



Constitutional Rights, Rule of Law & Government Operations Subcommittee

**January 24, 2024
8:00 AM – 10:30 AM
Sumner Hall (404 HOB)**

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Constitutional Rights, Rule of Law & Government Operations Subcommittee

Start Date and Time: Wednesday, January 24, 2024 08:00 am

End Date and Time: Wednesday, January 24, 2024 10:30 am

Location: Sumner Hall (404 HOB)

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 1211 Review of Advisory Bodies by Botana

HB 1225 Florida Commission on Human Relations by Antone

HB 1331 Commodities Produced by Forced Labor by Yeager

HB 1615 Restrictions on Firearms and Ammunition During Emergencies by Gregory, Sirois

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for HB 1567 -- Qualifications for County Emergency Management Directors

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.

NOTICE FINALIZED on 01/22/2024 3:49PM by Lacher.Tamara

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1211 Review of Advisory Bodies
SPONSOR(S): Botana
TIED BILLS: **IDEN./SIM. BILLS:** SB 276

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee		Poreda	Miller
2) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution creates the separation of powers within state government among the legislative, executive, and judicial branches. The executive branch is organized into different departments and agencies and has the purpose of executing the programs and policies adopted by the Legislature. Current law authorizes the creation of different entities within the executive branch to assist agencies and departments in performing their duties more efficiently and effectively. These advisory bodies can include but are not limited to commissions, committees or task forces, coordinating councils, advisory councils and board of trustees.

The bill requires each executive agency with an adjunct advisory body to upload a report by August 15 of each year to the Florida Fiscal Portal website maintained by the Executive Office of the Governor. The report must include the advisory body's statutory authority, purpose or objective, membership, meeting dates and times for the preceding three fiscal years, a work plan summary for the current and next two fiscal years, the amount of funds appropriated and staff time used each fiscal year, and a recommendation by the agency on whether to continue, terminate, or modify the advisory body.

The bill also requires that the law creating any advisory body after the effective date of the bill include a repeal date wherein the advisory body's authority would be repealed on October 2 of the third year after its enactment, unless saved from repeal through reenactment by the Legislature.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Executive Branch Organization

The executive branch executes the programs and policies adopted in law and makes policy recommendations to the Legislature. The agencies composing the executive branch must be consolidated into no more than 25 departments, exclusive of those specifically provided for or authorized in the State Constitution.¹ Each executive branch department or entity is administered by a specific officer or board, many of which remain under the constitutional executive authority of the Governor, subject to the Governor's oversight, direction, and supervision.²

The organization of the executive branch into 25 departments is intended to achieve maximum efficiency and effectiveness.³ To help agencies perform their duties more efficiently and effectively, Florida law authorizes the creation of different entities within the executive branch.⁴

The advisory bodies, commissions, board of trustees, or any other collegial bodies created by specific statute as an adjunct to an executive agency must follow specific provisions and conditions:

- The advisory body, etc., must be created only when found necessary and beneficial to the furtherance of a public purpose and meets a statutorily defined purpose.⁵
- The body must keep the Legislature and the public informed of its numbers, purpose, membership, activities, and expenses.⁶
- Unless specifically provided for by the Florida Constitution, the advisory board members are appointed to 4-year staggered terms.⁷
- Advisory body members must serve without compensation other than per diem and reimbursement for travel expenses, unless expressly provided otherwise by statute.⁸
- An advisory body, etc., must be terminated by the Legislature when it is no longer necessary and beneficial for a public purpose. The executive agency to which it is made an adjunct must advise the Legislature when it ceases to be essential to the furtherance of a public purpose.⁹
- Members must be appointed by the Governor, the head of a department, the executive director of a department, or a Cabinet officer.¹⁰ Members of a commission or board of trustees must also be confirmed by the Senate and are subject to the dual-office-holding prohibition.¹¹

¹ Art. IV, s. 6, FLA. CONST.; s. 20.02, F.S.

² Art. IV, ss. 1(a) and 6, FLA. CONST.; s. 20.02(3), F.S.

³ S. 20.02(2), F.S.

⁴ S. 20.052, F.S.

⁵ S. 20.052(1), F.S. and S. 20.052(4)(a), F.S.

⁶ S. 20.052(3), F.S.

⁷ S. 20.052(4)(c), F.S.

⁸ S. 20.052(4)(d), F.S.

⁹ S. 20.052(2), F.S.

¹⁰ S. 20.052(5)(a), F.S.

¹¹ S. 20.052(5)(b), F.S. "Dual office holding" means one person simultaneously holding more than one office under state or local governments; this prohibition does not extend to serving on a statutory body with only advisory powers. Art. II, s. 5(a), FLA. CONST.

- All meetings and records of the entity are public, unless an exemption is specifically provided by law.¹²
- Powers and responsibilities of the advisory body must conform with the definitions in statute providing for the organization of the Executive Branch.¹³

Transparency Florida Act

The Transparency Florida Act (Act) mandates the Executive Office of the Governor, in consultation with the appropriations committees of the Senate and the House of Representatives, to establish and maintain a single website that provides access to all other websites that are required by the Act.¹⁴ This single website is now known as “Florida Sunshine”¹⁵ and has external links to the 6 other websites that are also required by the Act which are:

- Transparency Florida (State Finances),¹⁶
- Transparency Florida (State Budget),¹⁷
- Florida Has a Right to Know,¹⁸
- Florida Accountability Contract Tracking System,¹⁹
- Florida Fiscal Portal,²⁰
- Florida Government Program Summaries,²¹

These websites allow Florida citizens to view state budgets, payments, contracts, budget requests and recommendations, appropriation bills, and many other fiscal documents, files and information in order to hold state government accountable.

Effect of the Bill

The bill requires each executive agency with an adjunct advisory body to upload a report by August 15 of each year to the Florida Fiscal Portal website maintained by the Executive Office of the Governor.²² The report must include the following information:

¹² S. 20.052(5)(c), F.S.

¹³ S. 20.052(4)(b), F.S.

¹⁴ S. 215.985(5), F.S.

¹⁵ Executive Office of the Governor, *Florida Sunshine*, available at <http://www.floridasunshine.gov/> (last visited January 10, 2024)

¹⁶ Florida Department of Financial Services, *Transparency*, available at <https://www.myfloridacfo.com/transparency/> (last visited January 10, 2024)

¹⁷ Executive Office of the Governor, *Transparency Florida*, available at <http://www.transparencyflorida.gov/> (last visited January 10, 2024)

¹⁸ Department of Management Services, *Florida Has a Right to Know*, available at <https://www.floridahasarighttoknow.myflorida.com/> (last visited January 10, 2024)

¹⁹ Florida Department of Financial Services, *Florida Accountability Contract Tracking System*, available at <https://facts.fldfs.com/Search/ContractSearch.aspx> (last visited January 10, 2024)

²⁰ Executive Office of the Governor, *Florida Fiscal Portal*, available at <http://floridafiscalportal.state.fl.us/> (last visited January 10, 2024)

²¹ The Office of Program Policy Analysis and Government Accountability, *OPPAGA*, available at <https://oppaga.fl.gov/> (last visited January 10, 2024)

²² The new reporting requirements and timeframe for those requirements required by this bill are similar to those that are currently required for Citizen Support Organizations (CSOs) and Direct-Support Organizations (DSOs). Specifically, CSOs and DSOs created, approved, or administered by an agency are required to report, by August 1 each year, to the appropriate agency the contact information, statutory authority or executive order that created the organization, brief description of the mission and results obtained by the organization, a description of the organization’s plans for the next three fiscal years, copy of the organization’s ethics code, a copy of the organization’s most recent Internal Revenue Service (IRS) Form 990, and attestation, under penalty of perjury, stating that the organization has complied with Florida Law. The agencies who receive this information from CSOs and DSOs are also then required to report, by August 15 of each year, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The agencies are also required to make the information available on their websites to the public. S. 20.058, F.S.

- The statutory authority pursuant to which each advisory body is created.
- A brief description of the purpose or objective of each advisory body.
- A list indicating the membership of the advisory body, the appointing authority for each member position, whether the member positions are filled or vacant, the term of each member position, and if vacant, when the vacancy occurred.
- A list of the meeting dates and times of each advisory body for the preceding three fiscal years.
- A brief summary of the work plan for each advisory body for the current fiscal year and the next two fiscal years.
- The amount of appropriated funds and staff time used in each fiscal year to support each advisory body.
- A recommendation by the agency, with supporting rationale, to continue, terminate, or modify each advisory body.

The bill also requires any law creating or authorizing the creation of an advisory body to include the repeal of the advisory body on October 2 of the third year after enactment. The Legislature may save the advisory body from repeal by reenactment of its authority before the date of repeal.

B. SECTION DIRECTORY:

Section 1. Amends Section 20.052 relating to Advisory bodies, commissions, boards; establishment.

Section 2. Provides for an effective Date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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 Executive Office of the Governor and executive branch agencies with adjunct advisory commissions may incur additional workload and costs meeting the new reporting requirements of this bill and the resulting updates to the website to include the reports required in this bill; however, such

workload and costs should be able to be absorbed within the current resources available for such purposes

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires additional executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 1211

2024

1 A bill to be entitled
2 An act relating to review of advisory bodies; amending
3 s. 20.052, F.S.; requiring certain executive agencies
4 to annually upload a report to a specified website
5 maintained by the Executive Office of the Governor by
6 a specified date; providing requirements for such
7 report; providing that specified provisions are
8 subject to repeal, unless reviewed and saved from
9 repeal by the Legislature within a specified
10 timeframe; providing an effective date.

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

13
14 Section 1. Subsections (7) and (8) are added to section
15 20.052, Florida Statutes, to read:

16 20.052 Advisory bodies, commissions, boards;
17 establishment.—Each advisory body, commission, board of
18 trustees, or any other collegial body created by specific
19 statutory enactment as an adjunct to an executive agency must be
20 established, evaluated, or maintained in accordance with the
21 following provisions:

22 (7) To comply with subsection (3), each executive agency
23 that has an adjunct advisory body must annually upload a report
24 by August 15 to the website maintained by the Executive Office
25 of the Governor pursuant to s. 215.985(5). The report must

26 include all of the following information:

27 (a) The statutory authority pursuant to which each
28 advisory body is created.

29 (b) A brief description of the purpose or objective of
30 each advisory body.

31 (c) A list indicating the membership of each advisory
32 body, the appointing authority for each member position, whether
33 the member positions are filled or vacant, the term of each
34 member position, and, if vacant, when the vacancy occurred.

35 (d) A list of the meeting dates and times of each advisory
36 body for the preceding 3 fiscal years.

37 (e) A brief summary of the work plan for each advisory
38 body for the current fiscal year and the next 2 fiscal years.

39 (f) The amount of appropriated funds and staff time used
40 in each fiscal year to support each advisory body.

41 (g) A recommendation by the agency, with supporting
42 rationale, to continue, terminate, or modify each advisory body.

43 (8) A law creating, or authorizing the creation of, an
44 advisory body must provide for the repeal of the advisory body
45 on October 2 of the third year after enactment unless the law is
46 reviewed and saved from repeal through reenactment by the
47 Legislature.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1225 Florida Commission on Human Relations

SPONSOR(S): Antone

TIED BILLS: **IDEN./SIM. BILLS:** SB 1296

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee		Poreda	Miller
2) Civil Justice Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Civil Rights Act of 1992 (FCRA) was enacted to “secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status...” in employment and public accommodations. The FCRA also created the Florida Commission on Human Relations (Commission) to promote and encourage the purposes of the FCRA.

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings on, and act on complaints alleging any discriminatory practice. Any person may file with the commission a complaint of an alleged violation. The Commission must send a copy of the complaint to the person who allegedly committed the violation by registered mail with 5 days. The Commission must investigate the allegations in a complaint and determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the FCRA. After a determination is made, the Commission must notify, by registered mail, both the complainant and the respondent of the decision.

