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## **State Affairs Committee**

**Thursday, January 30, 2020  
11:30 AM – 2:30 PM  
Morris Hall (17 HOB)**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### State Affairs Committee

**Start Date and Time:** Thursday, January 30, 2020 11:30 am

**End Date and Time:** Thursday, January 30, 2020 02:30 pm

**Location:** Morris Hall (17 HOB)

**Duration:** 3.00 hrs

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

HB 37 School Bus Safety by Zika

CS/HB 133 Towing and Immobilizing Vehicles and Vessels by Business & Professions Subcommittee, McClain

CS/HB 343 Recreational Vehicles by Business & Professions Subcommittee, Fetterhoff

CS/HM 443 United States Space Command and United States Space Force by Local, Federal & Veterans Affairs Subcommittee, Sirois, Gregory

CS/HB 491 Disposition of Surplus Funds by Candidates by Public Integrity & Ethics Committee, Payne

CS/HB 551 Transportation Disadvantaged by Transportation & Infrastructure Subcommittee, Jenne

HB 947 Volusia County by Leek

HB 1097 Regional Planning Council Meetings by Geller

HB 7015 OGSR/Body Camera Recordings by Oversight, Transparency & Public Management Subcommittee, Shoaf

HB 7019 OGSR/Human Trafficking Victims by Oversight, Transparency & Public Management Subcommittee, Shoaf

HB 7027 OGSR/ Servicemembers and Families by Oversight, Transparency & Public Management Subcommittee, Andrade

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

PCB SAC 20-02 -- Information about Counties and Municipalities

PCB SAC 20-03 -- Local Government Reporting

**NOTICE FINALIZED on 01/28/2020 4:09PM by Denson.Tori**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 37 School Bus Safety  
**SPONSOR(S):** Zika and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 290

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	10 Y, 0 N	Hicks	Davis
3) State Affairs Committee		Roth	Williamson

### SUMMARY ANALYSIS

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers. Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal until the signal has been withdrawn.

The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. For a second or subsequent offense within a period of five years, the Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver license of the driver for not less than three months and not more than six months. The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. For a second or subsequent offense within a period of five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.

The bill increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200. For a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year. The bill also increases the minimum civil penalty for passing a school bus on the side that children enter and exit from \$200 to \$400. For a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than one year and not more than two years.

The bill will likely have an indeterminate, positive fiscal impact on state and local government revenues because of increasing the civil penalties for failing to stop for a school bus and passing a stopped school bus. DHSMV estimates an insignificant negative impact to the Highway Safety Operating Trust Fund due to required programming and implementation costs. Those costs can be absorbed within existing resources. See Fiscal Comments.

# FULL ANALYSIS

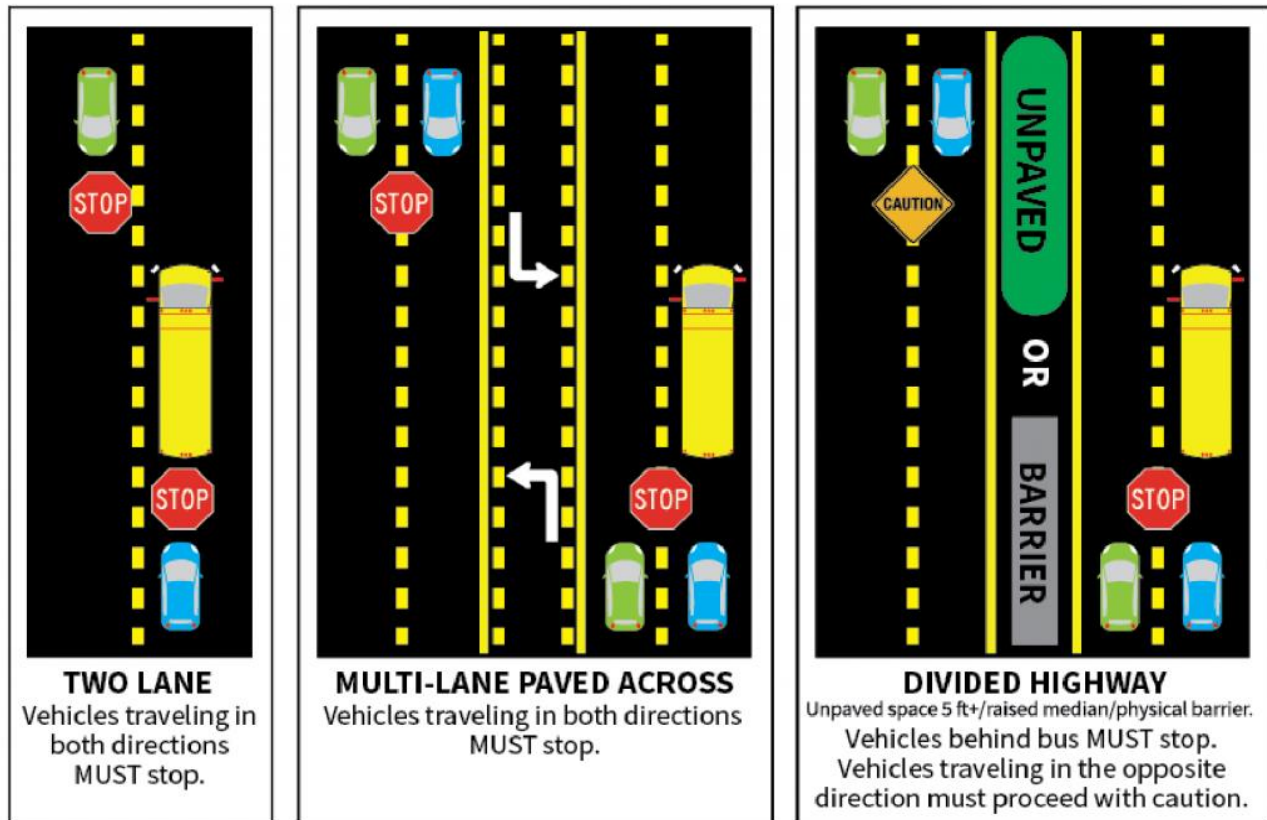
## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.<sup>1</sup> When possible, school buses should not stop where visibility is obscured for a distance of 200 feet from the bus.<sup>2</sup>

When approaching a stopped school bus displaying a stop signal, other drivers must bring their vehicles to a full stop until the signal has been withdrawn.<sup>3</sup> However, a driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier.<sup>4</sup>



A person cited for failing to stop for a school bus displaying the stop signal commits a moving violation and can pay the civil penalty or request a hearing to contest the citation.<sup>6</sup> A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal<sup>7</sup> also commits a moving violation and the driver must attend a mandatory hearing at a specified time and location.<sup>8</sup>

The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. For a second or subsequent offense within a period of five years, the Department of Highway Safety and

<sup>1</sup> Section 316.172(3), F.S.

<sup>2</sup> Section 316.172(3), F.S.

<sup>3</sup> Section 316.172(1)(a), F.S.

<sup>4</sup> Section 316.172(2), F.S.

<sup>5</sup> Florida Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, available at <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited December 4, 2019).

<sup>6</sup> Section 318.14, F.S.

<sup>7</sup> Section 316.172(1)(b), F.S.

<sup>8</sup> Sections 316.172(1)(b) and 318.19(3), F.S.

Motor Vehicles (DHSMV) must suspend the driver license of the driver for not less than three months and not more than six months.<sup>9</sup> Including various fees and service charges, the total fine for this violation is up to \$263, which is distributed to various funds.<sup>10</sup>

The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. For a second or subsequent offense within a period of five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.<sup>11</sup> Including various fees and service charges, the total fine for this violation is up to \$363, which is distributed to various funds.<sup>12</sup>

In addition to the above penalties, a driver who illegally passes a stopped school bus, but does not cause serious bodily injury to or death of another, will receive four points on his or her driver license record.<sup>13</sup> A driver who illegally passes a stopped school bus and causes serious bodily injury to or death of another will receive six points on his or her driver license record.<sup>14</sup> A driver who illegally passes a school bus on either side and causes serious bodily injury to or death of another person must serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents and must participate in a victim's impact panel session. If such panel does not exist, the driver must attend a DHSMV-approved driver improvement course.<sup>15</sup> In addition, the driver must pay a fine of \$1,500 and will have his or her driver license suspended by DHSMV for not less than one year.<sup>16</sup>

If the driver receives a traffic citation for illegally passing a stopped school bus and the court withholds adjudication, DHSMV will require him or her to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.<sup>17</sup>

According to DHSMV, in Fiscal Year 2018-2019, 3,760 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus and 38 citations were issued for passing a school bus on the side children enter and exit.<sup>18</sup>

The Department of Education created a statewide survey for bus drivers to complete regarding the illegal passing of their school buses. The survey results from 2018 show that on a single day, 10,937 illegal passes were made based on 9,009 school bus drivers completing the survey. Of these illegal passes, 447 were made on the right side of the bus where children generally enter and exit the vehicle, 10,018 were made on the left side, and for 472 of the passes, the side was unknown.<sup>19</sup>

The National Highway Traffic Safety Administration indicates that from 2007 to 2016, 98 school-age pedestrians (18 and younger) died in school-transportation-related crashes. Sixty percent were struck

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<sup>9</sup> Section 318.18(5)(a), F.S.

<sup>10</sup> Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, Including a Fee Schedule for Recording*, effective July 1, 2019, available at: [https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories\\_2019/19bull053\\_Attach\\_1\\_2019\\_Dist.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf), p. 34 [http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016\\_Distribution\\_Schedule\\_w.pdf](http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf) (last visited October 2, 2019).

<sup>11</sup> Section 318.18(5)(b), F.S.

<sup>12</sup> Florida Court Clerks, *supra*, at FN 10, p. 35.

<sup>13</sup> Section 322.27(3)(d)4.a., F.S.

<sup>14</sup> Section 322.27(3)(d)4.b., F.S.

<sup>15</sup> Section 316.027(4)(b), F.S.

<sup>16</sup> Section 318.18(5)(d), F.S.

<sup>17</sup> Section 322.0261(4)(c), F.S.

<sup>18</sup> Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2020 House Bill 37*, p. 2 (October 24, 2019).

<sup>19</sup> Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2018*, available at: <http://www.fldoe.org/core/fileparse.php/7585/urlt/fsr18.pdf> (last visited October 3, 2019).

by school buses, 2 percent by vehicles functioning as school buses, and 38 percent by other vehicles involved in the crashes.<sup>20</sup>

### **Effect of Proposed Changes**

The bill increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200. For a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.

The bill increases the minimum civil penalty for passing a school bus on the side that children enter and exit from \$200 to \$400. For a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than one year and not more than two years.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 318.18, F.S., relating to amount of penalties.

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

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

##### **1. Revenues:**

The bill will likely have a positive fiscal impact on the General Revenue Fund as well as various state trust funds due to the increase in penalties for failing to stop for a school bus or passing a stopped school bus. The number of drivers who will be subjected to the additional \$100 or \$200 penalty is unknown; therefore, the impact is indeterminate.

##### **2. Expenditures:**

DHSMV estimates that approximately 72 hours of technology programming will be required because of this bill. These hours are estimated to have a fiscal impact to the Highway Safety Operating Trust Fund of \$3,120 in FTE and contracted resources.<sup>21</sup> DHSMV indicates that all costs related to programming and implementation can be absorbed within existing resources.

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

##### **1. Revenues:**

The bill will have a positive fiscal impact to local government revenues. The number of drivers who will be subjected to the additional \$100 or \$200 fine is unknown; therefore, the impact is indeterminate.

##### **2. Expenditures:**

The bill does not appear to impact local government expenditures.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill increases penalties for persons failing to stop for a school bus.

#### **D. FISCAL COMMENTS:**

None.

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<sup>20</sup> National Highway Traffic Safety Administration, *Traffic Safety Facts, 2007-2016 Data, School-Transportation-Related Crashes*, DOT HS 812 476, revised January 2018, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812476> (last visited October 3, 2019).

<sup>21</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2020 House Bill 37, p. 4-5 (October 24, 2019).

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES**

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

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill does not provide a grant of rulemaking authority nor does it require 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 school bus safety; amending s.  
 3           318.18, F.S.; revising civil penalties for certain  
 4           violations relating to stopping for a school bus;  
 5           providing an effective date.

6  
 7   Be It Enacted by the Legislature of the State of Florida:  
 8

9           Section 1. Paragraphs (a) and (b) of subsection (5) of  
 10          section 318.18, Florida Statutes, are amended to read:

11          318.18 Amount of penalties.—The penalties required for a  
 12          noncriminal disposition pursuant to s. 318.14 or a criminal  
 13          offense listed in s. 318.17 are as follows:

14           (5) (a) Two ~~One~~ hundred dollars for a violation of s.  
 15          316.172(1) (a), failure to stop for a school bus. If, at a  
 16          hearing, the alleged offender is found to have committed this  
 17          offense, the court shall impose a minimum civil penalty of \$200  
 18          ~~\$100~~. In addition to this penalty, for a second or subsequent  
 19          offense within a period of 5 years, the department shall suspend  
 20          the driver license of the person for not less than 180 ~~90~~ days  
 21          and not more than 1 year ~~6 months~~.

22           (b) Four ~~Two~~ hundred dollars for a violation of s.  
 23          316.172(1) (b), passing a school bus on the side that children  
 24          enter and exit when the school bus displays a stop signal. If,  
 25          at a hearing, the alleged offender is found to have committed

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26 | this offense, the court shall impose a minimum civil penalty of  
27 | \$400 ~~\$200~~. In addition to this penalty, for a second or  
28 | subsequent offense within a period of 5 years, the department  
29 | shall suspend the driver license of the person for not less than  
30 | 360 ~~180~~ days and not more than 2 years ~~1 year~~.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 37 (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 \_\_\_\_\_

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Slosberg offered the following:

**Amendment (with title amendment)**

Between lines 8 and 9, insert:

Section 1. Section 316.172, Florida Statutes, is amended to read:

316.172 Traffic to stop for school bus.—

(1)(a) A ~~Any~~ person using, operating, or driving a vehicle on or over the roads or highways of this state shall, upon approaching a any school bus that ~~which~~ displays a stop signal, bring such vehicle to a full stop while the bus is stopped, and the vehicle shall not pass the school bus until the signal has been withdrawn. A person who violates this section commits a moving violation, punishable as provided in chapter 318.

(b) A ~~Any~~ person using, operating, or driving a vehicle

Amendment No.

17 that passes a school bus on the side that children enter and  
18 exit when the school bus displays a stop signal commits a moving  
19 violation, punishable as provided in chapter 318, and is subject  
20 to a mandatory hearing under ~~the provisions of~~ s. 318.19.

21 (c)1. A school district may, upon approval of the district  
22 school board, install a video recording device on one or more  
23 school buses owned, leased, operated, or contracted by the  
24 school district to aid in the enforcement of paragraphs (a) and  
25 (b) through the recording of photographic or electronic images  
26 or streaming video. The department, a county, or a municipality  
27 may authorize a traffic infraction enforcement officer under s.  
28 316.640 to issue a traffic citation for a violation of paragraph  
29 (a) or paragraph (b) which is captured by such video recording  
30 device.

31 2. The Department of Education may research, implement,  
32 and enforce rules regarding the use of video recording devices  
33 pursuant to this paragraph as it relates to student privacy and  
34 safety.

35 (2) The driver of a vehicle upon a divided highway with an  
36 unpaved space of at least 5 feet, a raised median, or a physical  
37 barrier is not required to stop when traveling in the opposite  
38 direction of a school bus that ~~which~~ is stopped in accordance  
39 with ~~the provisions of~~ this section.

40 (3) Every school bus shall stop as far to the right of the  
41 street as possible and shall display warning lights and stop

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42 signals as required by rules of the State Board of Education  
43 before discharging or loading passengers. When possible, a  
44 school bus shall not stop where the visibility is obscured for a  
45 distance of 200 feet in either direction ~~way~~ from the bus.

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48

**T I T L E   A M E N D M E N T**

49

Between lines 2 and 3, insert:

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316.172, F.S.; authorizing a school district to

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install video recording devices on district school

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buses for certain purposes; authorizing the Department

53

of Highway Safety and Motor Vehicles, a county, or a

54

municipality to authorize a traffic infraction

55

enforcement officer to issue a citation for certain

56

violations; authorizing the Department of Education to

57

implement certain rules; amending s.

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		

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Zika offered the following:

3

4 **Amendment**

5 Remove line 31 and insert:

6 Section 2. This act shall take effect January 1, 2021.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 133 Towing and Immobilizing Vehicles and Vessels

**SPONSOR(S):** Business & Professions Subcommittee, McClain

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	9 Y, 5 N	Darden	Miller
2) Business & Professions Subcommittee	10 Y, 2 N, As CS	Thompson	Anstead
3) State Affairs Committee		Darden	Williamson

### SUMMARY ANALYSIS

County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators. Counties and municipalities are authorized to establish by ordinance or rule maximum rates for the towing and storage of vehicles. Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies.

Vehicles or vessels parked without permission on private property may be towed at the direction of the owner or lessee of the property. The towing or removal must be conducted by a person regularly engaged in the business of towing vehicles or vessels and is subject to strict compliance with certain conditions and restrictions placed on the towing company. If the property is not a single-family residence, towing may only occur if notice is given via signage that must meet certain conditions.

The bill requires counties to establish maximum rates for the towing and immobilization of vessels, and prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. However, the bill provides that an authorized wrecker operator may impose and collect an administrative fee, which must only be remitted to the county or municipality after it has been collected. The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator. The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel must have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill exempts certain counties with towing or immobilization licensing, regulatory, or enforcement programs as of January 1, 2020, from the prohibition on imposing a fee or charge on an authorized wrecker operator or on a towing business.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment, and requires tow-away zone notices be placed within 10 feet from the "road" instead of within 5 feet from the "public right-of-way line."

The bill may have an indeterminate fiscal impact on local governments.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.<sup>1</sup> After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.<sup>2</sup> Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”<sup>3</sup>

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.<sup>4</sup> If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.<sup>5</sup>

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.<sup>6</sup>

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.<sup>7</sup> An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.<sup>8</sup> In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.<sup>9</sup>

Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.<sup>10</sup>

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where the

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<sup>1</sup> S. 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

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

<sup>3</sup> S. 323.002(1)(a)-(b), F.S.

<sup>4</sup> S. 323.002(2)(b), F.S.

<sup>5</sup> S. 323.002(2)(c), F.S.

<sup>6</sup> *Id.*

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

<sup>8</sup> S. 323.002(2)(d), F.S.

<sup>9</sup> S. 323.002(2)(c) and (d), F.S.

