



State Affairs Committee

**Thursday, January 23, 2020
9:30 AM – 11:30 AM
Morris Hall (17 HOB)**

**Jose R. Oliva
Speaker**

**Blaise Ingoglia
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time: Thursday, January 23, 2020 09:30 am

End Date and Time: Thursday, January 23, 2020 11:30 am

Location: Morris Hall (17 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

CS/CS/HB 205 Unlawful Use of Uniforms, Medals, or Insignia by Criminal Justice Subcommittee, Local, Federal & Veterans Affairs Subcommittee, Avila, Sabatini

CS/HB 327 Illegal Taking, Possession, and Sale of Bears by Agriculture & Natural Resources Subcommittee, Smith, D.

HB 355 Pasco County by Zika

CS/HB 441 Public Procurement of Services by Oversight, Transparency & Public Management Subcommittee, DiCeglie

HB 989 Broward County by Jacobs

HB 6025 Harris Chain of Lakes by Sabatini

HB 6027 Citrus/Hernando Waterways Restoration Council, Citrus County by Massullo

HB 7005 OGSR/RICO Act Investigations by Oversight, Transparency & Public Management Subcommittee, Grall

HB 7013 OGSR/Residential Facilities Serving Victims of Sexual Exploitation by Oversight, Transparency & Public Management Subcommittee, Daniels

NOTICE FINALIZED on 01/21/2020 4:06PM by Denson.Tori

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 205 Unlawful Use of Uniforms, Medals, or Insignia

SPONSOR(S): Criminal Justice Subcommittee, Local, Federal & Veterans Affairs Subcommittee, Avila and Sabatini

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 352

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N, As CS	Renner	Miller
2) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Rochester	Hall
3) State Affairs Committee		Renner	Williamson

SUMMARY ANALYSIS

The Federal Stolen Valor Act of 2013 prohibits a person from claiming to have served in the military, from embellishing any rank attained, or from fraudulently claiming to have received a valor award, when he or she does so with the intent to obtain money, property, or other tangible benefit.

Similarly, Florida law prohibits an unauthorized person from misrepresenting himself or herself as a member or veteran of the United States Air Force, Army, Coast Guard, Marine Corps, Navy, or National Guard, or from wearing a uniform or any medal or insignia authorized for use by members or veterans of those entities, while soliciting charitable contributions or for the purpose of material gain. A violation of the prohibition is a third degree felony, punishable by up to five years imprisonment and a \$5,000 fine. The law does not specify that a person who makes such misrepresentations for the purpose of obtaining employment or public office commits a criminal offense.

The bill specifies that "material gain" for purposes of the prohibition pertaining to using a military uniform, medal, or insignia or misrepresenting himself or herself as a military member or veteran for the purpose of material gain, includes, but is not limited to, obtaining employment or political office resulting in receiving compensation. The bill updates Florida's law to mirror more closely the Federal Stolen Valor Act of 2013.

The bill may have an insignificant prison bed impact on the Department of Corrections by expanding the conduct prohibited as a third degree felony.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Stolen Valor Act

In 2005, President George W. Bush signed into law the first Stolen Valor Act (the first Act).¹ The law broadened provisions of federal law prohibiting the unauthorized wearing, manufacture, or sale of any military decorations and medals. Under the law, it was a federal misdemeanor to falsely represent oneself as having received any United States military decoration or medal.

In 2012, the United States Supreme Court overturned the first Act. In *United States v. Alvarez*,² the Court ruled that the first Act violated the First Amendment's guarantee to free speech and was therefore unconstitutional. In considering whether the conduct prohibited by the statute was protected free speech, the Court noted that "(t)he statute seeks to control and suppress all false statements on this one subject in almost limitless times and settings. And it does so entirely without regard to whether the lie was made for the purpose of material gain."³

Consequently, President Barack Obama signed into law the Stolen Valor Act of 2013 (the 2013 Act).⁴ The 2013 Act amended the federal criminal code to prohibit a person from claiming to have served in the military, from embellishing the rank attained, or from fraudulently claiming to have received a valor award with the intention of obtaining money, property, or other tangible benefit.

Solicitation While Wearing a Military Uniform (Florida)

Section 817.312, F.S., prohibits an unauthorized person from representing himself or herself as a member or veteran of the United States Air Force, Army, Coast Guard, Marine Corps, Navy, or National Guard or from wearing a uniform, or any medal or insignia authorized for use by members or veterans of the United States military in order to solicit charitable contributions or for the purpose of material gain.⁵ A person who commits such an offense is guilty of a third degree felony.⁶ Wearing such uniforms, medals, or insignia while engaging in a theatrical performance is not a violation.

Current law does not specify that "material gain" includes a person who makes such misrepresentations for the purpose of obtaining employment or public office. In 2016, a Groveland mayoral candidate's campaign website claimed he had been awarded two Bronze Stars and a Purple Heart while serving in the Army.⁷ It was later discovered that the candidate had neither a Purple Heart, which is awarded to soldiers who were killed or injured in combat, nor a Bronze Star, awarded to soldiers who showed meritorious achievement.⁸ Because the law did not clearly prohibit this behavior, the candidate was not prosecuted.

Florida's Military Code prohibits similar acts relating to a United States military uniform. Section 250.43, F.S., prohibits an unauthorized person from wearing a United States military uniform, any part of such uniform, or any similar uniform. The prohibition does not require an intent to deceive. A violation of the

¹ GovTrack, Stolen Valor Act of 2005, Pub. L. No. 109-437, S. 1998, 109th Cong. (Dec. 20, 2006), <https://www.govtrack.us/congress/bills/109/s1998> (last visited Jan. 15, 2020).

² *United States v. Alvarez*, 567 U.S. 709, 132 S. Ct. 2537, 183 L. Ed. 2d 574 (2012).

³ *Id.* at 2547.

⁴ 18 U.S.C. § 704. See also GovTrack, Stolen Valor Act of 2013, Pub. L. No. 113-12, H.R. 258, 113th Cong. (June 3, 2013), <https://www.govtrack.us/congress/bills/113/hr258> (last visited Jan. 15, 2020).

⁵ S. 817.312, F.S.

⁶ A third degree felony is punishable by up to five years in prison and a fine up to \$5,000. See ss. 775.082 and 775.083, F.S.

⁷ Ryan Gillespie, *Vets Find Military Records, Including Lake Candidate, Often Embellished*, Orlando Sentinel (Oct. 22, 2016), <http://www.orlandosentinel.com/news/lake/os-groveland-stolen-valor-20161021-story.html> (last visited Jan. 15, 2020).

⁸ *Id.*

prohibition is a first degree misdemeanor.⁹ The law was challenged on First Amendment grounds. In *State v. Montas*, the Florida Fifth District Court of Appeals noted that s. 250.43, F.S., prohibits a child from wearing his parent's Army boots or a person from wearing an imitation military uniform for Halloween, and is therefore unconstitutionally overbroad as it bans both protected and unprotected speech.¹⁰

Effect of the Bill

The bill specifies that "material gain" includes, but is not limited to, obtaining employment or political office resulting in the receipt of compensation. As such, an unauthorized person is prohibited from using a military uniform, medal, or insignia or misrepresenting himself or herself as a military member or veteran for the purpose of material gain, including, but not limited to, obtaining employment or political office resulting in receiving compensation. The bill updates Florida's law to mirror more closely the 2013 Act.

B. SECTION DIRECTORY:

Section 1: Amends s. 817.312, F.S., relating to unlawful use of uniforms, medals, or insignia.

Section 2: Provides an effective date of October 1, 2020.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an insignificant bed impact on the Department of Corrections and county detention facilities by expanding the conduct prohibited as a third degree felony.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁹ A first degree misdemeanor is punishable by up to one year in county jail and a fine up to \$1,000. See ss. 775.082 and 775.083, F.S.

¹⁰ *State v. Montas*, 993 So. 2d 1127 (Fla. 5th Dist. 2008).

The bill appears to be exempt from the requirements of Article VII, s. 18 of the Florida Constitution because it is a criminal law.

2. Other:

The bill amends s. 817.312, F.S., to prohibit the misrepresentation of military status or wearing of a United States military uniform, medal or insignia without authorization while soliciting for charitable contributions, or for the purpose of material gain, including obtaining employment or public office resulting in the receipt of compensation.

As discussed in the body of the analysis, when examining both state and federal statutes prohibiting similar conduct, courts have emphasized that such laws should be narrowly tailored and require the intent to deceive another person for the purpose of obtaining money or other valuable consideration.¹¹ As such, it appears this bill is narrowly tailored to achieve its objective.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 6, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that a person obtaining employment or public office cannot misuse a military uniform, medal, or insignia or misrepresent oneself as a member or veteran of the military for the purpose of material gain to ensure conformity with the 2013 Act.

On January 15, 2020, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment made a non-substantive, technical correction to a drafting error.

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

¹¹ *Alvarez*, 132 S. Ct. at 2547. *Montas*, 993 So. 2d at 1129.
STORAGE NAME: h0205d.SAC
DATE: 1/21/2020

1 A bill to be entitled
 2 An act relating to unlawful use of uniforms, medals,
 3 or insignia; amending s. 817.312, F.S.; prohibiting
 4 certain misrepresentations concerning military service
 5 when made for specified purposes; providing criminal
 6 penalties; providing an effective date.

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

9
 10 Section 1. Section 817.312, Florida Statutes, is amended
 11 to read:

12 817.312 Unlawful use of uniforms, medals, or insignia.—

13 (1) (a) A person may not:

14 1. Misrepresent himself or herself as a member or veteran
 15 of the United States Air Force, United States Army, United
 16 States Coast Guard, United States Marine Corps, United States
 17 Navy, or National Guard; or

18 2. Wear the uniform of or any medal or insignia authorized
 19 for use by members or veterans of the United States Air Force,
 20 United States Army, United States Coast Guard, United States
 21 Marine Corps, United States Navy, or the National Guard which he
 22 or she is not authorized to wear

23
 24 while soliciting for charitable contributions or for the purpose
 25 of material gain, including, but not limited to, obtaining

26 | employment or public office resulting in receiving compensation.

27 | **(b)** This subsection ~~section~~ does not prohibit persons in
28 | the theatrical profession from wearing such uniforms, medals, or
29 | insignia while actually engaged in such profession.

30 | (2) A person who violates subsection (1) commits a felony
31 | of the third degree, punishable as provided in s. 775.082, s.
32 | 775.083, or s. 775.084.

33 | Section 2. This act shall take effect October 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 327 Illegal Taking and Possession of Bears
SPONSOR(S): Agriculture & Natural Resources Subcommittee, Smith, D.
TIED BILLS: **IDEN./SIM. BILLS:** SB 688

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	9 Y, 0 N, As CS	Melkun	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
3) State Affairs Committee		Melkun	Williamson

SUMMARY ANALYSIS

The Florida black bear (*Ursus americanus floridanus*) is one of 16 recognized subspecies of the American black bear (*Ursus americanus*). The Florida black bear historically roamed throughout the state, but now lives in several fragmented areas. Due to increased regulation, the bear population is growing. As the population of both humans and bears has expanded in the state, there has been an increase in human-bear conflicts.

As a component of the Florida Fish and Wildlife Conservation Commission's (FWC) overall bear management strategy, FWC has established a regulatory framework for bear hunting. Under this framework, FWC may designate specific periods, known as seasons, when bears may be hunted. The first and only bear hunt occurred in October 2015. Since 2015, FWC has not authorized a bear season. Although there is no penalty specific to the illegal taking of a bear, Florida law provides that a person who violates rules or orders of FWC relating to seasons or time periods for the taking of wildlife commits a Level Two violation. A person who commits a Level Two violation commits a second degree misdemeanor. Currently, the taking of a bear during the closed season is considered a Level Two violation.

The bill increases the penalties for taking a bear or possessing a freshly killed bear during the closed season by specifying that a person who commits such offenses commits a Level Three violation, rather than a Level Two, and forfeits any FWC license or permit issued for three years after the date of the violation. The bill further specifies that a person who commits a subsequent offense of such taking or possession is permanently ineligible for issuance of any FWC license or permit.

The bill also specifies that a person who possesses for sale or sells a bear taken during the closed season commits a Level Four violation. A person who commits a Level Four violation commits a third degree felony.