The bill maintains the notification requirement for complaints being filed with the Commission and reasonable cause determinations made by the Commission, but removes the requirement that those notifications be sent via registered mail.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Civil Rights Act of 1964¹

Title II of the Civil Rights Act of 1964 (Title II) prohibits discrimination on the basis of race, color, religion, or national origin in certain places of public accommodation, such as hotels, restaurants, and places of entertainment. Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex. Title VII applies to employers with 15 or more employees² and outlines a number of unlawful employment practices.

Florida Civil Rights Act of 1992³

Patterned after Title II and Title VII, the Florida Civil Rights Act of 1992 (FCRA) was enacted to “secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status...”⁴ in employment and public accommodations.⁵ Similar to Title VII, the FCRA provides a number of actions that, if undertaken because of or on the basis of an individual's race, color, religion, sex, national origin, age, handicap, or marital status, are considered unlawful employment practices.⁶

Florida Commission on Human Relations

The FCRA also created the Florida Commission on Human Relations (Commission) to promote and encourage the purposes of the FCRA.⁷ The Commission is housed in the Department of Management Services (DMS), however DMS does not exercise any control, supervision, or direction over the Commission.

The Commission is comprised of 12 individuals who are appointed by the Governor and confirmed by the Senate.⁸ Commissioners are appointed to 4 year terms⁹ and select one of its members to serve as chairperson for a term of 2 years.¹⁰ The membership of the Commission must be broadly

¹ 42 U.S.C. §2000a *et seq.*; 42 U.S.C. §2000e *et seq.*

² 42 U.S.C. §2000e(b)

³ s. 760.01(1), F.S.

⁴ s. 760.01(2), F.S.

⁵ “Public accommodations” means places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. s. 760.02(11), F.S.

⁶ Actions considered unlawful employment practices include but are not necessarily limited to, failing to hire an individual, or otherwise discriminating against an individual with respect to compensation, terms, conditions, or privileges of employment; limiting, segregating, or classifying employees or applicants for employment in ways that would deprive such individuals of employment opportunities or adversely affect an individual's status as an employee; failing or refusing to refer an individual for employment; excluding or expelling an individual from membership in a labor organization or limiting, segregating, or classifying the membership of a labor organization; discriminating in admission to, or employment in, any program established to provide apprenticeship or other training for a profession, occupation, or trade; discriminating in licensing, certification, credentials, examinations, or an organizational membership required to engage in a profession, occupation, or trade; and printing or publishing ads related to membership in certain labor organizations or employment that indicate a preference, limitation, specification, or discrimination. s. 760.10, F.S.

⁷ S. 760.05, F.S.

⁸ S. 760.03(1), F.S.

⁹ *Id.*

¹⁰ S. 760.03(3), F.S.

representative of various racial, religious, ethnic, social, economic, political, and professional groups in Florida and at least one member of the Commission must be 60 years of age or older.¹¹

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings on, and act on complaints alleging any discriminatory practice, as defined by the FCRA.¹² In order to conduct investigations and hearings regarding complaints brought under the Act, The Commission may issue subpoenas, administer oaths or affirmations to compel testimony of witnesses or for the production of relevant information.¹³

Any person may file a complaint with the commission within 365 days of an alleged violation of the FCRA containing a short and plain statement of the facts describing the violation, the relief sought, and the employer, agency, organization, or person who allegedly committed the violation.¹⁴ Within five days of the complaint being filed, the Commission must send a copy of the complaint to the person who allegedly committed the violation, by registered mail. That person then, in turn, may file an answer to the complaint within 25 days of the date the complaint was filed with the Commission.¹⁵

The Commission must investigate¹⁶ the allegations in a complaint and within 180 days to determine if there is reasonable cause to believe that discriminatory practice had occurred in violation of the FCRA.¹⁷ After a determination is made¹⁸ on whether or not there is reasonable cause for a violation of the FCRA, the Commission must notify, by registered mail, both the aggrieved person and the respondent of the reasonable cause determination, the date of such determination, and the options available to either party.¹⁹

If the Commission finds reasonable cause that a violation of the FCRA has occurred, the aggrieved person may either bring a civil action against the person named in the complaint in any court of competent jurisdiction²⁰, or request an administrative hearing under Ch. 120, F.S.²¹ If the commission determines that there is not reasonable cause that a violation of the FCRA has occurred, the commission shall dismiss the complaint.²² The aggrieved person may request an administrative hearing but such request must be made within 35 days of the date of determination of reasonable cause and any such hearing shall be heard by an administrative law judge and not by the Commission.²³

Registered Mail

Registered mail is the most secure mail service offered by the United States Postal Service (USPS).²⁴ It is protected by safes, cages, sealed containers, locks, and keys while in the custody of the USPS. A

¹¹ S. 760.03(2), F.S.

¹² S. 760.06(5), F.S.

¹³ S. 760.06(6), F.S.

¹⁴ S. 760.11(1), F.S.

¹⁵ *Id.*

¹⁶ If any other agency of the state or of any other unit of government of the state has jurisdiction of the subject matter of any complaint filed with the Commission and has legal authority to investigate the complaint, the Commission may refer such complaint to such agency for an investigation. s. 760.11(2)

¹⁷ S. 760.11(3), F.S.

¹⁸ If the Commission fails to determine whether there is reasonable cause on any complaint within 180 days after the filing of the complaint, the aggrieved person may proceed as if the Commission determined that there was reasonable cause for the complaint. The Commission must notify the aggrieved person of the failure to determine whether there is reasonable cause and provide the options available to the aggrieved person and that he or she must file a civil action within 1 year after the date the Commission certifies that the notice was mailed. s. 760.11(8), F.S.

¹⁹ S. 760.11(3)

²⁰ S. 760.11(4), F.S. and S. 760.11(5), F.S.

²¹ S. 760.11(4), F.S. and S. 760.11(6), F.S.

²² S. 760.11(7), F.S.

²³ *Id.*

²⁴ United States Postal Service, *Registered Mail® - The Basics*, available at <https://faq.usps.com/s/article/Registered-Mail-The-Basics> (Last Visited January 19, 2024)

system of receipts is provided to monitor movement of registered mail from the point of acceptance to delivery, but tracking services while the mail is en route to the destination is not provided. Mailers using registered mail can direct delivery only to the addressee or addressee's authorized agent and requires a signature upon delivery. USPS employees are not permitted to help customers prepare or seal registered mail. Any envelope or package that appears to have been opened and resealed, or otherwise improperly prepared, may not be sent via registered mail.²⁵

Effect of the Bill

The bill maintains the notification requirement for complaints being filed with the Commission and reasonable cause determinations by the Commission, but removes the requirement that those notifications be sent via registered mail.

The bill also makes other technical clarifying changes.

B. SECTION DIRECTORY:

Section 1. Amends s. 760.11, F.S., relating to administrative and civil remedies; construction..

Section 2. 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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

²⁵ *Id.*

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 1225

2024

1 A bill to be entitled
2 An act relating to the Florida Commission on Human
3 Relations; amending s. 760.11, F.S.; removing the
4 requirement that the Florida Commission on Human
5 Relations send certain information to certain persons
6 by registered mail; making technical changes;
7 providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Subsections (1) and (3) of section 760.11,
12 Florida Statutes, are amended to read:

13 760.11 Administrative and civil remedies; construction.—

14 (1) Any person aggrieved by a violation of ss. 760.01-
15 760.10 may file a complaint with the commission within 365 days
16 after ~~of~~ the alleged violation, naming the employer, employment
17 agency, labor organization, or joint labor-management committee,
18 or, in the case of an alleged violation of s. 760.10(5), the
19 person responsible for the violation and describing the
20 violation. Any person aggrieved by a violation of s. 509.092 may
21 file a complaint with the commission within 365 days after ~~of~~
22 the alleged violation naming the person responsible for the
23 violation and describing the violation. The commission, a
24 commissioner, or the Attorney General may in like manner file
25 such a complaint. On the same day the complaint is filed with

26 | the commission, the commission shall clearly stamp on the face
 27 | of the complaint the date the complaint was filed with the
 28 | commission. In lieu of filing the complaint with the commission,
 29 | a complaint under this section may be filed with the federal
 30 | Equal Employment Opportunity Commission or with any unit of
 31 | government of the state which is a fair-employment-practice
 32 | agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
 33 | complaint is filed is clearly stamped on the face of the
 34 | complaint, that date is the date of filing. The date the
 35 | complaint is filed with the commission for purposes of this
 36 | section is the earliest date of filing with the Equal Employment
 37 | Opportunity Commission, the fair-employment-practice agency, or
 38 | the commission. The complaint must ~~shall~~ contain a short and
 39 | plain statement of the facts describing the violation and the
 40 | relief sought. The commission may require additional information
 41 | to be in the complaint. The commission, within 5 days after ~~of~~
 42 | the complaint being filed, shall ~~by registered mail~~ send a copy
 43 | of the complaint to the person who allegedly committed the
 44 | violation. The person who allegedly committed the violation may
 45 | file an answer to the complaint within 25 days after ~~of~~ the date
 46 | the complaint was filed with the commission. Any answer filed
 47 | must ~~shall~~ be mailed to the aggrieved person by the person
 48 | filing the answer. Both the complaint and the answer must ~~shall~~
 49 | be verified.

50 | (3) Except as provided in subsection (2), the commission

HB 1225

2024

51 shall investigate the allegations in the complaint. Within 180
52 days after ~~of~~ the filing of the complaint, the commission shall
53 determine if there is reasonable cause to believe that
54 discriminatory practice has occurred in violation of the Florida
55 Civil Rights Act of 1992. When the commission determines whether
56 ~~or not~~ there is reasonable cause, the commission ~~by registered~~
57 ~~mail~~ shall promptly notify the aggrieved person and the
58 respondent of the reasonable cause determination, the date of
59 such determination, and the options available under this
60 section.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1331 Commodities Produced by Forced Labor

SPONSOR(S): Yeager

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee		Poreda	Miller
2) State Administration & Technology Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida law requires state agencies that wish to procure commodities or contractual services in excess of \$35,000 to use a competitive solicitation process. Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods: invitation to bid, request for proposals, or invitation to negotiate.

Any vendor that wishes to provide goods or services to the state must register in the Vendor Registration System. The Department of Management Services (DMS) maintains a vendor list based on the vendor registration process and has been granted authority to remove from its vendor list any source of supply that fails to fulfill any of its duties specified in a contract. DMS also maintains lists of disqualified, scrutinized or removed vendors.

The term "forced labor" has been defined by the United States (U.S.), as part of the Tariff Act of 1930 (Act), to mean "all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, including forced or indentured child labor. The Act also prohibits importing any product into the U.S. that was mined, produced, or manufactured wholly or in part by forced labor, with some limited exceptions.

The bill directs DMS to create and maintain the "Forced Labor Vendor List" of companies who have provided to an agency a commodity produced, in whole or in part, by forced labor.

The bill prohibits vendors from submitting a bid, proposal, or reply to an agency, or entering into or renewing a contract to provide goods or services to an agency, after its placement on the forced labor vendor list and agencies may not accept a bid, proposal, or reply from, or enter into or renew any contract with, a vendor that is on the forced labor vendor list.

The bill may have an indeterminate but neutral fiscal impact. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Government Contracting and Procurement

The Department of Management Services (DMS) is statutorily designated as the primary state agency overseeing procurement.¹ Its responsibilities include creating uniform agency procurement rules,² implementing the online procurement program,³ and procuring state term contracts.⁴ DMS also is responsible for registering vendors that wish to provide goods or services to the state⁵ and maintaining lists of vendors who may not submit bids, proposals, or replies to agency solicitations.⁶

Florida law creates the procurement and contracting procedures for most state agencies.⁷ In general, the law requires the use of a competitive solicitation⁸ process when agencies wish to procure commodities or contractual services that cost more than \$35,000,⁹ with certain exceptions.¹⁰ Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods:

- Invitation to bid (ITB) — An agency must use an ITB when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required.¹¹
- Request for proposals (RFP) — An agency must use an RFP when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables.¹²
- Invitation to negotiate (ITN) — An ITN is a solicitation used by an agency that is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the agency may negotiate in order to receive the best value.¹³

¹ See ss. 287.032 and 287.042, F.S.