<sup>10</sup> S. 323.002(2)(a), F.S.

vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.<sup>11</sup> A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.<sup>12</sup>

### Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.<sup>13</sup> A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or Ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.<sup>14</sup>

An officer may also apply a hold when the vehicle is impounded pursuant to s. 316.193, F.S. (relating to driving under the influence) or s. 322.34, F.S. (relating to driving with a suspended or revoked license) or when the officer is complying with a court order.<sup>15</sup> The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.<sup>16</sup>

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer period.<sup>17</sup> The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.<sup>18</sup>

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel, possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed pursuant to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated pursuant to s. 715.104, F.S.; or
- Any law enforcement agency.<sup>19</sup>

### Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.<sup>20</sup> However, local governments possess the authority to impose user fees or

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<sup>11</sup> Ss. 125.0103(1)(c) and 166.043(1)(c), F.S.

<sup>12</sup> Compare s. 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

<sup>13</sup> S. 323.001(1), F.S.

<sup>14</sup> S. 323.001(4)(a)-(e), F.S.

<sup>15</sup> S. 323.001(4)(f)-(g), F.S.

<sup>16</sup> S. 323.001(5), F.S.

<sup>17</sup> S. 323.001(2), F.S.

<sup>18</sup> S. 323.001(2)(a)-(b), F.S.

<sup>19</sup> S. 713.78(2), F.S.

<sup>20</sup> Art. VII, s. 1(a), Fla. Const.

assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.<sup>21</sup> The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.<sup>22</sup> On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”<sup>23</sup> Usually a fee is charged for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.<sup>24</sup>

### Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies. For example, the City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.<sup>25</sup> The registered owner of the vehicle is given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500.00), hearing costs (\$50.00), and towing and storage fees (\$125.00 plus \$25.00 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500.00).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses the same process and rate structure.<sup>26</sup>

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.<sup>27</sup>

The City of Winter Springs imposes an administrative fee for impoundment arising from 12 offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.<sup>28</sup> The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550.00). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.00. These fees are payable to the city but are collected by towing companies.<sup>29</sup>

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.<sup>30</sup>

### Towing from Private Property

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<sup>21</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

<sup>22</sup> *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

<sup>23</sup> *Id.* at 758-59.

<sup>24</sup> *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

<sup>25</sup> Sarasota Police Department, *Vehicle Seizure Program*, <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited Oct. 14, 2019).

<sup>26</sup> Bradenton, Fla. Code of Ordinances, ch. 54, art. IV (2019).

<sup>27</sup> Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c) (2019).

<sup>28</sup> Winter Springs, Fla. Code of Ordinances ch. 12, s. 12-100 (2019).

<sup>29</sup> Winter Springs, Fla. Notice of Right to Hearing Form (on file with the Local, Federal & Veterans Affairs Subcommittee).

<sup>30</sup> Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing (on file with the Local, Federal & Veterans Affairs Subcommittee).

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee, if the vehicle or vessel is parked on the property without permission.<sup>31</sup> A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:<sup>32</sup>

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.<sup>33</sup>
- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage prior to redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel for the purpose of removing it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:<sup>34</sup>

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.

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<sup>31</sup> S. 715.07(2), F.S.

<sup>32</sup> S. 715.07(2)(a), F.S.

<sup>33</sup> S. 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business is operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm or when the towing business is in operation, and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

<sup>34</sup> S. 715.07(2)(a)5, F.S.

- The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" are between 3 and 6 feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours prior to the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating, "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post notice, consistent with the requirements in the statute which apply to vehicles,<sup>35</sup> that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of business or restricts access to a private driveway and the tow is requested by the business owner or lessee.<sup>36</sup>

A county or municipality may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.<sup>37</sup>

If a person causes a vehicle or vessel to be removed improperly, that person is liable to the owner or lessee for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney fees; and court costs.<sup>38</sup>

Violations of these provisions may constitute a first-degree misdemeanor<sup>39</sup> or a third-degree felony.<sup>40</sup>

### **Effect of Proposed Changes**

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county must establish a maximum rate that may be charged for the towing or immobilization of a vessel. If a municipality establishes a maximum rate for the towing or immobilization of a vessel, the county's rate will not apply within such municipality.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator or a towing business. The bill defines the term "towing business" as a business providing towing services for monetary gain. The prohibition does not prohibit the county or municipality from levying a reasonable business tax or imposing a reasonable administrative fee or charge on the legal owner of a vehicle or vessel to cover the cost of enforcement, including parking enforcement when the vehicle or vessel is towed from public property. The administrative fee may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is actually collected. The bill requires the administrative fee to be included as part of the lien on the vehicle or vessel held by the towing operator.

<sup>35</sup> These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

<sup>36</sup> S. 715.07(2)(a)5, F.S.

<sup>37</sup> S. 715.07(2)(b), F.S.

<sup>38</sup> S. 715.07(4), F.S.

<sup>39</sup> For subparagraphs (2)(a)2. and (2)(a)6. S. 715.07(5)(a), F.S.

<sup>40</sup> For subparagraphs (2)(a)1., (2)(a)3., (2)(a)4., (2)(a)7., and (2)(a)9. S. 715.07(5)(b), F.S.

The prohibition on county ordinances or rules that impose a fee or tax on authorized wrecker operators or on towing businesses does not apply to towing or immobilization licensing, regulatory, or enforcement programs in effect on January 1, 2020, in charter counties where:

- Ninety percent of the county’s population lives in incorporated municipalities;<sup>41</sup>
- The county contains at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020;<sup>42</sup> or
- The county is a county as defined in s. 125.011(1), F.S.

These counties may continue to operate their existing towing or immobilization licensing, regulatory, or enforcement programs and are authorized to levy an administrative fee for enforcement costs. A county as defined in s. 125.011(1), F.S., is prohibited from imposing any new business tax, fee, or charge that was not in effect on January 1, 2020, on a towing business or authorized wrecker operator.

The bill prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty on the registered owner of a vehicle or vessel, on the lienholder of a vehicle or vessel, or on an authorized wrecker operator when the vehicle or vessel is removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement and does not apply to the continuing operation of towing or immobilization licensing, regulatory, or enforcement programs in grandfathered charter counties.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. This prohibition does not apply to an ordinance or rule adopted before January 1, 2020. The bill requires an authorized wrecker operator or towing business that does not accept credit cards as a form of payment to maintain an operable automatic teller machine for use by the public at its place of business.

The bill authorizes the towing or removal of a vehicle or vessel from private property without the consent of the registered owner as long as the towing company is in “substantial” compliance with the conditions and restrictions established in s. 715.07, F.S., rather than in “strict” compliance.

The bill revises the requirement that tow-away zone notices be placed within “five feet” from the “public right-of-way line” to instead require the notice be placed within “10 feet” from the “road” as defined in s. 334.03(22), F.S., of the Florida Transportation Code.<sup>43</sup>

The bill revises several provisions relating to the towing or removal of a vehicle applicable to a person in control of a vehicle or vessel, making these provisions applicable also to those in custody of the vehicle.

## B. SECTION DIRECTORY:

Section 1: Amends s. 125.0103, F.S., requiring counties to establish maximum rates for the towing and immobilization both of vehicles and vessels.

Section 2: Creates s. 125.01047, F.S., prohibiting counties from enacting ordinances imposing specific fees and charges on authorized wrecker operators.

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<sup>41</sup> As of April 1, 2018, more than 90 percent of the populations of Broward County and Duval County live in incorporated areas. EDR, *Florida Population Estimates for Counties and Municipalities*, <http://edr.state.fl.us/Content/population-demographics/data/index-floridaproducts.cfm> (last visited Oct. 14, 2019). As of October 1, 2019, Broward County operates a towing or immobilization licensing, regulatory, or enforcement program, while Duval County does not.

<sup>42</sup> As of October 1, 2019, only Palm Beach County has more than 38 municipalities. *See id.* (Palm Beach County has 39 municipalities).

<sup>43</sup> S. 334.03(22), F.S., defines the term “road” as a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

- Section 3: Amends s. 166.043, F.S., authorizing municipalities to establish maximum rates for the towing and immobilization both of vehicles and vessels.
- Section 4: Creates s. 166.04465, F.S., prohibiting municipalities from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 5: Amends s. 323.002, F.S., prohibiting counties and municipalities from adopting or maintaining ordinances or rules imposing fees and charges on the registered owner or lienholder of a vehicle removed and impounded pursuant to ch. 323, F.S.
- Section 6: Amends s. 713.78, F.S., providing that a wrecker operation lien includes a reasonable administrative fee or charge imposed by a county or municipality.
- Section 7: Amends s. 715.07, F.S., concerning requirements for towing a vehicle from private property.
- Section 8: Provides that the bill takes effect 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:

The bill will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker operators and towing companies that are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee.

### **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 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:

The Florida Constitution prohibits the passage of any law that would impair the obligation of contracts.<sup>44</sup> The bill does not appear to implicate this provision, as the bill does not address the enforcement of current contracts. The retroactive application of a statutory provision generally only occurs upon an express statement of intent by the Legislature and is limited to the extent retroactive application would impair a vested right, create a new obligation, or impose a new penalty.<sup>45</sup>

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 11, 2019, the Business & Professions Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Removes the provision from the bill that authorizes the court to award the prevailing party damages, attorney fees, and court costs, in an action related to improper towing of vehicles from private property;
- Maintains the requirement in current law for persons who improperly tow from private property to pay damages, attorney fees and court costs;
- Removes the provision from the bill that expressly preempts to the state the regulation of attorney fees in connection with the towing of vehicles or vessels from private property, and removes the provision that would void any municipal or county ordinance on the subject;
- Changes the current requirement that a tow-away zone notice be placed within “5 feet” from the “public right-of-way line” to instead require the notice be placed within “10 feet” from the “road” as defined s. 334.03(22), F.S;
- Reverts the tow-away zone notice height requirement back to current law, which means signs must still be permanently installed between three and six feet above ground level; and
- Changes the effective date of the bill from July 1, 2020, to October 1, 2020.

The analysis is drafted to the committee substitute as approved by the Business & Professions Subcommittee.

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<sup>44</sup> Art. I, s. 10, Fla. Const.

<sup>45</sup> *Menendez v. Progressive Exp. Ins. Co, Inc.*, 35 So. 3d 873, 877 (Fla. 2010).



1                   A bill to be entitled  
2           An act relating to towing and immobilizing vehicles  
3           and vessels; amending ss. 125.0103 and 166.043, F.S.;  
4           authorizing local governments to enact rates to tow or  
5           immobilize vessels on private property and to remove  
6           and store vessels under specified circumstances;  
7           creating ss. 125.01047 and 166.04465, F.S.;  
8           prohibiting counties or municipalities from enacting  
9           certain ordinances or rules that impose fees or  
10          charges on authorized wrecker operators or towing  
11          businesses; defining the term "towing business";  
12          providing exceptions; amending s. 323.002, F.S.;  
13          prohibiting counties or municipalities from adopting  
14          or maintaining in effect certain ordinances or rules  
15          that impose charges, costs, expenses, fines, fees, or  
16          penalties on registered owners, other legally  
17          authorized persons in control, or lienholders of  
18          vehicles or vessels under certain conditions;  
19          providing an exception; prohibiting counties or  
20          municipalities from enacting certain ordinances or  
21          rules that require authorized wrecker operators to  
22          accept a specified form of payment; providing  
23          exceptions; providing applicability; amending s.  
24          713.78, F.S.; authorizing certain persons to place  
25          liens on vehicles or vessels to recover specified fees

26 | or charges; amending s. 715.07, F.S.; revising a  
 27 | requirement regarding notices and signs concerning the  
 28 | towing or removal of vehicles or vessels; prohibiting  
 29 | counties or municipalities from enacting certain  
 30 | ordinances or rules that require towing businesses to  
 31 | accept a specified form of payment; providing an  
 32 | effective date.

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

36 | Section 1. Paragraphs (b) and (c) of subsection (1) of  
 37 | section 125.0103, Florida Statutes, are amended to read:

38 | 125.0103 Ordinances and rules imposing price controls;  
 39 | findings required; procedures.—

40 | (1)

41 | (b) ~~The provisions of~~ This section does shall not prevent  
 42 | the enactment by local governments of public service rates  
 43 | otherwise authorized by law, including water, sewer, solid  
 44 | waste, public transportation, taxicab, or port rates, rates for  
 45 | towing of vehicles or vessels from or immobilization of vehicles  
 46 | or vessels on private property, or rates for removal and storage  
 47 | of wrecked or disabled vehicles or vessels from an accident  
 48 | scene or the removal and storage of vehicles or vessels in the  
 49 | event the owner or operator is incapacitated, unavailable,  
 50 | leaves the procurement of wrecker service to the law enforcement

51 officer at the scene, or otherwise does not consent to the  
 52 removal of the vehicle or vessel.

53 (c) Counties must establish maximum rates which may be  
 54 charged on the towing of vehicles or vessels from or  
 55 immobilization of vehicles or vessels on private property,  
 56 removal and storage of wrecked or disabled vehicles or vessels  
 57 from an accident scene or for the removal and storage of  
 58 vehicles or vessels, in the event the owner or operator is  
 59 incapacitated, unavailable, leaves the procurement of wrecker  
 60 service to the law enforcement officer at the scene, or  
 61 otherwise does not consent to the removal of the vehicle or  
 62 vessel. However, if a municipality chooses to enact an ordinance  
 63 establishing the maximum rates ~~fees~~ for the towing or  
 64 immobilization of vehicles or vessels as described in paragraph  
 65 (b), the county's ordinance shall not apply within such  
 66 municipality.

67 Section 2. Section 125.01047, Florida Statutes, is created  
 68 to read:

69 125.01047 Rules and ordinances relating to towing  
 70 services.—

71 (1) A county may not enact an ordinance or rule that would  
 72 impose a fee or charge on an authorized wrecker operator, as  
 73 defined in s. 323.002(1), or on a towing business for towing,  
 74 impounding, or storing a vehicle or vessel. As used in this  
 75 section, the term "towing business" means a business that

76 | provides towing services for monetary gain.

77 | (2) The prohibition set forth in subsection (1) does not  
 78 | affect a county's authority to:

79 | (a) Levy a reasonable business tax under s. 205.0315, s.  
 80 | 205.033, or s. 205.0535.

81 | (b) Impose and collect a reasonable administrative fee or  
 82 | charge on the registered owner or other legally authorized  
 83 | person in control of a vehicle or vessel, or the lienholder of a  
 84 | vehicle or vessel, not to exceed 25 percent of the maximum  
 85 | towing rate, to cover the cost of enforcement, including parking  
 86 | enforcement, by the county when the vehicle or vessel is towed  
 87 | from public property. An authorized wrecker operator or towing  
 88 | business may impose and collect the administrative fee or charge  
 89 | on behalf of the county and shall remit such fee or charge to  
 90 | the county only after it is collected.

91 | (3) (a) This section does not apply to a towing or  
 92 | immobilization licensing, regulatory, or enforcement program of  
 93 | a charter county in which at least 90 percent of the population  
 94 | resides in incorporated municipalities, or to a charter county  
 95 | with at least 38 incorporated municipalities within its  
 96 | territorial boundaries as of January 1, 2020. This section does  
 97 | not affect a charter county's authority to:

98 | 1. Impose and collect towing operating license fees,  
 99 | license renewal fees, license extension fees, expedite fees,  
 100 | storage site inspection or reinspection fees, criminal

101 background check fees, and tow truck decal fees, including decal  
102 renewal fees, expedite fees, and decal replacement fees.

103 2. Impose and collect immobilization operating license  
104 fees, license extension fees, license renewal fees, expedite  
105 fees, and criminal background check fees.

106 3. Set maximum rates for the towing or immobilization of  
107 vehicles or vessels on private property, including rates based  
108 on different classes of towing vehicles, research fees,  
109 administrative fees, storage fees, and labor fees; rates for  
110 towing services performed or directed by governmental entities;  
111 road service rates; winch recovery rates; voluntary expediting  
112 fees for vehicle or vessel ownership verification; and to  
113 establish conditions in connection with the applicability or  
114 payment of maximum rates set for towing or immobilization of  
115 vehicles or vessels.

116 4. Impose and collect such other taxes, fees, or charges  
117 otherwise authorized by general law, special law, or county  
118 ordinance, resolution, or regulation.

119 (b) A charter county may impose and collect an  
120 administrative fee or charge as provided in paragraph (2) (b) but  
121 may not impose such fee or charge on a towing business or an  
122 authorized wrecker operator. If the charter county imposes such  
123 administrative fee or charge, the charter county may authorize a  
124 towing business or authorized wrecker operator to impose and  
125 collect such fee or charge on behalf of the county, and the

126 towing business or authorized wrecker operator shall remit such  
127 fee or charge to the charter county only after it is collected.

128 (4) (a) Subsection (1) does not apply to a charter county  
129 that had a towing licensing, regulatory, or enforcement program  
130 in effect on January 1, 2020. However, such charter county may  
131 not impose any new business tax, fee, or charge that was not in  
132 effect as of January 1, 2020, on a towing business or an  
133 authorized wrecker operator.

134 (b) A charter county may impose and collect an  
135 administrative fee or charge as provided in paragraph (2) (b);  
136 however, it may not impose that fee or charge upon a towing  
137 business or an authorized wrecker operator. If such charter  
138 county imposes such administrative fee or charge, such fee or  
139 charge must be imposed on the registered owner or other legally  
140 authorized person in control of a vehicle or vessel, or the  
141 lienholder of a vehicle or vessel. The fee or charge may not  
142 exceed 25 percent of the maximum towing rate to cover the cost  
143 of enforcement, including parking enforcement, by the charter  
144 county when the vehicle or vessel is towed from public property.  
145 The charter county may authorize an authorized wrecker operator  
146 or towing business to impose and collect the administrative fee  
147 or charge on behalf of the charter county, and the authorized  
148 wrecker operator or towing business shall remit such fee or  
149 charge to the charter county only after it is collected.

150 (c) For purposes of this subsection, the term "charter

151 county" means a county as defined in s. 125.011(1).

152 Section 3. Paragraphs (b) and (c) of subsection (1) of  
 153 section 166.043, Florida Statutes, are amended to read:

154 166.043 Ordinances and rules imposing price controls;  
 155 findings required; procedures.—

156 (1)

157 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent  
 158 the enactment by local governments of public service rates  
 159 otherwise authorized by law, including water, sewer, solid  
 160 waste, public transportation, taxicab, or port rates, rates for  
 161 towing of vehicles or vessels from or immobilization of vehicles  
 162 or vessels on private property, or rates for removal and storage  
 163 of wrecked or disabled vehicles or vessels from an accident  
 164 scene or the removal and storage of vehicles or vessels in the  
 165 event the owner or operator is incapacitated, unavailable,  
 166 leaves the procurement of wrecker service to the law enforcement  
 167 officer at the scene, or otherwise does not consent to the  
 168 removal of the vehicle or vessel.

