shall take effect July 1, 2024.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5301 PCB HCA 24-01 Medicaid Supplemental Payment Programs

**SPONSOR(S):** Health Care Appropriations Subcommittee, Garrison

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	14 Y, 0 N	Smith	Clark
1) Appropriations Committee		Smith	Pridgeon

### SUMMARY ANALYSIS

HB 5301 conforms statute to funding decisions related to supplemental payment programs included in PCB APC 24-01, the House proposed General Appropriations Act for Fiscal Year 2024-2025.

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. Florida delivers medical assistance to most Medicaid recipients using a comprehensive managed care model, the Statewide Medicaid Managed Care program, to provide comprehensive, coordinated benefits coverage to the Medicaid population, leveraging economic incentives to ensure provider participation and quality performance.

Federal Medicaid managed care programs are required to use actuarially sound capitation rates which represent the entirety of the Medicaid expenditures for such services. However, federal law or Florida waiver approvals authorize certain exceptions, allowing additional Medicaid payments to take place outside the managed care relationship for some provider types. These arrangements are called supplemental payment programs. AHCA collects local intergovernmental transfers (IGTs) to fund the state share of the Medicaid match funds from counties, local health care taxing districts, and publicly operated providers. Governmental sources of IGTs sign pledge letters with AHCA specifying their contribution amount.

The bill makes, for certain hospital classes, participation in the Low Income Pool and Indirect Graduate Medical Education supplemental payment programs contingent on the hospital's participation in the Hospital Directed Payment Program. The bill also provides definitions for Hospital Directed Payment Program, Indirect Graduate Medical Program, and Low Income Pool Program.

The bill would have an indeterminate fiscal impact on local government and the private sector. See Fiscal Comments.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

#### **Florida Medicaid**

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families, the Department of Health, the Agency for Persons with Disabilities, and the Department of Elderly Affairs.

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.<sup>1</sup> Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.<sup>2</sup> States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, adult dental services, and dialysis.<sup>3</sup>

States have some flexibility in the provision of Medicaid services. Section 1915(b) of the Social Security Act provides authority for the Secretary of the U.S. Department of Health and Human Services (HHS) to waive requirements to the extent that he or she “finds it to be cost-effective and efficient and not inconsistent with the purposes of this title.” Section 1115 of the Social Security Act allows states to implement demonstrations of innovative service delivery systems that improve care, increase efficiency, and reduce costs. These laws allow HHS to waive federal requirements to expand populations or services, or to try new ways of service delivery.

Florida operates under a Section 1115 waiver to use a comprehensive managed care delivery model for primary and acute care services, known as the Statewide Medicaid Managed Care (SMMC) Managed Medical Assistance (MMA) program. Florida also has a waiver under Sections 1915(b) and (c) of the Social Security Act to operate the SMMC Long-Term Care (LTC) program.<sup>4</sup>

The Florida Medicaid program covers approximately 4.9 million low-income individuals, including approximately 2.4 million, or 49.6%, of the children in Florida.<sup>5</sup> Medicaid is the second largest single program funded in the state, behind public education, representing approximately one-third of the total FY 2023-2024 state budget.<sup>6</sup> As of September 2023, Florida's program is the 4th largest in the nation by enrollment and, for FY 2021-2022, the program is the 5th largest in terms of expenditures.<sup>7</sup>

Florida delivers medical assistance to most Medicaid recipients – approximately 72% - using a comprehensive managed care model, the SMMC program.<sup>8</sup> The SMMC program was intended to

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<sup>1</sup> Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

<sup>2</sup> S. 409.905, F.S.

<sup>3</sup> S. 409.906, F.S.

<sup>4</sup> S. 409.964, F.S.

<sup>5</sup> Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, December 2023, available at [https://ahca.myflorida.com/medicaid/Finance/data\\_analytics/enrollment\\_report/index.shtml](https://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml) (last visited January 17, 2024)..

<sup>6</sup> Chapter 2023-239, Laws of Fla.

<sup>7</sup> The Henry J. Kaiser Family Foundation, *State Health Facts, Total Medicaid Spending FY 2022 and Total Monthly Medicaid and CHIP Enrollment Sep. 2023*, available at <http://kff.org/statedata/> (last visited January 17, 2024).

<sup>8</sup> *Supra*, note 6.

provide comprehensive, coordinated benefits coverage to the Medicaid population, leveraging economic incentives to ensure a level of provider participation and quality performance that was impossible under the former, federally prescribed, fee-for-service delivery model.