The bill may have an indeterminate but likely insignificant negative fiscal impact on FWC. There may be an indeterminate negative fiscal impact on the Department of Corrections if violators are convicted of a third degree felony and sentenced to prison. The bill may have an indeterminate positive fiscal impact on the Clerks of Court.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Black Bear

The Florida black bear (*Ursus americanus floridanus*) is one of 16 recognized subspecies of the American black bear (*Ursus americanus*) and is one of the three subspecies of black bear that can be found in the southeastern United States.¹ The Florida black bear historically roamed throughout the state, but now lives in several fragmented areas.² Due to loss of habitat and unregulated hunting, the population was reduced to an estimated 300-500 bears in the 1970s.³ As a result of the population decline, the Florida Fish and Wildlife Conservation Commission (FWC) classified the Florida black bear as a threatened species in 1974.⁴

After more than 35 years of strict statewide protection and management, FWC conducted an evaluation and determined that the Florida black bear was no longer at high risk of extinction. As a result, the Florida black bear was removed from the state threatened species list in 2012.⁵

Population

Today, the Florida black bear population is comprised of seven distinct sub-populations within the state, including Apalachicola, Eglin, Osceola, Ocala/St. Johns, Chassahowitzka, Highland/Glades, and Big Cypress.⁶ During 2014 and 2015, FWC conducted a statewide population assessment for Florida black bears and found that bear populations increased substantially in certain sub-populations and increased by approximately 53 percent statewide.⁷ Although the Florida black bear population is growing and its occupied range is expanding, the populations still only occur in seven relatively disconnected sub-groups across the state.⁸

For management purposes, each sub-population is separated into a bear management unit (BMU). A BMU is a geographic location bounded by county or state borders containing one of the seven Florida black bear sub-populations.⁹ The goal of establishing BMUs is to provide a defined area within which FWC can have a community-focused effort to effectively manage and conserve Florida black bears.¹⁰ FWC manages each BMU to meet specific goals related to bear sub-population size, potential habitat, human-bear conflicts, and potential threats, such as vehicle-related mortality.¹¹

¹ The other two subspecies, *Ursus americanus americanus* and *Ursus americanus luteolus*, do not occur in Florida; FWC, *Florida Black Bear: FAQs*, available at <https://myfwc.com/wildlifehabitats/wildlife/bear/living/faqs/> (last visited Oct. 29, 2019); FWC, *Florida Black Bear Management Plan: Ursus americanus floridanus*, 5 (June 27, 2012), available at <https://myfwc.com/media/16090/bear-management-plan.pdf> (last visited Oct. 28, 2019) (herein “2012 Bear Management Plan”).

² FWC, *Black Bears Appearance*, available at <http://myfwc.com/wildlifehabitats/managed/bear/facts/appearance/> (last visited Oct. 28, 2019).

³ FWC, *Black Bear Research*, available at <http://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited Oct. 28, 2019).

⁴ *Id.*

⁵ 2012 Bear Management Plan at 26-27.

⁶ *Id.* at xvii.

⁷ FWC, *Florida Black Bear: Numbers*, available at <https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/> (last visited Oct. 29, 2019).

⁸ FWC, *Florida Black Bear: Black Bear Research*, available at <https://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited Oct. 29, 2019).

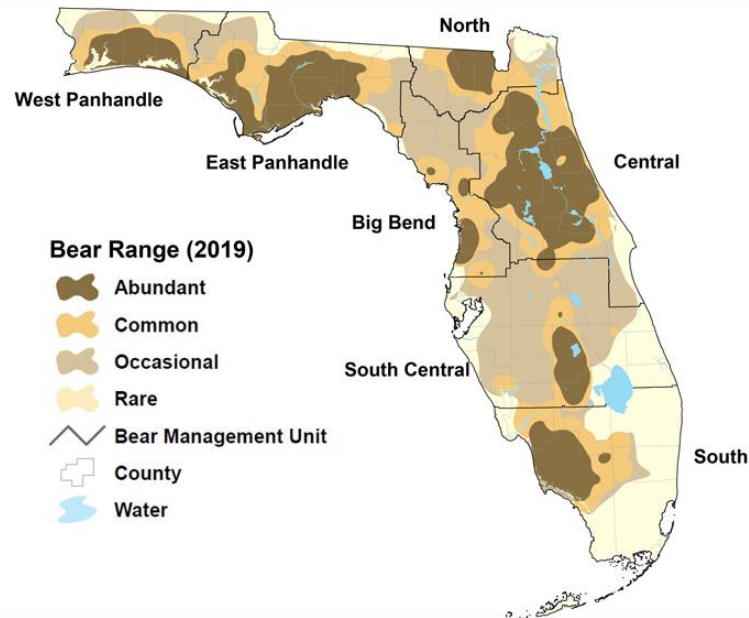
⁹ FWC, *Florida Black Bear: BMU*, available at <http://myfwc.com/wildlifehabitats/managed/bear/bmu/> (last visited Oct. 29, 2019).

¹⁰ *Id.*

¹¹ 2012 Bear Management Plan at vi.

Habitat

Florida black bears range from the northeast to the southwest of the state.¹² Updated ranges are important for managing and predicting human-bear conflicts, determining potential areas to provide linkage between sub-populations, employing conservation plans, implementing public outreach, and monitoring listing criteria.¹³ Some of the sub-populations are small and are impacted by habitat fragmentation, which restricts movement and genetic interchange among sub-populations.¹⁴



The Florida black bear is adaptable and inhabits a variety of forested habitats, but thrives in habitats that provide an annual supply of seasonally available foods, secluded areas for denning, and some degree of protection from humans.¹⁵ The optimal bear habitat in Florida is a thoroughly interspersed mixture of flatwoods, swamps, scrub oak ridges, bayheads, and hammock habitats.¹⁶ Self-sustaining and secure sub-populations of bears are typically found within large contiguous forested tracts that contain understories of mast¹⁷ or berry-producing shrubs or trees.¹⁸

Human-bear Conflicts

As the population of both humans and bears has expanded in the state, there has been an increase in human-bear conflicts, particularly in residential areas, where bears often search for food.¹⁹ Between 2009 and 2018, FWC euthanized an average of 38 bears annually due to public safety risks.²⁰ FWC found that a majority of the mortalities were associated with bears seeking out unsecured garbage or other human-provided food sources.²¹ In 2018, FWC received 5,496 calls relating to bears, of which 39 percent were considered core complaints.²²

¹² FWC, *Florida Black Bear: Distribution Map*, available at <https://myfwc.com/wildlifehabitats/wildlife/bear/living/distribution-map/> (last visited Oct. 29, 2019).

¹³ *Id.*

¹⁴ 2012 Bear Management Plan at 15.

¹⁵ 2012 Bear Management Plan at 8.

¹⁶ *Id.*

¹⁷ The term “mast” is a general term for edible fruit when eaten by wildlife. Hard mast includes acorn, hickory, pecan, and other nuts while soft mast includes fleshy berries such as palmetto berries, blueberries, and grapes. 2012 Bear Management Plan at xvi.

¹⁸ 2012 Bear Management Plan at 8.

¹⁹ 2012 Bear Management Plan at 29.

²⁰ FWC, *Florida Black Bear Management Plan: Ursus americanus floridanus*, 21 (Oct. 8, 2019), available at <https://myfwc.com/media/21923/2019-draft-bear-management-plan.pdf> (last visited Oct. 29, 2019) (herein “2019 Draft Bear Management Plan”).

²¹ *Id.*

²² “Core complaint” refers to a subset of all the bear-related calls received by FWC that are classified as complaints. Core complaints consist of the following categories: apiary, in building/tent/vehicle, in crops, in feed, in feeder, in garbage, in open garage, in screened porch/patio, property damage, threatened/attacked/killed animal, and threatened/attacked/killed human. Categories of calls related to human-bear interactions that are not classified as core complaints include: animal threatened/attacked/killed bear, dead bear, general

Bears in close proximity to humans create a range of issues from perceived threats (e.g., seeing a bear on the edge of the forest) to potential threats to public safety (i.e., food conditioned and habituated bears). FWC has attempted to capture and relocate bears; however, this practice was ineffective as there are few remote places where relocated bears will not encounter humans and that are not already occupied by other bears.²³ Additionally, FWC found that 70 percent of relocated bears do not remain in the area to which they were moved and over half repeat conflict behavior even after they are moved.²⁴ As a result, FWC's policies place an emphasis on the public's personal responsibility for eliminating attractants and thereby reducing or eliminating conflicts with bears.²⁵

Communities within occupied bear range that commit to learning to coexist with bears, knowing when and how to report bear activity, and securing potential food sources are referred to as BearWise Communities.²⁶ There are an estimated 19 communities throughout North America that have successfully reduced human-bear conflicts by adopting BearWise practices, including several Florida communities.²⁷ Since 2007, a total of \$2.1 million of funding through the BearWise program has been provided to local governments in Florida, over \$1.4 million of which was provided with support from the Legislature and the Fish and Wildlife Foundation of Florida.²⁸

Additionally, in 2015, FWC passed a statewide resolution highlighting the importance of securing attractants.²⁹ That same year, the Legislature increased the penalties for feeding bears.³⁰ Section 379.412, F.S., provides enhanced penalties for:

- Feeding wildlife with food or garbage;
- Attracting or enticing wildlife with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife.

FWC also updated its bear feeding rule to allow law enforcement officers to issue notifications to people who have been in contact with FWC regarding securing their garbage or other attractants and have failed to do so.³¹ The notification serves as a formal reminder that the person's actions could be in violation of the law.³²

Hunting as a Management Tool

As a component of FWC's overall bear management strategy, FWC has established a regulatory framework for bear hunting. Under this framework, FWC may designate specific periods, known as seasons, when bears may be hunted. The first and only bear hunt occurred in October 2015, during which FWC authorized four of the seven BMUs to be opened to bear hunting.³³ Each BMU had an established harvest objective, which was based on taking 20 percent of the estimated BMU population and subtracting the annual known mortality.³⁴ The table below depicts the harvest objectives and the actual harvest numbers.³⁵

question, harvest/hunt, human threatened bear, illegal activity, in area, in hog trap, in tree, in unscreened porch/patio, in yard, misidentified, research, sick/injured bear, unintentionally approached human, and other. 2019 Draft Bear Management Plan at xvi, 54.

²³ 2019 Draft Bear Management Plan at 55.

²⁴ *Id.*

²⁵ *Id.*

²⁶ FWC, *Florida Black Bear: BearWise*, available at <http://myfwc.com/wildlifehabitats/managed/bear/wise/> (last visited Oct. 29, 2019).

²⁷ FWC, *Florida Black Bear: BearWise*, available at <http://myfwc.com/wildlifehabitats/managed/bear/wise/> (last visited Oct. 29, 2019); FWC, *Pioneers*, available at <https://myfwc.com/wildlifehabitats/wildlife/bear/wise/pioneers/> (last visited Oct. 29, 2019).

²⁸ FWC, *Florida Black Bear: BearWise*, available at <http://myfwc.com/wildlifehabitats/managed/bear/wise/> (last visited Oct. 29, 2019); ch. 2019-115, Laws of Fla.

²⁹ See <https://myfwc.com/media/7072/11b-blackbearresolution.pdf>, for the entire FWC black bear resolution.

³⁰ Chapter 2015-161, s. 12, Laws of Fla.

³¹ Chapter 68A-4.001, F.A.C.

³² Dr. Thomas Eason, Director, Division of Habitat and Species Conservation, FWC, *Black Bear Program Update*, slide 23 (April 2017), available at <https://myfwc.com/media/18754/3b-bearplanupdate.pdf> (last visited Oct. 29, 2019).

³³ FWC, *2015 Florida Black Bear Hunt Summary Report*, 1, available at <https://myfwc.com/media/13669/2015-florida-black-bear-hunt-report.pdf> (last visited Oct. 29, 2019).

³⁴ *Id.* at 2.

³⁵ *Id.* at 3.