169 (c) Counties must establish maximum rates which may be  
 170 charged on the towing of vehicles or vessels from or  
 171 immobilization of vehicles or vessels on private property,  
 172 removal and storage of wrecked or disabled vehicles or vessels  
 173 from an accident scene or for the removal and storage of  
 174 vehicles or vessels, in the event the owner or operator is  
 175 incapacitated, unavailable, leaves the procurement of wrecker

176 service to the law enforcement officer at the scene, or  
 177 otherwise does not consent to the removal of the vehicle or  
 178 vessel. However, if a municipality chooses to enact an ordinance  
 179 establishing the maximum rates ~~fees~~ for the towing or  
 180 immobilization of vehicles or vessels as described in paragraph  
 181 (b), the county's ordinance established under s. 125.0103 shall  
 182 not apply within such municipality.

183 Section 4. Section 166.04465, Florida Statutes, is created  
 184 to read:

185 166.04465 Rules and ordinances relating to towing  
 186 services.-

187 (1) A municipality may not enact an ordinance or rule that  
 188 would impose a fee or charge on an authorized wrecker operator,  
 189 as defined in s. 323.002(1), or on a towing business for towing,  
 190 impounding, or storing a vehicle or vessel. As used in this  
 191 section, the term "towing business" means a business that  
 192 provides towing services for monetary gain.

193 (2) The prohibition set forth in subsection (1) does not  
 194 affect a municipality's authority to:

195 (a) Levy a reasonable business tax under s. 205.0315, s.  
 196 205.043, or s. 205.0535.

197 (b) Impose and collect a reasonable administrative fee or  
 198 charge on the registered owner or other legally authorized  
 199 person in control of a vehicle or vessel, or the lienholder of a  
 200 vehicle or vessel, not to exceed 25 percent of the maximum



201 towing rate, to cover the cost of enforcement, including parking  
 202 enforcement, by the municipality when the vehicle or vessel is  
 203 towed from public property. An authorized wrecker operator or  
 204 towing business may impose and collect the administrative fee or  
 205 charge on behalf of the municipality and shall remit such fee or  
 206 charge to the municipality only after it is collected.

207 Section 5. Subsection (4) of section 323.002, Florida  
 208 Statutes, is renumbered as subsection (6), and new subsections  
 209 (4) and (5) are added to that section to read:

210 323.002 County and municipal wrecker operator systems;  
 211 penalties for operation outside of system.-

212 (4) (a) Except as provided in paragraph (b), a county or  
 213 municipality may not adopt or maintain in effect an ordinance or  
 214 rule that imposes a charge, cost, expense, fine, fee, or penalty  
 215 on an authorized wrecker operator, the registered owner or other  
 216 legally authorized person in control of a vehicle or vessel, or  
 217 the lienholder of a vehicle or vessel when the vehicle or vessel  
 218 is towed by an authorized wrecker operator under this chapter.

219 (b) A county or municipality may adopt or maintain an  
 220 ordinance or rule that imposes a reasonable administrative fee  
 221 or charge on the registered owner or other legally authorized  
 222 person in control of a vehicle or vessel, or the lienholder of a  
 223 vehicle or vessel, that is towed by an authorized wrecker  
 224 operator, not to exceed 25 percent of the maximum towing rate,  
 225 to cover the cost of enforcement, including parking enforcement,

226 by the county or municipality when the vehicle or vessel is  
227 towed from public property. An authorized wrecker operator or  
228 towing business may impose and collect the administrative fee or  
229 charge on behalf of the county or municipality and shall remit  
230 such fee or charge to the county or municipality only after it  
231 is collected.

232 (c) A county or municipality may not enact an ordinance or  
233 rule that requires an authorized wrecker operator to accept a  
234 credit card as a form of payment. However, if an authorized  
235 wrecker operator does not accept a credit card, the wrecker  
236 operator must maintain an operable automatic teller machine for  
237 use by the public at its place of business. This paragraph does  
238 not apply to a county or municipality that adopted an ordinance  
239 or rule before January 1, 2020, requiring an authorized wrecker  
240 operator to accept a credit card as a form of payment.

241 (5) Subsection (4) does not apply to the towing or  
242 immobilization licensing, regulatory, or enforcement program of  
243 a charter county described in s. 125.01047(3) or (4). Such  
244 charter county may impose a charge, cost, expense, fine, fee, or  
245 penalty on an authorized wrecker operator in connection with a  
246 violation of the towing or immobilization program requirements  
247 as set forth by ordinance, resolution, or regulation.

248 Section 6. Subsection (2) of section 713.78, Florida  
249 Statutes, is amended to read:

250 713.78 Liens for recovering, towing, or storing vehicles

251 and vessels.—

252 (2) Whenever a person regularly engaged in the business of  
 253 transporting vehicles or vessels by wrecker, tow truck, or car  
 254 carrier recovers, removes, or stores a vehicle or vessel upon  
 255 instructions from:

256 (a) The owner thereof;

257 (b) The owner or lessor, or a person authorized by the  
 258 owner or lessor, of property on which such vehicle or vessel is  
 259 wrongfully parked, and the removal is done in compliance with s.  
 260 715.07;

261 (c) The landlord or a person authorized by the landlord,  
 262 when such motor vehicle or vessel remained on the premises after  
 263 the tenancy terminated and the removal is done in compliance  
 264 with s. 83.806 or s. 715.104; or

265 (d) Any law enforcement agency,

266  
 267 she or he shall have a lien on the vehicle or vessel for a  
 268 reasonable towing fee, for a reasonable administrative fee or  
 269 charge imposed by a county or municipality, and for a reasonable  
 270 storage fee; except that a ~~no~~ storage fee may not ~~shall~~ be  
 271 charged if the vehicle or vessel is stored for fewer ~~less~~ than 6  
 272 hours.

273 Section 7. Subsection (2) of section 715.07, Florida  
 274 Statutes, is amended to read:

275 715.07 Vehicles or vessels parked on private property;

276 towing.—

277 (2) The owner or lessee of real property, or any person  
278 authorized by the owner or lessee, which person may be the  
279 designated representative of the condominium association if the  
280 real property is a condominium, may cause any vehicle or vessel  
281 parked on such property without her or his permission to be  
282 removed by a person regularly engaged in the business of towing  
283 vehicles or vessels, without liability for the costs of removal,  
284 transportation, or storage or damages caused by such removal,  
285 transportation, or storage, under any of the following  
286 circumstances:

287 (a) The towing or removal of any vehicle or vessel from  
288 private property without the consent of the registered owner or  
289 other legally authorized person in control of that vehicle or  
290 vessel is subject to substantial ~~strict~~ compliance with the  
291 following conditions and restrictions:

292 1.a. Any towed or removed vehicle or vessel must be stored  
293 at a site within a 10-mile radius of the point of removal in any  
294 county of 500,000 population or more, and within a 15-mile  
295 radius of the point of removal in any county of fewer ~~less~~ than  
296 500,000 population. That site must be open for the purpose of  
297 redemption of vehicles on any day that the person or firm towing  
298 such vehicle or vessel is open for towing purposes, from 8:00  
299 a.m. to 6:00 p.m., and, when closed, shall have prominently  
300 posted a sign indicating a telephone number where the operator

301 of the site can be reached at all times. Upon receipt of a  
302 telephoned request to open the site to redeem a vehicle or  
303 vessel, the operator shall return to the site within 1 hour or  
304 she or he will be in violation of this section.

305 b. If no towing business providing such service is located  
306 within the area of towing limitations set forth in sub-  
307 subparagraph a., the following limitations apply: any towed or  
308 removed vehicle or vessel must be stored at a site within a 20-  
309 mile radius of the point of removal in any county of 500,000  
310 population or more, and within a 30-mile radius of the point of  
311 removal in any county of fewer ~~less~~ than 500,000 population.

312 2. The person or firm towing or removing the vehicle or  
313 vessel shall, within 30 minutes after completion of such towing  
314 or removal, notify the municipal police department or, in an  
315 unincorporated area, the sheriff, of such towing or removal, the  
316 storage site, the time the vehicle or vessel was towed or  
317 removed, and the make, model, color, and license plate number of  
318 the vehicle or description and registration number of the vessel  
319 and shall obtain the name of the person at that department to  
320 whom such information was reported and note that name on the  
321 trip record.

322 3. A person in the process of towing or removing a vehicle  
323 or vessel from the premises or parking lot in which the vehicle  
324 or vessel is not lawfully parked must stop when a person seeks  
325 the return of the vehicle or vessel. The vehicle or vessel must

326 | be returned upon the payment of a reasonable service fee of not  
327 | more than one-half of the posted rate for the towing or removal  
328 | service as provided in subparagraph 6. The vehicle or vessel may  
329 | be towed or removed if, after a reasonable opportunity, the  
330 | owner or legally authorized person in control of the vehicle or  
331 | vessel is unable to pay the service fee. If the vehicle or  
332 | vessel is redeemed, a detailed signed receipt must be given to  
333 | the person redeeming the vehicle or vessel.

334 |         4. A person may not pay or accept money or other valuable  
335 | consideration for the privilege of towing or removing vehicles  
336 | or vessels from a particular location.

337 |         5. Except for property appurtenant to and obviously a part  
338 | of a single-family residence, and except for instances when  
339 | notice is personally given to the owner or other legally  
340 | authorized person in control of the vehicle or vessel that the  
341 | area in which that vehicle or vessel is parked is reserved or  
342 | otherwise unavailable for unauthorized vehicles or vessels and  
343 | that the vehicle or vessel is subject to being removed at the  
344 | owner's or operator's expense, any property owner or lessee, or  
345 | person authorized by the property owner or lessee, before ~~prior~~  
346 | ~~to~~ towing or removing any vehicle or vessel from private  
347 | property without the consent of the owner or other legally  
348 | authorized person in control of that vehicle or vessel, must  
349 | post a notice meeting the following requirements:

350 |         a. The notice must be prominently placed at each driveway

351 access or curb cut allowing vehicular access to the property,  
352 within 10 ~~5~~ feet from the road, as defined in s. 334.03(22)  
353 ~~public right-of-way line~~. If there are no curbs or access  
354 barriers, the signs must be posted not fewer ~~less~~ than one sign  
355 for each 25 feet of lot frontage.

356 b. The notice must clearly indicate, in not fewer ~~less~~  
357 than 2-inch high, light-reflective letters on a contrasting  
358 background, that unauthorized vehicles will be towed away at the  
359 owner's expense. The words "tow-away zone" must be included on  
360 the sign in not fewer ~~less~~ than 4-inch high letters.

361 c. The notice must also provide the name and current  
362 telephone number of the person or firm towing or removing the  
363 vehicles or vessels.

364 d. The sign structure containing the required notices must  
365 be permanently installed with the words "tow-away zone" not  
366 fewer ~~less~~ than 3 feet and not more than 6 feet above ground  
367 level and must be continuously maintained on the property for  
368 not fewer ~~less~~ than 24 hours before ~~prior to~~ the towing or  
369 removal of any vehicles or vessels.

370 e. The local government may require permitting and  
371 inspection of these signs before ~~prior to~~ any towing or removal  
372 of vehicles or vessels being authorized.

373 f. A business with 20 or fewer parking spaces satisfies  
374 the notice requirements of this subparagraph by prominently  
375 displaying a sign stating "Reserved Parking for Customers Only

376 Unauthorized Vehicles or Vessels Will be Towed Away At the  
377 Owner's Expense" in not fewer ~~less~~ than 4-inch high, light-  
378 reflective letters on a contrasting background.

379 g. A property owner towing or removing vessels from real  
380 property must post notice, consistent with the requirements in  
381 sub-subparagraphs a.-f., which apply to vehicles, that  
382 unauthorized vehicles or vessels will be towed away at the  
383 owner's expense.

384  
385 A business owner or lessee may authorize the removal of a  
386 vehicle or vessel by a towing company when the vehicle or vessel  
387 is parked in such a manner that restricts the normal operation  
388 of business; and if a vehicle or vessel parked on a public  
389 right-of-way obstructs access to a private driveway the owner,  
390 lessee, or agent may have the vehicle or vessel removed by a  
391 towing company upon signing an order that the vehicle or vessel  
392 be removed without a posted tow-away zone sign.

393 6. Any person or firm that tows or removes vehicles or  
394 vessels and proposes to require an owner, operator, or person in  
395 control or custody of a vehicle or vessel to pay the costs of  
396 towing and storage before ~~prior to~~ redemption of the vehicle or  
397 vessel must file and keep on record with the local law  
398 enforcement agency a complete copy of the current rates to be  
399 charged for such services and post at the storage site an  
400 identical rate schedule and any written contracts with property



401 owners, lessees, or persons in control of property which  
402 authorize such person or firm to remove vehicles or vessels as  
403 provided in this section.

404 7. Any person or firm towing or removing any vehicles or  
405 vessels from private property without the consent of the owner  
406 or other legally authorized person in control or custody of the  
407 vehicles or vessels shall, on any trucks, wreckers as defined in  
408 s. 713.78(1)(c), or other vehicles used in the towing or  
409 removal, have the name, address, and telephone number of the  
410 company performing such service clearly printed in contrasting  
411 colors on the driver and passenger sides of the vehicle. The  
412 name shall be in at least 3-inch permanently affixed letters,  
413 and the address and telephone number shall be in at least 1-inch  
414 permanently affixed letters.

415 8. Vehicle entry for the purpose of removing the vehicle  
416 or vessel shall be allowed with reasonable care on the part of  
417 the person or firm towing the vehicle or vessel. Such person or  
418 firm shall be liable for any damage occasioned to the vehicle or  
419 vessel if such entry is not in accordance with the standard of  
420 reasonable care.

421 9. When a vehicle or vessel has been towed or removed  
422 pursuant to this section, it must be released to its owner or  
423 person in control or custody ~~eustodian~~ within 1 ~~one~~ hour after  
424 requested. Any vehicle or vessel owner or person in control or  
425 custody ~~has agent shall have~~ the right to inspect the vehicle or

426 vessel before accepting its return, and no release or waiver of  
427 any kind which would release the person or firm towing the  
428 vehicle or vessel from liability for damages noted by the owner  
429 or person in control or custody ~~other legally authorized person~~  
430 at the time of the redemption may be required from any vehicle  
431 or vessel owner or person in control or custody ~~, custodian, or~~  
432 ~~agent~~ as a condition of release of the vehicle or vessel to its  
433 owner or person in control or custody. A detailed, ~~signed~~  
434 receipt showing the legal name of the company or person towing  
435 or removing the vehicle or vessel must be given to the person  
436 paying towing or storage charges at the time of payment, whether  
437 requested or not.

438 (b) These requirements are minimum standards and do not  
439 preclude enactment of additional regulations by any municipality  
440 or county including the right to regulate rates when vehicles or  
441 vessels are towed from private property, except that a county or  
442 municipality may not enact an ordinance or rule that requires a  
443 towing business to accept a credit card as a form of payment.  
444 However, if a towing business does not accept a credit card, the  
445 towing business must maintain an operable automatic teller  
446 machine for use by the public at its place of business. This  
447 paragraph does not apply to a county or municipality that  
448 adopted an ordinance or rule before January 1, 2020, requiring a  
449 towing business to accept a credit card as a form of payment.

450 Section 8. This act shall take effect October 1, 2020.

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COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative McClain offered the following:

**Amendment**

Remove lines 83-223 and insert:

3  
 4  
 5  
 6 person in control of a vehicle or vessel, not to exceed 25  
 7 percent of the maximum towing rate, to cover the cost of  
 8 enforcement, including parking enforcement, by the county when  
 9 the vehicle or vessel is towed from public property. An  
 10 authorized wrecker operator or towing business may impose and  
 11 collect the administrative fee or charge on behalf of the county  
 12 and shall remit such fee or charge to the county only after it  
 13 is collected.

14 (3) (a) This section does not apply to a towing or  
 15 immobilization licensing, regulatory, or enforcement program of  
 16 a charter county in which at least 90 percent of the population

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17 resides in incorporated municipalities, or to a charter county  
18 with at least 38 incorporated municipalities within its  
19 territorial boundaries as of January 1, 2020. This section does  
20 not affect a charter county's authority to:

21 1. Impose and collect towing operating license fees,  
22 license renewal fees, license extension fees, expedite fees,  
23 storage site inspection or reinspection fees, criminal  
24 background check fees, and tow truck decal fees, including decal  
25 renewal fees, expedite fees, and decal replacement fees.

26 2. Impose and collect immobilization operating license  
27 fees, license extension fees, license renewal fees, expedite  
28 fees, and criminal background check fees.

29 3. Set maximum rates for the towing or immobilization of  
30 vehicles or vessels on private property, including rates based  
31 on different classes of towing vehicles, research fees,  
32 administrative fees, storage fees, and labor fees; rates for  
33 towing services performed or directed by governmental entities;  
34 road service rates; winch recovery rates; voluntary expediting  
35 fees for vehicle or vessel ownership verification; and to  
36 establish conditions in connection with the applicability or  
37 payment of maximum rates set for towing or immobilization of  
38 vehicles or vessels.

39 4. Impose and collect such other taxes, fees, or charges  
40 otherwise authorized by general law, special law, or county  
41 ordinance, resolution, or regulation.

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42 (b) A charter county may impose and collect an  
43 administrative fee or charge as provided in paragraph (2)(b) but  
44 may not impose such fee or charge on a towing business or an  
45 authorized wrecker operator. If the charter county imposes such  
46 administrative fee or charge, the charter county may authorize a  
47 towing business or authorized wrecker operator to impose and  
48 collect such fee or charge on behalf of the county, and the  
49 towing business or authorized wrecker operator shall remit such  
50 fee or charge to the charter county only after it is collected.

51 (4)(a) Subsection (1) does not apply to a charter county  
52 that had a towing licensing, regulatory, or enforcement program  
53 in effect on January 1, 2020. However, such charter county may  
54 not impose any new business tax, fee, or charge that was not in  
55 effect as of January 1, 2020, on a towing business or an  
56 authorized wrecker operator.

57 (b) A charter county may impose and collect an  
58 administrative fee or charge as provided in paragraph (2)(b);  
59 however, it may not impose that fee or charge upon a towing  
60 business or an authorized wrecker operator. If such charter  
61 county imposes such administrative fee or charge, such fee or  
62 charge must be imposed on the registered owner or other legally  
63 authorized person in control of a vehicle or vessel, or the  
64 lienholder of a vehicle or vessel. The fee or charge may not  
65 exceed 25 percent of the maximum towing rate to cover the cost  
66 of enforcement, including parking enforcement, by the charter

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67 county when the vehicle or vessel is towed from public property.  
68 The charter county may authorize an authorized wrecker operator  
69 or towing business to impose and collect the administrative fee  
70 or charge on behalf of the charter county, and the authorized  
71 wrecker operator or towing business shall remit such fee or  
72 charge to the charter county only after it is collected.