## **Supplemental Payment Programs**

Federal Medicaid managed care programs are required to use actuarially sound capitation rates which represent the entirety of the Medicaid expenditures for such services. However, federal law or Florida waiver approvals authorize certain exceptions, allowing additional Medicaid payments to take place outside the managed care relationship for some provider types. These arrangements are called supplemental payment programs.

Florida currently has ten supplemental payment programs to fund payments to Medicaid providers that are in addition to reimbursement they receive for services rendered to Medicaid enrollees. They are either authorized by statute or by the General Appropriations Act and are approved by the federal government. Non-General Revenue sources are used for the state share of Medicaid funds, which is used to draw down the federal matching payment. However, some supplemental payments are funded through General Revenue.

### Intergovernmental Transfers

Certain programs, including but not limited to the Statewide Medicaid Residency Program, the Graduate Medical Education Startup Bonus Program, the Disproportionate Share Hospital (DSH), and certain hospital reimbursement exemptions are funded through county and other local tax dollars that are transferred to the state and used to draw federal match. Local dollars transferred to the state and used in this way are known as “intergovernmental transfers” or IGTs. IGTs may be used to augment hospital payments in other ways, specifically through direct payment programs authorized by the federal Centers for Medicare and Medicaid Services (CMS) through waivers or state plan amendments. Examples include the Hospital Directed Payment Program (DPP) and Low Income Pool (LIP) programs. All IGTs are contingent upon the willingness of counties and other local taxing authorities to transfer funds to the state in order to draw down federal match. The local taxing authorities commit to sending these funds to the state in the form of an executed Letter of Agreement with the AHCA. In order for AHCA to make timely payments to hospitals, AHCA must know which local governments will be submitting IGTs and the amount of the funds prior to using the funds to draw the federal match. Current law requires local governments who will be submitting IGTs to submit to AHCA the final executed letter of agreement containing the total amount of the IGTs authorized by the entity, no later than October 1 of each year.<sup>9</sup> Funds outlined in the letters of agreement must be received by the agency no later than October 31 of each fiscal year in which such funds are pledged, unless an alternative plan is specifically approved by the agency.<sup>10</sup>

### Low Income Pool

The terms and conditions of CMS Florida Managed Medical Assistance Waiver Approval Document created a Low Income Pool (LIP) to be used to provide supplemental payments to providers who provide services to Medicaid and uninsured patients. This pool constituted a new method for such supplemental payments, different from the prior program called Upper Payment Limit. The LIP program also authorized supplemental Medicaid payments to provider access systems, such as federally qualified health centers, county health departments, and hospital primary care programs, to cover the cost of providing services to Medicaid recipients, the uninsured and the underinsured.

### Hospital Directed Payment Program

The Hospital Directed Payment Program (DPP) was authorized in the state fiscal year 2021-22 General Appropriations Act<sup>11</sup>, and provides directed payment to hospitals in an amount up to the Medicaid

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<sup>9</sup> S. 409.908(26), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Chapter 2021-36, Laws of Fla.

shortfall, or the difference between the cost of providing care to Medicaid-eligible patients and the payments received for those services.<sup>12</sup>

The payment arrangement directs payments within each Medicaid region, to all hospitals in each class by an equal percentage for hospital services provided by hospitals and paid by Medicaid health plans. The DPP operates regionally. Each region's DPP operates independent of other regions once certain conditions are met.<sup>13</sup>

Participating hospitals must meet the following three criteria:

1. Fall into one of the following three mutually exclusive provider classes:
  - private hospitals
  - public hospitals; or
  - cancer hospitals
2. Operate in one of Florida's 11 SMMC regions; and
3. Provide inpatient and outpatient hospital services to Florida Medicaid managed care enrollees.<sup>14</sup>

For a region to participate in the DPP, all hospitals in at least one of the classes (private, public, cancer hospitals) within that region must agree to participate and be subject to an assessment to fund the state share of the DPP.

The DPP funding is contingent on Local Provider Participation Funds and IGTs. Private hospitals in the State of Florida must be partnered with a governmental entity in order to participate in the DPP. The hospital DPP is a local option that allows local governments to establish a non-ad valorem (non-property tax) special assessment that is charged solely to hospitals.