Bear Management Unit	Population Estimate (Estimate Year)	20% of Population Estimate	Known Mortality (3 Year Average)	Harvest Objective	Actual Harvest
East Panhandle	600 ('02)	120	80	40	114
North	550 ('14)	110	10	100	25
Central	1,300 ('14)	260	160	100	143
South	700 ('02)	140	20	80	22
TOTALS	3,150	630	270	320	304

The hunt was authorized to begin October 24, 2015, and FWC had the ability to close the season using a daily cut-off mechanism both within each BMU and statewide.³⁶ The hunt was spread across 26 counties, and 78 percent of bears were taken on private lands.³⁷ The East Panhandle and Central BMUs were closed beginning October 25, 2015, while the North and South BMUs were closed beginning October 26, 2015.³⁸

Penalties for Taking or Sale of Wildlife

Section 379.401, F.S., provides a four-tiered penalty structure for violations of FWC's recreational hunting, fishing, and trapping regulations. Pursuant to s. 379.401, F.S., a person commits a Level Two violation if he or she violates rules or orders of FWC relating to seasons or periods for the taking³⁹ of wildlife, freshwater fish, or saltwater fish.⁴⁰ A person who commits a Level Two violation, but who has not been convicted of a Level Two or higher violation within the past three years, commits a second degree misdemeanor.⁴¹ A person commits a first degree misdemeanor⁴² if he or she commits:

- A second Level Two violation within three years after a previous conviction for a Level Two or higher violation;⁴³
- A third Level Two violation within five years after two previous convictions for a Level Two or higher violation;⁴⁴ or
- A fourth Level Two violation within 10 years after three previous convictions for a Level Two or higher violation.⁴⁵

Currently, the taking of a bear during closed season is considered a Level Two violation.

A person commits a Level Three violation if he or she violates certain provisions related to the taking, importation, possession, or sale of specific types of wildlife or fish, such as the illegal taking of deer and wild turkey.⁴⁶ In addition, the taking of game, freshwater fish, or saltwater fish while a required license is

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ The term "take" means taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater or saltwater fish, or their nests or eggs, by any means, whether or not such actions result in obtaining possession of such wildlife or freshwater or saltwater fish or their nests or eggs. Section 379.101(38), F.S.

⁴⁰ Section 379.401(2)(a)1., F.S.

⁴¹ A second degree misdemeanor is punishable by a maximum fine of \$500 or a maximum 60 days imprisonment. Sections 379.401(2)(b)1., 775.083(1)(e), and 775.082(4)(b), F.S.

⁴² A first degree misdemeanor is punishable by a maximum fine of \$1,000 and a maximum one year imprisonment. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁴³ A second Level Two violation within the specified period is punishable by a minimum fine of \$250. Section 379.401(2)(b)2., F.S.

⁴⁴ A third Level Two violation within the specified period is punishable by a minimum fine of \$500 and suspension of any FWC recreational license or permit issued for one year. Section 379.401(2)(b)3., F.S.

⁴⁵ A fourth Level Two violation within the specified period is punishable by a minimum fine of \$750 and suspension of any FWC recreational license or permit issued for three years. Section 379.401(2)(b)4., F.S.

⁴⁶ Section 379.401(3)(a), F.S.

suspended or revoked constitutes a Level Three violation.⁴⁷ A person who commits a Level Three violation commits a first degree misdemeanor.⁴⁸ A person who commits a second Level Three violation within 10 years after a previous conviction for a Level Three or higher violation also commits a first degree misdemeanor.⁴⁹

A person commits a Level Four violation if he or she violates certain prohibitions related to specific species of wildlife or fish, such as the sale of illegally-taken deer or wild turkey.⁵⁰ A person who commits a Level Four violation commits a third degree felony.⁵¹

Effect of the Bill

The bill increases the penalties associated with the illegal taking, possession, and sale of bears and conforms such penalties with those related to the illegal taking, possession, and sale of deer. Specifically, the bill increases the penalties for taking a bear or possessing a freshly killed bear during the closed season by specifying that a person who commits such offenses commits a Level Three violation, rather than a Level Two violation, and forfeits any FWC license or permit issued for three years after the date of violation. The bill further specifies that a person who commits a subsequent offense of such taking or possession is permanently ineligible for issuance of any FWC license or permit.

The bill specifies that a person who possesses for sale or sells a bear taken during the closed season commits a Level Four violation, rather than a Level Three violation.

The bill also makes conforming changes to insert cross-references for the increased penalties related to the illegal taking, possession, and sale of bears

B. SECTION DIRECTORY:

- Section 1. Amends s. 379.401, F.S., providing that a person commits specified violations for the illegal taking, possession, and sale of bears.
- Section 2. Creates s. 379.4041, F.S., providing penalties for the taking, possession, and sale of bears during closed season.
- Section 3. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate but likely insignificant negative fiscal impact on revenues to FWC from violators being ineligible for future licenses.

2. Expenditures:

There may be an indeterminate negative fiscal impact on the Department of Corrections if violators are convicted of a third degree felony and sentenced to prison.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁴⁷ Section 379.401(3)(a)5., F.S.

⁴⁸ Section 379.401(3)(b)1., F.S.

⁴⁹ Section 379.401(3)(b)3., F.S. A second Level Three violation within the specified period is punishable by a minimum fine of \$750 and suspension of any FWC recreational license or permit for the remainder of the period for which the license or permit was issued, up to three years.

⁵⁰ Section 379.401(4), F.S.

⁵¹ A third degree felony is punishable by a maximum fine of \$5,000 and a maximum five years imprisonment. Sections 775.082(3)(e) and 775.083(1)(c), F.S. A habitual offender may receive a punishment of up to ten years imprisonment. Section 775.084(4)(a)3., F.S.

1. Revenues:

The bill may have an indeterminate positive fiscal impact on the Clerks of Court because the bill increases the penalties collected by the Clerks of Court for certain violations related to taking or possessing bears.⁵²

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate but likely insignificant negative fiscal impact on revenues to retailers who sell FWC licenses or permits from violators being ineligible for future licenses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 13, 2019, the Agriculture & Natural Resources Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment inserted cross-references for the penalties created in the bill in s. 379.401, F.S.

This analysis is drafted to the committee substitute as approved by the Agriculture & Natural Resources Subcommittee.

⁵² See ss. 142.01 and 379.2203, F.S.
STORAGE NAME: h0327d.SAC
DATE: 1/21/2020

1 A bill to be entitled
 2 An act relating to illegal taking, possession, and
 3 sale of bears; amending s. 379.401, F.S.; providing
 4 that a person commits specified violations for the
 5 illegal taking, possession, and sale of bears;
 6 creating s. 379.4041, F.S.; prohibiting the illegal
 7 taking, possession, and sale of bears; providing
 8 penalties; providing an effective date.

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

11
 12 Section 1. Paragraph (a) of subsection (3) and paragraph
 13 (a) of subsection (4) of section 379.401, Florida Statutes, are
 14 amended to read:

15 379.401 Penalties and violations; civil penalties for
 16 noncriminal infractions; criminal penalties; suspension and
 17 forfeiture of licenses and permits.—

18 (3) LEVEL THREE VIOLATIONS.—

19 (a) A person commits a Level Three violation if he or she
 20 violates any of the following provisions:

21 1. Rules or orders of the commission prohibiting the sale
 22 of saltwater fish.

23 2. Rules or orders of the commission prohibiting the
 24 illegal importation or possession of exotic marine plants or
 25 animals.

26 3. Section 379.28, prohibiting the importation of
27 freshwater fish.

28 4. Section 379.3014, prohibiting the illegal sale or
29 possession of alligators.

30 5. Section 379.354(17), prohibiting the taking of game,
31 freshwater fish, or saltwater fish while a required license is
32 suspended or revoked.

33 6. Section 379.357(4), prohibiting the sale, transfer, or
34 purchase of tarpon.

35 7. Section 379.404(1), (3), and (6), prohibiting the
36 illegal taking and possession of deer and wild turkey.

37 8. Section 379.4041(1), prohibiting the illegal taking and
38 possession of bears.

39 ~~9.8.~~ Section 379.406, prohibiting the possession and
40 transportation of commercial quantities of freshwater game fish.

41 ~~10.9.~~ Section 379.407(2), establishing major violations.

42 ~~11.10.~~ Section 379.407(4), prohibiting the possession of
43 certain finfish in excess of recreational daily bag limits.

44 (4) LEVEL FOUR VIOLATIONS.—

45 (a) A person commits a Level Four violation if he or she
46 violates any of the following provisions:

47 1. Section 379.354(16), prohibiting the making, forging,
48 counterfeiting, or reproduction of a recreational license or the
49 possession of same without authorization from the commission.

50 2. Section 379.365(2)(c), prohibiting criminal activities

51 relating to the taking of stone crabs.

52 3. Section 379.366(4)(c), prohibiting criminal activities
53 relating to the taking and harvesting of blue crabs.

54 4. Section 379.367(4), prohibiting the willful molestation
55 of spiny lobster gear.

56 5. Section 379.3671(2)(c)5., prohibiting the unlawful
57 reproduction, possession, sale, trade, or barter of spiny
58 lobster trap tags or certificates.

59 6. Section 379.404(5), prohibiting the sale of illegally-
60 taken deer or wild turkey.

61 7. Section 379.4041(2), prohibiting the sale of illegally-
62 taken bears.

63 ~~8.7.~~ Section 379.405, prohibiting the molestation or theft
64 of freshwater fishing gear.

65 ~~9.8.~~ Section 379.409, prohibiting the unlawful killing,
66 injuring, possessing, or capturing of alligators or other
67 crocodilia or their eggs.

68 ~~10.9.~~ Section 379.411, prohibiting the intentional killing
69 or wounding of any species designated as endangered, threatened,
70 or of special concern.

71 ~~11.10.~~ Section 379.4115, prohibiting the killing of any
72 Florida or wild panther.

73 Section 2. Section 379.4041, Florida Statutes, is created
74 to read:

75 379.4041 Illegal taking, possession, and sale of bears.-

76 (1) A person who takes a bear or possesses a freshly
77 killed bear during the closed season prescribed by law or rules
78 of the commission commits a Level Three violation under s.
79 379.401 and forfeits any license or permit issued to him or her
80 under this chapter for 3 years after the date of the violation.
81 A person who commits a subsequent offense of such taking or
82 possession is permanently ineligible for issuance of any license
83 or permit under this chapter.

84 (2) A person who possesses for sale or sells a bear taken
85 in violation of this section or rules of the commission commits
86 a Level Four violation under s. 379.401.

87 Section 3. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 355 Pasco County
SPONSOR(S): Zika
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	11 Y, 0 N	Moehrle	Miller
2) State Affairs Committee		Moehrle	Williamson

SUMMARY ANALYSIS

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public. Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken must be open to the public at all times. The board or commission must provide reasonable notice of all public meetings. Although reasonable notice must be provided, the Florida Statutes do not require publication of meeting agendas.

Chapter 70-876, Laws of Fla., requires the Pasco County Board of County Commissioners (BOCC) to make its agenda for any official meeting available to the public no later than the Friday before any such meeting. Any amendment, deletion, or insertion to such agenda after it has been made publicly available can only be made by the board upon a declaration of emergency. Actions taken by the Pasco County BOCC are valid only if the board complies with this law.

The bill repeals the local law requiring the Pasco County BOCC to notice its meeting agenda on the Friday before an official meeting. The board would continue to be subject to the general laws governing notices for public meetings of county commissions.

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:

Present Situation

Public Meetings

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.¹ Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law” or “Sunshine Law,” further requires all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken must be open to the public at all times.² The board or commission must provide reasonable notice of all public meetings.³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public’s access to the facility.⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.⁵

Due Public Notice – Board of County Commissioners

Once a board of county commissioners (BOCC) gives due public notice, meetings of the BOCC may be held at any appropriate public place in the county.⁶ Presently, there is no definition of “reasonable” or “due public notice” in Florida Statutes. The Florida Attorney General has opined that there is no precise definition or formula of what constitutes “due notice” for a public meeting.⁷ Rather, due notice is a relative term, “the meaning and sufficiency of which can be ascertained only in reference to the particular facts and circumstances upon which it bears.”⁸ Notice that is adequate under normal circumstances may be impossible or impractical in emergency situations. The purpose of notice is to apprise the public of the “pendency of matters which may affect their personal or property rights and afford them the opportunity to appear and present their views.”⁹ The notice must reasonably convey all necessary information and must afford a reasonable period of time for interested persons to appear at the meeting.¹⁰

Public Meeting Agendas

A meeting agenda plots the orderly conduct of business to be taken at a properly noticed public meeting as provided by a county or municipality charter or ordinance.¹¹ Current law does not require a posted agenda for a public meeting. Section 286.011, F.S., neither addresses the need for public entities to post meeting agendas nor does it require items be placed on an agenda before being considered at a public meeting. One court observed: “[a]lthough the drawing up of an agenda is a matter related to a noticed public meeting, it essentially is an integral part of the actual mechanics and

¹ Art. I, s. 24(b), Fla. Const.