73 (c) For purposes of this subsection, the term "charter  
74 county" means a county as defined in s. 125.011(1).

75 Section 3. Paragraphs (b) and (c) of subsection (1) of  
76 section 166.043, Florida Statutes, are amended to read:

77 166.043 Ordinances and rules imposing price controls;  
78 findings required; procedures.—

79 (1)

80 (b) ~~The provisions of~~ This section does shall not prevent  
81 the enactment by local governments of public service rates  
82 otherwise authorized by law, including water, sewer, solid  
83 waste, public transportation, taxicab, or port rates, rates for  
84 towing of vehicles or vessels from or immobilization of vehicles  
85 or vessels on private property, or rates for removal and storage  
86 of wrecked or disabled vehicles or vessels from an accident  
87 scene or the removal and storage of vehicles or vessels in the  
88 event the owner or operator is incapacitated, unavailable,  
89 leaves the procurement of wrecker service to the law enforcement  
90 officer at the scene, or otherwise does not consent to the  
91 removal of the vehicle or vessel.

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92 (c) Counties must establish maximum rates which may be  
93 charged on the towing of vehicles or vessels from or  
94 immobilization of vehicles or vessels on private property,  
95 removal and storage of wrecked or disabled vehicles or vessels  
96 from an accident scene or for the removal and storage of  
97 vehicles or vessels, in the event the owner or operator is  
98 incapacitated, unavailable, leaves the procurement of wrecker  
99 service to the law enforcement officer at the scene, or  
100 otherwise does not consent to the removal of the vehicle or  
101 vessel. However, if a municipality chooses to enact an ordinance  
102 establishing the maximum rates fees for the towing or  
103 immobilization of vehicles or vessels as described in paragraph  
104 (b), the county's ordinance established under s. 125.0103 shall  
105 not apply within such municipality.

106 Section 4. Section 166.04465, Florida Statutes, is created  
107 to read:

108 166.04465 Rules and ordinances relating to towing  
109 services.-

110 (1) A municipality may not enact an ordinance or rule that  
111 would impose a fee or charge on an authorized wrecker operator,  
112 as defined in s. 323.002(1), or on a towing business for towing,  
113 impounding, or storing a vehicle or vessel. As used in this  
114 section, the term "towing business" means a business that  
115 provides towing services for monetary gain.

116 (2) The prohibition set forth in subsection (1) does not

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117 affect a municipality's authority to:

118 (a) Levy a reasonable business tax under s. 205.0315, s.  
119 205.043, or s. 205.0535.

120 (b) Impose and collect a reasonable administrative fee or  
121 charge on the registered owner or other legally authorized  
122 person in control of a vehicle or vessel, not to exceed 25  
123 percent of the maximum towing rate, to cover the cost of  
124 enforcement, including parking enforcement, by the municipality  
125 when the vehicle or vessel is towed from public property. An  
126 authorized wrecker operator or towing business may impose and  
127 collect the administrative fee or charge on behalf of the  
128 municipality and shall remit such fee or charge to the  
129 municipality only after it is collected.

130 Section 5. Subsection (4) of section 323.002, Florida  
131 Statutes, is renumbered as subsection (6), and new subsections  
132 (4) and (5) are added to that section to read:

133 323.002 County and municipal wrecker operator systems;  
134 penalties for operation outside of system.-

135 (4) (a) Except as provided in paragraph (b), a county or  
136 municipality may not adopt or maintain in effect an ordinance or  
137 rule that imposes a charge, cost, expense, fine, fee, or penalty  
138 on an authorized wrecker operator, the registered owner or other  
139 legally authorized person in control of a vehicle or vessel, or  
140 the lienholder of a vehicle or vessel when the vehicle or vessel  
141 is towed by an authorized wrecker operator under this chapter.



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142           (b) A county or municipality may adopt or maintain an  
143 ordinance or rule that imposes a reasonable administrative fee  
144 or charge on the registered owner or other legally authorized  
145 person in control of a vehicle or vessel, that is towed by an  
146 authorized wrecker



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 343 Recreational Vehicles  
**SPONSOR(S):** Business & Professions Subcommittee, Fetterhoff  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N, As CS	Thompson	Anstead
2) State Affairs Committee		Etheridge	Williamson
3) Commerce Committee			

### SUMMARY ANALYSIS

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACs) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry and ensuring that persons engaged in the LP gas industry are trained and compliant with acceptable safety codes and standards statewide.

Prior to 2018, in order to refill, repair, or replace propane gas and equipment on recreational vehicles (RVs) in Florida, a category IV LP gas dispenser and recreational vehicle servicers license (RV dealers/installers) was required. Effective July 2018, the category IV LP gas dispenser and recreational vehicle servicer license, which included RV dealers/installers, was consolidated under the requirements of other similar LP gas licenses, including category I dealer, category II dispenser, and category V installer licenses. Thus, in order to continue to operate, LP gas RV dealers/installers were required to obtain a license in one or more of the other categories depending on their business.

The bill:

- Requires DACs to establish by rule the requirements for agents qualified to administer LP gas examinations;
- Requires DACs to establish by rule a specific test for RV dealers/installers;
- Requires DACs to ensure that test content is specific to RV dealer/installer activities;
- Limits those who pass the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs; and
- Clarifies that in order to be eligible to apply for certification as a master qualifier, “verifiable LP gas experience” or “professional certification” is required.

The bill is not expected to have a fiscal impact on state government or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### ***Liquefied Petroleum Gas***

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACs) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements.<sup>1</sup> This regulatory oversight ensures that persons engaged in LP gas-related business activities in Florida are trained and that compliance with acceptable safety codes and standards is achieved statewide.<sup>2</sup>

LP gas is as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.<sup>3</sup>

Propane, the most widely used LP gas, is an energy source for hotels, restaurants, schools, hospitals, nursing homes, universities, private homes, recreational vehicles, and agricultural and industrial facilities.<sup>4</sup> Propane is also used as an alternative fuel for vehicles.<sup>5</sup>

##### ***Business Licenses***

Current law provides licensing requirements for businesses that engage in certain LP gas-related activities, including sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities.<sup>6</sup> DACs must license applicants that it determines to be competent, qualified, and trustworthy.<sup>7</sup> Violations for willfully operating without a license is a third degree felony.<sup>8</sup>

The license categories and associated fees are as follows:<sup>9</sup>

<b>License Category</b>	<b>Annual License Fee</b>
Category I LP gas dealer	\$400
Category II LP gas dispenser	\$400
Category III LP gas cylinder exchange unit operator	\$65
Category IV dealer in appliances and equipment	\$65
Category V LP gas installer	\$200
Category VI miscellaneous operator	\$200

Licensees may elect to renew their license annually, biennially, or triennially, and are required to meet the same requirements and conditions, including fee amounts, for each licensed year.<sup>10</sup> An expired license will become inoperative, and the fee for restoration of an expired license is equal to the original license fee and must be paid before the licensee is allowed to resume operations.<sup>11</sup>

##### ***Training and Examinations***

<sup>1</sup> Ch. 527, F.S.

<sup>2</sup> DACs, *Safe Dispensing of Propane, Propane Dispensing Unit Operator Training Manual*, <https://www.fdacs.gov/content/download/78592/file/Safe-Dispensing-of-Propane-Manual.pdf> (last visited Nov. 23, 2019).

<sup>3</sup> S. 527.01(1), F.S.

<sup>4</sup> DACs, *supra* note 1, at 4.

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

<sup>6</sup> Ch. 527, F.S.

<sup>7</sup> S. 527.02(2), F.S.

<sup>8</sup> S. 527.02(1), F.S.

<sup>9</sup> S. 527.02(2), F.S.

<sup>10</sup> S. 527.03, F.S.

<sup>11</sup> *Id.*

DACS must enforce reasonable standards of competency, including, but not limited to, the training, licensure, testing, and qualifying of persons participating in the LP gas industry.<sup>12</sup> DACS may adopt rules that:<sup>13</sup>

- Promote the safe handling of LP gas, equipment, and systems;
- Are in the interest of public health, safety, and welfare; and
- Are reasonably necessary to assure the competence of persons to engage safely in the business of LP gas.

According to the DACS website, training is required for all employees of an LP gas-related business, and refresher training must be conducted at three-year intervals.<sup>14</sup>

In addition, any person applying for a license to engage in category I dealer, category II dispenser, or category V installer activities must prove competency by passing a written examination administered by DACS or its agent.<sup>15</sup>

### **Qualifiers**

Each category I dealer, category II dispenser, or category V installer licensee must employ a full-time employee who has received a qualifier certificate from DACS. Qualifiers are required to function in a supervisory capacity, and a separate qualifier must be present for every 10 employees.

An applicant for a qualifier certificate must:

- Be employed by a category I dealer, category II dispenser, or category V installer licensee;
- Submit to DACS a nonrefundable \$20 examination fee; and
- Pass a competency examination with a grade of 70 percent or above in each area tested.

Qualifier registration expires three years after the date of issuance. Qualifiers must renew their qualification 30 calendar days before expiration, upon:

- Application to DACS;
- Payment of a \$20 renewal fee; and
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by DACS rule, during the previous three-year period.

Persons failing to renew before the expiration date must reapply and take a qualifier competency examination in order to reestablish qualifier status.<sup>16</sup>

### **Master Qualifiers**

In addition to the qualifier requirements, each category I dealer and category V installer licensee is required to have a manager, owner, or employee at each licensed location who has received a master qualifier certificate from DACS.<sup>17</sup> The master qualifier must be a manager, owner, or someone otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to DACS.<sup>18</sup>

An applicant for a master qualifier certificate must:

- Be employed by a category I dealer or category V installer licensee;
- Submit to DACS a nonrefundable \$30 examination fee;

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<sup>12</sup> S. 527.055(1)(b), F.S.

<sup>13</sup> S. 527.06

<sup>14</sup> DACS, *LP Gas Training*, <https://www.fdacs.gov/Business-Services/LP-Gas-Inspection/LP-Gas-Training> (last visited Nov. 23, 2019).

<sup>15</sup> S. 527.0201(1), F.S.

<sup>16</sup> S. 527.0201(1)-(4), F.S.

<sup>17</sup> S. 527.0201(5), F.S.

<sup>18</sup> *Id.*

- Have been a registered qualifier for at least three years immediately preceding the application; and
- Pass a master qualifier competency examination with a grade of 70 percent or above in each area tested.<sup>19</sup>

Master qualifier registration expires three years after the date of issuance<sup>20</sup> and may be renewed by submitting to DACS:

- Proof of employment;
- Payment of a \$30 certificate renewal fee; and
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by department rule, during the previous three-year period.<sup>21</sup>

### ***Insurance***

Prior to a receiving a license, LP gas license applicants, other than category IV dealers in appliances and equipment and category III LP gas cylinder exchange unit operators, must provide DACS with proof of bodily injury and property damage liability insurance coverage of at least \$1 million.<sup>22</sup> However, the Commissioner of Agriculture may accept a \$1 million bond in lieu of the coverage requirement.<sup>23</sup>

For a class III license, coverage of at least \$300,000 is required, and the Commissioner of Agriculture may accept a bond of at least \$300,000 in lieu of the coverage requirement.<sup>24</sup>

### ***Recreational Vehicle Dealers or Installers***

Propane is widely used in recreational vehicles (RVs) to regulate temperature, cook meals, provide hot water, and refrigerate food. Typically, motorized RVs have a fixed propane tank and towable RVs have a removable propane tank.<sup>25</sup> In Florida, the refilling, repairing, or replacing of propane gas and equipment must be completed by a properly trained employee of a licensed LP gas-related business.<sup>26</sup> These individuals are referred to by DACS as RV dealers/installers.<sup>27</sup>

Prior to July 2018, RV dealers/installers were classified separately in Florida law as a “category IV LP gas dispenser and recreational vehicle servicer” and were defined as:

any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid product to the ultimate consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, and whose services include the installation, service, or repair of recreational vehicle liquefied petroleum gas appliances and equipment.<sup>28</sup>

RVs were defined as “a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use, which has its own propulsion or is mounted on or towed by another motor vehicle.”<sup>29</sup>

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<sup>19</sup> S. 527.0201(5)(a), F.S.

<sup>20</sup> S. 527.0201(5)(c), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> S. 527.04(1), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> S. 527.04(2), F.S.

<sup>25</sup> Winnebagolife, *An Easy Guide to Finding Propane for Your RV*, <https://winnebagolife.com/2019/05/finding-propane-for-your-rv> (last visited Nov. 23, 2019).

<sup>26</sup> See ch. 527, F.S.

<sup>27</sup> DACS, Agency Analysis of 2019 House Bill 343 (Oct. 21, 2019).

<sup>28</sup> See ch. 527, F.S. (2017).

<sup>29</sup> *Id.*

In order to engage in LP gas-related activities, category IV businesses were required to obtain licensure from DACS by meeting all applicable requirements governing the LP gas industry, including training, examination, initial and renewal license fees, insurance coverage, and qualifiers.<sup>30</sup>

During the 2018 Legislative Session, the Legislature deleted the category IV license type from statute, effective July 2018.<sup>31</sup> According to DACS, the changes were sought to meet current business practices, to simplify the registration process, and to streamline the regulatory structure. DACS collaborated with the Florida LP Gas Association and other industry leaders to modernize the LP gas statute.<sup>32</sup>

### **Current Situation**

Since July 2018, depending on the type of work being performed, a RV dealer/installer is required to obtain either a category I dealer, II dispenser, or V installer license and is required to meet all applicable licensing and examination requirements in order to operate lawfully in the state. Current law does not provide a separate LP gas license category specifically for RV dealers/installers.

According to DACS, RV dealers/installers are required to obtain a category V installer license, and if the RV dealer/installer also dispenses LP gas, a category II dispenser license must be obtained as well.<sup>33</sup> In lieu of multiple licenses, RV dealers/installers may obtain a category I dealer license that allows them to perform both service and dispensing functions.<sup>34</sup> According to DACS, there are 50 licensed RV dealers/installers in the state.<sup>35</sup>

### **Effect of Proposed Changes**

The bill defines an RV as a motor vehicle that is designed to provide temporary living quarters for recreational, camping, or travel use and that has its own propulsion or is mounted on or towed by another motor vehicle.

The bill requires DACS to specify by rule the requirements for agents qualified to administer the written competency examinations required for LP gas licensure. The bill also requires DACS to establish by rule a separate test for persons applying for a license to engage in category I activities solely related to the service or repair of RVs.

The bill requires the category I RV dealer/installer test to include and ensure competency in the following activities as they relate to RVs:

- Operating a LP gas dispensing unit to serve liquid product to a consumer for industrial, commercial, or domestic use;
- Selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of LP gas; and
- Installing, servicing, or repairing RV LP gas appliances and equipment.

The bill limits a qualifier or master qualifier who has passed the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs.

In addition, the bill replaces the requirement that master qualifier applicants have at least three-years of experience as a registered qualifier to require instead such applicants:

- Have a minimum of three years of verifiable LP gas experience; or
- Hold a professional certification by an LP gas manufacturer.

## **B. SECTION DIRECTORY:**

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> DACS, Agency Analysis of 2018 House Bill 553, p. 9 (Nov. 21, 2017).

<sup>33</sup> *Supra* note 26, p. 1 (Oct. 21, 2019).

<sup>34</sup> *Id.*

<sup>35</sup> *Supra* note 26, p. 3 (Oct. 21, 2019).

- Section 1. Amends s. 527.01, F.S., defining the term “recreational vehicle.”
- Section 2. Amends s. 527.0201, F.S., relating to qualifiers; master qualifiers; examinations.
- 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:  
None.

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

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Authorizing a separate and distinct category I RV dealer/installer licensure test and allowing applicants to use experience or professional certification to be eligible to apply for certification as a master qualifier may remove unnecessary barriers to professional licensure and employment in the category I RV dealer/installer industry, which may allow more workers to practice their chosen profession.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

- 1. Applicability of Municipality/County Mandates Provision:  
Not Applicable. This bill does not appear to affect county or municipal governments.
- 2. Other:  
None.

### **B. RULE-MAKING AUTHORITY:**

The bill requires DACS to adopt rules specifying the requirements for agents qualified to administer written competency examinations and establishing a separate test for persons applying for a license to engage in category I activities solely related to the service or repair of RVs. It appears that sufficient rulemaking authority exists in s. 527.06(1), F.S.

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

None.



#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 15, 2020, the Business & Professions Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Requires DACS to establish by rule the requirements for agents qualified to administer LP gas examinations;
- Requires DACS to establish by rule a specific test for RV dealers/installers;
- Requires DACS to ensure that test content is specific to RV dealer/installer activities;
- Limits those who pass the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs; and
- Clarifies that in order to be eligible to apply for certification as a master qualifier, “verifiable LP gas experience” or “professional certification” is required.

The analysis is drafted to the committee substitute as approved by the Business & Professions Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to recreational vehicles; amending s.  
 3           527.01, F.S.; defining the term "recreational  
 4           vehicle"; amending s. 527.0201, F.S.; requiring the  
 5           Department of Agriculture and Consumer Services to  
 6           adopt rules specifying requirements for agents to  
 7           administer certain competency examinations and  
 8           establishing a competency test for a license to engage  
 9           in activities solely related to the service and repair  
 10          of recreational vehicles; authorizing certain  
 11          qualifiers and master qualifiers to engage in  
 12          activities solely related to the service and repair of  
 13          recreational vehicles; requiring verifiable LP gas  
 14          experience or professional certification by an LP gas  
 15          manufacturer in order to apply for certification as a  
 16          master qualifier; providing an effective date.

17  
 18   Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Subsection (18) is added to section 527.01,  
 21   Florida Statutes, to read:

22           527.01 Definitions.—As used in this chapter:

23           (18) "Recreational vehicle" means a motor vehicle that is  
 24           designed to provide temporary living quarters for recreational,  
 25           camping, or travel use and that has its own propulsion or is

26 mounted on or towed by another motor vehicle.

27 Section 2. Subsection (1) and paragraph (a) of subsection  
 28 (5) of section 527.0201, Florida Statutes, are amended to read:  
 29 527.0201 Qualifiers; master qualifiers; examinations.—

30 (1) In addition to the requirements of s. 527.02, a any  
 31 person applying for a license to engage in category I, category  
 32 II, or category V activities must prove competency by passing a  
 33 written examination administered by the department or its agent  
 34 with a grade of 70 percent or above in each area tested. Each  
 35 applicant for examination shall submit a \$20 nonrefundable fee.

36 (a) The department shall by rule specify the general areas  
 37 of competency to be covered by each examination and the relative  
 38 weight to be assigned in grading each area tested.

39 (b) The department shall by rule specify the requirements  
 40 for agents qualified to administer the written competency  
 41 examinations required by this part.

