



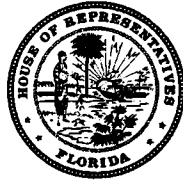
Economic Development & Tourism Subcommittee

Wednesday, March 19, 2014
9:30 AM – 10:30 AM
12 HOB

Meeting Packet

Will Weatherford
Speaker

Carlos Trujillo
Chair



The Florida House of Representatives
Economic Development and Tourism Subcommittee

Will Weatherford
Speaker

Carlos Trujillo
Chair

Meeting Agenda
Wednesday, March 19, 2014
Room 12, House Office Building
9:30 a.m. – 10:30 a.m.

- I. Call to Order**
- II. Roll Call**
- III. Welcome and Opening Remarks**
- IV. CS/HB 567 – Hurricane Preparedness**
- V. HB 1057 – Ticket Sales**
- VI. HB 7047 – OGSR/Scripps Florida Funding Corporation**
- VII. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 567 Hurricane Preparedness
SPONSOR(S): Finance & Tax Subcommittee and Gaetz
TIED BILLS: IDEN./SIM. BILLS: SB 362

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	18 Y, 0 N, As CS	Flieger	Langston
2) Economic Development & Tourism Subcommittee		Duncan <i>pd</i>	West <i>RW</i>
3) Appropriations Committee			

SUMMARY ANALYSIS

CS/HB 567 establishes a sales tax exemption for specified items related to hurricane preparedness beginning on June 1, 2014, and ending on June 12, 2014. The exempted items are:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less; and
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

The bill also provides emergency rule-making authority to the Department of Revenue.

The bill appropriates \$280,916 from the General Revenue Fund to the Department of Revenue for purposes of administering this bill.

This bill provides that the act shall take effect upon becoming a law.

The Revenue Estimating Conference met on November 20, 2013, and estimated the impact of this bill to the state will be negative \$2.9 million, with an additional negative impact of \$0.7 million to local governments in fiscal year 2014-2015, only.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The state of Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions, storage, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions.¹ Sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.² The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax only applies to \$5,000 of the sales price for any item of tangible personal property. The cap does not limit the tax on the sale of any service, rentals of real property, or transient rentals.

In 2004, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$25 billion due to 4 hurricanes in 2004 and \$10.8 billion due to 4 in 2005.³ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.⁴

The Florida Division of Emergency Management (DEM) recommends having a plan and preparing your home to prevent damage. Additionally, DEM recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.⁵

Proposed Changes

CS/HB 567 establishes a sales tax exemption for specified items related to hurricane preparedness beginning on June 1, 2014, and ending on June 12, 2014. The timing of this period coincides with the start of hurricane season.⁶ The exempted items are:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;

¹ For a list of exemptions and history, see REC, 2013 Florida Tax Handbook. Exemptions are estimated to total about \$10 billion.

² The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

³ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.flair.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited Jan. 22, 2014).

⁴ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.flair.com/siteDocuments/HurricaneSummary2008.pdf> (last visited Feb 25, 2014)

⁵ Florida Division of Emergency Management, *Disaster Supply Kit*, <http://www.floridadisaster.org/supplykit.htm> (last visited Jan. 22, 2014).

⁶ National Oceanic & Atmospheric Administration, *Frequently Asked Questions*, <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Jan. 22, 2014). The Atlantic Hurricane Season runs from June 1st through November 30th. National Oceanic & Atmospheric Administration, National Weather Service, National Hurricane Center, <http://www.nhc.noaa.gov/> (last visited March 13, 2014).

- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

The bill also provides that the Department of Revenue has emergency rulemaking authority to implement the exemption period of this bill.

The bill appropriates \$280,912 from the General Revenue Fund to the Department of Revenue for purposes of administering this bill.

This bill provides that the act shall take effect upon becoming a law.

B. SECTION DIRECTORY:

- Section 1. Exempting certain items from the sales tax for a 12 day period in June 2014.
- Section 2. Providing an appropriation to the Department of Revenue.
- Section 3. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on November 20, 2013, and estimated the impact of this bill to General Revenue will be negative \$2.9 million, and negative insignificant to state trust funds for FY 2014-15 only.