### Indirect Graduate Medical Education

The Indirect Graduate Medical Education (IME) program was authorized in the state fiscal year 2021-22 General Appropriations Act, for the purpose of supporting hospitals with residents in graduate medical education (GME) who are in training to become physicians.<sup>15</sup> IME covers ancillary costs associated with the educational process and the higher case-mix intensity of teaching hospitals with residency programs, that may result in higher patient care costs relative to non-teaching hospitals.<sup>16</sup>

An eligible teaching hospital must have a resident to bed ratio between 0.1% and 100% and meet the criteria for at least one of the following groups:<sup>17</sup>

- Academic Medical Centers Group 1(AMC 1)
  - Statutory teaching hospital with greater than 650 beds per license and
    - Greater than 500 FTEs, or
    - affiliated with the University of Florida Health.
- Public Teaching Hospitals
  - Public hospital with residents in an approved GME program and is not classified as a statutory teaching hospital.
- Academic Medical Centers Group 2(AMC 2)
  - Statutory teaching hospital with greater than 650 beds per license.
- Children's Teaching Hospitals
  - Children's hospital that is excluded from the Medicare prospective payment system, or
  - Reginal Perinatal Intensive Care Center that does not meet the eligibility qualifications of the AMC1, AMC2 or Public Teaching Hospital groups.

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<sup>12</sup> Agency for Health Care Administration, Presentation to the House Health Care Appropriations Subcommittee, *Medicaid Reimbursement Rates and Supplemental Payment Programs*, available at [https://ahca.myflorida.com/content/download/20776/file/House\\_HHS\\_Approps-Medicaid\\_Supplemental\\_Programs\\_Overview.pdf](https://ahca.myflorida.com/content/download/20776/file/House_HHS_Approps-Medicaid_Supplemental_Programs_Overview.pdf) (last visited January 17, 2024).

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

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

<sup>15</sup> *Supra*, note 10

<sup>16</sup> Centers for Medicare and Medicaid Services, *Appendix F to Florida Title XIX Inpatient Hospital Reimbursement Plan*, May 4, 2023, On file with the House Healthcare Appropriations Subcommittee.

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

- Statutory Teaching Hospitals
  - Statutory teaching hospital with at least 200 beds per license that does not meet the requirements of AMC1, AMC2, Public Teaching Hospitals, or Children’s Teaching Hospital groups.

IME payment amounts are determined by a distribution model, by hospital grouping, calculated using the most recently filed and available Medicare Cost Report<sup>18</sup> extracted from the Healthcare Cost Report. Providers are reimbursed on a quarterly basis, based on the hospital’s IME costs for services provided.<sup>19</sup>

**Effect of the Bill**

HB 5301 amends s. 409.908, F.S., requiring a hospital’s participation in DPP as a precondition to the hospital’s participation in LIP or IME. The bill specifies that the term “hospital” is a health care institution as defined in s. 395.002(12), F.S.<sup>20</sup>, but does not include cancer hospitals, public hospitals, Medical School Physician Practices, Federally Qualified Health Centers, Rural Health Clinics or Behavioral Health Providers.

The bill also amends s. 409.901, F.S., codifying into statute definitions for hospital directed payment, indirect graduate medical education, and low income pool programs.

The bill provides an effective date of July 1, 2024.

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 409.901, F.S., relating to definitions.
- Section 2:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 3:** Amends s. 409.910, F.S., to conform a cross-reference.
- Section 4:** Provides an effective date of July 1, 2024.

**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.

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<sup>18</sup> CMS Form 2552

<sup>19</sup> *Id.*

<sup>20</sup> “Hospital” means any establishment that:

- (a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- (b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in s. 408.07, shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would have an indeterminate fiscal impact on hospitals that currently participate in LIP and IME but choose not to participate in DPP. The bill's requirement of DPP participation as a precondition to LIP and IME participation would reduce revenue to hospitals related to LIP and IME supplemental payments, if those hospitals choose not to participate in DPP.

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**

None.

1                                   A bill to be entitled  
 2           An act relating to Medicaid supplemental payment  
 3           programs; amending s. 409.901, F.S.; providing  
 4           definitions relating to certain Medicaid supplemental  
 5           payment programs; amending s. 409.908, F.S.; providing  
 6           requirements for hospital participation in certain  
 7           Medicaid supplemental payment programs; providing a  
 8           definition; amending s. 409.910, F.S.; conforming a  
 9           cross-reference; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Subsection (12) and subsections (13) through  
 14           (28) of section 409.901, Florida Statutes, are renumbered as  
 15           subsection (14) and subsections (16) through (31), respectively,  
 16           and new subsections (12), (13), and (15) are added to that  
 17           section, to read:

18           409.901 Definitions; ss. 409.901-409.920.—As used in ss.  
 19           409.901-409.920, except as otherwise specifically provided, the  
 20           term:

21           (12) "Hospital directed payment program" means a  
 22           supplemental payment program approved by the Centers for  
 23           Medicare and Medicaid Services to provide directed payments to  
 24           hospitals in an amount up to the total difference between  
 25           Medicaid reimbursement and costs of care for Medicaid



26 recipients.