42 (c) The department shall by rule establish a separate test  
 43 for persons applying for a license to engage in category I  
 44 activities solely related to the service and repair of  
 45 recreational vehicles. The category I recreational vehicle  
 46 dealer/installer test shall include and ensure competency in the  
 47 following activities as they relate to recreational vehicles:

48 1. Operating a liquefied petroleum gas dispensing unit to  
 49 serve liquid product to a consumer for industrial, commercial,  
 50 or domestic use;

51 2. Selling or offering to sell, or leasing or offering to  
52 lease, apparatus, appliances, and equipment for the use of  
53 liquefied petroleum gas; and

54 3. Installing, servicing, or repairing recreational  
55 vehicle liquefied petroleum gas appliances and equipment.

56 (d) Any qualifier or master qualifier who has passed the  
57 category I recreational vehicle dealer/installer test may engage  
58 in category I activities solely related to the service and  
59 repair of recreational vehicles.

60 (5) In addition to all other licensing requirements, each  
61 category I and category V licensee must, at the time of  
62 application for licensure, identify to the department one master  
63 qualifier who is a full-time employee at the licensed location.  
64 This person shall be a manager, owner, or otherwise primarily  
65 responsible for overseeing the operations of the licensed  
66 location and must provide documentation to the department as  
67 provided by rule. The master qualifier requirement shall be in  
68 addition to the requirements of subsection (1).

69 (a) In order to apply for certification as a master  
70 qualifier, each applicant must have ~~been a registered qualifier~~  
71 ~~for~~ a minimum of 3 years of verifiable LP gas experience or hold  
72 a professional certification by an LP gas manufacturer as  
73 adopted by department rule immediately preceding submission of  
74 the application, must be employed by a licensed category I or  
75 category V licensee, or an applicant for such license, and must

76 | pass a master qualifier competency examination administered by  
77 | the department or its agent. Master qualifier examinations shall  
78 | be based on Florida's laws, rules, and adopted codes governing  
79 | liquefied petroleum gas safety, general industry safety  
80 | standards, and administrative procedures. The applicant must  
81 | successfully pass the examination with a grade of 70 percent or  
82 | above. Each applicant for master qualifier registration must  
83 | submit to the department a nonrefundable \$30 examination fee  
84 | before the examination.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 443 United States Space Command and United States Space Force

**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee, Sirois, Gregory and others

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

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

### SUMMARY ANALYSIS

To recognize how vital space is to the United States economy and national security, in December 2018, President Trump announced the establishment of the U.S. Space Command as a unified combatant command that would be responsible for Joint Force space operations. President Trump subsequently directed the Department of Defense (DoD) to develop a legislative proposal to establish a United States Space Force (USSF) as a sixth branch of the U.S. Armed Forces within the Department of the Air Force.

On March 1, 2019, the DoD submitted its proposal to Congress to establish the USSF and outlined a five-year phase-in plan beginning in 2020, to allow USSF leaders to prepare for mission transfer beginning in fiscal year 2021. Under the proposal, the USSF would be authorized to organize, train, and equip space forces to provide for freedom of operation in, from, and to the space domain; to provide independent military options for joint and national leadership; and to enable the lethality and effectiveness of the joint force.

On August 29, 2019, President Trump activated United States Space Command and the USSF was established on December 20, 2019, as part of the 2020 National Defense Authorization Act.

Florida is home to several strategic Air Force bases. Both Patrick Air Force Base and Cape Canaveral Air Force Station provide space launch operations support through the 45th Space Wing.

The memorial requests the President to support the establishment of the USSF and the U.S. Space Command in Florida.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on the state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Military Presence in Florida

Florida is home to 20 military installations, including three<sup>1</sup> of the 10 current unified combatant commands,<sup>2</sup> hosts two of only four Navy deep water ports in the United States with adjacent airfields, the Marine Corps' only maritime prepositioning force facility, one of only three Navy Fleet Readiness Centers, as well as several critical research, development, training, and evaluation centers.<sup>3</sup> Florida is also home to several strategic Air Force bases. Both Patrick Air Force Base and Cape Canaveral Air Force Station provide space launch operations support through the 45th Space Wing, which operates the Eastern Range and launches space vehicles for the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and both domestic and international commercial customers.<sup>4</sup>

##### History of NASA and Florida<sup>5</sup>

NASA was established in 1958.<sup>6</sup> In 1961, NASA requested land purchases on Merritt Island to support the Apollo Lunar Landing Program. The land eventually became the Kennedy Space Center (KSC). Over the years, the KSC expanded to include the Launch Control Center, Pads A & B, as well as the Vehicle Assembly Building. NASA headquarters, the administrative center for all spaceport activities, opened on the site in 1965. Various other buildings were subsequently built at KSC to accommodate test facilities and laboratories. NASA's KSC has been an integral part of NASA's missions. It was the departure site for the first human journey to the moon; the starting point for hundreds of scientific, commercial, and applications spacecraft; and was the base for the Space Shuttle launch and landing operations.

##### Creation of Space Command

On December 18, 2018, President Trump announced the establishment of the U.S. Space Command as a Unified Combatant Command.<sup>7</sup> President Trump assigned responsibilities to the U.S. Space Command including, but not limited to, the following:

- All the general responsibilities of a Unified Combatant Command;
- Space-related responsibilities previously assigned to the Commander of the U.S. Strategic Command; and
- Responsibilities of the Joint Force Provider and Joint Force Trainer for Space Operations Forces.

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<sup>1</sup> Southern Command based in Doral; Central Command based in Tampa; and Special Operations Command based in Tampa.

<sup>2</sup> Each combatant command has a geographic or functional mission that provides command and control of military forces in peace and war. The other combatant commands include Africa Command, Cyber Command, European Command, Indo-Pacific Command, Northern Command, Strategic Command, and Transportation Command. See U.S. Department of Defense, *Combatant Commands*, <https://www.defense.gov/Know-Your-Military/Combatant-Commands/> (last visited Nov. 5, 2019).

<sup>3</sup> Florida Defense Factbook, p. 1 (December 2017), <https://www.enterpriseflorida.com/wp-content/uploads/Florida-Defense-Factbook-2017-1.pdf> (last visited Nov. 5, 2019).

<sup>4</sup> 45th Space Wing, available at <https://www.patrick.af.mil/Units/45th-Operations-Group/> (last visited Nov. 5, 2019).

<sup>5</sup> NASA, *History of the John F. Kennedy Space Center*, [https://www.nasa.gov/offices/history/center\\_history/kennedy\\_space\\_center](https://www.nasa.gov/offices/history/center_history/kennedy_space_center) (last visited Nov. 5, 2019).

<sup>6</sup> National Aeronautics and Space Act of 1958, Pub. L. No. 85-568, H.R. 10321.

<sup>7</sup> White House Statements & Releases, *Text of a Memorandum from the President to the Secretary of Defense Regarding the Establishment of the United States Space Command*, Dec. 18, 2018, <https://www.whitehouse.gov/briefings-statements/text-memorandum-president-secretary-defense-regarding-establishment-united-states-space-command/> (last visited Nov. 5, 2019).



On August 29, 2019, President Trump activated United States Space Command.<sup>8</sup> The United States Space Command is temporarily headquartered at Peterson Air Force Base in Colorado, with additional personnel and functions at Schriever Air Force Base in Colorado, Offutt Air Force Base in Nebraska, and Vandenberg Air Force Base in California.<sup>9</sup>

### Creation of Space Force

On February 19, 2019, President Trump signed Space Policy Directive-4 to direct the DoD to submit a legislative proposal to the President that would establish the United States Space Force (USSF) as the sixth branch of the U.S. Armed Forces<sup>10</sup> within the Department of the Air Force.<sup>11</sup>

On March 1, 2019, the DoD sent proposed USSF legislation to Congress. The proposal authorizes the USSF to “organize, train and equip space forces to provide for freedom of operation in, from and to the space domain; to provide independent military options for joint and national leadership; and to enable the lethality and effectiveness of the joint force.”<sup>12</sup> Additionally, the proposal outlines a five-year phase-in-plan of the USSF, beginning in 2020, to allow USSF leaders to prepare for mission transfers beginning in fiscal year 2021.<sup>13</sup>

DoD also established a planning task force to conduct the planning of the new military service and requested \$72.4 million for fiscal year 2020 to begin the process of establishing the headquarters of the new service. Additional resources would be dedicated to building out the USSF headquarters and “establishing and maintaining new support elements such as education, training, doctrine and personnel management centers.”<sup>14</sup>

The USSF was established on December 20, 2019, as part of the 2020 National Defense Authorization Act.<sup>15</sup> Congress approved \$40 million for USSF operations and maintenance.<sup>16</sup>

### **Effect of the Memorial**

The memorial requests the President to support the establishment of the USSF and the U.S. Space Command in Florida.

Copies of the memorial will be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the U.S. Congress.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

### **B. SECTION DIRECTORY:**

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<sup>8</sup> Department of Defense United States Space Command, *United States Space Command Fact Sheet*, <https://www.spacecom.mil/About/Fact-Sheets-Editor/Article/1948216/united-states-space-command-fact-sheet/> (last visited Nov. 5, 2019).

<sup>9</sup> *Id.*

<sup>10</sup> The other military forces include the Air Force, Army, Coast Guard, Marine Corps, and Navy.

<sup>11</sup> White House Statements & Releases, *Text of Space Policy Directive-4: Establishment of the United States Space Force*, Feb. 19, 2019, <https://www.whitehouse.gov/presidential-actions/text-space-policy-directive-4-establishment-united-states-space-force/> (last visited Nov. 5, 2019).

<sup>12</sup> U.S. Department of Defense, *DoD Sends Space Force Legislation to Congress*, March 1, 2019, <https://dod.defense.gov/News/Article/Article/1771782/dod-sends-space-force-legislation-to-congress/> (last visited Nov. 5, 2019).

<sup>13</sup> Department of Defense, United States Space Force Fact Sheet, <https://media.defense.gov/2019/Mar/01/2002095013/-1/-1/1/SPACE-FORCE-FACT-SHEET.PDF> (last visited Jan. 3, 2020).

<sup>14</sup> *Supra* at 12.

<sup>15</sup> National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, S. 1790, 116<sup>th</sup> Cong. (Dec. 20, 2019).

<sup>16</sup> Sandra Erwin, *Trump signs defense bill establishing U.S. Space Force: What comes next*, SpaceNews (Dec. 20, 2019), <https://spacenews.com/trump-signs-defense-bill-establishing-u-s-space-force-what-comes-next/> (last visited Jan. 3, 2020).

Not applicable.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to affect county or municipal governments.

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

The memorial neither authorizes nor requires executive branch rulemaking.

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

None.

## **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On December 11, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment corrected a scrivener error.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.

## 1 House Memorial

2 A memorial to the President of the United States,  
3 urging the President to support the establishment of  
4 the United States Space Force and the United States  
5 Space Command in Florida.

6  
7 WHEREAS, on December 18, 2018, the Presidential Memorandum  
8 announced the establishment of the United States Space Command  
9 (USSPACECOM) as a unified combatant command that would be  
10 responsible for Joint Force space operations, and

11 WHEREAS, on February 19, 2019, Space Policy Directive-4 was  
12 signed, ordering the United States Department of Defense to  
13 "develop a legislative proposal to establish a United States  
14 Space Force as a sixth branch of the United States Armed Forces  
15 within the Department of the Air Force," and

16 WHEREAS, under this proposal, the Space Force would  
17 organize, train, and equip military space forces to ensure  
18 unfettered access to space and enable prompt and sustained  
19 offensive and defensive space operations in protecting our  
20 national security and economic interests, and

21 WHEREAS, as the most military friendly state in the country  
22 with a fast-growing commercial aerospace industry, Florida is  
23 the ideal location for the Space Force and USSPACECOM, and

24 WHEREAS, in addition to an already existing infrastructure  
25 and a highly trained workforce, Florida has enduring

26 | partnerships with both the United States Air Force and the  
 27 | National Aeronautics and Space Administration, and

28 |       WHEREAS, Florida is home to several important and strategic  
 29 | facilities and Air Force bases, including the Kennedy Space  
 30 | Center on Merritt Island, Cape Canaveral Air Force Station,  
 31 | MacDill Air Force Base in Tampa, Tyndall Air Force Base in  
 32 | Panama City, Eglin Air Force Base in Valparaiso, and Patrick Air  
 33 | Force Base in Cocoa Beach, which currently provides space launch  
 34 | operations support through the 45th Space Wing, and

35 |       WHEREAS, 3 of the 10 current unified combatant commands are  
 36 | located in Florida: the United States Southern Command, based in  
 37 | Doral, which oversees operations in Central and South America  
 38 | and the Caribbean; the United States Central Command, based in  
 39 | Tampa, which oversees operations in the Middle East and Central  
 40 | and South Asia; and the United States Special Operations  
 41 | Command, based in Tampa, which oversees the special operations  
 42 | missions of the five military branches, and

43 |       WHEREAS, since the first rocket launch at Cape Canaveral in  
 44 | 1950, Florida has served as the launchpad of our country's  
 45 | achievements in space, and

46 |       WHEREAS, the Florida Legislature believes that Florida is  
 47 | the ideal location for the new military branch and the 11th  
 48 | unified combatant command, NOW, THEREFORE,

49 |  
 50 | Be It Resolved by the Legislature of the State of Florida:

51

52 That the President of the United States is urged to support  
53 the establishment of the United States Space Force and the  
54 United States Space Command in Florida.

55 BE IT FURTHER RESOLVED that copies of this memorial be  
56 dispatched to the President of the United States, to the  
57 President of the United States Senate, to the Speaker of the  
58 United States House of Representatives, and to each member of  
59 the Florida delegation to the United States Congress.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 491 Disposition of Surplus Funds by Candidates

**SPONSOR(S):** Public Integrity & Ethics Committee, Payne and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 814

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Toliver	Smith
2) Public Integrity & Ethics Committee	16 Y, 0 N, As CS	Rubottom	Rubottom
3) State Affairs Committee		Toliver	Williamson

### SUMMARY ANALYSIS

A candidate who withdraws his or her candidacy, becomes unopposed in an election, is eliminated, or is elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds. The candidate or former candidate, as the case may be, may dispose of his or her funds by four authorized methods:

- Return funds pro rata to each contributor;
- Donate the funds to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code;
- Rebate up to \$25,000 to the candidate's political party or an affiliated party committee; or
- Deposit funds to the state in either the Election Campaign Financing Trust Fund or the General Revenue Fund, in the case of a candidate for state office, or to a local political subdivision in the general fund thereof, in the case of a candidate for local office.

A successful candidate has the additional option to transfer a certain amount of the surplus funds to an office account to be used for "legitimate expenses in connection with the candidate's public office."

The bill revises the authorized methods for disposing of surplus funds. Specifically, the bill provides that if the surplus funds are disposed of by donation to a charitable organization, the candidate may not be employed by the same charitable organization. The bill also allows all candidates for state and local office to deposit surplus funds in the general revenue fund of a political subdivision, the state General Revenue Fund, or the Election Campaign Financing Trust Fund.

The bill may result in a positive fiscal impact to state and local government revenues as both state and local candidates would be permitted to deposit surplus funds in either the state general revenue fund or the general revenue fund of a political subdivision.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

A candidate who withdraws his or her candidacy, becomes unopposed, is eliminated, or is elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.<sup>1</sup> Florida law generally provides former candidates may dispose of surplus funds by one or more of the following four options:

- Return funds pro rata to each contributor;
- Donate the funds to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code;
- Rebate up to \$25,000 to the candidate's political party or an affiliated party committee; or
- Deposit funds to the state General Revenue Fund or the Election Campaign Financing Trust Fund,<sup>2</sup> in the case of a candidate for state office, or to a local political subdivision general fund, in the case of a candidate for local office.<sup>3</sup>

Before disposing of surplus funds, a candidate may expend funds from his or her campaign account to:

- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and
- Pay for necessary expenses to close down the campaign office and prepare final reports.<sup>4</sup>

A successful candidate has the additional option to transfer a certain amount of the surplus funds to an office account to be used for "legitimate expenses in connection with the candidate's public office."<sup>5</sup> Candidates receiving public campaign financing must return all excess funds to the state General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected.<sup>6</sup>

A candidate who fails to dispose of funds in his or her campaign account in the manner provided by law commits a misdemeanor of the first degree.<sup>7</sup> A person convicted of a misdemeanor of the first degree may be sentenced to a maximum term of imprisonment not to exceed one year and a fine not to exceed \$1,000.<sup>8</sup>

#### Effect of the Bill

The bill revises the authorized methods for disposing of surplus funds. Specifically, the bill provides that if the surplus funds are disposed of by donation to a charitable organization, the candidate may not be employed by the same charitable organization. The bill also allows all candidates for state office or local office to deposit surplus funds in the general revenue fund of a political subdivision, the state General Revenue Fund, or the Election Campaign Financing Trust Fund.

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<sup>1</sup> Section 106.141, F.S.

<sup>2</sup> On November 4, 1996, the trust fund expired by operation of Art. III, s. 19(f)(2), FLA. CONST. *See note* in s. 106.32, F.S. All balances and income from the defunct fund were deposited into the state General Revenue Fund. Art. III, s. 19(f)(4), FLA. CONST.

<sup>3</sup> Section 106.141(4), F.S.

<sup>4</sup> Section 106.11(5), F.S.; *see also* Division of Elections, Candidate & Campaign Treasurer Handbook, available at <https://dos.myflorida.com/media/699202/candidate-and-campaign-treasurer-handbook-2018.pdf> (last visited Jan. 24, 2020).

<sup>5</sup> Section 106.141(5), F.S.

<sup>6</sup> Section 106.141(4)(b), F.S.

<sup>7</sup> Section 106.141(11), F.S.

<sup>8</sup> Sections 775.082-775.083, F.S.



**B. SECTION DIRECTORY:**

Section 1 amends s. 106.141, F.S., relating to the disposition of surplus funds by candidates.

Section 2 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 result in a positive fiscal impact to state government revenues, as local candidates would now be permitted to deposit surplus funds in the state General Revenue Fund.

2. Expenditures:

None.

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

1. Revenues:

The bill may result in a positive fiscal impact on local government revenues, as state candidates would now be permitted to deposit surplus funds in the general revenue fund of a political subdivision.

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:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution as it is a law concerning elections.

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**

On January 23, 2020, the Public Integrity & Ethics Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment allows candidates for state office to deposit funds in

the general revenue fund of a political subdivision and candidates for local office to deposit funds in the state General Revenue Fund or the Election Campaign Financing Trust Fund.

This analysis is drafted to the committee substitute as approved by the Public Integrity & Ethics Committee.