² See ss. 287.032(2) and 287.042(3), (4), and (12), F.S.

³ See s. 287.057(24), F.S.

⁴ See ss. 287.042(2) and 287.056, F.S.

⁵ See ss. 287.032 and 287.042, F.S.; see also Department of Management Services, *Vendor Registration and Vendor Lists*, https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists (last visited January 19, 2024).

⁶ Ss. 287.1351, 287.133, 287.134, and 287.137, F.S.

⁷ See ch. 287, F.S. “Agency” means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges. S. 287.012(1), F.S.

⁸ “Competitive solicitation” means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement. S. 287.012(6), F.S.

⁹ S. 287.057, F.S. \$35,000 is the minimum threshold for Category 2 purchases, one of four purchasing categories. See s.287.017, F.S.

¹⁰ See s. 287.057(3)(e), F.S.

¹¹ S. 287.057(1)(a), F.S.

¹² S. 287.057(1)(b), F.S.

¹³ S. 287.057(1)(c), F.S.

A competitive solicitation for contractual services in excess of \$35,000 must be evidenced by a written agreement (contract) embodying all provisions and conditions of the procurement.¹⁴ The contract must include, but not be limited to, provisions on the following:

- Bills for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper preaudit and postaudit of such items;¹⁵
- Bills for any travel expenses be submitted in accordance with the law on per diem and travel expenses of public officers, employees, or authorized persons;¹⁶
- Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt;¹⁷
- Specifying a scope of work clearly establishing all tasks the contractor is required to perform;¹⁸
- Dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment;¹⁹
- Specifying the performance criteria and the final date by which such criteria must be met for completion of the contract;²⁰
- Specifying the conditions that must be met for a renewal of the contract, including, but not limited to:²¹
 - The contract may be renewed for a period not exceeding three years or the term of the original contract, whichever is longer;
 - The renewal price for the contractual service as set forth in the bid, proposal, or reply;
 - Specifying that contract renewals are contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds;
- Specifying the financial consequences if the contractor fails to perform in accordance with the contract;²² and
- Addressing the property rights of any intellectual property related to the contract and the specific rights of the state regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.²³

The contract must be signed by the agency head or designee and the contractor before the rendering of any contractual service in excess of \$35,000.²⁴ The Chief Financial Officer (CFO) may waive the contracting requirements for the procurement of certain specified commodities or services, unless otherwise provided in the annual General Appropriations Act (GAA) or the substantive bill implementing the GAA.²⁵ A contract may not prohibit a contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding any contract to which the contractor and a state agency are parties, after contract execution and during the contract term.²⁶ Each public agency contract for services must authorize the public agency to inspect the following records within 10 days after the agency makes a request:²⁷

¹⁴ S. 287.058(1), F.S., provides an exception for the written agreement for contractual services that provide health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or provide other benefits as required by ch. 440, F.S.

¹⁵ S. 287.058(1)(a), F.S.

¹⁶ S. 287.058(1)(b), F.S.

¹⁷ S. 287.058(1)(c), F.S.

¹⁸ S. 287.058(1)(d), F.S.

¹⁹ S. 287.058(1)(e), F.S.

²⁰ S. 287.058(1)(f), F.S.

²¹ S. 287.058(1)(g), F.S.

²² S. 287.058(1)(h), F.S.

²³ S. 287.058(1)(i), F.S.

²⁴ S. 287.058(2), F.S.

²⁵ S. 287.058(5), F.S., incorporates s. 287.057(3)(e), F.S., which lists 13 specific types of commodities or services for which the contracting requirement may be waived, including, for example, artistic services, lectures by individuals, certain health services, family placement services, and services or commodities provided by governmental entities.

²⁶ S. 287.058(6), F.S.

²⁷ S. 216.1366(1), F.S.

- Financial records, papers, and documents of the contractor that are directly related to the performance of the contract or the expenditure of state funds.²⁸
- Programmatic records, papers, and documents of the contractor that the public agency determines are necessary to monitor the performance of the contract or to ensure that the terms of the contract are being met.²⁹

Vendors

Vendors seeking to provide goods or services to the state must register in the Vendor Registration System. In order to register, a vendor must provide its company name, federal tax identification number, tax filing name, business location, commodities and services offered, and certified business and enterprise status. Once registered, vendors are able to do business with the State of Florida executive branch agencies through the Vendor Information Portal (VIP). The VIP is designed to streamline interactions with vendors and state government entities that purchase goods and services. The system provides a portal where vendors can complete the registration process, receive information on upcoming bids, post information on products and services they can provide, receive purchase orders, view payment information, and review their performance.³⁰

The Vendor Bid System (VBS) allows agencies to post competitive solicitations of \$35,000 or more for all vendors to review. Vendors can then bid, submit proposals, or submit a request to negotiate with the agency through the VBS, and be notified if their bid has been chosen.³¹

DMS Vendor Lists

DMS maintains a vendor list based on the vendor registration process,³² and may remove from the vendor list any source of supply that fails to fulfill any of its duties specified in a contract.³³ DMS also maintains the following lists of disqualified, scrutinized, or removed vendors:

- Suspended Vendor List;³⁴
- Convicted Vendor List;³⁵
- Discriminatory Vendor List;³⁶
- Antitrust Violator Vendor List;³⁷ and
- Scrutinized List of Prohibited Companies.³⁸

Suspended Vendor List

DMS maintains a list of vendors that have been removed from the vendor list for failing to fulfill any duties specified in their contracts with the state.³⁹ If a vendor fails to perform the duties provided in the vendor's contract, the agency must notify DMS if the vendor meets the grounds for suspension and provide documentation.⁴⁰ If DMS determines good cause exists to remove the vendor, DMS must then

²⁸ S. 216.1366(1)(a), F.S.

²⁹ S. 216.1366(1)(b), F.S.

³⁰ The Department of Management Services, *Vendor Resources*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, January 18, 2024).

³¹ *Id.*

³² S. 287.042, F.S. See also The Department of Management Services, *Vendor Resources*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, January 18, 2024).

³³ S. 287.042(1)(b), F.S.

³⁴ S. 287.1351, F.S.

³⁵ S. 287.133, F.S.

³⁶ S. 287.134, F.S.

³⁷ S. 287.137, F.S.

³⁸ S. 287.135, F.S.

³⁹ S. 287.1351, F.S. See *Vendor Registration and Vendor Lists*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists (last visited January 18, 2024).

⁴⁰ S. 287.1351(2), F.S.

notify the vendor in writing of its intent to remove the vendor from the vendor list and of the vendor's right to file a petition for an administrative hearing.⁴¹ A vendor on the suspended vendor list is not eligible to receive a contract from any agency until the vendor is removed from the suspended vendor list.⁴² A vendor placed on the suspended vendor list must wait at least one year before it may file a petition with DMS for removal from the suspended vendor list.⁴³ If a petition for removal is denied, the vendor must wait at least nine months after the date of the denial before petitioning for another hearing. DMS may petition for a suspended vendor's removal before the expiration of such period if, in the discretion of DMS, removing that vendor from the suspended vendor list would be in the public interest.⁴⁴

Currently, five vendors are on the Suspended Vendor List.⁴⁵

Convicted Vendor List

DMS has a list of vendors who have been disqualified from the public contracting and purchasing process due to conviction for a public entity crime.⁴⁶ A vendor who has been placed on the convicted vendor list may not submit a bid, proposal, or reply on a contract to provide goods or services to a public entity, and a public entity may not accept any bid, proposal, or reply from, award any contract to, or contract any business with, a vendor on the convicted vendor list.⁴⁷

After receiving information that a vendor has been convicted of a public entity crime, DMS must investigate and determine whether good cause exists to place the vendor on the convicted vendor list. If good cause exists, DMS must provide written notification to the vendor of its intent to place that vendor on the convicted vendor list and of the vendors' legal rights. If the vendor does not request an administrative hearing, DMS must enter a final order placing the vendor on the convicted vendor list.⁴⁸

A vendor placed on the convicted vendor list may petition for removal from the list no sooner than six months from the date of the final order placing the vendor on that list. A vendor's removal is subject to such conditions as may be prescribed by the administrative law judge (ALJ) upon a determination that removal from the list is in the public interest. If a petition for removal is denied, the vendor may not petition for another hearing on removal for a period of nine months after such denial, unless the petition is based upon a reversal of the conviction on appellate review or a pardon. DMS may petition for removal prior to the expiration of such period if, in its discretion, it determines that removal would be in the public interest.⁴⁹

Currently, there are no vendors on the Convicted Vendor List.⁵⁰

⁴¹ S. 287.1351(3), F.S.

⁴² S. 287.1351(2)(b), F.S.

⁴³ S. 287.1351(5)(a), F.S.

⁴⁴ S. 287.1351(5)(b), F.S.

⁴⁵ Department of Management Services, *Suspended Vendor List*, available at

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/suspended_vendor_list (last visited January 18, 2024).

⁴⁶ S. 287.133, F.S. The term "public entity" means the State of Florida, any of its departments or agencies, or any political subdivision.

S. 287.133(1)(f), F.S. The term "public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation. S. 287.133(1)(g), F.S.

⁴⁷ S. 287.133(2)(b), F.S.

⁴⁸ S. 287.133(3)(e), F.S.

⁴⁹ *Id.*

⁵⁰ Department of Management Services, *Convicted Vendor List*, Available at

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/convicted_vendor_list (last visited January 19, 2024)

Discriminatory Vendor List

DMS maintains a list of entities that have been disqualified from participating in the state contracting and purchasing process due to a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion.⁵¹ An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity.⁵²

The investigative and administrative process for discriminatory vendors is the same as that described above for the convicted vendor list, including the removal process and specified timelines.⁵³

Currently, there are no vendors on the Discriminatory Vendor List.⁵⁴

Antitrust Violator Vendor List

DMS maintains a list of entities disqualified from the public contracting and purchasing process following a conviction or being held civilly liable for an antitrust violation.⁵⁵ An entity or affiliate placed on the antitrust violator vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity.⁵⁶

The investigative and administrative process for discriminatory vendors is the same as that described above for the convicted vendor list, including the removal process and specified timelines.⁵⁷

Currently, there are no vendors on the Antitrust Violator Vendor List.⁵⁸

Scrutinized List of Prohibited Companies

The Florida State Board of Administration is charged with maintaining a complete list of scrutinized companies.⁵⁹ A company is prohibited from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local government entity for goods or services of any amount if the company is on the Scrutinized Companies that Boycott Israel List.⁶⁰ Companies are prohibited from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local government entity for goods or services of \$1 million or more if the company is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List.⁶¹

There are currently 70 companies on the Scrutinized List of Prohibited Companies as of December 19, 2023.⁶²

⁵¹ S. 287.134(3)(c), F.S.

⁵² S. 287.134(2)(a), F.S.

⁵³ S. 287.134(3)(e), F.S.

⁵⁴ Department of Management Services, *Discriminatory Vendor List*, available at

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/discriminatory_vendor_list (last visited January 19, 2024).

⁵⁵ S. 287.137(3)(b), F.S.

⁵⁶ S. 287.137(2)(a), F.S.

⁵⁷ S. 287.137(3), F.S.

⁵⁸ Department of Management Services, *Antitrust Violator Vendor List*, available at

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/antitrust_violator_vendor_list (last visited January 19, 2024).

⁵⁹ S. 215.473, F.S.

⁶⁰ S. 287.135(2), F.S.

⁶¹ S. 287.135(2)(b)1., F.S.