2. Expenditures:

The Department of Revenue estimates that it will cost \$280,912 to administer this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated the impact of this bill to local governments will be negative \$0.7 million for FY 2014-15 only.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Floridians will be encouraged to purchase hurricane preparedness items during the proposed exemption period.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the revenues from discretionary sales taxes levied by local governments; however, an exemption may apply as the negative impact to local governments is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides emergency rule-making authority to the Department of Revenue.

C. DRAFTING ISSUES OR OTHER COMMENTS:

First aid kits, regardless of cost, are currently exempted from sales tax by s. 212.08(2)(a), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2014, the Finance and Tax Subcommittee adopted an amendment increasing the administrative appropriation to the Department of Revenue and providing emergency rulemaking authority.

This analysis is drafted to the amended bill.

1 A bill to be entitled
 2 An act relating to hurricane preparedness; providing
 3 an exemption from the sales and use tax for sales
 4 during a specified period of certain tangible personal
 5 property; authorizing the Department of Revenue to
 6 adopt emergency rules; providing an appropriation;
 7 providing an effective date.

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

10
 11 Section 1. (1) Effective June 1, 2014, through June 12,
 12 2014, no tax levied under chapter 212, Florida Statutes, shall
 13 be collected on the sale of:

14 (a) A portable self-powered light source selling for \$20
 15 or less.

16 (b) A portable self-powered radio, two-way radio, or
 17 weatherband radio selling for \$50 or less.

18 (c) A tarpaulin or other flexible waterproof sheeting
 19 selling for \$50 or less.

20 (d) A self-contained first-aid kit selling for \$30 or
 21 less.

22 (e) A ground anchor system or tie-down kit selling for \$50
 23 or less.

24 (f) A gas or diesel fuel tank selling for \$25 or less.

25 (g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-
 26 volt batteries, excluding automobile and boat batteries, selling

27 for \$30 or less.

28 (h) A nonelectric food storage cooler selling for \$30 or
 29 less.

30 (i) A portable generator used to provide light or
 31 communications or preserve food in the event of a power outage
 32 selling for \$750 or less.

33 (2) The Department of Revenue may, and all conditions are
 34 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 35 and 120.54, Florida Statutes, to administer this section.

36 Section 2. The sum of \$280,912 is appropriated from the
 37 General Revenue Fund to the Department of Revenue for purposes
 38 of administering section 1.

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



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Development &
2 Tourism Subcommittee
3 Representative Brodeur offered the following:
4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 817.355, Florida Statutes, is amended
8 to read:

9 817.355 Fraudulent creation or possession of admission
10 ticket.-

11 (1) Except as provided in subsections (2) and (3), a ~~Any~~
12 person who counterfeits, forges, alters, clones, or possesses a
13 any ticket, card, wristband, or other medium that accesses or is
14 associated with a ticket, or a ticket token, or paper designed
15 for admission to or the rendering of services by a ~~any~~ sports,
16 amusement, concert, or other facility offering services to the
17 general public, with the intent to defraud such facility,



Amendment No. 1

18 commits is guilty of a misdemeanor of the first degree,
19 punishable as provided in s. 775.082 or s. 775.083.

20 (2) A person who commits a second or subsequent violation
21 of subsection (1) commits a felony of the third degree,
22 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

23 (3) A person who counterfeits, forges, alters, clones, or
24 possesses 10 or more tickets, cards, wristbands, or other media
25 that accesses or is associated with a ticket or tickets, tokens,
26 or papers designed for admission to or the rendering of services
27 by a sports, amusement, concert, or other facility offering
28 services to the general public with the intent to defraud such
29 facility commits a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

31 Section 2. Section 817.361, Florida Statutes, is amended
32 to read:

33 817.361 Sale or transfer ~~Resale~~ of multiuse tickets
34 ~~multiday or multievent ticket.~~

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

36 (a) "Issuer" means the person or entity that created a
37 multiuse ticket and is obligated to allow admission thereunder.

38 (b) "Multiuse ticket" means a ticket, other medium, or
39 right designed for admission to more than one theme park
40 complex, or to more than one amusement location or other
41 facility in a theme park complex, or for admission for more than
42 1 day or more than once in the same day to one or more such
43 locations or facilities in a theme park complex.