² S. 286.011(1), F.S.

³ *Id.*

⁴ S. 286.011(6), F.S.

⁵ S. 286.011(2), F.S.

⁶ S. 125.001(1), F.S.

⁷ 73-170 Fla. Op. Att’y Gen. 1 (1973).

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Yarbrough v. Young*, 462 So. 2d 515 (Fla. 3d DCA 1985) (holding that mayor announcing special council meeting three days prior to the meeting constituted due public notice as evidenced by the fact that all but one commissioner attended the meeting, and city staff and members of the local media attended the meeting).

¹¹ *Hough v. Stembbridge*, 278 So. 2d 288, 290 (Fla. 3d DCA 1973).

procedures for conducting that meeting and, therefore, aptly relegated to local practices and procedures as prescribed by city charters and ordinances.”¹² Mandating that items appear on an agenda before they could be heard at a meeting “would foreclose easy access to such meeting to members of the general public who wish to bring specific issues before the governing body.”¹³

Pasco County Meeting Agendas

Chapter 70-876, Laws of Fla., requires the Pasco County BOCC to provide public notice of its agenda for any official meeting no later than the Friday before any such meeting. Any amendment, deletion, or insertion to such agenda after it has been made publicly available can only be made by the board upon a declaration of emergency.¹⁴ Any action taken by the BOCC without complying with this law is illegal.¹⁵

Effect of Proposed Changes

The bill repeals ch. 70-876, Laws of Fla., which requires the Pasco County BOCC to publicly notice its meeting agenda the Friday before any official BOCC meetings. Repealing this provision will result in Pasco County BOCC no longer being required to notice its meeting agenda; instead, Pasco County BOCC will only have to provide due public notice of its meetings in compliance with general law governing public meetings of county commissions.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 70-876, Laws of Fla.

Section 2: Provides the act is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 1, 2019.

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pasco County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

¹² *Id.* at 290-91.

¹³ *Id.* at 291.

¹⁴ Ch. 70-876, Laws of Fla.

¹⁵ *Id.*

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to Pasco County; repealing ch. 70-876,
3 Laws of Florida, relating to the meeting agenda of the
4 board of county commissioners; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Chapter 70-876, Laws of Florida, is repealed.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 441 Public Procurement of Services

SPONSOR(S): Oversight, Transparency & Public Management Subcommittee; DiCeglie and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 506

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N, As CS	Toliver	Smith
2) Government Operations & Technology Appropriations Subcommittee	10 Y, 0 N	Keith	Topp
3) State Affairs Committee		Toliver	Williamson

SUMMARY ANALYSIS

In 1973, the Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA), which requires state and local government agencies to procure the "professional services" of an architect, professional engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process. Qualifications-based selection is a process whereby service providers are retained on the basis of competency, qualifications, and experience, rather than price.

The CCNA explicitly states it does not prohibit a continuing contract between a firm and an agency. A continuing contract is a contract for professional services entered into in accordance with the CCNA between an agency and a firm whereby the firm provides professional services to the agency for several projects. The CCNA prohibits firms that are parties to a continuing contract from being required to bid against one another. Current law authorizes the use of a continuing contract for construction projects in which the estimated construction cost of each project does not exceed \$2 million, for study activities if the fee for professional services for each study does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except the contract must include a termination clause. The estimated construction cost of each project in a continuing contract may not exceed \$2 million, or in the case of study activities, the fee for professional services for each study may not exceed \$200,000.

The bill increases the maximum limit for continuing contracts covered by the CCNA from an estimated per-project construction cost of \$2 million to \$5 million. The bill also increases the maximum limit for procuring a study using a continuing contract from \$200,000 per study to \$500,000.

The bill may have a positive, yet indeterminate fiscal impact on state and local government expenditures. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Consultants' Competitive Negotiation Act

In 1972, Congress passed the Brooks Act,¹ which requires federal agencies to use a qualifications-based selection process for architectural, engineering, and associated services, such as mapping and surveying. Qualifications-based selection is a process whereby service providers are retained on the basis of competency, qualifications, and experience, rather than price. According to the National Society of Professional Engineers, 46 states and numerous localities have implemented a qualifications-based selection process similar to the process outlined in the Brooks Act for procuring design services.²

In 1973, the Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA),³ which is modeled after the Brooks Act. The CCNA requires state and local government agencies to procure the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process.⁴

CCNA Procurement Process

The CCNA establishes a three-phase process for procuring professional services:

- Phase 1 – Public announcement and qualification.
- Phase 2 – Competitive selection.
- Phase 3 – Competitive negotiation.

During Phase 1, the public announcement and qualification phase, state and local agencies must publicly announce each occasion when professional services will be purchased for one of the following:

- A project, when the basic construction cost is estimated by the agency to exceed \$325,000; or
- A planning or study activity, when the fee for professional services exceeds \$35,000.⁵

The public notice must include a general description of the project and indicate how interested firms or individuals (consultants) may apply for consideration.⁶

A consultant who wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.⁷ In determining whether a consultant is qualified, the agency must consider the capabilities, adequacy of personnel, past record, and experience of the consultant as well as whether the consultant is a certified minority business enterprise.⁸ Each agency must encourage consultants desiring to provide professional services to the agency to annually submit statements of qualifications and performance data.⁹

During Phase 2, the competitive selection phase, an agency must evaluate the qualifications and past performance of interested consultants and conduct discussions with at least three consultants

¹ Public Law 92-582, 86 Stat. 1278 (1972).

² *Qualifications-Based Selection of Engineering Services*, NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS, <https://www.nspe.org/resources/issues-and-advocacy/action-issues/qualifications-based-selection-engineering-services> (last visited Nov. 26, 2019).

³ Chapter 73-19, L.O.F., codified as s. 287.055, F.S.

⁴ Section 287.055, F.S.

⁵ Section 287.055(3)(a)1., F.S.

⁶ *Id.*

⁷ Section 287.055(3)(c), F.S.

⁸ Section 287.055(3)(d), F.S.

⁹ Section 287.055(3)(b), F.S.

regarding their qualifications, approach to the project, and ability to furnish the required services.¹⁰ The agency must then select at least three consultants, ranked in order of preference, that it considers the most highly qualified to perform the required services. In determining whether a consultant is qualified, the agency must consider such factors as the ability of professional personnel; whether a consultant is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the consultant; and the volume of work previously awarded to each consultant by the agency, with the object of effecting an equitable distribution of contracts among qualified consultants, provided such distribution does not violate the principle of selecting the most highly qualified consultants. During this phase, the CCNA prohibits the agency from requesting, accepting, or considering proposals for the compensation to be paid.¹¹

During Phase 3, the competitive negotiation phase, an agency must first negotiate compensation with the highest ranked consultant. If the agency is unable to negotiate a satisfactory contract with that consultant at a price the agency determines to be fair, competitive, and reasonable, negotiations with the consultant must be formally terminated. The agency must then negotiate with the remaining ranked consultants, in order of rank, and follow the same process until an agreement is reached. If the agency is unable to negotiate a satisfactory contract with any of the ranked consultants, the agency must select additional consultants, ranked in the order of competence and qualification without regard to price, and continue negotiations until an agreement is reached.¹² Once the agency terminates negotiations with a consultant at any point in the process, the agency may not resume negotiations with that consultant for that particular project.

Continuing Contracts under the CCNA

The CCNA explicitly states it does not prohibit a continuing contract¹³ between a firm and an agency.¹⁴ A continuing contract is a contract for professional services entered into in accordance with the CCNA between an agency and a firm whereby the firm provides professional services to the agency for projects.¹⁵ The CCNA prohibits firms that are parties to a continuing contract from being required to bid against one another.¹⁶

Current law authorizes the use of a continuing contract for construction projects in which the estimated construction cost of each project does not exceed \$2 million, for study activities if the fee for professional services for each study does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except the contract must include a termination clause.¹⁷ The maximum per-project and per-study limits were put in place by the Legislature in 1988 and have been increased twice since.¹⁸ In 1988, the maximum per-project and per-study limits were \$500,000 and \$25,000 respectively.¹⁹ In 2002, the limits were increased to \$1 million and \$50,000²⁰ and in 2009, the date of the last revision, to \$2 million and \$200,000.²¹

¹⁰ Section 287.055(4)(a), F.S.

¹¹ The CCNA did not prohibit discussion of compensation in the initial vendor selection phase until 1988, when the Legislature enacted a provision that allows consideration of compensation to occur only during the negotiation phase. Chapter 88-108, L.O.F.

¹² Section 287.055(5), F.S.

¹³ Section 287.055(2)(g), F.S.

¹⁴ Section 287.055(4)(d), F.S.

¹⁵ Section 287.055(2)(g), F.S.

¹⁶ *Id.*

¹⁷ Section 287.055(2)(g), F.S. An entity may not use a continuing contract for work of a specified nature to exceed the monetary limits placed on construction projects and study activities. Op. Fla. Att'y Gen. 2013-28 (2013).

¹⁸ Chapter 88-108, L.O.F.

¹⁹ *Id.*

²⁰ Chapter 2002-20, L.O.F.

²¹ Chapter 2009-227, L.O.F.

Construction and Program Management Entities

Current law allows governmental entities²² to contract with a construction management entity or a program management entity.²³ A construction management entity is responsible for construction project scheduling and coordination in both preconstruction and construction phases and is generally responsible for the successful, timely, and economical completion of a construction project.²⁴ A program management entity is responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services.²⁵ Both construction and program management entities must be procured pursuant to the CCNA and must consist of, or contract with, licensed or registered professionals for the specific fields or areas of construction.²⁶ The governmental entity procuring the services of a construction management or program management entity may choose to enter into a continuing contract²⁷ pursuant to the CCNA.²⁸

Effect of the Bill

The bill increases the maximum limits for continuing contracts covered by the CCNA from an estimated per-project construction cost of \$2 million to \$5 million. The bill also increases the maximum limit for procuring a study using a continuing contract from \$200,000 per study to \$500,000.

B. SECTION DIRECTORY:

Section 1 amends s. 255.103, F.S., relating to construction management or program management entities.

Section 2 amends s. 287.055, F.S., relating to the CCNA.

Section 3 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

²² The term “governmental entity” means a county, municipality, school district, special district as defined in chapter 189, F.S., or political subdivision of the state. Section 255.103(1), F.S.

²³ Section 255.103, F.S.

²⁴ Section 255.103(2), F.S.

²⁵ Section 255.103(3), F.S.

²⁶ Section 255.103, F.S.

²⁷ A continuing contract, for purposes of procuring a construction or program management entity, means a contract for work during a defined period on construction projects described by type, which may or may not be identified at the time of entering into the contract. Section 255.103(4), F.S.

²⁸ Section 255.103(4), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive, yet indeterminate fiscal impact on private sector businesses that provide professional services as defined in the CCNA, or that provide construction management or project management services, by allowing those entities to enter into larger contracts for projects and studies under a continuing contract. Specifically, increasing the threshold for entering into continuing contracts would save those entities contractual and workload expenditures associated with having to undergo the CCNA procurement process for projects or studies that exceed the current statutory threshold.

D. FISCAL COMMENTS:

The bill may have a positive, yet indeterminate fiscal impact on state²⁹ and local government expenditures by allowing the state or local government to enter into larger continuing contracts under the CCNA. By retaining a larger continuing contract under the CCNA, the state or a local government could potentially save on contractual and workload expenditures associated with the procurement of services on a per-project and per-study basis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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 does not grant rulemaking authority nor does it require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 12, 2019, the Oversight, Transparency & Public Management Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed a provision of the bill that required the Department of Management Services to adopt a rule to adjust, on an annual basis, the statutory maximum dollar amounts for continuing contracts procured under the CCNA based on the Engineering News-Record's Construction Cost Index.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Public Management Subcommittee.