⁶² Florida State Board of Administration, *Protecting Florida's Investments Act (PFIA) and the Global Governance Mandates Quarterly Report*, available at

https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Quarterly/2023_12_19_Web_Update_PFIA_Prohibited_List.pdf?ver=2023-12-19-122502-633 (last visited January 18, 2024)

Forced Labor

The term “forced labor” is defined by the United States (U.S.), as part of the Tariff Act of 1930 (Act), to mean “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, including forced or indentured child labor.”⁶³ The Act also prohibits importing any product into the U.S. that was mined, produced, or manufactured wholly or in part by forced labor, with some limited exceptions.⁶⁴

On June 12, 1999, President Clinton signed an executive order titled Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor.⁶⁵ The Executive Order stated that all “executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.” In 2000, Congress passed The Trafficking Victims Protection Act (TVPA)⁶⁶ and included forced labor in its definition of human trafficking⁶⁷. The TVPA was subsequently reauthorized.⁶⁸ In 2005 the Act directed the Department of Labor, Bureau of International Labor Affairs (ILAB), to maintain a list of goods and their source countries which ILAB had reason to believe are produced by child labor or forced labor.⁶⁹ As of September 28, 2022, there are 159 goods from 78 countries and areas on the list.⁷⁰

Florida Law includes the term “forced labor” within the context of human trafficking, finding that that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.⁷¹ Human trafficking occurs in many forms of labor exploitation including domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.⁷²

A person who knowingly, or in reckless disregard of the facts, engages in or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participating in a venture that has subjected a person to human trafficking for labor⁷³ or services⁷⁴ by coercing⁷⁵ an adult, commits a first-degree felony.⁷⁶

⁶³ 19 U.S.C. § 1307

⁶⁴ *Id.*

⁶⁵ E.O. 13126, 64 C.F.R. 32383 (1999).

⁶⁶ Pub. L. No. 106-386.

⁶⁷ 22 U.S.C. §7102

⁶⁸ The Trafficking Victims Protection Act was reauthorized as the Trafficking Victims Protection Reauthorization Act in 2003, 2005, 2008, 2013, 2017, and 2018. 22 U.S.C. Ch. 78.

⁶⁹ 22 U.S.C. §7112(b)(2)(C)

⁷⁰ Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, available at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods-print> (last visited January 18, 2024)

⁷¹ S. 787.06(1)(a), F.S.

⁷² S. 787.06(1)(b), F.S.

⁷³ “Labor” means work of economic or financial value. S. 787.06(2)(e), F.S.

⁷⁴ “Services” means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs. S. 787.06(2)(h), F.S.

⁷⁵ “Coercion” means using or threatening to use force against a person, restraining, isolating, or confining a person without lawful authority and against his or her will, or threatening to do so, using lending or other credit methods to establish a debt by a person when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or services is not applied toward the liquidation of the debt, destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, other immigration document, or government identification document, Causing or threatening to cause financial harm, Enticing or luring a person by fraud or deceit, or providing a schedule I or II controlled substance to a person for the purpose of exploiting that person. S. 787.06(2)(a), F.S.

⁷⁶ S. 787.06(3)(a)2., (b), (c)2., (d), (e)2., and (f)2., F.S. A first-degree felony is punishable by up to 30 years’ imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.; or *see s.* 775.084, F.S. (applies to violent career criminals, habitual felony offenders, habitual violent felony offenders, and three-time violent felony offenders).

Effect of the Bill

The bill directs DMS to create and maintain the "forced labor vendor list" of companies who have provided to an agency a commodity produced, in whole or in part, by forced labor, including the name and address of each disqualified company. The bill defines the term "forced labor" as work or service exacted from any person, including a minor, under the menace of a penalty for nonperformance and for which the worker does not offer himself or herself voluntarily or an activity that violates s. 787.06, F.S., the statute prohibiting human trafficking.

All invitations to bid, requests for proposals, invitations to negotiate, and written contracts for the provision of commodities must inform the contracting companies of the requirements of this new section of law. Contracts for the provision of commodities entered into or renewed after July 1, 2024, must include an express provision allowing for the termination of the contract if the contracting company is placed on the forced labor vendor list. At the time a company submits a bid, proposal, or reply for the provision of commodities, a member of the company's senior management must certify, in writing, that to the best of his or her knowledge the commodities the company is providing to the agency have not been produced, in whole or in part, by forced labor. The bill defines "senior management" to include chief executive officers, assistant chief executive officers, including, but not limited to, assistant presidents, vice presidents, or assistant treasurers, chief financial officers, chief personnel officers, or any employee of an entity performing similar functions.

A company gaining actual knowledge that a commodity it provided to a contracting agency was produced in whole or in part by forced labor must notify DMS within 30 days. Agencies receiving information that a company providing a commodity in whole or in part by forced labor must notify DMS in writing within 10 days.

Upon receiving from any source reasonable and credible information that a company submitted a false certification or provided an agency with a commodity produced, wholly or in part, by forced labor, DMS must investigate and determine whether good cause exists to place the company on the forced labor vendor list and whether such placement is in the public interest. The bill provides the following specific guidance on when placing a company on the forced labor vendor list is not in the public interest:

- The company did not provide a commodity produced, wholly or in part, by forced labor;
- Providing an agency with a commodity produced, wholly or in part, by forced labor was committed by a company employee without the actual or constructive knowledge of the company's senior management;
- The member of the company's senior management responsible for the contract under which the company provided the commodity produced, wholly or in part, by forced labor did not have actual or constructive knowledge, and could not have reasonably had such knowledge, that the commodity was so produced;
- The member of the company's senior management responsible for the contract under which the commodity was produced, wholly or in part, by forced labor is no longer employed by the company; or
- For a contract with an agency under the Governor, the Governor makes a public finding that the agency cannot obtain the commodities absent provision of such commodities by the

company.(If the contract is with an agency under a state constitutional officer,⁷⁷ that officer makes a similar finding for that agency.)

Absent one of the foregoing specific conditions, DMS must consider the following factors in determining whether placing the company on the forced labor vendor list is in the public interest:

- The nature and details of the provision of the commodity produced, wholly or in part, by forced labor;
- The company's degree of culpability;
- Prior or future self-policing efforts by the company to prevent providing commodities produced, wholly or in part, by forced labor;
- The company's compliance with the reporting requirements upon discovering a provided commodity was produced, wholly or in part, by forced labor;
- The needs of agencies for additional competition in procuring commodities; and
- Mitigation efforts by the company, including adopting a plan to cease producing or providing commodities produced, wholly or in part, by forced labor.

If DMS determines good cause exists to place the company on the forced labor vendor list and that placement is in the public interest, the bill requires that DMS notify the company in writing of the intent to place the company on the list, of the company's right to a hearing, the hearing procedure, and applicable time requirements. Within 21 days the company may challenge placement on the list and request an administrative hearing based on disputed issues of material fact.⁷⁸ With the following exceptions, ch. 120, F.S., applies to any such hearings:

- The petition is filed with DMS, which is a party for all purposes.
- DMS must notify the Division of Administrative Hearings (DOAH) within five days after the petition is filed. The director of DOAH must assign an administrative law judge (ALJ) to the proceedings within five days after receiving notice from DMS.
- The ALJ must conduct the hearing on the petition within 30 days after being assigned unless the parties stipulate otherwise.
- The ALJ must enter the final order within 30 days after the hearing or receipt of the hearing transcript, whichever is later, determining whether the company is placed on the forced labor vendor list. The final order by the ALJ is subject to appeal to the appropriate district court of appeal.

In any hearing determining whether a company should be placed on the forced labor vendor list, DMS must prove by clear and convincing evidence that the placement is in the public interest. If DMS meets this burden of proof and establishes its case, the company may rebut this presumption by proving by a preponderance of evidence that its placement on the list is not in the public interest. If the company does not request a hearing, DMS shall enter the final order placing the company on the forced labor vendor list.

The bill prohibits a vendor on the forced labor vendor list from submitting a bid, proposal, or reply to an agency, or entering into or renewing a contract to provide goods or services to an agency. Agencies may not accept a bid, proposal, or reply from, or enter into or renew any contract with, a company that is on the forced labor vendor list for 365 days after the date of the order placing the company on the list, unless the company is removed from the list.

Companies submitting a false certification or that should have known a commodity provided under a contract with an agency was produced, in whole or in part, by forced labor, and is subsequently placed on the forced labor vendor list, may be assessed a fine of \$1,000 or an amount equal to 20 percent of

⁷⁷ The Lt. Governor, Attorney General, Chief Financial Officer, or the Commissioner of Agriculture. Art. IV, ss. 2, 4(a), Fla. Const.

⁷⁸ Under the bill, companies may not respond and request a hearing under s. 120.57(2), F.S., that does not involve disputed issues of fact.

the value of the commodity provided under the contract, whichever is greater. All fines collected shall be deposited into the General Revenue Fund.

DMS must review the documentation submitted by an agency and decide whether good cause exists to remove the vendor from the vendor list and to place it on the forced labor vendor list if it is in the public interest. DMS must notify the vendor in writing of its intent to remove the vendor from the vendor list and of the vendor's right to an administrative hearing, as well as the applicable procedures and time requirements for any such hearing. The ALJ may remove a vendor from the suspended vendor list if the ALJ determines it would be in the public interest.

A company placed on the forced labor vendor list may petition for removal from the list no sooner than six months after the date of the final order placing the company on the list. The bill applies the same hearing procedures to a petition for removal from the list as apply to a petition challenging initial placement on the list. If a petition for removal is denied, the company may not petition for another hearing for a period of nine months after the date of denial. DMS may petition for the company to be removed before that time if the department determines that removal would be in the public interest.

Placement on the forced labor vendor list does not affect rights under any contract, franchise, or other binding agreement predating such placement. DMS must update and publish on its website the forced labor vendor list quarterly.

B. SECTION DIRECTORY:

Section 1: Creates 287.1346 relating to the provision of commodities produced by forced labor; denial or revocation of the right to transact business with agencies.

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:

The bill may have an indeterminate but insignificant positive fiscal impact by fees collected under the act.

DMS will incur increased workload for the oversight and management for maintaining and administering the forced labor vendor list.

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:

The bill neither provides authority for nor requires additional rulemaking by executive branch agencies

C. DRAFTING ISSUES OR OTHER COMMENTS:

At lines 62 through 66, the bill states agencies may not do business with a company on the forced labor vendor list, or an entity under control of such company, for 365 days from the date the company is placed on the list. The bill does not provide whether the company is removed from the list at the end of 365 days. At line 227, the bill provides a company may petition for removal from the list no earlier than six months from the date of the final order placing it on the list. At line 242, the bill prohibits a company whose petition for removal is denied from petitioning for another hearing for nine months after the date of the denial. It is unclear whether this nine-month period retains the company on the forced labor vendor list longer than the 365-day period after which agencies otherwise would be able to resume procuring commodities from the company. There is also an inconsistency in that after the 365 day period, agencies can begin accepting may start doing business with companies again. However, if those companies still remain on the list after 365 days, those same companies would be prohibited from transacting any business for commodities with an agency.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to commodities produced by forced
3 labor; creating s. 287.1346, F.S.; providing
4 definitions; prohibiting a company on the forced labor
5 vendor list from taking certain procurement actions;
6 prohibiting an agency from procuring commodities from
7 certain companies for a certain period; requiring
8 certain solicitations and contracts to include a
9 certain statement; requiring certain contracts to
10 include a certain termination provision; requiring a
11 member of a company's senior management to provide a
12 certain certification; requiring a company to provide
13 a certain notification to the Department of Management
14 Services within a certain period; requiring an agency
15 to provide certain information to the department
16 within a certain period; requiring the department to
17 create and maintain a forced labor vendor list;
18 providing requirements for such list; providing a
19 process for the department to place a company on such
20 list; subjecting a company that submits a false
21 certification or that should have had certain
22 knowledge to a fine; authorizing a company that
23 receives certain notice to file a petition for a
24 certain hearing; providing requirements and procedures
25 for such hearings; providing evidentiary standards for

26 certain proceedings; authorizing a company placed on
 27 such list to petition for removal; providing
 28 requirements for such petitions; authorizing the
 29 removal of a company from such list in certain
 30 circumstances; providing construction; requiring the
 31 deposit of collected fines into the General Revenue
 32 Fund; providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Section 287.1346, Florida Statutes, is created
 37 to read:

38 287.1346 Provision of commodities produced by forced
 39 labor; denial or revocation of the right to transact business
 40 with agencies.-

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

42 (a) "Forced labor" means work or service exacted from any
 43 person, including a minor, under the menace of a penalty for
 44 nonperformance and for which the worker does not offer himself
 45 or herself voluntarily or an activity that violates s. 787.06.