Amendment No. 1

44 (c) "Theme park complex" means an area comprised of at
45 least 25 acres of land owned by the same business entity and
46 which contains rides or other recreational activities.

47 (2) A person who ~~Whoever~~ offers for sale, sells, or
48 transfers in connection with a commercial transaction, with or
49 without consideration, ~~a any~~ nontransferable multiuse ticket or
50 a card, wristband, or other medium that accesses or is
51 associated with any nontransferable multiuse ticket ~~or other~~
52 ~~nontransferable medium designed for admission to more than one~~
53 ~~amusement location or other facility offering entertainment to~~
54 ~~the general public, or for admission for more than 1 day~~
55 ~~thereto,~~ after the nontransferable multiuse said ticket ~~or other~~
56 medium has been used at least once for admission, commits a
57 violation of this subsection. For purposes of this subsection, a
58 multiuse ticket is nontransferable unless the phrase "may be
59 used by more than one person" is printed clearly on the multiuse
60 ticket by the issuer or the issuer explicitly states on its
61 website that the multiuse ticket may be used by more than one
62 person is guilty of a misdemeanor of the second degree,
63 punishable as provided in s. 775.082 or s. 775.083. A
64 ~~nontransferable ticket or other nontransferable medium is one on~~
65 ~~which is clearly printed the phrase: "Nontransferable; must be~~
66 ~~used by the same person on all days" or words of similar import.~~

67 (3)(a) Except as provided in paragraph (b), a person who
68 violates subsection (2) commits a misdemeanor of the first
69 degree, punishable as provided in s. 775.082 or s. 775.083.



Amendment No. 1

70 (b) A person who commits ~~Upon conviction for~~ a second or
 71 subsequent violation of ~~this~~ subsection (2) commits, ~~such person~~
 72 ~~is guilty of~~ a felony misdemeanor of the third ~~first~~ degree,
 73 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 74 775.084.

75 Section 3. This act shall take effect July 1, 2014.

76

77

78

79

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

80

Remove everything before the enacting clause and insert:

81

A bill entitled

82

83 An act relating to ticket sales; amending s. 817.355,
 84 F.S.; providing enhanced criminal penalties for second
 85 and subsequent violations concerning fraudulent
 86 creation or possession of an admission ticket;
 87 providing criminal penalties for persons who commit
 88 such violations involving more than a specified number
 89 of tickets; amending s. 817.361, F.S.; providing
 90 definitions; prohibiting the sale and transfer of
 91 certain multiuse tickets; providing enhanced criminal
 92 penalties for second or subsequent violations of
 93 provisions relating to the sale or transfer of certain
 multiuse tickets; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1057 Ticket Sales
SPONSOR(S): Brodeur
TIED BILLS: IDEN./SIM. BILLS: SB 1142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Duncan <i>pdd</i>	West <i>PW</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Section 817.355, F.S., provides that a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public is guilty of a first degree misdemeanor. The bill amends s. 817.355, F.S., to provide that a person commits a third degree felony when they engage in a second or subsequent violation of the statutory provisions relating to the fraudulent creation or possession of admission tickets. The same criminal penalty applies to a person who counterfeits, forges, alters, or possesses ten or more tickets with intent to defraud a facility that host sports, amusements, concerts, or other events open to the public.

The bill amends s. 817.361, F.S., to define the terms "issuer," "multiuse ticket," and "theme park complex" relating to the sale, purchase, or transfer of a multiuse ticket. The bill provides that a multiuse ticket is nontransferable unless otherwise specifically indicated on the ticket or on the ticket issuer's website. The bill increases the criminal penalties for a first time violation of the provisions related to using a multiuse ticket that has already been used for admission from a third degree misdemeanor to first degree misdemeanor. The criminal penalties for a second or subsequent violation are increased from a first degree misdemeanor to a third degree felony.

The bill has no fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Tickets – Definition and Use

A “ticket” is a slip of paper containing a certificate that the person to whom it is issued, or the holder, is entitled to some right or privilege.¹ In the absence of a statute to the contrary, an event or admission ticket is considered to be a license to witness the performance, which may be revoked by the owner or proprietor at will, before or after admission of the ticketholder.² Florida law does not currently address whether an event or admission ticket is deemed to be a license or a property interest.