27 (13) "Indirect graduate medical education program" means a  
 28 supplemental payment program approved by the Centers for  
 29 Medicare and Medicaid Services to provide payments directly to  
 30 eligible teaching hospitals based on the hospitals' indirect  
 31 graduate medical education costs for services provided.

32 (15) "Low Income Pool Program" means a supplemental  
 33 payment program approved by the Centers for Medicare and  
 34 Medicaid Services to provide payments directly to hospitals and  
 35 other health care providers to reimburse hospitals and providers  
 36 for the costs of uncompensated charity care for low-income  
 37 individuals.

38 Section 2. Subsection (27) is added to section 409.908,  
 39 Florida Statutes, to read:

40 409.908 Reimbursement of Medicaid providers.—Subject to  
 41 specific appropriations, the agency shall reimburse Medicaid  
 42 providers, in accordance with state and federal law, according  
 43 to methodologies set forth in the rules of the agency and in  
 44 policy manuals and handbooks incorporated by reference therein.  
 45 These methodologies may include fee schedules, reimbursement  
 46 methods based on cost reporting, negotiated fees, competitive  
 47 bidding pursuant to s. 287.057, and other mechanisms the agency  
 48 considers efficient and effective for purchasing services or  
 49 goods on behalf of recipients. If a provider is reimbursed based  
 50 on cost reporting and submits a cost report late and that cost

51 report would have been used to set a lower reimbursement rate  
52 for a rate semester, then the provider's rate for that semester  
53 shall be retroactively calculated using the new cost report, and  
54 full payment at the recalculated rate shall be effected  
55 retroactively. Medicare-granted extensions for filing cost  
56 reports, if applicable, shall also apply to Medicaid cost  
57 reports. Payment for Medicaid compensable services made on  
58 behalf of Medicaid-eligible persons is subject to the  
59 availability of moneys and any limitations or directions  
60 provided for in the General Appropriations Act or chapter 216.  
61 Further, nothing in this section shall be construed to prevent  
62 or limit the agency from adjusting fees, reimbursement rates,  
63 lengths of stay, number of visits, or number of services, or  
64 making any other adjustments necessary to comply with the  
65 availability of moneys and any limitations or directions  
66 provided for in the General Appropriations Act, provided the  
67 adjustment is consistent with legislative intent.

68 (27) A hospital's participation in the Low Income Pool  
69 Program and indirect graduate medical education program, as  
70 defined in s. 409.901, is contingent on the hospital's  
71 participation in the hospital directed payment program, as  
72 defined in s. 409.901. As used in this subsection, the term  
73 "hospital" has the same meaning as in s. 395.002(12) but does  
74 not include a cancer hospital that meets the criteria in 42  
75 U.S.C. s. 1395ww(d)(1)(B)(v), a public hospital, a medical

76 school physician practice, a federally qualified health center,  
 77 a rural health clinic, or a behavioral health provider.

78 Section 3. Paragraph (a) of subsection (20) of section  
 79 409.910, Florida Statutes, is amended to read:

80 409.910 Responsibility for payments on behalf of Medicaid-  
 81 eligible persons when other parties are liable.—

82 (20) (a) Entities providing health insurance as defined in  
 83 s. 624.603, health maintenance organizations and prepaid health  
 84 clinics as defined in chapter 641, and, on behalf of their  
 85 clients, third-party administrators, pharmacy benefits managers,  
 86 and any other third parties, as defined in s. 409.901 ~~s.~~  
 87 ~~409.901(27)~~, which are legally responsible for payment of a  
 88 claim for a health care item or service as a condition of doing  
 89 business in the state or providing coverage to residents of this  
 90 state, shall provide such records and information as are  
 91 necessary to accomplish the purpose of this section, unless such  
 92 requirement results in an unreasonable burden.

93 Section 4. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5401 PCB JUA 24-01 Judges  
**SPONSOR(S):** Justice Appropriations Subcommittee, Brannan  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee	14 Y, 0 N	Smith	Keith
1) Appropriations Committee		Smith	Pridgeon

### SUMMARY ANALYSIS

The bill conforms current law to the proposed Fiscal Year 2024-2025 House of Representatives' General Appropriations Act, which includes \$2,574,402 in General Revenue funding, and authorizes fourteen full-time equivalent positions with associated salary rate of 1,527,297, for the newly established judgeships and associated judicial assistant staffing.