1                                   A bill to be entitled  
 2           An act relating to the disposition of surplus funds by  
 3           candidates; amending s. 106.141, F.S.; prohibiting a  
 4           candidate from donating surplus funds to a charitable  
 5           organization that employs the candidate; providing  
 6           that a candidate may give certain surplus funds to the  
 7           state or a political subdivision to be disbursed in a  
 8           specified manner; 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 (4) of section  
 13 106.141, Florida Statutes, is amended to read:

14           106.141 Disposition of surplus funds by candidates.—

15           (4) (a) Except as provided in paragraph (b), any candidate  
 16 required to dispose of funds pursuant to this section shall, at  
 17 the option of the candidate, dispose of such funds by any of the  
 18 following means, or any combination thereof:

19           1. Return pro rata to each contributor the funds that have  
 20 not been spent or obligated.

21           2. Donate the funds that have not been spent or obligated  
 22 to a charitable organization or organizations that meet the  
 23 qualifications of s. 501(c)(3) of the Internal Revenue Code,  
 24 except that the candidate may not be employed by the charitable  
 25 organization to which he or she donates the funds.

26           3. Give not more than \$25,000 of the funds that have not  
 27 been spent or obligated to the affiliated party committee or  
 28 political party of which such candidate is a member.

29           4. Give the funds that have not been spent or obligated:

30           a. ~~In the case of a candidate for state office,~~ To the  
 31 state, to be deposited in either the Election Campaign Financing  
 32 Trust Fund or the General Revenue Fund, as designated by the  
 33 candidate; or

34           b. ~~In the case of a candidate for an office of a political~~  
 35 ~~subdivision,~~ To a such political subdivision, to be deposited in  
 36 the general fund thereof.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 551 Transportation Disadvantaged

**SPONSOR(S):** Transportation & Infrastructure Subcommittee, Jenne and others

**TIED BILLS:** **IDEN./SIM. BILLS:** HB 76

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Johnson	Vickers
2) State Affairs Committee		Johnson	Williamson

### SUMMARY ANALYSIS

Florida law defines the transportation disadvantaged as those persons who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk.

The Commission for the Transportation Disadvantaged within the Department of Transportation coordinates the transportation services provided to the transportation disadvantaged. The purpose of the coordinated effect assures the cost-effective provision of transportation by qualified community transportation coordinators (CTCs) or transportation operators to the transportation disadvantaged. A CTC is a designated entity responsible for ensuring that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area. The local coordinating board (LCB) provides assistance to the CTCs by identifying local service needs and providing information, advice, and direction to CTCs on the coordination of services.

The bill requires CTCs, in cooperation with the LCBs, to increase and support programs that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining services across one or more county lines.

The fiscal impact on local governments is indeterminate and there does not appear to be a fiscal impact to state government. See Fiscal Analysis for details.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Transportation Disadvantaged

Florida law defines the term “transportation disadvantaged” as those persons who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk.<sup>1</sup>

##### Commission for Transportation Disadvantaged

In 1989, the Legislature created the Commission for the Transportation Disadvantaged (commission) within the Department of Transportation (DOT) to coordinate the transportation services provided to the transportation disadvantaged.<sup>2</sup> The purpose of the coordinated effort was to assure the cost-effective provision of transportation by qualified community transportation coordinators (CTCs) or transportation operators<sup>3</sup> to the transportation disadvantaged.<sup>4</sup> The commission as the state-level entity responsible for the oversight of the coordinated transportation disadvantaged services, contracts with CTCs and the planning agency for each county.<sup>5</sup>

##### Community Transportation Coordinators

A CTC is a transportation entity recommended by a metropolitan planning organization (MPO),<sup>6</sup> or by the appropriate designated official planning agency<sup>7</sup> in an area outside the purview of a MPO, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area.<sup>8</sup>

Each local CTC is responsible for the actual arrangement and delivery of transportation services to the transportation disadvantaged. The CTC, through a competitive procurement process, may contract with local transportation operators to provide transportation services to the transportation disadvantaged. Specifically, CTCs must:

- Execute uniform contracts for service using a standard contract, which includes performance standards for operators.
- Collect annual operating data for submittal to the commission.
- Review all transportation operator contracts annually.
- Approve and coordinate the utilization of school bus and public transportation services in accordance with the transportation disadvantaged service plan.
- In cooperation with a functioning coordinating board, review all applications for local government, federal, and state transportation disadvantaged funds, and develop cost-effective coordination strategies.
- In cooperation with, and approved by, the coordinating board, develop, negotiate, implement, and monitor a memorandum of agreement, including a service plan, for submittal to the commission.

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<sup>1</sup> Section 427.011(1), F.S.

<sup>2</sup> Section 427.013, F.S.

<sup>3</sup> The term “transportation operator” means one or more public, private for-profit, or private nonprofit entities engaged by the CTC to provide service to transportation disadvantaged persons pursuant to a coordinated system or plan. Section 427.011(6), F.S.

<sup>4</sup> *Id.* Florida Commission for Transportation Disadvantaged, 2018 Annual Performance Report, p. 9-11. Available at: <https://ctd.fdot.gov/docs/AORAPRDocs/ApprovedAOR2017-2018.pdf> (last visited Jan. 13, 2020).

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

<sup>6</sup> Section 427.011(2), F.S., defines the term “metropolitan planning organization” as the organization responsible for carrying out transportation planning and programming in accordance with the provisions of 23 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f)(3).

<sup>7</sup> This is as provided in ss. 427.011-427.017, F.S.

<sup>8</sup> Section 427.011(5), F.S.

- In cooperation with the coordinating board and pursuant to criteria developed by the commission, establish eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services<sup>9</sup> that are purchased with Transportation Disadvantaged Trust Fund moneys.
- Have full responsibility for the delivery of transportation services for the transportation disadvantaged.<sup>10</sup>
- Work cooperatively with local workforce development boards<sup>11</sup> to provide assistance in the development of innovative transportation services for participants in the welfare transition program.<sup>12</sup>

### Local Coordinating Boards

The local coordinating board (LCB) is an advisory entity in each designated service area composed of representatives appointed by the MPO, or designated official planning agency, to assist the CTC relative to the coordination<sup>13</sup> of transportation services.<sup>14</sup> The LCB oversees and annually evaluates the CTC. The LCB also provides assistance to the CTC by identifying local service needs.<sup>15</sup> Each LCB must:

- Review and approve the coordinated community transportation disadvantaged service plan, including the memorandum of agreement, prior to submittal to the commission.
- Evaluate services provided in meeting the approved plan.
- In cooperation with the CTC, review and provide recommendations to the commission on funding applications affecting the transportation disadvantaged.
- Assist the CTC in establishing eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.
- Review the coordination strategies of service provision to the transportation disadvantaged in the designated service area.
- Evaluate multicounty or regional transportation opportunities.
- Work cooperatively with local workforce development boards to provide assistance in the development of innovative transportation services for participants in the welfare transition program.<sup>16</sup>

### Transportation Disadvantaged Funding

The Transportation Disadvantaged Trust Fund (Trust Fund) is administered by the commission. The funds deposited into the Trust Fund must be appropriated by the Legislature to fund the commission and may be used by the commission to subsidize a portion of a transportation disadvantaged person's transportation costs if certain criteria are met.<sup>17</sup> In fiscal year 2019-2020, the Legislature appropriated \$65.6 million in revenue through the Trust Fund. The largest source of revenue deposited in the Trust Fund is the \$1.50 fee collected from each motor vehicle license tag registration.<sup>18</sup>

In 2019, the Legislature passed HB 7068,<sup>19</sup> creating the Multi-use Corridors of Regional Economic Significance (M-CORES) Program within DOT.<sup>20</sup> The bill allocated \$10 million in M-CORES funding for

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<sup>9</sup> Section 427.022(12), F.S., defines the term “nonsponsored transportation disadvantaged services” as transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

<sup>10</sup> These are outlined in s. 427.015(2), F.S.

<sup>11</sup> Workforce development boards are established in Ch. 445, F.S.

<sup>12</sup> Section 427.0155, F.S.

<sup>13</sup> Section 427.011(11), F.S., defines the term “coordination” as the arrangement for the provision of transportation services to the transportation disadvantaged in a manner that is cost-effective, efficient, and reduces fragmentation and duplication of services.

<sup>14</sup> Section 427.011(7), F.S.

<sup>15</sup> Florida Commission for Transportation Disadvantaged, 2018 Annual Performance Report, p. 9-11.

<sup>16</sup> Section 427.0157, F.S.

<sup>17</sup> Section 427.0159, F.S.

<sup>18</sup> Email from David Darm, Executive Director, Commission for the Transportation Disadvantaged, RE: HB 551-TD Funding, Jan. 8, 2020. (Copy on file with Transportation & Infrastructure Subcommittee); s. 320.03(9), F.S.

<sup>19</sup> Chapter 2019-43, L.O.F.

<sup>20</sup> Section 338.2278(1), F.S.



each fiscal year, beginning in 2019-2020, to the Trust Fund.<sup>21</sup> M-CORES funds allocated to the Trust Fund must be used to award competitive grants to CTCs and transportation network companies for the purposes of providing cost-effective, door-to-door, on-demand, and scheduled transportation services that increase a transportation disadvantaged person's access to and departure from job training, employment, health care, and other life-sustaining services; enhances regional connectivity and cross-county mobility; or reduce the difficulty in connecting transportation disadvantaged persons to a transportation hub and from the hub to their final destination.<sup>22</sup>

The commission has issued M-CORES grants to several CTCs around the state to support projects designed to enhance cross-county mobility for the transportation disadvantaged.<sup>23</sup> For example, the commission is funding a pilot program in Pinellas, Hillsborough, and Manatee Counties to support on-demand, cross-county transportation services for individuals with intellectual or developmental disabilities.<sup>24</sup>

### Cross-County Mobility

Cross-county mobility is the ability to utilize transportation disadvantaged services across county lines. While the commission encourages CTCs and local planning agencies to promote regional and cross-county transportation to enhance the mobility of the transportation disadvantaged, there are challenges that may inhibit certain CTCs from providing trips outside of their county, including:

- Urban transit systems – If the CTC is a transit authority, federal law requires it to provide Americans with Disabilities Act (ADA) complementary paratransit services for individuals who, due to a disability, cannot access the fixed-route bus system. The Federal Transit Administration requires these services to be provided within  $\frac{3}{4}$  of a mile outside the bus route, but the local transit authority may decide whether to provide these services beyond the ADA corridor, including across county lines.<sup>25</sup>
- Local autonomy – The transportation disadvantaged program provides the CTCs and their local coordinating boards with the flexibility of determining their own service area, which includes prioritizing the service needs. Some CTCs may choose to limit the number of trips that go out of county or support a certain activity based on a priority determined by the local program.
- Costs – Out-of-county trips are more expensive and require additional resources such as drivers and vehicles. Despite this challenge, several CTCs are coordinating out-of-county trips, which may be limited to certain days of the week or month to manage costs. Additionally, some CTCs may have to contract with a taxi or transportation network company to provide cross-county trips for individuals who need an “on-demand” service.<sup>26</sup>

### **Effect of the Bill**

The bill requires CTCs, in cooperation with the LCB, to increase and support programs that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining services across one or more county lines. The bill also requires LCBs to evaluate multicounty or regional transportation opportunities to increase and support programs that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life-sustaining services across county lines.

The bill does not require the implementation of any specific program to enhance cross-county mobility for the transportation disadvantaged.

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<sup>21</sup> Section 338.2278(8), F.S.

<sup>22</sup> Section 338.2278(8)(e), F.S.

<sup>23</sup> Email from David Darm, Executive Director, Commission for Transportation Disadvantaged, Re: HB 551-Follow-up, Dec. 20, 2019. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>24</sup> Department of Transportation, Agency Analysis of 2020 House Bill 551, p.2. (Jan. 15, 2020). (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>25</sup> 49 C.F.R. Part 37

<sup>26</sup> Email from David Darm, Executive Director, Commission for Transportation Disadvantaged, Re: HB 551-Cross-County Mobility Follow-up, Jan. 7, 2020. (Copy on file with Transportation & Infrastructure Subcommittee).

**B. SECTION DIRECTORY:**

Section 1 amends s. 427.0155, F.S., providing the powers and duties of community transportation coordinators.

Section 2 amends s. 427.0157, F.S., providing the powers and duties of coordinating boards.

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 does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to impact state government expenditures.

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

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

DOT anticipates that an expansion of cross-county mobility programs for the transportation disadvantaged will increase a local government's expenditures on transportation disadvantaged services;<sup>27</sup> however, the bill does not require any specific cross-county mobility program. Therefore, any actual increase in expenditures is indeterminate.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The enhancement of cross-county mobility services for the transportation disadvantaged may increase access to employment, health care, education, shopping, and other life-sustaining services across county lines.

**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 sales tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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<sup>27</sup> Department of Transportation, Agency Analysis of 2020 House Bill 551, p.5. (Jan. 15, 2020).  
**STORAGE NAME:** h0551a.SAC  
**DATE:** 1/28/2020

The bill does not provide a grant of rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 15, 2020, the Transportation & Infrastructure Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed the provisions from the bill that required the commission to develop a disability sensitivity training program, required identification cards for transportation disadvantaged drivers and passengers, and required specified equipment be installed in motor vehicles transporting the transportation disadvantaged.

This analysis is drafted to the committee substitute as approved by the Transportation & Infrastructure Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to the transportation disadvantaged;  
 3           amending s. 427.0155, F.S.; requiring community  
 4           transportation coordinators, in cooperation with the  
 5           coordinating board, to increase and support programs  
 6           that enhance cross-county mobility for specified  
 7           purposes for the transportation disadvantaged;  
 8           amending s. 427.0157, F.S.; requiring each  
 9           coordinating board to evaluate multicounty or regional  
 10          transportation opportunities to increase and support  
 11          such programs; providing an effective date.

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

15           Section 1. Subsection (10) is added to section 427.0155,  
 16 Florida Statutes, to read:

17           427.0155 Community transportation coordinators; powers and  
 18 duties.—Community transportation coordinators shall have the  
 19 following powers and duties:

20           (10) In cooperation with the coordinating board, increase  
 21 and support programs that enhance cross-county mobility for the  
 22 transportation disadvantaged to access employment, health care,  
 23 education, shopping, or other life-sustaining services across  
 24 one or more county lines.

25           Section 2. Section 427.0157, Florida Statutes, is amended

26 | to read:

27 |       427.0157 Coordinating boards; powers and duties.—The  
 28 | purpose of each coordinating board is to develop local service  
 29 | needs and to provide information, advice, and direction to the  
 30 | community transportation coordinators on the coordination of  
 31 | services to be provided to the transportation disadvantaged. The  
 32 | commission shall, by rule, establish the membership of  
 33 | coordinating boards. The members of each board shall be  
 34 | appointed by the metropolitan planning organization or  
 35 | designated official planning agency. The appointing authority  
 36 | shall provide each board with sufficient staff support and  
 37 | resources to enable the board to fulfill its responsibilities  
 38 | under this section. Each board shall meet at least quarterly and  
 39 | shall:

40 |       (1) Review and approve the coordinated community  
 41 | transportation disadvantaged service plan, including the  
 42 | memorandum of agreement, prior to submittal to the commission.‡

43 |       (2) Evaluate services provided in meeting the approved  
 44 | plan.‡

45 |       (3) In cooperation with the community transportation  
 46 | coordinator, review and provide recommendations to the  
 47 | commission on funding applications affecting the transportation  
 48 | disadvantaged.‡

49 |       (4) Assist the community transportation coordinator in  
 50 | establishing eligibility guidelines and priorities with regard

51 to the recipients of nonsponsored transportation disadvantaged  
52 services that are purchased with Transportation Disadvantaged  
53 Trust Fund moneys.

54 (5) Review the coordination strategies of service  
55 provision to the transportation disadvantaged in the designated  
56 service area. ~~and~~

57 (6) Evaluate multicounty or regional transportation  
58 opportunities to increase and support programs that enhance  
59 cross-county mobility for the transportation disadvantaged to  
60 access employment, health care, education, shopping, or other  
61 life-sustaining services across one or more county lines.

62 (7) Work cooperatively with local workforce development  
63 boards established in chapter 445 to provide assistance in the  
64 development of innovative transportation services for  
65 participants in the welfare transition program.

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



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 947 Volusia County  
**SPONSOR(S):** Leek  
**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

Florida Statutes generally prohibit vehicular traffic on dunes or native stabilizing vegetation of the dune system of coastal beaches. With certain exceptions, vehicular traffic is prohibited on coastal beaches except where a local government with jurisdiction over all or portions of the coastal beach authorized such traffic by at least a three-fifths vote of its governing body prior to 1985. This does not apply to counties that adopted unified countywide beach regulations prior to January 1, 1988, pursuant to a county home rule charter.

Driving on the beaches of Daytona Beach and New Smyrna Beach in Volusia County is a tradition dating back to the early days of the automobile. Before Daytona International Speedway opened in 1959, stock car racing in Volusia County occurred primarily on Daytona Beach and Ormond Beach. Volusia County's charter provides that the public has a right of access to the beaches and a right to use the beaches for recreation and other customary purposes. The charter directs the county council, as permitted by law, to authorize vehicular access to any part of the beach not reasonably accessible from public parking facilities. In 2013, the first reenactment of a historic beach race occurred, called the Legends Beach Parade, which was conducted annually at the North Turn Beach from 2013 to 2018. In 2019, the Volusia County Attorney raised concerns with the county council that questioned the authorization for continuing the historic race reenactment.

The bill allows Volusia County to permit, by ordinance, vehicular traffic upon a portion of coastal beach where vehicular traffic was not previously permitted, for the sole purpose of a low-speed reenactment of a historic automobile race on the original beach race course.

The bill does not appear to have a fiscal impact on the state. According to the Economic Impact Statement Volusia County would expend \$9,768 annually to help facilitate the event on the beach.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### State Beach Regulations

Florida law<sup>1</sup> limits construction and physical activity in Florida's coastal areas, regulates how that construction and activity can occur, and provides enforcement mechanisms for violations. In the 1970s, the Legislature added provisions regulating the construction seaward of a coastal construction control line<sup>2</sup> to protect beaches and coastal barrier dunes from imprudent construction.<sup>3</sup>

Florida law requires the Department of Environmental Protection (DEP) to establish coastal construction control lines on a county-by-county basis along the coasts of the state.<sup>4</sup> These control lines must define that portion of the beach-dune system, which is subject to severe fluctuations based on 100-year storm surge, storm waves, or other predictable weather conditions.<sup>5</sup> Once a control line is established, it is unlawful to "construct any structure whatsoever seaward thereof, make any excavation, remove any beach material, or otherwise alter existing ground elevations; [or] drive any vehicle on, over, or across any sand dune or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward" unless a permit has been issued by DEP.<sup>6</sup>

In 1985, the Coastal Zone Protection Act<sup>7</sup> established minimum standards governing construction in coastal areas and mandated that any such construction produce the "minimum adverse impact"<sup>8</sup> on the "beach"<sup>9</sup> and "dune system."<sup>10</sup> In the Coastal Zone Protection Act, the Legislature found that coastal areas serve important aesthetic, ecological, and public health, safety, and welfare functions and have become subject to increasing growth pressures.<sup>11</sup> Although the Coastal Zone Protection Act provides for minimum construction standards, DEP may require permits or adopt and enforce standards for construction that is more restrictive than those minimum construction standards.<sup>12</sup>

##### Vehicular Traffic on Beaches

Florida Statutes provide that vehicular traffic,<sup>13</sup> except as necessary for cleanup, repair, public safety, or traffic upon authorized local or state dune crossovers, is prohibited on dunes or native stabilizing vegetation of the dune system of coastal beaches.<sup>14</sup> Except as otherwise provided in statute, any

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<sup>1</sup> Ch. 161, parts I and II, F.S., known as the Dennis L. Jones Beach and Shore Preservation Act, first adopted in 1965. *See* ch. 65-408, Laws of Fla.