²⁹ Email from Cody Farrill, Deputy Chief of Staff, Department of Management Services, RE: CS/HB 441 Public Procurement of Services Questions (Jan. 9, 2020) (on file with the Oversight, Transparency & Public Management Subcommittee).

1 A bill to be entitled
2 An act relating to the public procurement of services;
3 amending s. 255.103, F.S.; revising the maximum dollar
4 amount for continuing contracts for construction
5 projects; amending s. 287.055, F.S.; revising the term
6 "continuing contract" to increase certain maximum
7 dollar amounts for professional architectural,
8 engineering, landscape architectural, and surveying
9 and mapping services; providing an effective date.

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

12
13 Section 1. Subsection (4) of section 255.103, Florida
14 Statutes, is amended to read:

15 255.103 Construction management or program management
16 entities.—

17 (4) A governmental entity's authority under subsections
18 (2) and (3) includes entering into a continuing contract for
19 construction projects, pursuant to the process provided in s.
20 287.055, in which the estimated construction cost of each
21 individual project under the contract does not exceed \$5 ~~\$2~~
22 million. For purposes of this subsection, the term "continuing
23 contract" means a contract with a construction management or
24 program management entity for work during a defined period on
25 construction projects described by type which may or may not be

26 identified at the time of entering into the contract.

27 Section 2. Paragraph (g) of subsection (2) of section
 28 287.055, Florida Statutes, is amended to read:

29 287.055 Acquisition of professional architectural,
 30 engineering, landscape architectural, or surveying and mapping
 31 services; definitions; procedures; contingent fees prohibited;
 32 penalties.—

33 (2) DEFINITIONS.—For purposes of this section:

34 (g) A "continuing contract" is a contract for professional
 35 services entered into in accordance with all the procedures of
 36 this act between an agency and a firm whereby the firm provides
 37 professional services to the agency for projects in which the
 38 estimated construction cost of each individual project under the
 39 contract does not exceed \$5 ~~\$2~~ million, for study activity if
 40 the fee for professional services for each individual study
 41 under the contract does not exceed \$500,000 ~~\$200,000~~, or for
 42 work of a specified nature as outlined in the contract required
 43 by the agency, with the contract being for a fixed term or with
 44 no time limitation except that the contract must provide a
 45 termination clause. Firms providing professional services under
 46 continuing contracts shall not be required to bid against one
 47 another.

48 Section 3. This act shall take effect July 1, 2020.

Amendment No.

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: State Affairs Committee
 2 Representative DiCeglie offered the following:

Amendment

Remove lines 21-39 and insert:

6 individual project under the contract does not exceed \$4 ~~\$2~~
 7 million. For purposes of this subsection, the term "continuing
 8 contract" means a contract with a construction management or
 9 program management entity for work during a defined period on
 10 construction projects described by type which may or may not be
 11 identified at the time of entering into the contract.

12 Section 2. Paragraph (g) of subsection (2) of section
 13 287.055, Florida Statutes, is amended to read:

14 287.055 Acquisition of professional architectural,
 15 engineering, landscape architectural, or surveying and mapping

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 441 (2020)

Amendment No.

16 services; definitions; procedures; contingent fees prohibited;
17 penalties.—

18 (2) DEFINITIONS.—For purposes of this section:

19 (g) A "continuing contract" is a contract for professional
20 services entered into in accordance with all the procedures of
21 this act between an agency and a firm whereby the firm provides
22 professional services to the agency for projects in which the
23 estimated construction cost of each individual project under the
24 contract does not exceed \$4 ~~\$2~~ million, for study activity if

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 989 Broward County

SPONSOR(S): Jacobs

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	11 Y, 0 N	Rivera	Miller
2) State Affairs Committee		Rivera	Williamson

SUMMARY ANALYSIS

The Florida Constitution creates five county constitutional offices: sheriff, tax collector, property appraiser, clerk of the circuit court, and supervisor of elections. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners (BOCC), auditor, recorder, and custodian of county funds, unless those duties are transferred as allowed in the Constitution.

Prior to January 8, 2019, the Florida Constitution permitted a county charter or special law approved by the county voters to transfer the county government duties of the clerk of the circuit court. In 1975, Broward County exercised this authority and adopted a county charter which transferred the county administrative duties of the clerk of the circuit to the county administrator and the clerk's county fiscal duties to the Broward County Department of Finance.

On November 6, 2018, the voters approved a proposed amendment that in part amended the Florida Constitution to eliminate the power by county charter to provide a different method for selecting certain county offices, the abolishment of such offices, and the transfer of such offices' functions and duties to another office. The constitutional amendment takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.

The bill creates a special act providing for the formal transfer of the duties of the clerk of the circuit court as ex officio clerk of the BOCC, auditor, and custodian of all county funds to the Broward County administrator. As a result, the bill allows Broward County to continue the transfer of duties authorized in the 1975 Broward County Charter, with the exception of the duties of recorder, to the Broward County government, if a majority of the qualified electors voting approves the question in a referendum placed on the 2020 general election ballot. If the question is not approved, the bill authorizes the BOCC to submit the question to the voters at a subsequent referendum. Unless approved by the voters, Broward County must return the functions of ex officio clerk of the BOCC, auditor, recorder, and custodian of all county funds to the clerk of the circuit court by January 7, 2025, unless an earlier date is agreed upon.

The Economic Impact Statement filed in support of the bill projects a decrease in revenue to the county of over \$8.1 million in FY 2024-2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties¹ and has the authority to choose to create municipalities.²

Pursuant either to general³ or special law, a county government may be adopted by charter approved by the county voters. A county without a charter has such powers of self-government as provided by general⁴ or special law.⁵ A county with a charter has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.⁶ Article VIII, s. 6(e) of the Florida Constitution incorporates by reference sections of the 1885 Constitution, retaining in the 1968 Constitution unique authorization⁷ for specific home rule charters, including those of Duval⁸ and Miami-Dade Counties.⁹ Currently, 20 Florida counties have adopted charters.¹⁰

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners (BOCC), auditor, recorder, and custodian of county funds.¹¹

Before January 8, 2019, the Florida Constitution allowed a county to change the manner in which the five county constitutional officers were selected and their respective scope of duties. Specifically, a provision in a county charter or special law approved by the county voters could change the manner in which a county constitutional officer was selected, abolish an office (provided the duties of that office were transferred to another office), or transfer the clerk of the circuit court's county duties to another office.¹²

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

³ S. 125.60, F.S.

⁴ Ch. 125, Part I, F.S.

⁵ Art. VIII, s. 1(f), Fla. Const.

⁶ Art. VIII, s. 1(g), Fla. Const.

⁷ Article VIII, s. 6(e), Fla. Const., states that specific provisions for Duval, Miami-Dade, Monroe, and Hillsborough Counties "shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article."

⁸ The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Fla., adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

⁹ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 Florida Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or county actions approved by referendum. *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

¹⁰ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. See Local Government Formation Manual 2018-2020, Appendix B, at 104-109.

¹¹ Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the Constitution requires counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const.

¹² Art. VIII, s. 1(d), Fla. Const. (as in effect prior to January 8, 2019). See State of Florida, Official Florida Statutes 2018, vol. 6 (Tallahassee 2018).

In its charter adopted in 1975, Broward County transferred the county administrative duties of the clerk of the circuit court to the county administrator and the clerk's fiscal duties were transferred to the Department of Finance (now known as the Department of Finance and Administrative Services).¹³ Presently, the duties continue to be performed by the Broward County government.

On November 6, 2018, the voters approved a proposed amendment that in part amended art. VIII, s. 1(d) of the Florida Constitution.¹⁴ The amendment eliminated the power by county charter to provide a different method for selecting certain county offices, abolishing such offices, and transferring such offices' functions and duties to another office. The amendment restricts the ability to transfer the county duties of the clerk of the circuit court by requiring the approval of such a transfer by a special law approved by the voters.¹⁵ The amendment to art. VIII, s. 1(d) of the Florida Constitution takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.¹⁶ The effect of the amendment is to reinstate the elected, autonomous county constitutional officers¹⁷ in all counties with charters that previously altered one or more of the constitutional offices, including transferring the county duties of the clerk of the circuit court.¹⁸

Effect of Proposed Changes

The bill creates a special act providing for the transfer of the duties of the clerk of the circuit court as ex officio clerk of the BOCC, auditor, and custodian of all county funds to the Broward County Administrator, subject to general law, the county charter, special law, and county ordinances and regulations. The practical effect will allow such duties, except for the duties of the recorder, to continue to be performed by the Broward County government under the current county charter, but only if approved by a majority of the qualified electors voting in a referendum placed on the ballot during the 2020 general election. If the referendum is not approved, the BOCC may submit the question to the voters at a subsequent referendum. Unless approved by the voters, the functions and duties prescribed by the Florida Constitution and general law for the office of clerk of the circuit court will revert to the clerk of the circuit court on January 7, 2025, or earlier if agreed to by interlocal agreement by the county and the clerk.

The Economic Impact Statement filed with the bill projects a decrease in revenue to the county of over \$8.1 million in FY 2024-2025.

B. SECTION DIRECTORY:

Section 1. Provides findings; describes the transfer of certain county duties of the clerk of the circuit court; describes the impact on Broward County of the 2018 constitutional amendment.

¹³ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I, Charter, ss. 3.03.G & 3.06.B, *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances (last visited January 6, 2020).

¹⁴ See results for "State and Local Government Structure and Operation," at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=24> (last visited January 6, 2020).

¹⁵ Art. V, s. 16, Fla. Const., provides in pertinent part: "Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."

¹⁶ The amendment created a new art. VIII, s. 6(g), Fla. Const. (renumbering existing 6(g) as new 6(h)) providing for the delay in effect of the revisions to art. VIII, s. 1, Fla. Const. Under s. 6(g), the terms of the amendment apply to the elections conducted in 2020 except for Broward and Miami-Dade Counties, where the terms of the amendment apply to the elections in 2024. The revision to art. VIII, s. 6(g), Fla. Const., took effect on January 8, 2019. See art. XI, s. 5(e), Fla. Const.

¹⁷ As originally adopted in 1968, art. VIII of the Florida Constitution clearly was intended to apply to all counties and compel compliance with the provisions of its new sections, including provision for broad home rule. This is shown by the creation of art. VIII, s. 6(e), incorporating by reference four sections from the 1885 Florida Constitution (art. VIII, ss. 9, 10, 11, 24, Fla. Const. (1885, as amended)) to "remain in full force and effect as to each county affected, *as if this article had not been adopted...*" (emphasis supplied).

¹⁸ The charters of eight counties transferred the county duties of the clerk of the circuit court: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

Section 2. Provides for the transfer of certain county duties of the clerk of the circuit court to the County Administrator of Broward County, subject to approval by the electors of the county voting in a referendum; provides for the remaining duties to revert back to the clerk of the circuit court; provides the section takes effect on January 7, 2025, or an earlier date agreed to by Broward County and the clerk of the circuit court, if approved by those voting in the referendum.

Section 3. Requires the Board of County Commissioners to submit the act to a referendum of the voters at the general election held in November 2020; authorizes the BOCC to resubmit the question to the voters at other elections if the question fails.

Section 4. Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 17, 2019

WHERE? Sun-Sentinel newspaper in Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 3, 2020

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue

On Line 59 of the bill, the word "of" is missing between the words "approval" and "a."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to Broward County; providing
3 legislative findings; providing for the transfer of
4 certain county-related functions and duties, including
5 ex officio clerk of the board of county commissioners,
6 county recorder, auditor, and custodian of county
7 funds to the county government; providing that the
8 County Auditor maintain power and authority as
9 prescribed in the Broward County Charter; providing an
10 exception to general law; providing for an interlocal
11 agreement for the transfer of recorder functions and
12 duties; providing for a referendum; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) Broward County became a charter county on
18 January 1, 1975, pursuant to a vote of the electors on November
19 5, 1974. When approved by the county's electors, s. 7.06 of the
20 Broward County Charter, relating to the County Comptroller Act,
21 chapter 72-407, Laws of Florida, provided for the transfer of
22 the county comptroller's functions, responsibilities, duties,
23 and obligations to the county government, including ex officio
24 clerk of the board of county commissioners, county recorder,
25 auditor, and custodian of county funds. More specifically,

26 Subsection C. of s. 2.03 of the county charter transferred to
27 the County Administrator of Broward County all functioning
28 duties prescribed by the State Constitution and general law for
29 the clerk of the circuit court or county comptroller relating to
30 their duties as ex officio clerk of the board of county
31 commissioners. In addition, Subsection C. of s. 4.03 of the
32 county charter transferred to the Department of Finance, now the
33 Department of Finance and Administrative Services, all fiscal
34 functions and duties prescribed by the State Constitution and
35 general law for the clerk of the circuit court or county
36 comptroller relating to their duties as the custodian of all
37 county funds, auditor, and recorder of public documents.