Without a statutory definition, a ticket is generally considered a license, and the ticket seller is able to place restrictions upon the use of that ticket. For example, a common restriction placed on an event or admission ticket by the seller is the inability to reenter the venue facility upon leaving. In addition to manner of use restrictions, the ticket seller is also able to place conditions and restrictions upon the resale or transferability of the ticket.

Penalties for Counterfeiting Admission Tickets

Section 817.355, F.S., provides that a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public is guilty of a first degree misdemeanor.³

The statutory language does not provide any increased criminal or civil penalties for subsequent violations. There is also no criminal or civil penalty for a person who counterfeits, forges, alters, or possesses more than one of such tickets, with the intent to defraud the event or amusement facility.

Resale of Multiday or Multievent Tickets

Section 817.361, F.S., defines a “nontransferable ticket or other nontransferable medium” as one on which the following phrase is clearly printed, “Nontransferable; must be used by the same person on all days,” or words of similar meaning.

The statute further provides that it is a violation to sell, offer for sale, or otherwise transfer in connection with a commercial transaction, any nontransferable ticket or medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than one day thereto, after said ticket has been used at least once for admission. A person who violates the provision section is guilty of a second degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.⁴

¹ Black’s Law Dictionary, Online Legal Dictionary, 2nd Ed., <http://thelawdictionary.org/ticket/> (Last visited March 7, 2014).

² 27A Am. Jur. 2d Entertainment and Sports Law § 42.

³ Section 775.082(4)(a), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to a term of imprisonment not to exceed one year. Section 775.083(1)(d), F.S., provides that a person who has been convicted of a first degree misdemeanor may be sentenced to pay a fine not to exceed \$1,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

⁴Section 775.082(4)(b), F.S., provides that the penalty for a second degree misdemeanor shall be a term of imprisonment not to exceed sixty days. Section 775.083(1)(e), F.S., provides that a person who has been convicted of a second degree misdemeanor may be sentenced to pay a fine of \$500, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration.

Moreover, the statute provides that upon a subsequent violation of the section, such person is guilty of a first degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.⁵

Effect of Proposed Changes

Penalties for Counterfeiting Admission Tickets

The bill establishes criminal penalties for subsequent violations of the law relating to the creation or possession of fraudulent admission tickets. Specifically, a person who counterfeits, forges, alters, or possesses any ticket, token, or paper that is designed for admission to any sports, amusement, concert, or other facility offering services to the general public for a subsequent time commits a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁶

The bill also imposes a criminal penalty for a person who counterfeits, forges, alters, or possesses ten or more admission tickets, tokens, or papers designed for admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility. Such person commits a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁷

Sale or Purchase of Multiuse Tickets

The bill creates subsection (1) of s. 817.361, F.S., to retitle a "multiday" or "multievent" ticket as a "multiuse ticket," and to define several terms related to the use, sale, or purchase of a multiuse ticket. Specifically, the bill defines the terms "issuer," "multiuse ticket," and "theme park complex."

- "Issuer" is defined as the person or entity that created a multiuse ticket and is obligated to allow admission pursuant to that ticket.
- "Multiuse ticket" is defined as a ticket, other medium, or right designed for admission to more than one theme park complex, amusement location or other facility in a theme park complex, or for admission for more than one day or more than once in the same day to one or more such locations or facilities in a theme park complex.
- "Theme park complex" is defined as an area comprised of at least 25 acres owned by the same business entity that contains rides or other recreational activities.

The bill provides that a multiuse ticket is nontransferable, unless the issuer:

- clearly prints on the multiuse ticket that it "may be used by more than one person;" or
- explicitly states on its website that the multiuse ticket may be used by more than one person.

Enforcement

The bill creates subsection (2) of s. 817.361, F.S., to specify that cards, wristbands, or other mediums associated with a multiuse ticket are included as forms of admission covered by the provisions of the bill and provides that it is a violation to purchase or offer to purchase or otherwise transfer in connection with a commercial transaction, any nontransferable multiuse ticket, card, wristband, or other medium after that ticket or medium has been used at least once for admission.

The bill creates subsection (3) of s. 817.361, F.S., to provide that it is a violation to purchase, offer to purchase, sell, offer for sale, or transfer any medium that accesses or is associated with a multiuse

⁵ See *supra* note 3.