<sup>2</sup> S. 161.053, F.S.

<sup>3</sup> S. 161.05(1)(a), F.S.

<sup>4</sup> S. 161.053(1)(a), F.S.

<sup>5</sup> *Id.*; S. 161.053(2)(a), F.S.

<sup>6</sup> S. 161.053(2)(a), F.S.

<sup>7</sup> Ch. 161, part III, F.S.

<sup>8</sup> S. 161.55, F.S.

<sup>9</sup> "Beach" means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. S. 161.54(3), F.S.

<sup>10</sup> "Dune" means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach and deposited by any natural or artificial mechanism. S. 161.54(3), F.S.

<sup>11</sup> S. 161.53(1)-(5), F.S.

<sup>12</sup> S. 161.56(1), F.S.

<sup>13</sup> The term "vehicular traffic" is not statutorily defined. *See City of Treasure Island v. Tahitian Treasure Island*, 253 So. 3d 649, 657 (Fla. 2d DCA Oct. 27, 2019) ("We are confident that vehicular traffic denotes the movement of vehicles as though it were happening along a public street or highway. We reach this conclusion because the alternative—the interpretation that vehicular traffic reaches any movement of vehicles—would put section 161.58's regulation of vehicular traffic on coastal beaches in substantial conflict with the authority granted the department in part I to authorize by permit construction and other activity on those same beaches.).

<sup>14</sup> S. 161.58(1), F.S.

person driving any vehicle on, over, or across any dune or native stabilizing vegetation of the dune system commits a second degree misdemeanor.<sup>15</sup>

On coastal beaches, vehicular traffic is prohibited except as necessary for cleanup, repair, public safety, or to maintain existing licensed and permitted traditional commercial fishing activities or existing authorized public accessways. Vehicular traffic is also permitted on a coastal beach where a local government with jurisdiction over all or portions of the beach, by at least a three-fifths vote of its governing body, has authorized such traffic prior to 1985. The local government must have determined by October 1989, in accordance with the DEP rules, that less than 50 percent of the peak user demand for off-beach parking was available.<sup>16</sup> However, these requirements do not apply to counties that have adopted unified countywide beach regulations pursuant to a county home rule charter prior to January 1, 1988.<sup>17</sup>

A local government that so authorized such vehicular traffic on all or portions of its beaches may later prohibit such vehicular traffic on all or portions of the beaches under its jurisdiction, by a vote of at least three-fifths of its governing body.<sup>18</sup> Local governments may charge a reasonable fee for vehicular traffic access, if the fee is adopted by a three-fifths vote of its governing body.<sup>19</sup> The revenues from such fees must be used for beach maintenance or beach-related traffic management, parking, law enforcement, liability insurance, sanitation, or lifeguard or other staff purposes.<sup>20</sup> Unless authorized by the local government, any person driving any vehicle on, over, or across the beach is guilty of a second degree misdemeanor.<sup>21</sup>

### Best Management Practices for Operating Vehicles on the Beach

For those local governments who have authorized vehicular traffic on their beaches, the Florida Fish and Wildlife Conservation Commission (FWC) has published best management practices for operating vehicles on the beach. FWC advises to avoid driving on the beach during sea turtle nesting season<sup>22</sup> (May 1 through October 31) and beach-nesting bird season (active from mid-February through the end of August).<sup>23</sup> FWC advises individuals driving on the beach to take the following precautions:

- Enter the beach only at designated access points and proceed directly to the hard-packed sand near or below the high tide line. Avoid driving on the upper beach whenever possible, and never drive over any dunes or over beach vegetation. If beach conditions require driving above the high tide line, avoid those areas with known sea turtle nests or shorebird breeding areas;
- Avoid the wrack line<sup>24</sup> or areas of dense seaweed, which may contain sea turtle hatchlings or baby birds;
- Minimize ruts on the dry sandy beach by lowering tire pressure and using 4WD, particularly in front of sea turtle or bird nests;
- Drive slowly in order to observe any bird eggs, chicks, or sea turtle hatchlings in the vehicle's line of travel;
- Whenever possible, avoid driving on the beach at night;
- Do not park vehicles adjacent to nests or posted areas, and if driving at night, turn headlights off when parking; and

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<sup>15</sup> *Id.*

<sup>16</sup> S. 161.58(2), F.S.

<sup>17</sup> S. 161.58(2)(b), F.S.

<sup>18</sup> S. 161.58(3), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Before you drive on the beach*, Florida Fish and Wildlife Conservation Commission, [myfwc.com/conservation/you-protect/wildlife/beach-driving](http://myfwc.com/conservation/you-protect/wildlife/beach-driving) (last visited Jan. 9, 2020). While May through October is considered sea turtle nesting season, some species of sea turtles have been known to nest as early as February, and hatchlings can emerge from their nests as late as the mid-winter months.

<sup>23</sup> *Id.*

<sup>24</sup> Beach wrack is the line of debris that gets pushed onshore by ocean tides and is an important component in the beach/dune ecosystem. *Beach Wrack what is it?*, Discover Palm Beach, [discover.pbcgov.org/erm/Publications/BeachFactSheet.pdf](http://discover.pbcgov.org/erm/Publications/BeachFactSheet.pdf) (last visited Jan. 9, 2020).

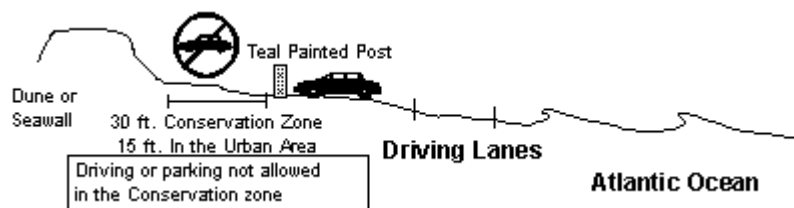
- If you observe a sea turtle crawling out of the surf, stop the vehicle and turn off all lights.<sup>25</sup>

### Vehicular Beach Traffic in Volusia County

Driving on Daytona Beach and New Smyrna Beach in Volusia County is a tradition dating back to the early days of the automobile.<sup>26</sup> Volusia County's charter provides that the public has a right of access to the beaches and a right to use the beaches for recreation and other customary purposes.<sup>27</sup> The charter directs the county council, as permitted by law, to authorize vehicular access to any part of the beach not reasonably accessible from public parking facilities.<sup>28</sup>

Daytona Beach and New Smyrna Beach are open to vehicles from 8:00 am to 7:00 p.m. or sundown (whichever is earlier) from May 1 through October 31, and between sunrise and sunset from November 1 to April 30, tides permitting.<sup>29</sup> The driving areas are designated by signs and wooden posts and drivers are required to drive only in those designated areas, observe the speed limit of 10 miles per hour (MPH),<sup>30</sup> and park east or seaward of the wooden posts.<sup>31</sup>

The diagram below indicates these designated areas:



Volusia County requires all persons driving on the beach to purchase either a daily or annual beach pass, which must be displayed on the vehicle's windshield.<sup>32</sup> The following fees and passes are available at beach toll locations and inlet parks:

- \$20 daily beach entry per vehicle (one free re-entry/day/same vehicle)
- \$10 daily inlet park entry per vehicle at Lighthouse Point and Smyrna Dunes Park (one free re-entry/day/same vehicle)
- \$25 resident annual beach pass (unlimited beach entry- 365 days from date of purchase)
- \$20 annual inlet park pass (unlimited beach entry- 365 days from date of purchase)
- \$100 non-resident annual beach pass (unlimited beach entry- 365 days from date of purchase)
- \$45 resident combo pass (beach and inlet parks unlimited entry- 365 days from date of purchase)

<sup>25</sup> Florida Fish and Wildlife Conservation Commission, *supra* note 22.

<sup>26</sup> *Beach driving and Parking*, Volusia County, [volusia.org/services/public-protection/beach-safety/beach-driving-and-parking.shtml](http://volusia.org/services/public-protection/beach-safety/beach-driving-and-parking.shtml) (last visited Jan. 8, 2020).

<sup>27</sup> VOLUSIA COUNTY FLA., CHARTER, S. 205.1 (1996), available at [Volusia.org/government/county-council/how-county-government-works/home-rule-charter-details.shtml](http://Volusia.org/government/county-council/how-county-government-works/home-rule-charter-details.shtml).

<sup>28</sup> *Id.*

<sup>29</sup> VOLUSIA COUNTY, FLA. CODE OF ORDINANCES, S. 20-173 (2015), [library.municode.com/fl/Volusia\\_county/code/code\\_of\\_ordinances?nodeID=PTIICOOR\\_CH20BECO\\_ARTVITRVE](http://library.municode.com/fl/Volusia_county/code/code_of_ordinances?nodeID=PTIICOOR_CH20BECO_ARTVITRVE) (last visited Jan. 8, 2019). The following areas of beach are traffic-free zones: all of the beach north of the northernmost boundary of the extension of Granada Avenue in Ormond Beach; the beach from the southernmost boundary of the extension of Emelia Avenue in Daytona Beach Shores to the northernmost boundary of the extension of Beach Street in the Town of Ponce Inlet; the beach from 100 feet north of the north jetty of the Ponce deLeon jetty southward to the southernmost limits of the Town of Ponce Inlet; the beach north of the rock jetty along that portion of the beach boarding the south side of the Ponce deLeon Inlet channel; the beach from the southernmost boundary of the extension of 27th Street in New Smyrna Beach south to Canaveral National Seashore Park; the beach from the southern boundary of the extension of Seabreeze Boulevard to the northern boundary of the extension of International Speedway Boulevard; and the beach from a point 300 feet south of the southerly extension of University Boulevard extending southward 410 feet.

<sup>30</sup> VOLUSIA COUNTY, FLA. CODE OF ORDINANCES, S. 82-49(b)(2) (2011), [https://library.municode.com/fl/volusia\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH82PARE\\_ARTIIIIRURECOLA\\_S\\_82-49MOVE](https://library.municode.com/fl/volusia_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH82PARE_ARTIIIIRURECOLA_S_82-49MOVE) (last visited Jan. 11, 2020). Vehicular traffic is limited to 10 MPH on conservation lands.

<sup>31</sup> Volusia County, *supra* note 29.

<sup>32</sup> *Id.*

- \$120 non-resident combo pass (beach and inlet parks unlimited entry- 365 days from date of purchase)<sup>33</sup>

### Environmental Impact of Driving on the Beach

Although a lawful and traditional activity in Volusia County, operating vehicles on the beach can destroy wildlife habitats and can be harmful or fatal to wildlife.<sup>34</sup> Beach driving has the potential to impact sea turtles and their nesting habitat as well as the critical wintering habitat of the federally threatened piping plover.<sup>35</sup> Additionally, the Southeastern Beach Mouse historically lived on barrier islands from Palm Beach County north to Ponce Inlet in Volusia County.<sup>36</sup> In 2001, the United States Fish and Wildlife Service (USFWS) designated 168 acres in the Ponce Inlet area as critical habitat for wintering piping plovers.<sup>37</sup> Three species of sea turtles regularly nest on Volusia County beaches, the Loggerhead, Green, and Leatherback, while two others are rare nesters, the Hawksbill and Kemp's Ridley.<sup>38</sup>

Because driving on the beaches can impact these species, in 1996, Volusia County applied for and received an incidental taking permit (ITP)<sup>39</sup> that authorizes the taking incidental to beach driving and vehicular beach access-related activities regulated or managed by the county.<sup>40</sup> A "take" means activities that "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct."<sup>41</sup> The ITP has been amended 11 times, the most recent of which extended its expiration term until December 31, 2030.<sup>42</sup>

Entities seeking an ITP are required to have a Habitat Conservation Plan (HCP) as part of the application. The HCP describes the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP will be funded.

Between 1997 and 2001, only six sea turtle hatchlings were reported to have been directly impacted and one unmarked nest was reportedly run over by a public safety vehicle. Indirect impacts to sea turtles have been limited primarily to hatchling encounters with vehicle ruts. However, there is no evidence to suggest that vehicular activity has affected either nesting success (the percentage of turtle crawls resulting in nests) or hatchling productivity.<sup>43</sup> In 2018, there were 2,167 Loggerhead nests, 142 Green nest, and 11 Leatherback nests in Volusia County<sup>44</sup>

The HCP plan area encompasses the entire Volusia County coastline from the Flagler/Volusia County Line to the Volusia/Brevard County Line, including the sandy beaches bordering the Ponce De Leon

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<sup>33</sup> *Id.*

<sup>34</sup> Florida Fish and Wildlife Conservation Commission, *supra* note 22. The eggs and flightless young of beach-nesting birds can be virtually invisible, especially from a vehicle. Sea turtles coming ashore to nest may be scared away by vehicles and hatchlings are vulnerable to being run over. Both adult and hatchling sea turtles can be disoriented by any form of artificial light, including headlights. Ruts made by vehicles can trap and disorient turtle hatchlings and baby birds.

<sup>35</sup> *Habitat Conservation Plan: A plan for the protection of sea turtles on the beaches of Volusia County, Florida*, Ecological Associates, Inc., (Nov. 2016- last revised June 2008), volsuia.org/core/fileparse.php/6466/urlt/HCB.pdf (last visited Jan. 9, 2020). The piping plover is a small, highly mobile, beach-dwelling bird of the plover family. The Atlantic Coast population was listed as threatened by the USFWS in 1986 (50 FR 50726-50734). The piping plover is also protected under Federal regulations through the Migratory Bird Treaty Act of 1918.

<sup>36</sup> *Id.* The Southeastern Beach mouse was afforded federal protection as a threatened species in 1989 (53 FR 20598-20602).

<sup>37</sup> *Id.*; see 50 C.F.R. 17.

<sup>38</sup> *Id.* The Loggerhead turtle was federally listed on July 28, 1978, as a threatened species under the Endangered Species Act (ESA) (43 FR 32800), the Green turtle in Florida and on the Pacific Coast of Mexico was federally listed as endangered in 1978 (43 FR 32800), the leatherback turtle was federally listed as an endangered species in 1970 (35 FR 8491), the Hawksbill turtle was federally listed as endangered in 1970 (35 FR 8491), and the Kemp's Ridley sea turtle was listed as endangered in 1970 under the U.S. Endangered Species Conservation Act, which was the predecessor to the ESA (35 FR 18320).

<sup>39</sup> An ITP authorizes the holder to engage in a legal activity that may result in the incidental taking of an endangered species.

<sup>40</sup> Ecological Associates, Inc., *supra* note 35.

<sup>41</sup> 16 U.S.C. § 1532(19).

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

<sup>43</sup> *Id.*

<sup>44</sup> *2018 Statewide Nesting Totals*, Florida Fish and Wildlife Conservation Commission, myfwc.com/research/wildlife/sea-turtles/nesting/statewide (last visited Jan. 9, 2020).

Inlet.<sup>45</sup> Under the HCP, vehicles used for emergency responses, public safety, or engaged in activities necessary to implement the terms and conditions of the ITP are allowed unlimited access to all county beaches and may access other beaches within the Plan Area in support of public safety operations, if requested.<sup>46</sup> Vehicles involved in sanitation, beach maintenance, and permitted coastal construction projects may also access all areas, but under specific constraints governing access times, access locations, and operating procedures.<sup>47</sup> With few exceptions, concessionaires, commercial fishermen, and the general public may only access certain areas of the beach and only during daylight hours.<sup>48</sup>

The HCP protects turtles from vehicles through four basic mechanisms:

- Public access is limited to daylight hours and public safety vehicles that operate at night must follow specific guidelines;
- Public driving is limited primarily to those areas where nest densities are lowest;
- In those areas where public driving is permitted, all driving and parking must occur outside a marked Conservation Zone near the dune, where the majority of nests are typically deposited; and
- All nests are conspicuously marked so they can be avoided.<sup>49</sup>

### Legends Beach Parade

Before Daytona International Speedway opened in 1959, stock car racing in Volusia County occurred primarily on Daytona Beach and Ormond Beach.<sup>50</sup> In 2013, the first reenactment of a historic beach race occurred, called the Legends Beach Parade, which was conducted annually at the North Turn Beach from 2013 to 2018.<sup>51</sup> In 2019, the Volusia County Attorney raised concerns with the county council that questioned the authorization for continuing the historic race reenactment. The attorney believes that allowing the Legends Beach Parade to continue could jeopardize the county's ITP, which is up for review in 2030.<sup>52</sup> Volusia County was also concerned with a recent court case, which blocked a city from allowing parking and traffic on beaches during public events and festivals.<sup>53</sup>

### **Effect of Proposed Changes**

The bill allows Volusia County to allow vehicular traffic on its beaches, by ordinance, for the sole purpose of reenacting a historic beach race.<sup>54</sup>

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<sup>45</sup> Ecological Associates, Inc., *supra* note 35. The HCP is bounded on the east by the mean low water line and on the west by the bulkhead line or line of permanent vegetation. Within the plan area, Volusia County exercises regulatory authority over those 35.6 miles of beaches extending from the southern boundary of the North Peninsula State Recreation Area to the northern boundary of the Canaveral National Seashore.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* Additionally, the posting and enforcement of a 10 MPH speed limit for vehicles on the beach and the placement of signs warning drivers to look out for wildlife reduces the potential for collisions with the resting plovers. An annual winter census of piping plovers within the federally designated Critical Habitat is conducted to determine the extent of the habitat utilization by the bird species on county beaches.

<sup>50</sup> *Florida Frontiers* "Racing on the Beach," The Florida Historical Society, [myfloridahistory.org/frontiers/article/131](http://myfloridahistory.org/frontiers/article/131) (last visited Jan. 9, 2020).

<sup>51</sup> Casmira Harrison, *Volusia lawmakers to back Legends Beach Parade law*, Daytona Beach News-Journal (Nov. 20, 2019), <https://www.news-journalonline.com/news/20191120/volusia-lawmakers-to-back-legends-beach-parade-law> (last visited Jan. 9, 2020). According to the Economic Impact Statement, vehicles will travel at speeds of 5 to 10 MPH.