38 (2) The aforementioned county-related functions and duties
39 continue to be performed by the Broward County government,
40 including the auditor functions through the county's Department
41 of Finance and Administrative Services, and an independent
42 County Auditor, as provided in Article IV of the county charter,
43 created by majority vote of the county's electors on November 5,
44 2002.

45 (3) On November 6, 2018, Florida voters statewide approved
46 Amendment 10, relating to state and local government structure
47 and operation, which, in part, amended Article VIII, s. 1(d), of
48 the State Constitution to eliminate the power by county charter
49 to provide a different method of selecting certain county
50 offices, the abolishment of such offices, and the transfer of

51 such county offices' functions and duties to another office.
52 Consequently, effective January 7, 2025, Broward County may be
53 required by Amendment 10 to return the functions of ex officio
54 clerk of the board of county commissioners, auditor, recorder,
55 and custodian of all county funds to the clerk of the circuit
56 court, unless otherwise provided by special law approved by the
57 electors of Broward County.

58 Section 2. (1) Notwithstanding any law to the contrary,
59 and subject to the approval a majority of the electors of
60 Broward County voting in a referendum called pursuant to section
61 3, the functions and duties now prescribed by the State
62 Constitution and general law for the office of the clerk of the
63 circuit court relating to the duties of ex officio clerk of the
64 board of county commissioners, auditor, and custodian of all
65 county funds shall be the responsibility of the County
66 Administrator of Broward County, who shall exercise any such
67 powers, functions, duties, and authorities in accordance with
68 general law, this act, the Broward County Charter, county
69 ordinances, and applicable administrative resolutions,
70 regulations, and procedures, or as otherwise required by law.
71 This act shall not be construed to affect adversely the power
72 and authority of the County Auditor, as prescribed in Article IV
73 of the Broward County Charter, or such duties as may be assigned
74 to such office by the county commission.

75 (2) The aforementioned county-related functions and duties

76 now prescribed by the State Constitution and general law for the
77 office of the clerk of the circuit court relating to the duties
78 of recorder shall be transferred by Broward County to the clerk
79 of the circuit court effective January 7, 2025, or an earlier
80 date agreed to by Broward County and the clerk of the circuit
81 court. To ensure an orderly transition of the recorder functions
82 and duties, Broward County and the clerk of the circuit court
83 may enter into an interlocal agreement providing for the
84 transfer of all hardcopy documents and files; all electronic
85 documents; all other files and related information; existing and
86 necessary furnishings, equipment, and personnel; all funding
87 appropriated by the Broward County Board of County Commissioners
88 relating to the recorder functions and duties in fiscal year
89 2024-2025 or an earlier date to which Broward County and the
90 clerk of the circuit court agree; and such other issues as may
91 be agreed to by Broward County and the clerk of the circuit
92 court to effectuate the orderly transfer of the recorder
93 functions and duties.

94 Section 3. (1) The Board of County Commissioners of
95 Broward County shall submit to a referendum election, on the
96 same date as the 2020 November general election, the question
97 concerning the approval of this special act. The ballot measure
98 shall comply with provisions of s. 101.161, Florida Statutes.

99 (2) Should the referendum question submitted to Broward
100 County electors pursuant to subsection (1) fail to receive

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101 majority approval, the board of county commissioners may submit
102 the question at other referendum elections as determined by the
103 board of county commissioners, unless this act is repealed by
104 the Legislature.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 989 (2020)

Amendment No.

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: State Affairs Committee
2 Representative Jacobs offered the following:

3

4 **Amendment**

5 Remove line 59 and insert:

6 and subject to the approval of a majority of the electors of

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6025 Harris Chain of Lakes
SPONSOR(S): Sabatini
TIED BILLS: **IDEN./SIM. BILLS:** SB 384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	10 Y, 2 N	Melkun	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	10 Y, 0 N	White	Pigott
3) State Affairs Committee		Melkun	Williamson

SUMMARY ANALYSIS

The Harris Chain of Lakes is located predominantly in Lake County and the northwestern portion of Orange County. It includes tens of thousands of acres of lakes and wetlands and is the headwaters of the Ocklawaha River. The Lake County waterways were plagued by toxic algae sedimentation and excessive growth of aquatic plants, which degraded water quality and recreational value. In an effort to address these issues, in 2001, the Legislature created the Harris Chain of Lakes Restoration Council (council) and the Harris Chain of Lakes Restoration Program (program). The program requires the Florida Fish and Wildlife Conservation Commission and the St. Johns River Water Management District (SJRWMD), in conjunction with the council, the Department of Environmental Protection, and pertinent local governments, to review existing restoration proposals to determine which proposals are the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the Harris Chain of Lakes.

The Legislature specifically directed the council to review audits and all data related to lake restoration techniques and sport fish population recovery strategies; evaluate whether additional studies are needed; explore all possible sources of funding to conduct restoration activities; and report to the Legislature each year on the progress of the program.

The bill repeals and removes references to the council.

The bill may have an insignificant positive fiscal impact on state agencies and the SJRWMD.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Harris Chain of Lakes is located predominantly in Lake County and the northwestern portion of Orange County.¹ It includes tens of thousands of acres of lakes and wetlands and is the headwaters of the Ocklawaha River.² The Lake County waterways, which serve as a major economic opportunity for the area and provide wildlife habitat for fish, birds, and game, were plagued by toxic algae sedimentation and excessive growth of aquatic plants, which degraded water quality and recreational value. In an effort to mitigate the damage, the St. Johns River Water Management District (SJRWMD), the Florida Fish and Wildlife Conservation Commission (FWC), and the Lake County Water Authority,³ along with other state, regional, and local entities, developed proposals to restore portions of the Harris Chain of Lakes.⁴

As a result of these proposals, in 2001, the Legislature created the Harris Chain of Lakes Restoration Program (program) and the Harris Chain of Lakes Restoration Council (council).⁵ The program requires FWC and SJRWMD, in conjunction with the council, the Department of Environmental Protection (DEP), and pertinent local governments, to review existing restoration proposals to determine which proposals are the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the Harris Chain of Lakes.⁶

The Legislature specifically directed the council to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct restoration activities; and
- Report annually to the Legislature on the progress of the program and provide any recommendations for the next fiscal year.⁷

The council is appointed by the Lake County legislative delegation and must consist of the following nine voting members:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- A person with experience in environmental science or regulation;
- An engineer;
- A person with training in biology or another scientific discipline;
- An attorney;
- A physician; and
- Two residents of Lake County who are not required to meet any additional qualifications for membership.⁸

Section 373.467, F.S., establishes an advisory group to the council that consists of one representative each from SJRWMD, DEP, the Department of Transportation, FWC, the Lake County Water Authority,

¹ Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and what does the Restoration Council do?*, available at <http://harrischainoflakescouncil.com> (last visited Oct. 24, 2019).

² *Id.*

³ The Lake County Water Authority was formerly known as the Oklawaha Basin Recreation and Water Conservation and Control Authority and was created in 1953 by the Legislature; *see* ch. 2005-314, Laws of Fla.

⁴ *Id.*

⁵ Chapter 2001-246, Laws of Fla.

⁶ Section 373.468(1), F.S.

⁷ Section 373.467(4), F.S.

⁸ Section 373.467(1)(a), F.S.

the United States Army Corps of Engineers, and the University of Florida. The advisory group serves the council by providing scientific information along with both technical data and guidance in the council's review of various technologies and issues.⁹

Currently, DEP and SJRWMD provide staff support to assist in carrying out the council's duties and to present in council meetings on subjects related to restoration activities as well as basic agency updates. Staff has also provided feedback and support for the council's annual report.¹⁰

Effect of the Bill

The bill repeals and removes references to the council.

B. SECTION DIRECTORY:

Section 1. Repeals s. 373.467, F.S., to repeal the council.

Section 2. Amends s. 373.468, F.S., to remove references to the council.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive fiscal impact on state agency expenditures because state agencies and SJRWMD will no longer be required to expend resources or provide staff support to the council. According to DEP, not having to provide staff to support the council may result in fiscal savings of approximately \$50,000 per year to the SJRWMD.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁹ Harris Chain of Lakes Restoration Council, *The council: Technical Advisory Group*, available at <https://harrischainoflakescouncil.com/council.html> (last visited Oct. 28, 2019).

¹⁰ Florida Department of Environmental Protection, *Agency Analysis of 2020 House Bill 6025*, p. 4 (Oct. 8, 2019) (on file with the Agriculture & Natural Resources Subcommittee).

¹¹ *Id.*

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:

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 the Harris Chain of Lakes;
 3 repealing s. 373.467, F.S., relating to the Harris
 4 Chain of Lakes Restoration Council; amending s.
 5 373.468, F.S.; conforming provisions to changes made
 6 by the act; providing an effective date.

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

9
 10 Section 1. Section 373.467, Florida Statutes, is repealed.

11 Section 2. Subsections (1) and (2) of section 373.468,
 12 Florida Statutes, are amended to read:

13 373.468 The Harris Chain of Lakes restoration program.—

14 (1) The Fish and Wildlife Conservation Commission and the
 15 St. Johns River Water Management District, in conjunction with
 16 the Department of Environmental Protection and ~~7~~ pertinent local
 17 governments, ~~and the Harris Chain of Lakes Restoration Council,~~
 18 shall review existing restoration proposals to determine which
 19 ones are the most environmentally sound and economically
 20 feasible methods of improving the fish and wildlife habitat and
 21 natural systems of the Harris Chain of Lakes.

22 (2) To initiate the Harris Chain of Lakes restoration
 23 program ~~recommended by the Harris Chain of Lakes Restoration~~
 24 ~~Council,~~ the Fish and Wildlife Conservation Commission, with
 25 assistance from the St. Johns River Water Management District

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26 | and in consultation and by agreement with the Department of
27 | Environmental Protection and pertinent local governments, shall
28 | develop tasks to be undertaken by those entities for the
29 | enhancement of fish and wildlife habitat. These agencies shall:

30 | ~~(a)~~ evaluate different methodologies for removing the
31 | extensive tussocks and buildup of organic matter along the
32 | shoreline and of the aquatic vegetation in the lake.

33 | ~~(b) Conduct any additional studies as recommended by the~~
34 | ~~Harris Chain of Lakes Restoration Council.~~

35 | Section 3. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6027 Citrus/Hernando Waterways Restoration Council, Citrus County

SPONSOR(S): Massullo

TIED BILLS: **IDEN./SIM. BILLS:** SB 388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Melkun	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
3) State Affairs Committee		Melkun	Williamson

SUMMARY ANALYSIS

The Citrus/Hernando Waterways Restoration Council (Council) was established in 2003 by the Legislature in response to regional concerns for the health of Citrus and Hernando county waterways. The Council is comprised of 14 voting members appointed by the Legislature and includes, from each county, two waterfront property owners; an attorney; a member of the Board of Directors of the Chamber of Commerce; an environmental engineer; an engineer; and a person with training in biology or another scientific discipline.

It is the Council's responsibility to review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies; evaluate whether additional studies are needed; explore all possible sources of funding to conduct restoration activities; and report to the Legislature on the progress made and any recommendations for the next fiscal year. The Council last submitted an annual report in 2015.

In 2014, the Southwest Florida Water Management District (SWFWMD) created the Springs Coast Steering, Management, and Technical Committees to manage and prioritize the five first-magnitude springs that fall within the jurisdiction of the district. Each committee includes members representing the local, regional, and state governments as well as the agriculture industry, environmental organizations, water suppliers, industrial water users, regional planning councils, and academia. According to SWFWMD, much of the work of the committees coincides with the charge of the Council.

The bill repeals the Council.