46 (b) "Forced labor vendor list" or "list" means the list
 47 required to be created and maintained by the department pursuant
 48 to paragraph (4)(d).

49 (c) "Senior management" includes chief executive officers;
 50 assistant chief executive officers, including, but not limited

51 to, assistant presidents, vice presidents, or assistant
52 treasurers; chief financial officers; chief personnel officers;
53 or any employee of an entity performing similar functions.

54 (2) A company on the forced labor vendor list may not:

55 (a) Submit a bid, proposal, or reply on a contract to
56 provide any commodities to an agency.

57 (b) Be awarded a contract or perform work as a contractor,
58 supplier, subcontractor, or consultant with an agency for the
59 provision of commodities.

60 (c) Transact business for the provision of commodities
61 with any agency.

62 (3) An agency may not accept a bid, proposal, or reply
63 from, award a contract to, or transact business pertaining to
64 the provision of commodities with a company on the forced labor
65 vendor list, or an entity under the control of such company, for
66 a period of 365 days after the date the company was placed on
67 the list unless the company is removed from the list pursuant to
68 paragraph (5) (d).

69 (4) (a) 1. All invitations to bid, requests for proposals,
70 and invitations to negotiate and any written contract for the
71 provision of commodities by an agency must include a statement
72 informing companies of the requirements of this section.

73 2. Any contract with an agency for the provision of
74 commodities entered into or renewed on or after July 1, 2024,
75 must include a provision that allows for the termination of such

76 contract at the option of the awarding agency if the company is
77 placed on the forced labor vendor list.

78 (b) At the time a company submits a bid, proposal, or
79 reply for a contract and before the company enters into or
80 renews a contract with an agency for the provision of
81 commodities, a member of the company's senior management must
82 certify, in writing, that to the best of his or her knowledge
83 the commodities such company is offering to the agency have not
84 been produced, in whole or in part, by forced labor.

85 (c) A company must notify the department within 30 days
86 after gaining actual knowledge that the company has provided to
87 an agency a commodity produced, in whole or in part, by forced
88 labor. Any agency that receives information that a company has
89 provided to an agency a commodity produced, in whole or in part,
90 by forced labor must provide that information to the department
91 in writing within 10 days.

92 (d) The department shall create and maintain a forced
93 labor vendor list that contains the name and address of each
94 company that has been disqualified from the public contracting
95 and purchasing process under this section. The department shall
96 publish an updated version of the list quarterly. The updated
97 quarterly list shall be electronically posted on the
98 department's website. Notwithstanding this paragraph, a company
99 disqualified from the public contracting and purchasing process
100 pursuant to this section shall be disqualified as of the date a

101 final order is entered pursuant to paragraph (e) or paragraph
102 (5) (a).

103 (e) Upon receiving from any source reasonable and credible
104 information that a company has submitted a false certification
105 or provided to an agency a commodity produced, in whole or in
106 part, by forced labor, the department shall investigate the
107 information and determine whether good cause exists to place
108 that company on the forced labor vendor list and whether such
109 placement is in the public interest. If good cause exists and
110 placement is in the public interest, the department shall notify
111 the company in writing of the department's intent to place the
112 company on the list and of the company's right to a hearing, the
113 procedure that must be followed, and the applicable time
114 requirements. If the company does not request a hearing, the
115 department shall enter a final order placing the company on the
116 forced labor vendor list. A company may not be placed on the
117 forced labor vendor list without receiving an individual notice
118 of intent from the department.

119 1. It is not in the public interest to place a company on
120 the forced labor vendor list if any of the following apply:

121 a. The company did not provide to an agency a commodity
122 produced, in whole or in part, by forced labor;

123 b. The provision to an agency of a commodity produced, in
124 whole or in part, by forced labor was committed by an employee
125 of the company without the actual or constructive knowledge of

126 any member of the company's senior management;
127 c. The member of the company's senior management
128 responsible for the contract under which the company provided to
129 the agency a commodity produced, in whole or in part, by forced
130 labor did not have actual or constructive knowledge that the
131 commodity was produced, in whole or in part, by forced labor and
132 a reasonable person under similar circumstances to that of such
133 member would not have known that the commodity was produced, in
134 whole or in part, by forced labor;
135 d. The member of the company's senior management
136 responsible for the contract under which the company provided to
137 the agency a commodity produced, in whole or in part, by forced
138 labor is no longer an employee of the company; or
139 e. One of the following occurs:
140 (I) For a contract with an executive agency, the Governor
141 makes a public finding that, absent the provision of such
142 commodities by the company, the agency would be unable to obtain
143 the commodities for which the contract is offered.
144 (II) For a contract with an agency of a state
145 constitutional officer other than the Governor, the state
146 constitutional officer makes a public finding that, absent the
147 provision of such commodities by the company, the agency would
148 be unable to obtain the commodities for which the contract is
149 offered.
150 2. In determining whether it is in the public interest to

151 place a company on the forced labor vendor list, the following
152 factors shall be considered:

153 a. The nature and details of the provision of the
154 commodity produced, in whole or in part, by forced labor.

155 b. The degree of culpability of the company proposed to be
156 placed on the forced labor vendor list.

157 c. Prior or future self-policing by the company to prevent
158 the provision of a commodity produced, in whole or in part, by
159 forced labor.

160 d. The company's compliance with paragraph (c).

161 e. The needs of agencies for additional competition in the
162 procurement of commodities in their respective markets.

163 f. Mitigation based upon any demonstration of good
164 citizenship by the company, including, but not limited to, the
165 adoption of a formal plan to cease producing or providing
166 commodities produced, in whole or in part, by forced labor.

167 (f) A company that submits a false certification under
168 paragraph (b) or that should have known that a commodity
169 provided under a contract with an agency was produced, in whole
170 or in part, by forced labor and is subsequently placed on the
171 forced labor vendor list may be assessed a fine of \$1,000 or an
172 amount equal to 20 percent of the value of the commodity
173 provided to the agency under the contract, whichever is greater.

174 (5) (a) Within 21 days after receipt of the notice of
175 intent pursuant to paragraph (4) (e), the company may file a

176 petition for a hearing involving disputed issues of material
177 fact pursuant to ss. 120.569 and 120.57(1) to challenge the
178 agency's determination that the company's placement on the
179 forced labor vendor list is in the public interest. A company
180 may not file a petition for a hearing not involving disputed
181 issues of material fact under s. 120.57(2). Chapter 120 applies
182 to a hearing under this section except that:

183 1. The petition shall be filed with the department. The
184 department shall be a party to the proceeding for all purposes.

185 2. Within 5 days after the filing of the petition, the
186 department shall notify the Division of Administrative Hearings
187 of the request for a hearing pursuant to ss. 120.569 and
188 120.57(1). The director of the Division of Administrative
189 Hearings shall, within 5 days after receipt of notice from the
190 department, assign an administrative law judge to preside over
191 the proceeding. The administrative law judge, upon request by a
192 party, may consolidate related proceedings.

193 3. The administrative law judge shall conduct the hearing
194 within 30 days after being assigned, unless otherwise stipulated
195 by the parties.

196 4. Within 30 days after the hearing or receipt of the
197 hearing transcript, whichever is later, the administrative law
198 judge shall enter a final order, which shall consist of findings
199 of fact, conclusions of law, interpretation of agency rules, and
200 any other information required by law or rule to be contained in

201 the final order. Such final order shall place or not place the
202 company on the forced labor vendor list.

203 5. The final order of the administrative law judge shall
204 be final agency action for purposes of s. 120.68.

205 6. At any time after the filing of the petition, informal
206 disposition may be made pursuant to s. 120.57(4). In that event,
207 the administrative law judge shall enter a final order adopting
208 the stipulation, agreed settlement, or consent order.

209 (b) In any proceeding under this section, the department
210 is required to prove by clear and convincing evidence that it is
211 in the public interest for the company to which the department
212 has provided notice of intent pursuant to paragraph (4) (e) to be
213 placed on the forced labor vendor list. Proof that such company
214 provided to an agency a commodity produced, in whole or in part,
215 by forced labor constitutes a rebuttable presumption that it is
216 in the public interest for the company to be placed on the
217 forced labor vendor list.

218 (c) Upon establishment of the rebuttable presumption in
219 paragraph (b) that it is in the public interest for the company
220 to be placed on the forced labor vendor list, that company may
221 prove by a preponderance of the evidence that it is not in the
222 public interest for such company to be placed on the list based
223 upon evidence addressing the provisions of sub-subparagraph
224 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

225 (d)1. A company on the forced labor vendor list may

226 petition for such company's removal from the list no sooner than
227 6 months after the date a final order is entered placing the
228 company on the list. The petition shall be filed with the
229 department and the proceeding shall be conducted pursuant to
230 this subsection.

231 2. A company may be removed from the forced labor vendor
232 list subject to such terms and conditions as may be prescribed
233 by the administrative law judge upon a determination that
234 removal is in the public interest. In determining whether
235 removal is in the public interest, the administrative law judge
236 shall give consideration to any relevant factors, including
237 whether the company has prepared a corrective action plan that
238 addresses the original grounds for placement on the list as well
239 as any additional evidence that the company has in good faith
240 taken significant remedial action.

241 3. If a petition for removal is denied, the company may
242 not petition for another hearing on removal for a period of 9
243 months after the date of denial. The department may petition for
244 removal before the expiration of such period if, in the
245 department's discretion, the department determines that removal
246 would be in the public interest.

247 (6) Placement on the forced labor vendor list does not
248 affect any rights or obligations under any contract, franchise,
249 or other binding agreement which predates such placement.

250 (7) Any fines collected under this section shall be

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251 | deposited into the General Revenue Fund.

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

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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		

1 Committee/Subcommittee hearing bill: Constitutional Rights,
2 Rule of Law & Government Operations Subcommittee
3 Representative Yeager offered the following:

Amendment (with title amendment)

Remove lines 102-244 and insert:

(5) (a). A company is removed automatically from the list 366 days after the date of the final order placing the company on the list.

(e) Upon receiving from any source reasonable and credible information that a company has submitted a false certification or provided to an agency a commodity produced, in whole or in part, by forced labor, the department shall investigate the information and determine whether good cause exists to place that company on the forced labor vendor list and whether such placement is in the public interest. If good cause exists and

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17 placement is in the public interest, the department shall notify
18 the company in writing of the department's intent to place the
19 company on the list and of the company's right to a hearing, the
20 procedure that must be followed, and the applicable time
21 requirements. If the company does not request a hearing, the
22 department shall enter a final order placing the company on the
23 forced labor vendor list. A company may not be placed on the
24 forced labor vendor list without receiving an individual notice
25 of intent from the department.

26 1. It is not in the public interest to place a company on
27 the forced labor vendor list if any of the following apply:

28 a. The company did not provide to an agency a commodity
29 produced, in whole or in part, by forced labor;

30 b. The provision to an agency of a commodity produced, in
31 whole or in part, by forced labor was committed by an employee
32 of the company without the actual or constructive knowledge of
33 any member of the company's senior management;

34 c. The member of the company's senior management
35 responsible for the contract under which the company provided to
36 the agency a commodity produced, in whole or in part, by forced
37 labor did not have actual or constructive knowledge that the
38 commodity was produced, in whole or in part, by forced labor and
39 a reasonable person under similar circumstances to that of such
40 member would not have known that the commodity was produced, in
41 whole or in part, by forced labor;

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42 d. The member of the company's senior management
43 responsible for the contract under which the company provided to
44 the agency a commodity produced, in whole or in part, by forced
45 labor is no longer an employee of the company; or

46 e. One of the following occurs:

47 (I) For a contract with an executive agency, the Governor
48 makes a public finding that, absent the provision of such
49 commodities by the company, the agency would be unable to obtain
50 the commodities for which the contract is offered.