⁶ Section 775.082(3)(d), F.S., provides that the penalty for a third degree felony may be a term of imprisonment not to exceed five years. Section 775.083(1)(c), F.S., provides that a person who has been convicted of a third degree felony may be sentenced to pay a fine not to exceed \$5,000, in addition to any imprisonment that he or she has been sentenced to, unless specifically authorized by statute that the fine is in lieu of any incarceration. Section 775.084, F.S., provides enhanced penalties for habitual felony offenders.

⁷ *Id.*

ticket from or to any person in connection with a commercial transaction, knowing that another person possesses or is associated with the same multiuse ticket.

The bill creates subsection (4)(a) and (b) of s. 817.361, F.S., to provide that a person who violates subsections (2) or (3) commits a first degree misdemeanor, which is punishable as provided in ss. 775.082 or 775.083, F.S.,⁸ and subsequent violations constitute a third degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁹

B. SECTION DIRECTORY:

Section 1: Amends s. 817.355, F.S., to provide increased criminal penalties for repeat violations by a person who counterfeits, forges, alters or otherwise possesses such ticket; and to provide a criminal penalty for a person who counterfeits, forges, alters or otherwise possesses ten or more of such tickets.

Section 2: Creates subsections (1) - (4) of s. 817.361, F.S., to provide definitions relating to multiuse tickets; to provide that a multiuse ticket is nontransferable, unless otherwise provided by the issuer; to provide increased criminal penalties for a person who violates the section relating to multiuse tickets; and to provide increased criminal penalties for subsequent violations of the section relating to multiuse tickets.

Section 3: Provides an effective date of July 1, 2014.

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:

When purchasing singular-use or multiuse tickets, consumers will likely have increased protections of the authenticity of their tickets.

D. FISCAL COMMENTS:

None.

⁸ See *supra* note 3.

⁹ See *supra* note 6.

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 an 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 a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to ticket sales; amending s. 817.355,
3 F.S.; providing enhanced criminal penalties for second
4 and subsequent violations concerning fraudulent
5 creation or possession of an admission ticket;
6 providing criminal penalties for persons who commit
7 such violations involving more than a specified number
8 of tickets; amending s. 817.361, F.S.; providing
9 definitions; prohibiting the purchase, sale, and
10 transfer of certain multiuse tickets; prohibiting the
11 sale and transfer of certain cards, wristbands, and
12 media that access or are associated with multiuse
13 tickets; providing enhanced criminal penalties for
14 second or subsequent violations of provisions relating
15 to the purchase, sale, or transfer of certain multiuse
16 tickets and the sale and transfer of certain cards
17 wristbands, and media that access or are associated
18 with multiuse tickets; providing an effective date.

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

21
22 Section 1. Section 817.355, Florida Statutes, is amended
23 to read:

24 817.355 Fraudulent creation or possession of admission
25 ticket.-

26 (1) Except as provided in subsections (2) and (3), a ~~Any~~
27 person who counterfeits, forges, alters, or possesses a ~~any~~
28 ticket, token, or paper designed for admission to or the

29 rendering of services by a ~~any~~ sports, amusement, concert, or
 30 other facility offering services to the general public, with the
 31 intent to defraud such facility, commits ~~is guilty of~~ a
 32 misdemeanor of the first degree, punishable as provided in s.
 33 775.082 or s. 775.083.

34 (2) A person who commits a second or subsequent violation
 35 of subsection (1) commits a felony of the third degree,
 36 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

37 (3) A person who counterfeits, forges, alters, or
 38 possesses 10 or more tickets, tokens, or papers designed for
 39 admission to or the rendering of services by a sports,
 40 amusement, concert, or other facility offering services to the
 41 general public with the intent to defraud such facility commits
 42 a felony of the third degree, punishable as provided in s.
 43 775.082, s. 775.083, or s. 775.084.

44 Section 2. Section 817.361, Florida Statutes, is amended
 45 to read:

46 817.361 Purchase, sale, or transfer ~~Resale~~ of multiuse
 47 tickets; sale or transfer of cards, wristbands, and media that
 48 access or are associated with multiuse tickets ~~multiday or~~
 49 ~~multievent ticket.~~

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

51 (a) "Issuer" means the person or entity that created a
 52 multiuse ticket and is obligated to allow admission thereunder.