The bill may have an insignificant positive fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Citrus/Hernando Waterways Restoration Council

The Citrus/Hernando Waterways Restoration Council (Council) was established in 2003 by the Legislature in response to regional concerns for the health of Citrus and Hernando county waterways.¹ The Council, created within the Withlacoochee and Coastal Rivers Basin Boards of the Southwest Florida Water Management District (SWFWMD), is comprised of 14 voting members: seven members appointed by the President of the Senate and seven members appointed by the Speaker of the House of Representatives. The members include:

- Two waterfront property owners from each county, one from the east side and one from the west side of the county;
- An attorney from each county;
- A member of the Board of Directors of the Chamber of Commerce from each county;
- An environmental engineer from each county;
- An engineer from each county, and
- A person with training in biology or another scientific discipline from each county.²

The Council members from each county were required to form two separate county task forces to assess and make recommendations on waterways within their respective counties. The Citrus County Task Force was directed to develop plans for restoring the Tsala-Apopka Chain of Lakes, while the Hernando County Task Force was directed to develop plans for restoring the Weeki Wachee River and Springs.³

In addition, the Legislature established a technical advisory group (TAG) to assist the Council and two county task forces by informing the members on the scientific and technical issues regarding water quality within the area.⁴ The TAG consists of one representative each from SWFWMD, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, the public works department of each county, and the United States Army Corps of Engineers.⁵

It is the Council's responsibility to review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sand and other sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement; evaluate whether additional studies are needed; explore all possible sources of funding to conduct restoration activities; and report to the Legislature, before November 25 of each year, on the progress made and any recommendations for the next fiscal year.⁶ In 2006, the Legislature expanded the Council's responsibilities to include all waterways of Citrus and Hernando Counties.⁷ The Council last submitted an annual report in 2015.

Springs Coast Committees

¹ Chapter 2003-287, Laws of Fla.; see MGC Environmental, *Citrus/Hernando Waterways Restoration Council*, available at <http://www.mgcenvironmental.com/waterways.htm> (last visited Oct. 30, 2019).

² Chapter 2006-43, Laws of Fla.

³ Chapter 2003-287, Laws of Fla.

⁴ *Id.*

⁵ Chapter 2006-43, Laws of Fla.

⁶ See SWFWMD, *Citrus/Hernando Waterways Restoration Council Report to the Legislature*, 1 (2015), available at <https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/2015%20Report%20to%20the%20Legislature.pdf> (last visited Oct. 30, 2019); ch. 2003-287, Laws of Fla.

⁷ Chapter 2006-43, Laws of Fla.

In 2014, SWFWMD created the Springs Coast Steering, Management, and Technical Committees to manage and prioritize the five first-magnitude springs that fall within the jurisdiction of the district: Rainbow, Crystal River/Kings Bay, Homosassa, Chassahowitzka, and Weeki Wachee.⁸ Each committee includes members representing the local, regional, and state governments as well as the agriculture industry, environmental organizations, water suppliers, industrial water users, regional planning councils, and academia.⁹ According to SWFWMD, much of the work of the committees coincides with the charge of the Council.¹⁰

Effect of the Bill

The bill repeals the Council.

B. SECTION DIRECTORY:

Section 1. Repeals chs. 2003-287 and 2006-43, Laws of Fla., to repeal the Council.

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:

The bill may have an insignificant positive fiscal impact on state agency expenditures because state agencies and SWFWMD will no longer be required to expend resources or provide staff support to the Council.

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:

⁸ SWFWMD, *Springs Coast Steering, Management and Technical Committees*, available at <https://www.swfwmd.state.fl.us/projects/springs/springs-coast-steering-management-and-technical-committees> (last visited Oct. 31, 2019).

⁹ *Id.*

¹⁰ Email from Cara Martin, Government and Community Affairs Office Chief, SWFWMD, Citrus/Hernando Waterways Restoration Council, (Sept. 3, 2019) (on file with the Agriculture & Natural Resources Subcommittee).

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:

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 the Citrus/Hernando Waterways
 3 Restoration Council; repealing chapters 2003-287 and
 4 2006-43, Laws of Florida, relating to the membership,
 5 powers, and duties of the council; providing an
 6 effective date.

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

9
 10 Section 1. Chapters 2003-287 and 2006-43, Laws of Florida,
 11 are repealed.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7005 PCB OTM 20-01 OGSR/RICO Act Investigations
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee, Grall
TIED BILLS: **IDEN./SIM. BILLS:** SB 7038

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Toliver	Smith
1) Criminal Justice Subcommittee	12 Y, 0 N	DuShane	Hall
2) State Affairs Committee		Toliver	Williamson

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 the 1970s, the Florida Legislature, to combat the rising threat posed by the infiltration and corruption of legitimate businesses by organized crime, enacted the Florida Racketeer Influenced and Corrupt Organization (RICO) Act. The Florida RICO Act imposes criminal and civil liability on any person who engages in a pattern of racketeering activity. Racketeering activity is the commission, attempted commission, conspiracy to commit, or the solicitation, coercion, or intimidation of another person to commit a broad range of state and federal criminal offenses, including burglary, extortion, perjury, bribery, forgery, homicide, and sexual battery, as well as various forms of fraud. Specifically, the Florida RICO Act criminalizes the following acts:

- Investing any proceeds received through a pattern of racketeering or the collection of unlawful debt in the acquisition of any interest in real property or in the establishment or operation of any enterprise;
- Acquiring any interest in, or control of any enterprise or real property through a pattern of racketeering or through the collection of unlawful debt;
- Conducting or participating in an enterprise through a pattern of racketeering activity or the collection of unlawful debt if the person is an employee of, or associated with the enterprise; or
- Conspiring or endeavoring to violate any of the above provisions.

Current law provides a public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act. The information may be disclosed to a government entity in the performance of its official duties or to a court or tribunal. The information ceases to be confidential and exempt from public records requirements once the investigation to which the information pertains is complete.

The bill saves from repeal the public record exemption, which will repeal on October 2, 2020, if this bill does not become law.

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 Act (Act)¹ 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.²

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:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect 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.
- Protect trade or business secrets.³

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.⁴ 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 created then a public necessity statement and a two-thirds vote for passage are not required.

Florida Racketeer Influenced and Corrupt Organization (RICO) Act

In 1970, Congress found "that organized crime, particularly La Cosa Nostra..., had extensively infiltrated and exercised corrupt influence over numerous legitimate businesses and labor unions throughout the United States."⁵ In response, Congress enacted the Organized Crime Control Act of 1970 (OCCA),⁶ to "create new, enhanced remedies to combat the corrupt influence of organized crime."⁷ Title IX of the OCCA, concerning Racketeer Influenced and Corrupt Organizations (RICO),⁸ created new legal mechanisms to legally separate from an organization acquired or run by criminal means, the persons involved in the illegal activity "either by the criminal law approach of fine, imprisonment and forfeiture, or through a civil law approach of equitable relief broad enough to do all that is necessary to free the channels of commerce from all illicit activity."⁹

By 1977, it was reported that 17 of the nation's 21 publicly identified organized crime "families" operated in Florida.¹⁰ The Florida Legislature, to combat the rising threat posed by the infiltration and corruption of legitimate businesses by organized crime in the state, enacted the Florida RICO Act.¹¹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Art. I, s. 24(c), FLA. CONST.

⁵ *CRIMINAL RICO: 18 U.S.C. §§1961-1968 A Manual For Federal Prosecutors*, U.S. DEPARTMENT OF JUSTICE, pg. 4, available at <https://www.justice.gov/archives/usam/file/870856/download> (last visited Jan., 19, 2020).

⁶ Pub. L. No. 91-452 (1970).

⁷ *Id.*

⁸ *Id.* at ss. 901-902.

⁹ *CRIMINAL RICO: 18 U.S.C. §§1961-1968 A Manual For Federal Prosecutors*, U.S. DEPARTMENT OF JUSTICE, pgs. 5-6, available at <https://www.justice.gov/archives/usam/file/870856/download> (last visited Jan., 19, 2020).

¹⁰ Chapter 77-334, L.O.F.

¹¹ *Id.*

The Florida RICO Act¹² makes it a first-degree felony for any person to engage in, or conspire to engage in, a pattern of racketeering activity or activities associated with, or stemming from such a pattern of activity.¹³

The term “racketeering activity” encompasses a broad range of state and federal criminal offenses identified in current law, including burglary, extortion, perjury, bribery, forgery, homicide, and sexual battery, as well as various forms of fraud.¹⁴ Specifically, the Florida RICO Act criminalizes the following acts:

- Investing, whether directly or indirectly, any part of proceeds received through a pattern of racketeering or the collection of unlawful debt in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise;¹⁵
- Acquiring any interest in, or control of any enterprise or real property through a pattern of racketeering or through the collection of unlawful debt;
- Conducting or participating, directly or indirectly, in an enterprise through a pattern of racketeering activity or the collection of unlawful debt if the person is an employee of, or associated with the enterprise; or
- Conspiring or endeavoring to violate any of the above provisions.¹⁶

In addition to criminal penalties, the Florida RICO Act imposes civil liability for violating certain provisions, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act.¹⁷ Current law requires a court to direct the distribution of the proceeds from a forfeiture in the following priority: the clerk of the court to cover statutory fees; claims by people whose interests in the property are preserved (known as “innocent persons”); claims by the Board of Trustees of the Internal Improvement Trust Fund;¹⁸ and restitution for victims of the racketeering activity.¹⁹

Under the Florida RICO Act, an investigative agency²⁰ may, during the course of an investigation into civil violations of the act, subpoena witnesses and material if the agency has reason to believe that a person or other enterprise has engaged in conduct that violates a provision of the act.²¹ The purpose of the subpoena power is “to allow an investigative agency to investigate, collect evidence and determine if a RICO violation has occurred.”²² All subpoenas issued pursuant to the Florida RICO Act are automatically confidential for 120 days.²³ The subpoenaed person or entity may only disclose the existence of the subpoena to his or her attorney during the 120-day period.²⁴ The investigative agency may apply for an extension of the confidentiality period for good cause.²⁵

¹² Sections 895.01-895.06, F.S., are known as the “Florida RICO Act.”

¹³ Sections 895.03 and 895.04, F.S.

¹⁴ Section 895.02(8)(a), F.S. A “pattern of racketeering activity” is the engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents and that the last of such incidents occurred within five years after a prior incident of racketeering conduct. Section 895.02(7), F.S.

¹⁵ An “enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal gang, as defined in s. 874.03, F.S., constitutes an enterprise. Section 895.02(5), F.S.

¹⁶ Section 895.03(1)-(4), F.S.

¹⁷ Section 895.05(2), F.S.

¹⁸ Sections 253.01 and 253.02, F.S. Funds deposited in the Internal Improvement Trust Fund (IITF) are used for acquisition, management, administration, protection, and conservation of state-owned lands. The fund was originally created to collect funds from the sale of state lands that had been granted to Florida by Congress in 1845 and 1850. The Board of Trustees of the IITF is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. *See* Article IV, s. 4, FLA CONST.

¹⁹ Section 895.09(1), F.S.

²⁰ Section 895.02(6), F.S., defines “investigative agency” to mean the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney.

²¹ Section 895.06, F.S.

²² *Check ‘N Go of Fla., Inc. v. State*, 790 So. 2d 454, 457 (Fla. 5th DCA 2001), *review denied* 817 So. 2d 845 (Fla. 2002).

²³ Section 895.06(2), F.S.

²⁴ *Id.*

²⁵ *Id.*

Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.²⁶ The information is confidential and exempt²⁷ from public records requirements and may only be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal.²⁸ The information is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law.²⁹ An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.³⁰

The 2015 public necessity statement³¹ for the exemption provides that:

Because a Florida RICO Act investigation conducted by an investigative agency may lead to the filing of a civil action, the premature release of the information held by such investigative agency could frustrate or thwart the investigation and impair the ability of the investigative agency to effectively and efficiently administer its duties under the Florida RICO Act . . . This exemption also protects the reputation of the potential defendant in the event that the investigation is closed without the filing of a civil action. Further, without this exemption, a potential defendant under the Florida RICO Act may learn of the investigation and dissipate his or her assets and thwart any future enforcement action under the act.³²

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.³³

During the 2019 interim, subcommittee staff sent a questionnaire to the Department of Legal Affairs (DLA).³⁴ Between July 1, 2015, and August 1, 2019, DLA initiated five civil RICO investigations, of which three have been completed.³⁵ During the same period, DLA received three public record requests for the confidential information; pursuant to the exemption under review, the information was not released.³⁶ DLA believes “the exemption has accomplished its purpose of preventing the frustration or thwarting of a RICO investigation by the premature release of investigative information.”³⁷ DLA recommended that the exemption be reenacted as is.³⁸

²⁶ Section 895.06(7), F.S.