51 (II) For a contract with an agency of a state
52 constitutional officer other than the Governor, the state
53 constitutional officer makes a public finding that, absent the
54 provision of such commodities by the company, the agency would
55 be unable to obtain the commodities for which the contract is
56 offered.

57 2. In determining whether it is in the public interest to
58 place a company on the forced labor vendor list, the following
59 factors shall be considered:

60 a. The nature and details of the provision of the
61 commodity produced, in whole or in part, by forced labor.

62 b. The degree of culpability of the company proposed to be
63 placed on the forced labor vendor list.

64 c. Prior or future self-policing by the company to prevent
65 the provision of a commodity produced, in whole or in part, by
66 forced labor.

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67 d. The company's compliance with paragraph (c).

68 e. The needs of agencies for additional competition in the
69 procurement of commodities in their respective markets.

70 f. Mitigation based upon any demonstration of good
71 citizenship by the company, including, but not limited to, the
72 adoption of a formal plan to cease producing or providing
73 commodities produced, in whole or in part, by forced labor.

74 (f) A company that submits a false certification under
75 paragraph (b) or that should have known that a commodity
76 provided under a contract with an agency was produced, in whole
77 or in part, by forced labor and is subsequently placed on the
78 forced labor vendor list shall be assessed a fine of no more
79 than \$1,000 or an amount equal to 20 percent of the value of the
80 commodity provided to the agency under the contract, whichever
81 is greater.

82 (5) (a) Within 21 days after receipt of the notice of
83 intent pursuant to paragraph (4) (e), the company may file a
84 petition for a hearing involving disputed issues of material
85 fact pursuant to ss. 120.569 and 120.57(1) to challenge the
86 department's determination that the company's placement on the
87 forced labor vendor list is in the public interest. A company
88 may not file a petition for a hearing not involving disputed
89 issues of material fact under s. 120.57(2). Chapter 120 applies
90 to a hearing under this section except that:

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91 1. The petition shall be filed with the department. The
92 department shall be a party to the proceeding for all purposes.

93 2. Within 5 days after the filing of the petition, the
94 department shall notify the Division of Administrative Hearings
95 of the request for a hearing pursuant to ss. 120.569 and
96 120.57(1). The director of the Division of Administrative
97 Hearings shall, within 5 days after receipt of notice from the
98 department, assign an administrative law judge to preside over
99 the proceeding. The administrative law judge, upon request by a
100 party, may consolidate related proceedings.

101 3. The administrative law judge shall conduct the hearing
102 within 30 days after being assigned, unless otherwise stipulated
103 by the parties.

104 4. Within 30 days after the hearing or receipt of the
105 hearing transcript, whichever is later, the administrative law
106 judge shall enter a final order, which shall consist of findings
107 of fact, conclusions of law, interpretation of agency rules, and
108 any other information required by law or rule to be contained in
109 the final order. Such final order shall place or not place the
110 company on the forced labor vendor list.

111 5. The final order of the administrative law judge shall
112 be final agency action for purposes of s. 120.68.

113 6. At any time after the filing of the petition, informal
114 disposition may be made pursuant to s. 120.57(4). In that event,

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115 the administrative law judge shall enter a final order adopting
116 the stipulation, agreed settlement, or consent order.

117 (b) In any proceeding under this section, the department
118 is required to prove by clear and convincing evidence that it is
119 in the public interest for the company to which the department
120 has provided notice of intent pursuant to paragraph (4) (e) to be
121 placed on the forced labor vendor list. Proof that such company
122 provided to an agency a commodity produced, in whole or in part,
123 by forced labor constitutes a rebuttable presumption that it is
124 in the public interest for the company to be placed on the
125 forced labor vendor list.

126 (c) Upon establishment of the rebuttable presumption in
127 paragraph (b) that it is in the public interest for the company
128 to be placed on the forced labor vendor list, that company may
129 prove by a preponderance of the evidence that it is not in the
130 public interest for such company to be placed on the list based
131 upon evidence addressing the provisions of sub-subparagraph
132 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

133 (d)1. A company on the forced labor vendor list may
134 petition for such company's removal from the list no sooner than
135 6 months after the date a final order is entered placing the
136 company on the list. The petition shall be filed with the
137 department and the proceeding shall be conducted pursuant to
138 this subsection.

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139 2. A company may be removed from the forced labor vendor
140 list subject to such terms and conditions as may be prescribed
141 by the administrative law judge upon a determination that
142 removal is in the public interest. In determining whether
143 removal is in the public interest, the administrative law judge
144 shall give consideration to any relevant factors, including
145 whether the company has prepared a corrective action plan that
146 addresses the original grounds for placement on the list as well
147 as any additional evidence that the company has in good faith
148 taken significant remedial action.

149 3. If a petition for removal is denied, the company may
150 not petition for another hearing on removal. The department may
151 petition for removal before the expiration of the 365-day period
152 provided in subsection (3) if, in the

153

154

155

T I T L E A M E N D M E N T

156

Remove line 18 and insert:

157

providing requirements for such list; providing for automatic

158

removal from the list; providing a

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1615 Restrictions on Firearms and Ammunition During Emergencies

SPONSOR(S): Gregory and Sirois

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee		Villa	Miller
2) Civil Justice Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The State Emergency Management Act (Act) empowers the Governor to declare a state of emergency. During a state of emergency, the Governor has broad power to perform necessary actions to ensure the state's health, safety, and welfare, including issuing orders and rules having the full force and effect of law, suspending statutes and rules that hamper emergency response, and suspending or limiting the sale, dispensing, or transportation of firearms. In addition, the Act authorizes counties and municipalities to declare a state of local emergency under certain conditions and to issue orders and rules having the full force and effect of law. However, nothing in the Act may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a crime.

Current law also authorizes certain county and municipal officers to declare a public disorder state of local emergency in situations involving overt acts of violence (i.e., riot), or imminent threats thereof, within their jurisdictions provided the Governor has not declared a state of emergency. For counties, this authority resides with the sheriff. Municipalities have the flexibility to designate through ordinance either the mayor or chief of police to exercise this authority; however, absent such an ordinance, the chief of police automatically holds this authority.

The public disorder state of local emergency remains in effect for 72 hours unless terminated earlier by the public official issuing the order, Governor, county commission, or city council. An extension beyond the 72-hour period may be granted by the county commission or city council through a duly enacted ordinance or resolution.

Upon a declaration of a public disorder state of local emergency, the sale or intentional display in a store of ammunition or firearms is automatically prohibited. In addition, the intentional possession in a public place of a firearm by any person other than law enforcement is also automatically prohibited. A violation of the prohibition is punishable as a first-degree misdemeanor. However, the prohibition may not be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.

The bill repeals the statute that automatically prohibits the following acts during a public disorder state of local emergency throughout the affected jurisdiction:

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.

The bill does not appear to have a fiscal impact on the state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1615.CRG

DATE: 1/22/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Emergency Management Act – Powers of the Governor

The State Emergency Management Act (Act)¹ empowers the Governor to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies.² The Governor must declare a state of emergency upon determining the occurrence or imminent threat of an emergency. The state of emergency must continue until the Governor finds the threat or danger has been dealt with to the extent that the emergency conditions no longer exist; however, no state of emergency may continue for longer than 60 days unless renewed by the Governor.³ In addition, the Legislature may terminate a state of emergency or any order, proclamation, or rule issued thereunder through a concurrent resolution.

In a state of emergency, the Governor has broad power to perform necessary actions to ensure the health, safety, and welfare of the people. This includes the power to impose curfews, order evacuations, control access to affected areas, commandeer private property subject to just compensation, and utilize all necessary state and local resources.⁴ To effectively implement emergency measures, the Governor has the power to issue executive orders, proclamations, and rules, which have the force and effect of law.⁵ An emergency order or proclamation must be disseminated by means calculated to bring its contents to the attention of the general public, filed with Division of Administrative Hearings, and if possible, filed with the Department of State, the Legislature, and the affected county commissioners.⁶

Pursuant to this emergency power, the Governor can suspend regulatory statutes or state agency rules if compliance would hamper necessary action to deal with the emergency.⁷ In addition, the Governor has the power to suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing in the Act may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a crime.⁸

Any person violating any rule or order issued pursuant to the Act is guilty of a second-degree misdemeanor^{9,10}

State Emergency Management Act – Powers of Political Subdivisions

Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each county and municipality of the state. Counties and municipalities have the authority to declare a state of local emergency if an emergency affects only one political subdivision. The declaration triggers the ability to request state assistance or invoke emergency-related mutual-aid assistance.¹¹ A state of

¹ Ss. 252.31-252.60, F.S., are known as the "State Emergency Management Act."

² "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. S. 252.34(4), F.S.

³ S. 252.36(2), F.S.

⁴ S. 252.36(6), F.S.

⁵ S. 252.36(1)(b), F.S.

⁶ S. 252.36(2) and (3)(b), F.S.

⁷ S. 252.36(6)(a), F.S.

⁸ S. 252.36(6)(h), F.S.

⁹ A second-degree misdemeanor is punishable by up to a 60-day term of imprisonment or a \$500 fine. Ss. 775.082 and 775.083, F.S.

¹⁰ S. 252.50, F.S.

¹¹ S. 252.38(3)(a)5., F.S.

local emergency may only be declared by a mayor, city manager, or board of county commissioners.¹² The duration of a local state of emergency is seven days, but may be extended in seven-day increments as necessary.¹³

During a state of local emergency, counties and municipalities may waive the procedures and formalities otherwise required by law relating to:

- Performance of public work, taking necessary actions to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities;
- Appropriation and expenditure of public funds.¹⁴

In addition, counties and municipalities are authorized and empowered to make, amend, and rescind orders and rules as necessary for emergency management purposes that are not inconsistent with any orders or rules adopted by the Division of Emergency Management or by any state agency exercising a power delegated to it by the Governor or the division. These orders and rules must be posed only and, once filed with the clerk or recorder of the political subdivision, carry the full force and effect of law. However, any order or rule conflicting with the Act will be suspended to the extent of such conflict.¹⁵

Any person violating any rule or order issued pursuant to the Act is guilty of a second-degree misdemeanor^{16,17}

Preservation of the Public Peace – Public Disorder State of Local Emergency

Current law authorizes certain county and municipal officers to declare a state of emergency in situations involving overt acts of violence, or imminent threats thereof, within their jurisdictions (public disorder state of local emergency) provided the Governor has not declared a state of emergency.¹⁸ For counties, this authority is vested in the sheriff and applies to the unincorporated areas of the county. Municipalities have the flexibility to designate through ordinance either the mayor or chief of police as the official empowered to declare a public disorder state of local emergency. However, in the absence of such ordinance, the chief of police automatically holds this authority.¹⁹

The sheriff or designated city official may declare a public disorder state of local emergency in any affected part of their jurisdiction. This declaration authority is prompted by the determination of an act of violence or a flagrant and substantial defiance of a lawful exercise of public authority, giving rise to a reasonable belief in a clear and present danger of a riot and substantial injury to persons or property.²⁰ As soon as practicable following the declaration, the measure must be filed with the city or court clerk and delivered to the news media for publication and broadcast. If feasible, the declaration must be disseminated through alternative means, such as posting and the use of loudspeakers.²¹

¹² Florida Division of Emergency Management, *State of Florida 2022 Comprehensive Emergency Management Plan*, <https://portal.floridadisaster.org/preparedness/External/CEMP/2022%20State%20CEMP%20Base%20Plan.pdf> (last visited January 18, 2024).