53 (b) "Multiuse ticket" means a ticket, other medium, or
 54 right designed for admission to more than one theme park
 55 complex, or to more than one amusement location or other
 56 facility in a theme park complex, or for admission for more than

57 | 1 day or more than once in the same day to one or more such
 58 | locations or facilities in a theme park complex.

59 | (c) "Theme park complex" means an area comprised of at
 60 | least 25 acres of land owned by the same business entity and
 61 | which contains rides or other recreational activities.

62 | (2) A person who purchases, offers to purchase, ~~whoever~~
 63 | offers for sale, sells, or transfers in connection with a
 64 | commercial transaction, with or without consideration, ~~a any~~
 65 | nontransferable ~~multiuse~~ ticket or a card, wristband, or other
 66 | medium that accesses or is associated with any nontransferable
 67 | ~~multiuse ticket or other nontransferable medium designed for~~
 68 | ~~admission to more than one amusement location or other facility~~
 69 | ~~offering entertainment to the general public, or for admission~~
 70 | ~~for more than 1 day thereto,~~ after the nontransferable multiuse
 71 | ~~said ticket or other medium~~ has been used at least once for
 72 | admission, commits a violation of this subsection. For purposes
 73 | of this subsection, a multiuse ticket is nontransferable unless
 74 | the phrase "may be used by more than one person" is printed
 75 | clearly on the multiuse ticket by the issuer or the issuer
 76 | explicitly states on its website that the multiuse ticket may be
 77 | used by more than one person ~~is guilty of a misdemeanor of the~~
 78 | ~~second degree, punishable as provided in s. 775.082 or s.~~
 79 | ~~775.083. A nontransferable ticket or other nontransferable~~
 80 | ~~medium is one on which is clearly printed the phrase:~~
 81 | ~~"Nontransferable; must be used by the same person on all days"~~
 82 | ~~or words of similar import.~~

83 | (3) A person who purchases, offers to purchase, offers for
 84 | sale, sells, or transfers from or to any person in connection

HB 1057

2014

85 with a commercial transaction, with or without consideration, a
 86 card, wristband, or other medium that accesses or is associated
 87 with a multiuse ticket with the knowledge that another person
 88 possesses a card, wristband, or other medium that accesses or is
 89 associated with the same multiuse ticket commits a violation of
 90 this subsection.

91 (4) (a) Except as provided in paragraph (b), a person who
 92 violates subsection (2) or subsection (3) commits a misdemeanor
 93 of the first degree, punishable as provided in s. 775.082 or s.
 94 775.083.

95 (b) A person who commits ~~Upon conviction for~~ a second or
 96 subsequent violation of this subsection (2) or subsection (3) or
 97 who commits a violation of subsection (2) after committing a
 98 violation of subsection (3) or who commits a violation of
 99 subsection (3) after committing a violation of subsection (2)
 100 commits, such person is guilty of a felony misdemeanor of the
 101 third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
 102 775.083, or s. 775.084.

103 Section 3. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7047 PCB GVOPS 14-02 OGSR/Scripps Florida Funding Corporation
SPONSOR(S): Government Operations Subcommittee, Raulerson
TIED BILLS: **IDEN./SIM. BILLS:** SB 996

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	12 Y, 0 N	Williamson	Williamson
1) Economic Development & Tourism Subcommittee		Duncan <i>add</i>	West <i>RW</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

In a 2003 special session, the Legislature created the Scripps Florida Funding Corporation (corporation), which is a 10-member, not-for-profit board. The corporation is responsible for monitoring its 20-year agreement with the California-based Scripps Research Institute (Scripps) for the establishment of a state-of-the-art biomedical research facility in Florida (Scripps Florida), and disbursing state funds on a schedule that coincides with Scripps Florida meeting job-creation targets and other contractual requirements. The corporation is not a unit or entity of the state; however, it is subject to Florida's public record and open meeting laws.

Current law provides a public record exemption for the following information held by the corporation:

- Materials that relate to methods of manufacture or production, potential trade secrets, patentable material, actual trade secrets, or proprietary information received, generated, ascertained, or discovered by or through Scripps or Scripps Florida.
- Agreements and proposals to receive funding, including grant applications.
- Materials that relate to the recruitment of scientists and researchers.
- The identity of donors or potential donors to Scripps who wish to remain anonymous.
- Certain information received from a person from another state or nation or the Federal Government.
- Personal identifying information of individuals who participate in human trials or experiments.
- Medical or health records relating to participants in clinical trials.