²⁷ There is a difference between records the Legislature designates 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 statute. (*See Attorney General Opinion* 85-62, Aug. 1, 1985).

²⁸ Section 895.06(7)(b), F.S.

²⁹ Section 895.06(7)(c), F.S.

³⁰ Section 895.06(7)(d), F.S.

³¹ Article I, s. 24(c), FLA. CONST., requires each public record exemption “state with specificity the public necessity justifying the exemption.”

³² Section 2, ch. 2015-99, L.O.F.

³³ Section 895.06(7)(c), F.S.

³⁴ Open Government Sunset Review Questionnaire, DLA Response, Sept. 19, 2019, on file with the Oversight, Transparency & Public Management Subcommittee.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.

B. SECTION DIRECTORY:

Section 1 amends s. 895.06, F.S., to save from repeal the public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not authorize nor does it require agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 895.06, F.S., which
 4 provides an exemption from public records requirements
 5 for certain documents and information held by an
 6 investigative agency pursuant to an investigation
 7 relating to an activity prohibited under the Florida
 8 RICO Act; removing the scheduled repeal of the
 9 exemption; providing an effective date.

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

12
 13 Section 1. Paragraph (e) of subsection (7) of section
 14 895.06, Florida Statutes, is amended to read:

15 895.06 Civil investigative subpoenas; public records
 16 exemption.—

17 (7)

18 ~~(e) This subsection is subject to the Open Government~~
 19 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 20 ~~repealed on October 2, 2020, unless reviewed and saved from~~
 21 ~~repeal through reenactment by the Legislature.~~

22 Section 2. This act shall take effect October 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7013 PCB OTM 20-06 OGSR/Residential Facilities Serving Victims of Sexual Exploitation

SPONSOR(S): Oversight, Transparency & Public Management Subcommittee, Daniels

TIED BILLS: **IDEN./SIM. BILLS:** SB 7034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Toliver	Smith
1) Children, Families & Seniors Subcommittee	14 Y, 0 N	Woodruff	Brazzell
2) State Affairs Committee		Toliver	Williamson

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 2 of the fifth year after enactment.

Human trafficking is the “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.” An estimated 40.6 million persons were the victims of human trafficking in 2016, with one in four victims being children. In 2018, 400 children were verified as victims of commercial sexual exploitation in Florida.

Safe houses and safe foster homes are certified by the Department of Children and Families to care for sexually exploited children. Safe houses and safe foster homes must provide a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children. Safe houses and safe foster homes must also provide a variety of services to aid sexually exploited children, such as victim-witness and family counseling, behavioral health care, and substance abuse screening.

Current law provides public record exemptions for information about the location of safe houses, safe foster homes, other residential facilities serving child victims of commercial sexual exploitation, and residential facilities serving adult victims of human trafficking involving commercial sexual activity. However, the confidential and exempt location information may be provided to an agency in order to maintain health and safety standards and to address emergencies.

The bill saves from repeal the public record exemptions, which will repeal on October 2, 2020, if this bill does not become law.

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 Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires the automatic repeal of an exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.²

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:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect 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.
- Protect trade or business secrets.³

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.⁴ 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 created then a public necessity statement and a two-thirds vote for passage are not required.

Human Trafficking

Human trafficking⁵ is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.⁶ An estimated 40.6 million persons were the victims of human trafficking in 2016, with one in four victims being children.⁷ In 2018, 400 children were verified as victims of commercial sexual exploitation in Florida.⁸

Human traffickers use various techniques to instill fear in victims and to keep them enslaved,⁹ including the use of "violence, threats, deception, [and] debt bondage."¹⁰ Some traffickers keep their victims under lock and key.¹¹ However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence towards victims or their families; telling victims they will be imprisoned or deported for immigration violations if they contact authorities; and

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, S. 24(c), FLA. CONST.

⁵ The term "human trafficking" means the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person. Section 787.06(2)(d), F.S.

⁶ Section 787.06(1)(a), F.S.

⁷ *Forced labour, modern slavery and human trafficking*, INTERNATIONAL LABOUR ORGANIZATION, <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> (last visited Jan. 11, 2019).

⁸ Office of Program Policy Analysis and Government Accountability, Rep. No. 19-05 (July 2019), available at <http://www.oppga.state.fl.us/MonitorDocs/Reports/pdf/1905rpt.pdf> (last visited Jan. 17, 2020).

⁹ Section 787.06(1), F.S.

¹⁰ *The Facts*, POLARIS PROJECT, <https://polarisproject.org/human-trafficking/facts> (last visited Jan. 11, 2020).

¹¹ *Id.*

controlling the victims' funds by holding the money ostensibly for safekeeping.¹² It is estimated that human trafficking "generates \$150 billion dollars in illegal profits a year."¹³

Residential Treatment for Human Trafficking Victims

Safe Houses

A "safe house" is a group residential placement certified by the Department of Children and Families (DCF) to care for sexually exploited children.¹⁴ Safe houses must provide "a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children who have endured significant trauma and are not eligible for relief and benefits under the federal Trafficking Victims Protection Act."¹⁵ Sexually exploited children older than six who have been found to be dependent or delinquent may be placed in a safe house or safe foster home by DCF if an assessment indicates such placement is necessary.¹⁶

Each safe house must use strength-based and trauma informed approaches to care, serve exclusively one sex, group child victims by age or maturity level, and care for child victims in a manner that separates them from children with other needs.¹⁷ Safe houses must have staff members who are awake and on duty 24 hours a day and provide a variety of services such as victim-witness and family counseling, behavioral health care, and substance abuse screening.¹⁸ Safe houses are inspected by DCF prior to certification and annually thereafter.¹⁹ In November 2018, 54 safe house beds were licensed and certified in Florida, an increase from 34 beds reported in 2017.²⁰

Safe Foster Homes

A "safe foster home" is a family foster home²¹ certified by DCF to care for sexually exploited children.²² Florida requires safe foster homes to provide the same services and meet the same requirements as safe houses, except the requirements to have staff awake and on duty 24 hours a day do not apply.²³ In November 2018, 29 safe foster home beds were available, an increase from 15 beds available in 2017.²⁴

Other Residential Facilities

Traditional residential facilities serve both children and adults who are victims of sexual exploitation. If these facilities serve adults, they cannot be designated as a safe house or safe foster home.²⁵

Public Record Exemption under Review

In 2015, the Legislature created public record exemptions for information about the location of safe houses, safe foster homes, residential facilities serving child victims of commercial sexual exploitation, and residential facilities serving adult victims of human trafficking involving commercial sexual activity.²⁶

¹² *Id.*

¹³ *Profits and Poverty: The Economics of Forced Labour*, INTERNATIONAL LABOUR ORGANIZATION, http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_24339/lang--en/index.htm (last visited Jan. 11, 2020).

¹⁴ Section 409.1678(1)(b), F.S. The term "commercial sexual exploitation" means the use of any person under the age of 18 years for sexual purposes in exchange for money, goods, or services or the promise of money, goods, or services. Section 409.016(1), F.S.

¹⁵ Section 409.1678(2)(a), F.S.

¹⁶ Section 39.524, F.S.

¹⁷ Section 409.1678(2)(c), F.S. Safe houses must also be licensed as a residential child-caring agency.

¹⁸ Sections 409.1678(2)(c) and 409.1678(2)(d), F.S.

¹⁹ Section 409.1678(2)(f), F.S.

²⁰ *Supra* note 8.

²¹ Section 409.1678(2)(c), F.S. Safe foster homes must also be licensed as a family foster home.

²² Section 409.1678(1)(a), F.S.

²³ Section 409.1678(2)(c), F.S.

²⁴ *Supra* note 8.

²⁵ Section 409.1678(1)(a) and (b), F.S. The definition of "safe foster home" and "safe house" are specifically restricted to "sexually exploited children."

²⁶ Chapter 2015-147, L.O.F., codified as ss. 409.1678(6) and 787.06(9), F.S. The term "commercial sexual activity" includes any violation of chapter 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(b), F.S.

Specifically, the information regarding the location of these facilities held by an agency is confidential and exempt²⁷ from public records requirements.²⁸ However, the confidential and exempt information may be provided to any agency as necessary to maintain health and safety standards and to address emergency situations in the residential facilities.²⁹ The public record exemptions do not apply to facilities licensed by the Agency for Health Care Administration.³⁰

The 2015 public necessity statement³¹ for the exemptions provides the following:

Safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation . . . or adult victims of human trafficking involving commercial sexual activity, are intended as refuges for sexually exploited victims from those who exploited them. If the individuals who victimized these people were able to learn the location of such facilities, they may attempt to contact their victims, exploit their vulnerabilities, and return them to the situations in which they were victimized. Even without the return of these victims to their former situations, additional contact with those who victimized them would have the effect of continuing their victimization and inhibiting their recoveries. Additionally, knowledge about the location of safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation . . . or adult victims of human trafficking involving commercial sexual activity, could enable other individuals to locate and attempt to victimize the residents.³²

Pursuant to the Open Government Sunset Review Act, the exemptions will repeal October 2, 2020, unless reenacted by the Legislature.³³

During the 2019 interim, subcommittee staff met with staff from DCF and the Department of Legal Affairs (DLA) to discuss the exemptions as part of the review process. DCF and DLA staff indicated they have not received any complaints concerning the exemptions nor did they encounter issues in implementing the exemptions. Neither agency was aware of any litigation involving the exemptions. DCF and DLA recommended the exemptions be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemptions, thereby maintaining the exemptions for information about the location of safe houses, safe foster homes, other residential facilities serving child victims of commercial sexual exploitation, and residential facilities serving adult victims of human trafficking involving commercial sexual activity.

B. SECTION DIRECTORY:

Section 1 amends s. 409.1678, F.S., to save from repeal the public record exemption for information related to the location of safe houses and safe foster homes.

²⁷ There is a difference between records the Legislature designates 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. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 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 statute. *See Op. Att’y Gen. Fla.* (1985).

²⁸ *See* ss. 409.1678(6) and 787.06(9), F.S.

²⁹ Sections 409.1678(6)(b) and 787.06(9)(b), F.S.

³⁰ Section 409.1678(6)(c) and 787.06(9)(c), F.S.

³¹ Article I, s. 24(c), FLA. CONST., requires each public record exemption “state with specificity the public necessity justifying the exemption.”

³² Section 3, ch. 2015-147, L.O.F.

³³ Sections 409.1678(6)(d) and 787.06(10)(d), F.S.

Section 2 amends s. 787.06, F.S., to save from repeal the public record exemption for information related to human trafficking.

Section 3 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor does it require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 409.1678, F.S., which
 4 provides an exemption from public records requirements
 5 for information about the location of safe houses,
 6 safe foster homes, and other residential facilities
 7 serving victims of sexual exploitation; removing the
 8 scheduled repeal of the exemption; amending s. 787.06,
 9 F.S., which provides an exemption from public records
 10 requirements for information about the location of
 11 residential facilities serving adult victims of human
 12 trafficking involving commercial sexual activity;
 13 removing the scheduled repeal of the exemption;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:
 17

18 Section 1. Paragraph (d) of subsection (6) of section
 19 409.1678, Florida Statutes, is amended to read:

20 409.1678 Specialized residential options for children who
 21 are victims of commercial sexual exploitation.—

22 (6) LOCATION INFORMATION.—

23 ~~(d) This subsection is subject to the Open Government~~
 24 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 25 ~~repealed on October 2, 2020, unless reviewed and saved from~~

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26 | ~~repeal through reenactment by the Legislature.~~

27 | Section 2. Paragraph (d) of subsection (10) of section
28 | 787.06, Florida Statutes, is amended to read:

29 | 787.06 Human trafficking.—

30 | (10)

31 | ~~(d) This subsection is subject to the Open Government~~
32 | ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
33 | ~~repealed on October 2, 2020, unless reviewed and saved from~~
34 | ~~repeal through reenactment by the Legislature.~~

35 | Section 3. This act shall take effect October 1, 2020.