The Supreme Court of Florida issued Order No. SC2023-1586, dated November 30, 2023, certifying the need for one new circuit court judgeship in the Twentieth Judicial Circuit, two new county court judgeships in Hillsborough County, and three new county court judgeships in Orange County.

Article V, section 9 of the Florida Constitution states that the Legislature may reject the recommendations or implement the recommendations of the Supreme Court in whole or in part.

The bill amends ss. 26.031 and 34.022, F.S., to establish one new circuit court judgeship in the Twentieth Judicial Circuit, two new county court judgeships in Hillsborough County, and three new county court judgeships in Orange County.

The effective date of the bill is July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

Article V, section 9 of the Florida Constitution states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists.

To determine a need for trial court judgeships, the Office of State Courts Administrator (OSCA) relies on an analysis of weighted caseload filings per judge. In 1999, at the request of the Legislature, OSCA contracted with the National Center for State Courts (NCSC) to develop and validate a Delphi-based Weighted Caseload System.<sup>1</sup>

The weighted caseload system assigns a time value to cases by their case type, based on the various kinds and complexity of the cases that are filed. The case type time value, or case weight, establishes an approximate workload value per case filing by case type, which is used to determine the number of judges required to handle these cases. The weighted caseload system is revised periodically to account for changes in procedure and case complexity. The system was updated by OSCA and NCSC in 2007, and most recently in 2016.

The Supreme Court issued Order No. SC2023-1586, dated November 30, 2023, in regard to the certification of need for additional judges. In the certification, the Court recommended one new circuit court judgeship in the Twentieth Judicial Circuit, two new county court judgeships in Hillsborough County, and three new county court judgeships in Orange County.

Article V, section 11 of the Florida Constitution requires the Governor to fill judicial office vacancies by appointment from a list of candidates nominated by a judicial nominating commission<sup>2</sup>, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment.

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<sup>1</sup> National Center for State Courts, *Florida Judicial Workload Assessment Final Report*, Office of the State Courts Administrator (May 16, 2016), <http://www.flcourts.org/core/fileparse.php/558/urlt/Final-Florida-Judicial-Workload-Assessment-Final-report.pdf> (last visited Jan. 9, 2024.)

<sup>2</sup> Article V, section 20, subsection (5) of the Florida Constitution states that each judicial nomination commission shall be composed of nine members. Three members must be appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are actively engaged in the practice of law with offices within the territorial jurisdiction of the affected court, district or circuit. Three electors must reside in the territorial jurisdiction of the court or circuit appointed by the governor. And three of the electors must reside in the territorial jurisdiction of the court or circuit and who are not members of the bar of Florida, selected and appointed by a majority vote of the other six members of the commission.

## Effect of the Bill

The bill establishes one new circuit court judgeship in the Twentieth Judicial Circuit, two new county court judgeships in Hillsborough County, and three new county court judgeships in Orange County.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 26.031, F.S., related to judicial circuits; number of judges.

**Section 2.** Amends s. 34.022, F.S., related to number of county court judges for each county.

**Section 3.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill conforms current law to the proposed Fiscal Year 2024-2025 House of Representatives' General Appropriations Act, which includes \$2,574,402 in General Revenue funding, and authorizes fourteen full-time equivalent positions with associated salary rate of 1,527,297, for the newly established judgeships and associated judicial assistant staffing.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

The cost of county judges and judicial assistants are paid for by the state. Under s. 29.008, F.S., counties are responsible for facilities, security, communications and information technology costs for county courts. The bill could result in additional costs in these areas, to the extent that county courts will be receiving additional judges and associated staff, however, any additional costs associated with the newly established positions can likely be absorbed within existing resources.

### 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 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**



HB 5401

2024

1                                   A bill to be entitled  
2           An act relating to judges; amending ss. 26.031 and  
3           34.022, F.S.; revising the number of circuit court  
4           judges and county court judges, respectively;  
5           providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9           Section 1. Subsection (20) of section 26.031, Florida  
10 Statutes, is amended to read:

11           26.031 Judicial circuits; number of judges.—The number of  
12 circuit judges in each circuit shall be as follows:

13 JUDICIAL CIRCUIT	TOTAL
14       (20) Twentieth.....	<u>32</u> <del>31</del>

15           Section 2. Subsections (28) and (48) of section 34.022,  
16 Florida Statutes, are amended to read:

17           34.022 Number of county court judges for each county.—The  
18 number of county court judges in each county shall be as  
19 follows:

20 COUNTY	TOTAL
21       (28) Hillsborough.....	<u>25</u> <del>23</del>
22       (48) Orange.....	<u>22</u> <del>19</del>

23           Section 3. This act shall take effect July 1, 2024.