In addition, corporation meetings wherein such confidential and exempt information is discussed are exempt from public meeting requirements. Records generated during those closed meetings are confidential and exempt from public record requirements.

The bill repeals the public record and public meeting exemptions. According to the corporation, it operates in the sunshine and does not receive such confidential and exempt information.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.² If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created³ then a public necessity statement and a two-thirds vote for passage are not required.

Scripps Florida Funding Corporation

In a 2003 special session, the Legislature created the Scripps Florida Funding Corporation (corporation), a 10-member, not-for-profit board⁴ responsible for:

- Entering into and monitoring a 20-year agreement with the California-based Scripps Research Institute (Scripps)⁵ to establish a state-of-the-art biomedical research facility in Florida (Scripps Florida); and
- Disbursing state funds on a schedule that coincides with the Florida facility meeting job-creation targets and other contractual requirements.⁶

The Legislature appropriated \$310 million to the project from federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003.⁷ In addition, Palm Beach County provided an economic package that included funding for land and construction of temporary laboratories, the current permanent campus, and related costs.⁸

¹ Section 119.15, F.S.

² Section 24(c), Art. I of the State Constitution.

³ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁴ The board of directors consists of nine voting members and an ex-officio, nonvoting member. The Governor, President of the Senate, and Speaker of the House of Representatives each appoint three voting members. The executive director of the Department of Economic Opportunity serves as the ex-officio, nonvoting member. Section 288.955(4)(a), F.S.

⁵ The Scripps Research Institute is based in La Jolla, California.

⁶ Chapter 2003-420, L.O.F.; codified as s. 288.955, F.S.

⁷ Section 5, chapter 2003-420, L.O.F.

⁸ Information provided at: <http://www.scripps.edu/florida/about/> (last visited February 3, 2014).

The state funds are disbursed over a 10-year period,⁹ which began in 2004.¹⁰ Undisbursed funds are invested by the State Board of Administration on behalf of the corporation.¹¹ According to the corporation's 2013 Annual Report, it has disbursed \$308,750,000 since inception, plus \$40,323,073 in interest.¹²

The corporation is not a unit or entity of the state; however, it is subject to Florida's public record and open meeting laws.¹³

Scripps Florida

Scripps Florida is a Scripps Research Institute that adjoins the Florida Atlantic University campus in Palm Beach County. It is not an independent research institute, but is a division of the California-based Scripps. Scripps Florida focuses on basic biomedical science, drug discovery, and technology development.¹⁴

As of September 30, 2013, Scripps Florida had employed 528 people;¹⁵ under the terms of its agreement with the corporation, Scripps Florida is required to hire 545 employees by 2014.¹⁶

Public Record and Public Meeting Exemptions under Review

During the 2003 special session in which the corporation was created, the Legislature also created a public record and public meeting exemption for the corporation and the Office of Tourism, Trade, and Economic Development^{17, 18} Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions were scheduled to repeal on October 2, 2009; however, the Legislature reenacted the exemptions with changes.¹⁹

Currently, the following information held by the corporation is confidential and exempt²⁰ from public

⁹ Originally, the funds were to be disbursed over a seven year period; however, due to site-selection and permitting delays, the disbursement period was extended to 10 years. See Amendment to Operating and Funding Agreement, November 28, 2006 (on file with the Government Operations Subcommittee).

¹⁰ Scripps Florida Funding Corporation Annual Report for the year ended September 30, 2013 (2013 Annual Report), at 3, available at: <http://www.scripps.edu/florida/about/annual-rpt.html> (last visited February 3, 2014).

¹¹ Section 288.955(7), F.S.

¹² 2013 Annual Report, at 36.

¹³ Section 288.955(2)(b), F.S.

¹⁴ 2013 Annual Report, at 3.

¹⁵ The employees include 54 faculty positions, 337 scientific staff positions, and 137 administration positions. Faculty positions include tenure track professors, associate professors, and assistant professors. Scientific staff positions include non-tenure track scientists (research faculty and staff scientists), research associates/post-docs, lab technicians, and Scripps paid graduate students. Administration positions include all other support personnel. *Id.* at 36.