¹³ S. 252.38(3)(a)5., F.S.

¹⁴ S. 252.38(3)(a)5.a.-5.h., F.S.

¹⁵ S. 252.46, F.S.

¹⁶ A second-degree misdemeanor is punishable by up to a 60-day term of imprisonment or a \$500 fine. Ss. 775.082 and 775.083, F.S.

¹⁷ See s. 252.50, F.S.

¹⁸ S. 870.041, F.S.

¹⁹ S. 870.042, F.S.

²⁰ S. 870.043, F.S.

²¹ S. 870.046, F.S.

The public disorder state of local emergency remains in effect for 72 hours unless terminated earlier by the public official, Governor, county commission, or city council. An extension beyond the 72-hour period may be granted by the county commission or city council through a duly enacted ordinance or resolution in regular or special session, provided there is a request from the public official.²²

Upon the declaration of a public disorder state of local emergency, the public official may implement any of the following measures, in whole or in part, with such limitations and conditions as deemed necessary:

- Establish curfews, including restrictions on pedestrian and vehicular movement, except for essential and emergency services such as fire, police, utility repairs, and hospital services;
- Prohibit the sale or distribution of alcoholic beverages;
- Prohibit the possession of alcoholic beverages in public;
- Close public assemblies with designated exceptions;
- Prohibiting the sale of gasoline or other flammable or combustible liquids, except into a tank properly affixed to a motor vehicle, bike, boat, or airplane; and
- Prohibit the possession of gasoline or other flammable or combustible liquids in public.²³

In addition, the following acts are automatically prohibited during a public disorder state of local emergency throughout the jurisdiction:

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.²⁴

However, none of the above provisions may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.²⁵

A violation of any provision within a public disorder state of local emergency declaration or a measure established pursuant thereto is punishable as a first-degree misdemeanor.^{26, 27}

Effect of the Bill

The bill repeals the statute that automatically prohibits the following acts during a public disorder state of local emergency throughout the affected jurisdiction:

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.

Accordingly, such acts will not be prohibited automatically upon the declaration of a public disorder state of local emergency.

²² S. 870.047, F.S.

²³ S. 870.045, F.S.

²⁴ S. 870.044, F.S.

²⁵ *Id.*

²⁶ A first-degree misdemeanor is punishable by up to one-year imprisonment and a \$1,000 fine. Ss. 775.082 and 775.083, F.S.

²⁷ S. 870.048, F.S.

B. SECTION DIRECTORY:

Section 1 repeals s. 870.044, F.S., relating to automatic emergency measures.

Section 2 provides an effective date of 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:

The bill repeals a law that automatically prohibits the sale and intentional display of ammunition and firearms in a store upon the declaration of a public disorder state of local emergency. Accordingly, the bill will have a positive, yet indeterminate, fiscal impact on private businesses to the extent they are able to sell ammunition and firearms during a public disorder state of local emergency, and to the extent they will save on operating costs by no longer having to remove ammunition and firearm displays during such time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires additional executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 1615

2024

1 A bill to be entitled
2 An act relating to restrictions on firearms and
3 ammunition during emergencies; repealing s. 870.044,
4 F.S., relating to specified automatic restrictions on
5 firearms and ammunition during certain declared
6 emergencies; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

- 9
10 Section 1. Section 870.044, Florida Statutes, is repealed.
11 Section 2. This act shall take effect upon becoming a law.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1567 Qualifications for County Emergency Management Directors
SPONSOR(S): Constitutional Rights, Rule of Law & Government Operations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Constitutional Rights, Rule of Law & Government Operations Subcommittee		Miller	Miller

SUMMARY ANALYSIS

Florida is vulnerable to a wide variety of emergencies, both natural and of human origin. The Legislature adopted the State Emergency Management Act (Act) to reduce these vulnerabilities, promote emergency preparedness, response, mitigation, and recovery, and coordinate all emergency management functions of the state with local political subdivisions as well as the federal government.

The Division of Emergency Management (FDEM) is created in the Executive Office of the Governor to implement the purposes of the Act. These duties include preparing the state emergency plan, coordinating emergency planning and response with local and federal authorities, and assisting local government emergency planning, preparation, and response.

Basic state policy for responding to disasters is to support local emergency response efforts while also recognizing the need for state assistance when the scope of a disaster is greater than can be met by local resources. The Act provides specific authorization and emergency powers to counties, requiring each to establish and maintain an emergency management agency and develop a county emergency management plan. Municipalities are encouraged to create their own emergency management plans but must coordinate with the county emergency management agency. Each county must have an emergency management agency headed by a director appointed either by the board of county commissioners or the county chief administrative officer and serving at the pleasure of the appointing authority. Current law provides no specific minimum qualifications for county emergency management directors other than the minimum training and education standards in a job description approved by the county.

The PSC creates minimum education, experience, and training standards for all county emergency management directors. All county directors will be required to have at least a bachelor's degree and six years of verifiable experience in emergency services, emergency management, emergency planning, law enforcement, or fire-fighting services (three years of which must be supervisory experience in emergency management, responses, or operations for a county or municipality). A Master's degree in one or more of the following fields may be substituted for two years of the required experience but not for the required supervisory experience: emergency preparedness or management, homeland security, public health, criminal justice, meteorology, or environmental science. Additionally, a county director must complete specific courses offered by the Federal Emergency Management Agency (FEMA) through the Emergency Management Institute (or equivalent courses established by FEMA): ICS-100, ICS-200, IS-700, IS-703, IS-800. Alternatively, a valid accreditation as a Certified Master Exercise Practitioner by FEMA, a Certified Emergency Manager, or a Florida Professional Emergency Manager may substitute for these courses. Finally, a county director must have a valid Florida driver license.

Recognizing that not every current county emergency management director may have fulfilled these minimum qualifications, the PCS allows them until June 30, 2026, to meet the new criteria.

The PCS appears to have no fiscal impact on the state or local governments but may have an indeterminate negative fiscal impact on individuals seeking appointment as county emergency management directors. See Fiscal Comments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcs1567.CRG

DATE: 1/22/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Emergency Management Act

Florida is vulnerable to a wide variety of emergencies, including natural, technological, and human origin disasters threatening the health and safety of people, damaging and destroying property, disrupting services, and impeding economic growth and development.¹ To reduce these vulnerabilities, promote emergency² preparedness, response, mitigation, recovery, and coordinate all emergency management functions of the state with the political subdivisions of the state, other states, and the Federal Government,³ the Legislature adopted the State Emergency Management Act (Act).⁴

Under the Act, “emergency management” is defined as “the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters.”⁵ Specific emergency management responsibilities include without limitation:

- Reducing vulnerabilities of people and communities to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action;
- Preparing for prompt and efficient response and recovery to protect lives and property affected by emergencies;
- Responding to emergencies using all systems, plans, and resources necessary to preserve the health, safety, and welfare of persons or property affected by emergencies;
- Assisting recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies;
- Providing an emergency management system embodying all aspects of pre-emergency preparedness and post-emergency response, recovery, and mitigation; and
- Assisting with the anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.⁶

The Division of Emergency Management is created within the Executive Office of the Governor (FDEM)⁷ to implement the purposes of the Act, including coordinating planning and response to emergencies with local and federal authorities.⁸ The duties of FDEM include preparing and updating the state comprehensive emergency management plan,⁹ adopting standards and requirements for county emergency plans,¹⁰ assisting political subdivisions¹¹ with preparing and maintaining their emergency management plans,¹² reviewing such plans of political subdivisions,¹³ and coordinating federal, state, and local emergency management actions in advance of an actual emergency to ensure

¹ S. 252.311(1), F.S.

² S. 252.34(4), F.S., defines “emergency” as “any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.”

³ Ss. 252.311, 252.32, F.S.

⁴ Ss. 252.31-252.60, F.S. See s. 252.31, F.S.

⁵ S. 252.34(5), F.S.

⁶ S. 252.34(5)(a)-(f), F.S.

⁷ S. 14.2016(1), F.S.

⁸ S. 252.32, F.S.

⁹ The state comprehensive emergency plan must be integrated into and coordinate with federal emergency management plans and programs. S. 252.35(2)(a), F.S.

¹⁰ S. 252.35(2)(b), F.S.

¹¹ S. 252.34(10), F.S., defines “political subdivision” as any county or municipality.

¹² S. 252.35(2)(c), F.S.

¹³ S. 252.35(2)(d), F.S.

availability of adequately trained and equipped personnel before, during, and after an emergency or disaster.¹⁴

The Governor is responsible for meeting the dangers presented by emergencies using the powers authorized in the Act.¹⁵ The Governor also is responsible for appointing the director of FDEM, who serves at the pleasure of the Governor and is the head of FDEM for all purposes.¹⁶ Neither the statute creating FDEM nor the Act provide minimum qualifications for the director. The current Executive Director of FDEM has more than 30 years' experience in public safety and emergency management in Florida, including 23 years in law enforcement and emergency preparedness in Jacksonville and serving as the Public Safety and Emergency Management Director for Flagler County, the Assistant County Administrator for Public Safety for Pasco County (responsible for all emergency services, fire/rescue, and 911 Communications Center), Chief of Staff for FDEM, and then Deputy Director of FDEM. He holds a B.A. in Criminal Justice, an M.A. in Human Services, and is certified as a Master Exercise Practitioner¹⁷ by the Federal Emergency Management Agency (FEMA).¹⁸

Basic state policy for responding to disasters is to support local emergency response efforts while also recognizing the need for state assistance when the scope of a disaster is greater than can be met by local resources.¹⁹ The Act provides specific authorization and emergency powers to counties, requiring each county to establish and maintain an emergency management agency and develop a county emergency management plan.²⁰ Municipalities are encouraged to create their own emergency management plans but must coordinate with the county emergency management agency.²¹

County emergency management agencies must have a director appointed by either the board of county commissioners or the county chief administrative officer and serving at the pleasure of the appointing authority. The county emergency management director (county director) may be a county constitutional officer²² or an employee of such an officer. The county director is responsible for the organization, administration, and operation of the county emergency management agency, must coordinate the emergency activities, services, and programs of the agency throughout the county, and serves as the county liaison to FDEM and other local emergency management agencies.²³

By statute, the only qualifications a county director must meet are the minimum training and education standards in the job description approved by the county.²⁴ Since there are no uniform minimum requirements for county directors, counties vary in the qualifications required for the position as shown by the following table:

¹⁴ S. 252.35(2)(l), F.S.

¹⁵ S. 252.36(1)(a), F.S.

¹⁶ S. 14.2016,(1), F.S.

¹⁷ The Master Exercise Practitioner Program is a program designed for advanced exercise practitioners in emergency management exercise design, conduct, and evaluation and is the most advanced program offered through the FEMA Emergency Management Institute. See FEMA, "Master Exercise Practitioner Program," available at <https://training.fema.gov/programs/nsec/mepp/> (last visited January 18, 2024).

¹⁸ Kevin Guthrie, Executive Director, available at <https://www.floridadisaster.org/dem/directors-office/FDEMdirector/> (last visited January 18, 2024).

¹⁹ S. 252.311(3), F.S.

²⁰ S. 252.38(1)(a), F.S.

²¹ S. 252.38(2), F.S.

²² Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, or Clerk of Courts. Art. VIII, s. 1(d), Fla. Const.

²³ S. 252.38(3)(b), F.S.