¹⁶ *Id.*, at 36.

¹⁷ Chapter 2011-142, L.O.F., transferred by a type two transfer all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to the Department of Economic Opportunity.

¹⁸ Chapter 2003-419, L.O.F.; codified as s. 288.9551, F.S.

¹⁹ Chapter 2009-236, L.O.F.

²⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

record requirements:

- Materials that relate to methods of manufacture or production, potential trade secrets, patentable material, actual trade secrets,²¹ or proprietary information received, generated, ascertained, or discovered by or through Scripps or Scripps Florida.²²
- Agreements and proposals to receive funding, including grant applications.²³
- Materials that relate to the recruitment of scientists and researchers.²⁴
- The identity of donors or potential donors to Scripps who wish to remain anonymous.²⁵
- Information received from a person from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or nation or pursuant to federal law.²⁶
- Personal identifying information of individuals who participate in human trials or experiments.²⁷
- Medical or health records relating to participants in clinical trials.²⁸

In addition, those portions of meetings held by the corporation's board of directors, during which confidential and exempt information is presented or discussed, are exempt from public meeting requirements.²⁹ Records generated during those closed meetings are confidential and exempt from public record requirements.³⁰

Current law also requires that public employees be permitted to inspect and copy the confidential and exempt information in the furtherance of their duties and responsibilities.³¹

Any person who willfully and knowingly violates the public record or public meeting exemption commits a misdemeanor of the second degree.³² A misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days,³³ and a fine not to exceed \$500.³⁴

Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions will repeal on October 2, 2014, unless reenacted by the Legislature.³⁵

During the 2013 interim, subcommittee staff sent a questionnaire to the corporation as part of the Open Government Sunset Review process. The corporation recommended repealing the public record and

²¹ The exemption provides a public record exemption for an actual trade secret as defined in s. 688.002, F.S. Section 688.002(4), F.S., defines the term "trade secret" to mean information, including a formula, pattern, compilation, program, device, method, technique, or process that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

²² Section 288.9551(2)(a), F.S.

²³ Those portions of agreements and proposals to receive funding, including grant applications, that do not contain confidential and exempt information, are not confidential and exempt upon issuance of the report that is made after the conclusion of the project for which funding was provided. In addition, the public record exemption does not apply to any agreement between the corporation and Scripps that governs the release of the state funds. Section 288.9551(2)(b), F.S.

²⁴ Section 288.9551(2)(c), F.S.

²⁵ Section 288.9551(2)(d), F.S.

²⁶ Section 288.9551(2)(e), F.S.

²⁷ Section 288.9551(2)(f), F.S.

²⁸ Section 288.9551(2)(g), F.S.

²⁹ Section 288.9551(3)(a), F.S.

³⁰ Section 288.9551(3)(b), F.S.

³¹ Section 288.9551(4), F.S.

³² Section 288.9551(5), F.S.

³³ Section 775.082(4)(b), F.S.

³⁴ Section 775.083(1)(e), F.S.

³⁵ Section 288.9551(6), F.S.

public meeting exemptions under review, because it "operates in the sunshine and does not hold, gather or disseminate proprietary information about Scripps Florida business or technologies."³⁶

Effect of the Bill

The bill repeals s. 288.9551, F.S., thereby repealing the public record and public meeting exemptions for the Scripps Florida Funding Corporation.

B. SECTION DIRECTORY:

Section 1 repeals s. 288.9551, F.S., which provides public record and public meeting exemptions for the Scripps Florida Funding Corporation.

Section 2 provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

³⁶ Open Government Sunset Review Questionnaire for the Scripps Florida Funding Corporation, received September 10, 2013, at question 13 (on file with the Government Operations Subcommittee).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HB 7047

2014

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; repealing s. 288.9551, F.S.,
4 relating to exemptions from public records and public
5 meeting requirements for certain records and meetings
6 of the Scripps Florida Funding Corporation; providing
7 an effective date.

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

10

11 Section 1. Section 288.9551, Florida Statutes, is
12 repealed.

13 Section 2. This act shall take effect October 1, 2014.