²⁴ *Id.*

County	Minimum Required Education	Required Experience	Required Licenses/Certifications
Broward ²⁵	B.A. in required subject ²⁶	5 years full-time in emergency management, at least 1-year supervising emergency management programs and personnel	Accreditation as a Certified Emergency Manager
Escambia ²⁷	Graduation from 2-year college or university or B.A.	5 years professional experience in emergency management, emergency incident command & control. B.A. could be substituted for 2 years experience	Valid driver license; National Incident Management System (NIMS) certifications IS700, IS800, IS100, IS200, ICS300, and ICS400
Sarasota ²⁸	B.A. in required subject ²⁹	6 years related experience; M.A. with at least 4 years related experience may be substituted. At least 4 years supervisory experience in emergency management	Certified Emergency Manager (CEM), or Florida Professional Emergency Manager (FPEM) or ability to obtain within one-year Valid driver license
Volusia ³⁰	B.A. in required subject ³¹	5 years progressively responsible work in emergency management	Valid driver license

Emergency Manager Qualifications

The Emergency Management Institute (EMI) run by FEMA is the primary center for the development and delivery of emergency management training nationally, emphasizing programs such as the National Incident Management System (NIMS).³² A comprehensive approach to managing emergency and disaster incidents, NIMS is intended to apply across all jurisdictional levels and functional disciplines for the management of all potential incidents, hazards, and impacts regardless of size, location, or complexity.³³ The National Qualification System (NQS) within NIMS establishes guidance and tools to assist stakeholders in developing processes for qualifying, certifying, and credentialing deployable emergency personnel.³⁴ The most advance program offered by FEMA is the Master Exercise Practitioner Program.³⁵ In addition to the NIMS program, national certification is available through the International Association of Emergency Managers (IAEM). IAEM has two levels of

²⁵ "Training and Requirements for Emergency Management Professionals in Broward County," available at <https://www.emergencymanagementedu.org/florida/broward-county/> (last visited January 16, 2024).

²⁶ Homeland security, terrorism studies, emergency preparedness, business administration, public health. *Id.*

²⁷ Escambia County, "BCC Job Descriptions," available at <https://myescambia.com/our-services/human-resources/employment/job-descriptions> (last visited January 16, 2024).

²⁸ Sarasota County Government, "Emergency Management Chief (Manager III) – R16608," available at <https://sgrjobs.com/SGR/position.php?JobID=453641> (last visited January 18, 2024).

²⁹ Public administration, management, business science, or technical field. *Id.*

³⁰ Volusia County, "Emergency Management Director – Emergency Management Division; job notice" (12/29/2022), available at <https://www.salary.com/job/volusia-county-fl/emergency-management-director-emergency-management-division/j202212291022506814877> (last visited January 16, 2024).

³¹ Business, public administration, emergency management, homeland security, or related field. *Id.*

³² National Association of Counties, "Managing Disasters at the County Level: A National Survey," available at https://www.naco.org/sites/default/files/documents/Emergency%20Management%20in%20County%20Government_03.25.19.pdf (last visited January 16, 2024).

³³ *Id.* See also "National Incident Management System," available at <https://www.fema.gov/emergency-managers/nims> (last visited January 19, 2024).

³⁴ FEMA, "National Incident Management System Guideline for the National Qualification System (Nov. 2017)," 1, available at https://www.fema.gov/sites/default/files/2020-05/fema_nims_nqs_guideline_0.pdf (last visited January 19, 2024).

³⁵ See *supra*, n. 17.

individual certification, the Certified Emergency Manager (CEM) and the Associate Emergency Manager (AEM).³⁶

NIMS maintains a core training curriculum including the following courses, all of which are available online as interactive web-based instruction:³⁷

ICS-100: Introduction to the Incident Command System: This course introduces the Incident Command System (ICS), provides the foundation for higher level ICS training, describes the history, features and principles, and organizational structure of the ICS, and explains the relationship between ICS and NIMS. Course objectives include:

- Explaining the principles and basic structure of the ICS;
- Describing the NIMS management characteristics that are the foundation of the ICS;
- Describing the ICS functional areas and the roles of Incident Commander and command staff;
- Describing the role of general staff within ICS; and
- Identifying how NIMS management characteristics apply to ICS for a variety of roles and discipline areas.

ICS-200: ICS for Single Resources and Initial Action Incidents: This course reviews the ICS, provides the context for ICS within initial incident response, supports higher level ICS training, and training on, and resources for, personnel who are likely to assume a supervisory position within ICS. Course objectives include:

- Describing how NIMS Management Characteristics relate to incident command and unified command;
- Describing the delegation of authority process, implementing authorities, management by objectives, and preparedness plans and objectives;
- Identifying ICS organizational components, the command staff, the general staff, and ICS tools;
- Describing different types of briefings and meetings;
- Explaining flexibility within the standard ICS organizational structure;
- Explaining transfer of command briefings and procedures; and
- Using ICS to manage an incident or event.

IS-700: National Incident Management System, An Introduction: This course provides an overview of the concepts, principles, and components making NIMS a comprehensive approach guiding the whole community - all levels of government, nongovernmental organizations, and the private sector - to work together to prevent, protect against, mitigate, respond to, and recover from the effects of incidents. Course objectives include:

- Describing and identifying key concepts, principles, scope, and applicability underlying NIMS;
- Describing activities and methods for managing resources;
- Describing NIMS Management Characteristics;
- Identifying and describing ICS organizational structures;
- Explaining Emergency Operations Center (EOC) functions, common models for staff organization, and activation levels;
- Explaining the interconnectivity within the NIMS Management and Coordination structures: ICS, EOC, Joint Information System, and Multiagency Coordination Groups; and
- Identifying and describing the characteristics of communications and information systems, effective communication, incident information, and communication standards and formats.

IS-703: NIMS Resource Management: This course introduces federal, state, local, tribal, and territorial emergency managers, first responders, and incident commanders from all emergency management

³⁶ International Association of Emergency Managers, "Associate Emergency Manager (AEM) and Certified Emergency Manager (CEM)," available at <https://www.iaem.org/certification/intro> (last visited January 19, 2024).

³⁷ Information on ICS-100, ICS-200, IS-700, IS-703, and IS-800 is found at FEMA, Emergency Management Institute, available at <https://training.fema.gov/nims/> (last visited January 18, 2024).

disciplines to NIMS Resource Management, including private industry and volunteer agency personnel responsible for coordination activities during a disaster. Course objectives include:

- Defining the four resource management tasks to prepare for an incident response;
- Identifying the six primary tasks of resource management during an incident; and
- Describing the use of mutual aid in incidents.

IS-800: National Response Framework, An Introduction: This course provides guidance for the all entities involved in emergency management and response, focusing particularly on those who are involved in delivering and applying the response core capabilities. Course objectives include:

- Describing the purpose, scope, organization, and underlying doctrine of the National Response Framework;
- Describing the roles and responsibilities of response partners; and
- Describing core capabilities for response and actions required to deliver those capabilities.

The Florida Emergency Preparedness Association (FEPA) is a private non-profit corporation providing an educational network for emergency managers at all levels of government as well as the private sector.³⁸ FEPA certifies as Florida Professional Emergency Managers those experience emergency managers who have advanced and diverse “knowledge, skills, and abilities to perform effectively” in a comprehensive emergency management program.³⁹

Effect of the PCS

The PCS creates the following minimum qualifications for those employed as county emergency management directors:

- A bachelor’s degree;
- Six years of verifiable experience in emergency services, emergency management, emergency planning, law enforcement, or fire-fighting services. Three years of this service must be supervisory experience in emergency management, responses, or operations for a county or municipality.
- A Master’s degree in one or more of the following fields may be substituted for two years of the required experience but not for the required supervisory experience: emergency preparedness or management, homeland security, public health, criminal justice, meteorology, or environmental science.
- Completion of the following NIMS courses (or equivalent courses established by FEMA): ICS-100, ICS-200, IS-700, IS-703, IS-800. Alternatively, a valid accreditation as a Certified Master Exercise Practitioner by FEMA, a Certified Emergency Manager, or a Florida Professional Emergency Manager may substitute for the NIMS courses.
- A valid driver license. If the license is not issued by Florida, the director must obtain a Florida driver license within 30 days of being appointed as director.

Those county emergency management directors who do not meet all the required qualifications on the effective date of the law will have until June 30, 2026, to complete the requirements.

B. SECTION DIRECTORY:

Section 1: Amends s. 252.38, F.S., to create minimum qualifications for county emergency management directors.

Section 2: Creates a non-codified section of law allowing county emergency management directors who do not meet the qualification requirements on the effective date of the act to have until June 30, 2026, to complete such requirements.

Section 3: Provides an effective date of July 1, 2024.

³⁸ FEPA, “About FEPA,” available at <https://www.fepa.org/about-us> (last visited January 19, 2024).

³⁹ FEPA, “FEPA Certification Program,” available at <https://www.fepa.org/certification> (last visited January 19, 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:

The PCS may have an indeterminate negative economic impact on private individuals seeking appointment as county emergency management directors by requiring at least a bachelor's degree and completion of specific courses pertaining to the National Incident Management System offered by the Emergency Management Institute.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This PCS 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 PCS neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to qualifications for county emergency
 3 management directors; amending s. 252.38, F.S.;
 4 requiring county emergency management directors to
 5 meet specified qualifications; providing a period for
 6 initial implementation; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (b) of subsection (1) of section
 11 252.38, Florida Statutes, is amended to read:

12 252.38 Emergency management powers of political
 13 subdivisions.—Safeguarding the life and property of its citizens
 14 is an innate responsibility of the governing body of each
 15 political subdivision of the state.

16 (1) COUNTIES.—

17 (b) Each county emergency management agency created
 18 and established pursuant to ss. 252.31-252.90 shall have a
 19 director.

20 1. The director must meet the following minimum
 21 training and education qualifications: ~~established in a job~~
 22 ~~description approved by the county.~~

23 a. A bachelor's degree.

24 b. Six years of verifiable experience in emergency
 25 services, emergency management, emergency planning, law

BILL

ORIGINAL

YEAR

26 enforcement, or fire-fighting services, of which at least 3
 27 years must be supervisory experience in emergency management,
 28 responses, or operations for a county or municipality.

29 c. A master's degree in emergency preparedness or
 30 management, business or public administration, communications,
 31 finance, homeland security, public health, criminal justice,
 32 meteorology, or environmental science may be substituted for 2
 33 of the years of experience required in sub-sub-paragraph 1.b.
 34 but not for the required years of supervisory experience.

35 d. Completion of the following National Incident
 36 Management System courses, or equivalent courses established by
 37 the Federal Emergency Management Agency through the Emergency
 38 Management Institute:

39 I. ICS-100: Introduction to the Incident Command System;

40 II ICS-200: ICS for Single Resources and Initial Action
 41 Incidents;

42 III. IS-700: National Incident Management System, An
 43 Introduction;

44 IV. IS-703: NIMS Resource Management; and

45 V. IS-800: National Response Framework, An Introduction.

46
 47 A valid accreditation as a Certified Master Exercise
 48 Practitioner by the Federal Emergency Management Agency,
 49 Certified Emergency Manager, or Florida Professional Emergency
 50 Manager will satisfy the requirements of this sub-sub-paragraph.

BILL

ORIGINAL

YEAR

51 e. A valid driver license. If the license is not a Florida
 52 driver license, the director must obtain a Florida driver
 53 license within 30 days of being appointed as director.

54 2. The director shall be appointed by the board of county
 55 commissioners or the chief administrative officer of the county,
 56 as described in chapter 125 or the county charter, if
 57 applicable, to serve at the pleasure of the appointing
 58 authority, in conformance with applicable resolutions,
 59 ordinances, and laws.

60 3. A county constitutional officer, or an employee of a
 61 county constitutional officer, may be appointed as director
 62 following prior notification to the division.

63 4. Each board of county commissioners shall promptly
 64 inform the division of the appointment of the director and other
 65 personnel.

66 5. Each director has direct responsibility for the
 67 organization, administration, and operation of the county
 68 emergency management agency. The director shall coordinate
 69 emergency management activities, services, and programs within
 70 the county and shall serve as liaison to the division and other
 71 local emergency management agencies and organizations.

72 Section 2. A county emergency management director who does
 73 not satisfy the training or certification requirements of
 74 section 1 as of the effective date of this act shall have until
 75 June 30, 2026, to complete such requirements.

BILL

ORIGINAL

YEAR

76

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