<sup>52</sup> Dustin Wyatt, *Familiar beach driving foe involved in Volusia Legends parade dispute*, Daytona Beach-News Journal (Sept. 30, 2019), <https://www.msn.com/en-us/news/us/familiar-beach-driving-for-involved-in-volusia-legends-parade-dispute> The County Attorney was concerned that the County's ITP, which is up for review in 2030, may be jeopardized without the county receiving proper permitting from USFWC. THE USFWC told U.S. Representative Bill Posey that it has known about the event for many years and since it occurs outside of turtle nesting season, it poses no issues to the Volusia County's ITP.

<sup>53</sup> See *City of Treasure Island*, 253 So. 3d, *supra* at 662, which held the s. 161.58(2), F.S., prohibition on vehicular traffic upon coastal beaches means the statute generally prohibits using the beach as though it was a public street absent a local government ordinance prior to 1985 allowing traffic on the beach. The Court held the city violated the statute by operating public access ways that run from a paved lot near the walkway between the dunes, onto the beach, and into temporary lots. The city operated these access ways during public events and festivals.)

<sup>54</sup> Attached in Appendix A is a map of the reenactment route.

**B. SECTION DIRECTORY:**

Section 1: Provides an exemption from s. 161.58, F.S., to allow Volusia County, by ordinance, to allow vehicle traffic on areas of the beach currently closed to vehicular traffic for the sole purpose of reenacting a historical beach race.

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? November 12, 2019

WHERE? The *News-Journal*, a daily newspaper of general circulation published in Volusia 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:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify on which beaches a reenactment of a historic automobile race event may occur.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

## Appendix A





HB 947

2020

1                   A bill to be entitled  
2           An act relating to Volusia County; providing an  
3           exception to general law; authorizing Volusia County  
4           to permit vehicular traffic on a portion of coastal  
5           beach not previously permitted for vehicular traffic  
6           for a specified purpose; providing an effective date.

7

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

9

10           Section 1. Notwithstanding s. 161.58, Florida Statutes,  
11 for the sole purpose of reenactment of a historic automobile  
12 race event, Volusia County may by ordinance permit vehicular  
13 traffic upon a portion of coastal beach where vehicular traffic  
14 has not previously been permitted.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1097 Regional Planning Council Meetings

**SPONSOR(S):** Geller and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Moehrle	Miller
2) State Affairs Committee		Moehrle	Williamson

### SUMMARY ANALYSIS

Current law allows certain agencies to conduct public meetings, hearings, and workshops in person or by means of communications media technology. The board members may participate in the public meetings and vote via communications media technology if the meeting notice stipulates that the member will be participating via such means. While clear authority exists to allow state agencies to participate in public meetings and vote via communications media technology, such authorization does not exist for local government entities. Instead, local board members may only participate in meetings where formal action will be taken and vote remotely if a quorum of a local board is physically present at the public meeting and only if extraordinary circumstances require the member to appear remotely.

This bill authorizes the use of communications media technology for board meetings of regional planning councils (RPC) that cover three or more counties and creates statutory quorum requirements for such meetings. The bill provides that if at least one-third of the voting members are physically present at the meeting location the remaining voting members may participate via telephone, real-time videoconferencing, or similar real-time electronic or video communication, which must be broadcast publicly at the meeting location. Moreover, the members participating remotely may be counted towards the quorum requirement. The member attending the meeting remotely must provide notice of his or her intent to appear remotely at least 24 hours before the scheduled meeting.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Public Meetings

Article I, s. 24(b) of the Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of any collegial public body of the executive branch of state government or of 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.

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, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.<sup>1</sup> The board or commission must provide reasonable notice of all public meetings.<sup>2</sup> 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.<sup>3</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>4</sup>

##### Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., requires the Administration Commission<sup>5</sup> to promulgate rules to create uniform rules of procedure for state agencies to use when conducting public meetings, hearings, or workshops, including procedures for conducting meetings in person and by means of communications media technology.<sup>6</sup> The agency must state in the notice that the public meeting, hearing, or workshop will be conducted by means of communications media technology, or if attendance may be provided by such means. The notice must also state how individuals interested in attending may do so. Notwithstanding the use of electronic media technology, all evidence, testimony, and argument presented at the public meeting must be afforded equal consideration, regardless of the method of communication.<sup>7</sup> In addition to agencies required to comply with ch. 120, F.S., the Administrative Procedure Act, certain entities created by an interlocal agreement may conduct public meetings and workshops via communications media technology.<sup>8</sup>

While current law allows state agencies and certain entities created by an interlocal agreement to conduct meetings and vote by means of communications media technology, there has been a question over whether or not local boards or agencies may conduct meetings in the same fashion.<sup>9</sup> The Office of Attorney General has opined that only state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board's request to conduct board meetings via electronic means.<sup>10</sup> The Attorney General reasoned that s. 120.54(5)(b)2., F.S., limits its terms only

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<sup>1</sup> S. 286.011(1), F.S.

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

<sup>3</sup> S. 286.011(6), F.S.

<sup>4</sup> S. 286.011(2), F.S.

<sup>5</sup> S. 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet.

<sup>6</sup> S. 120.54(5)(b)2., F.S. The term "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

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

<sup>8</sup> S. 163.01(18), F.S. (Allowing public agencies located in at least five counties, of which at least three are not contiguous, to conduct public meetings and workshops by means of communications media technology).

<sup>9</sup> Robert Eschenfelder, *Modern Sunshine: Attending Public Meetings in the Digital Age*, 84 Fla. B.J. 28 (2010).

<sup>10</sup> 98-28 Fla. Op. Att'y Gen. 2 (1998).

to uniform rules that apply to state agencies. The Attorney General explained that “allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission.” The Attorney General reasoned that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local; thus, “such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting.” However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to attend physically the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.<sup>11</sup>

### Florida Regional Planning Councils

The Florida Regional Planning Council Act<sup>12</sup> allows the creation of regional planning councils (RPC). The Legislature has recognized RPCs as the “only multipurpose regional entity that is in position to plan for and coordinate intergovernmental solutions to growth-related problems on greater-than local issues, provide technical assistance to local governments, and meet other needs of the communities in each region.”<sup>13</sup> RPCs span multiple counties within the geographical boundaries of any one comprehensive planning district.<sup>14</sup> The voting membership of a regional planning council must consist of representatives living within the geographical area covered by the council.<sup>15</sup> The 10 RPCs are as follows: West, Apalachee, North Central, Northeast, East Central, Tampa Bay, Central, Southwest, Treasure Coast, and South.<sup>16</sup> Each RPC consists of anywhere from three (South) to 12 counties (North Central).<sup>17</sup>

### Effect of the Bill

This bill authorizes the use of communication media technology for board meetings of RPCs that cover three or more counties and establishes quorum requirements for such meetings. The bill provides that if at least one-third of the voting members are physically present at the meeting location the remaining voting members may participate via telephone, real-time videoconferencing, or similar real-time electronic or video communication, which must be broadcast publicly at the meeting location. The bill requires the member who will be appearing at the meeting via communications media technology to provide oral, written, or electronic notice to the RPC at least 24 hours before the scheduled meeting.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 120.525, F.S., relating to meetings, hearings, and workshops.

**Section 2.** Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None.

2. Expenditures:

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<sup>11</sup> *Id.*

<sup>12</sup> S. 186.501, F.S.

<sup>13</sup> S. 186.502(4), F.S.

<sup>14</sup> S. 186.504, F.S.

<sup>15</sup> S. 186.504(2), F.S.

<sup>16</sup> Florida Regional Councils Associations, <http://www.flregionalcouncils.org/> (last visited Jan. 13, 2020).

<sup>17</sup> *Id.*

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 action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither requires nor provides authority for agency rulemaking.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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1 A bill to be entitled

2 An act relating to regional planning council meetings;  
3 amending s. 120.525, F.S.; providing requirements for  
4 establishing a quorum for meetings of certain councils  
5 when a voting member appears via telephone, real-time  
6 videoconferencing, or similar real-time electronic or  
7 video communication; requiring notice of intent to  
8 appear via telephone, real-time videoconferencing, or  
9 similar real-time electronic or video communication by  
10 a specified time; providing an effective date.

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

13  
14 Section 1. Subsection (4) is added to section 120.525,  
15 Florida Statutes, to read:

16 120.525 Meetings, hearings, and workshops.—

17 (4) For purposes of establishing a quorum at meetings of  
18 regional planning councils that cover three or more counties, a  
19 voting member who appears via telephone, real-time  
20 videoconferencing, or similar real-time electronic or video  
21 communication that is broadcast publicly at the meeting location  
22 may be counted towards the quorum requirement if at least one-  
23 third of the voting members of such regional planning council  
24 are physically present at the meeting location. A member must  
25 provide oral, written, or electronic notice of his or her intent

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26 | to appear via telephone, real-time videoconferencing, or similar  
27 | real-time electronic or video communication to the regional  
28 | planning council at least 24 hours before the scheduled meeting.

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





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7015 PCB OTM 20-07 OGSR/Body Camera Recordings  
**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, Shoaf  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7032

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	14 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.

A body camera is a portable electronic recording device worn on a law enforcement officer's body that records audio and video data while the officer is performing his or her official duties and responsibilities. Current law provides that a body camera recording, or a portion thereof, is confidential and exempt from public record requirements, if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

A law enforcement agency may disclose a confidential and exempt body camera recording, or a portion thereof, in furtherance of its official duties and responsibilities or to another governmental agency. However, a law enforcement agency must disclose such records:

- To a person recorded by a body camera, or his or her personal representative; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;
- To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place; and
- Pursuant to a court order.

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)<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> 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.

##### Law Enforcement Body Cameras

A body camera is a portable electronic recording device worn on a law enforcement officer's body that records audio and video data while the officer performs his or her official duties and responsibilities.<sup>5</sup> According to results from the 2018 Criminal Justice Agency Profile Survey compiled by the Florida Department of Law Enforcement (FLDE) there are 102 police departments, 23 sheriffs' offices, and one state attorney's office using body cameras.<sup>6</sup>

##### Public Record Exemption under Review

In 2015, the Legislature created a public record exemption that makes a body camera recording, or a portion thereof, confidential and exempt<sup>7</sup> from public record requirements, if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.<sup>8</sup>

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Article I, s. 24(c), FLA. CONST.

<sup>5</sup> Section 119.071(2)(l)1.a., F.S.

<sup>6</sup> *Criminal Justice Agency Profile Survey Results*, FLORIDA DEPARTMENT OF LAW ENFORCEMENT, <http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP.aspx> (last visited Jan. 24, 2020).

<sup>7</sup> 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 Riviera 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. 85-62 (1985).

However, there are certain instances in which a confidential and exempt body camera recording can be disclosed. A law enforcement agency may disclose a recording, or a portion thereof, in furtherance of its official duties and responsibilities or to another governmental agency in furtherance of that agency's official duties and responsibilities.<sup>9</sup> A body camera recording must be disclosed by a law enforcement agency:

- To a person recorded by a body camera, or his or her personal representative; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;
- To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place; and
- Pursuant to a court order.<sup>10</sup>

In determining whether to disclose a body camera recording, a court must consider whether:

- Disclosure is necessary to advance a compelling interest;
- The recording contains information that is otherwise exempt or confidential and exempt under the law;
- The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;
- Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
- Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;
- Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;
- The recording could be redacted to protect privacy interests; and
- There is good cause to disclose all or portions of a recording.<sup>11</sup>

Law enforcement agencies are required to maintain body camera recording data for a minimum of 90 days.<sup>12</sup> In a proceeding to determine whether to disclose a body camera recording, the law enforcement agency that made the recording must be given reasonable notice of the hearing and an opportunity to participate.<sup>13</sup>

The 2015 public necessity statement for the exemption provides the following:

Body cameras preserve information that has the potential to assist both law enforcement officers' and the public's ability to review the circumstances surrounding an event in which law enforcement intervention occurs. . . However, the Legislature also finds that, in certain instances, audio and video recorded by body cameras is significantly more likely to capture highly sensitive personal information than other types of law enforcement recordings or documents. The Legislature finds that public disclosure of these recordings could have an undesirable chilling effect. People who know they are being recorded by a body camera may be unwilling to cooperate fully with law enforcement officers if they know that a body camera recording can be made publicly available to anyone else. People may also be less likely to call a law enforcement agency for services if their sensitive personal information or the circumstances that necessitate a law

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<sup>8</sup> Section 119.071(2)(1)2., F.S.

<sup>9</sup> Section 119.071(2)(1)3., F.S.

<sup>10</sup> Section 119.071(2)(1)4., F.S.

<sup>11</sup> Section 119.071(2)(1)4.d.(I), F.S.

<sup>12</sup> Section 119.071(2)(1)5., F.S.

<sup>13</sup> Section 119.071(2)(1)4.d.(II), F.S.

enforcement agency's involvement are subject to public dissemination as a body camera recording.<sup>14</sup>

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless it is reviewed and saved from repeal through reenactment by the Legislature.<sup>15</sup>

During the 2019 interim, subcommittee staff sent a questionnaire to sheriffs' offices and police departments around the state requesting feedback on their experience with the public record exemption under review.<sup>16</sup> The majority of respondents indicated that they have not had any issues with the exemption and would prefer that the exemption be reenacted without changes.<sup>17</sup> No respondent indicated that his or her office or department would prefer for the exemption to repeal.<sup>18</sup>

### **Effect of the Bill**

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for body camera recordings or portions thereof.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

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.

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<sup>14</sup> Section 2, ch. 2015-41, L.O.F.

<sup>15</sup> Section 119.071(2)(1)8., F.S.

<sup>16</sup> Open Government Sunset Review Questionnaire, Information related to Body Cameras, responses on file with the Oversight, Transparency & Public Management Subcommittee.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

### **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 on an agency nor 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. 119.071, F.S., which  
 4           provides an exemption from public records requirements  
 5           for body camera recordings obtained by law enforcement  
 6           officers under certain circumstances; making editorial  
 7           changes; removing the scheduled repeal of the  
 8           exemption; providing an effective date.

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

11  
 12           Section 1. Paragraph (1) of subsection (2) of section  
 13 119.071, Florida Statutes, is amended to read:

14           119.071 General exemptions from inspection or copying of  
 15 public records.—

16           (2) AGENCY INVESTIGATIONS.—

17           (1)1. As used in this paragraph, the term:

18           a. "Body camera" means a portable electronic recording  
 19 device that is worn on a law enforcement officer's body and that  
 20 records audio and video data in the course of the officer  
 21 performing his or her official duties and responsibilities.

22           b. "Law enforcement officer" has the same meaning as  
 23 provided in s. 943.10.

24           c. "Personal representative" means a parent, a court-  
 25 appointed guardian, an attorney, or an agent of, or a person

26 holding a power of attorney for, a person recorded by a body  
27 camera. If a person depicted in the recording is deceased, the  
28 term also means the personal representative of the estate of the  
29 deceased person; the deceased person's surviving spouse, parent,  
30 or adult child; the deceased person's attorney or agent; or the  
31 parent or guardian of a surviving minor child of the deceased.  
32 An agent must possess written authorization of the recorded  
33 person to act on his or her behalf.

34 2. A body camera recording, or a portion thereof, is  
35 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
36 of the State Constitution if the recording:

- 37 a. Is taken within the interior of a private residence;  
38 b. Is taken within the interior of a facility that offers  
39 health care, mental health care, or social services; or  
40 c. Is taken in a place that a reasonable person would  
41 expect to be private.

42 3. Notwithstanding subparagraph 2., a body camera  
43 recording, or a portion thereof, may be disclosed by a law  
44 enforcement agency:

- 45 a. In furtherance of its official duties and  
46 responsibilities; or  
47 b. To another governmental agency in the furtherance of  
48 its official duties and responsibilities.

49 4. Notwithstanding subparagraph 2., a body camera  
50 recording, or a portion thereof, shall be disclosed by a law



51 enforcement agency:

52 a. To a person recorded by a body camera; however, a law  
53 enforcement agency may disclose only those portions that are  
54 relevant to the person's presence in the recording;

55 b. To the personal representative of a person recorded by  
56 a body camera; however, a law enforcement agency may disclose  
57 only those portions that are relevant to the represented  
58 person's presence in the recording;

59 c. To a person not depicted in a body camera recording if  
60 the recording depicts a place in which the person lawfully  
61 resided, dwelled, or lodged at the time of the recording;  
62 however, a law enforcement agency may disclose only those  
63 portions that record the interior of such a place.

64 d. Pursuant to a court order.

65 (I) In addition to any other grounds the court may  
66 consider in determining whether to order that a body camera  
67 recording be disclosed, the court shall consider whether:

68 (A) Disclosure is necessary to advance a compelling  
69 interest;

70 (B) The recording contains information that is otherwise  
71 exempt or confidential and exempt under the law;

72 (C) The person requesting disclosure is seeking to obtain  
73 evidence to determine legal issues in a case in which the person  
74 is a party;

75 (D) Disclosure would reveal information regarding a person

76 | that is of a highly sensitive personal nature;

77 |       (E) Disclosure may harm the reputation or jeopardize the  
78 | safety of a person depicted in the recording;

79 |       (F) Confidentiality is necessary to prevent a serious and  
80 | imminent threat to the fair, impartial, and orderly  
81 | administration of justice;

82 |       (G) The recording could be redacted to protect privacy  
83 | interests; and

84 |       (H) There is good cause to disclose all or portions of a  
85 | recording.

86 |       (II) In any proceeding regarding the disclosure of a body  
87 | camera recording, the law enforcement agency that made the  
88 | recording shall be given reasonable notice of hearings and shall  
89 | be given an opportunity to participate.

90 |       5. A law enforcement agency must retain a body camera  
91 | recording for at least 90 days.

92 |       6. The exemption provided in subparagraph 2. applies  
93 | retroactively.

94 |       7. This exemption does not supersede any other public  
95 | records exemption that existed before or is created after the  
96 | effective date of this exemption. Those portions of a recording  
97 | which are protected from disclosure by another public records  
98 | exemption shall continue to be exempt or confidential and  
99 | exempt.

100 |       ~~8. This paragraph is subject to the Open Government Sunset~~

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101 | ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
102 | ~~on October 2, 2020, unless reviewed and saved from repeal~~  
103 | ~~through reenactment by the Legislature.~~

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7019 PCB OTM 20-05 OGSR/Human Trafficking Victims  
**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, Shoaf  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7036

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	15 Y, 0 N	Frost	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.

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 victims of human trafficking in 2016, with one in four victims being children. Florida law allows a victim of human trafficking to petition a court for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking. The offense must be related to the human trafficking scheme of which the person was a victim or must have been committed at the direction of an operator of the scheme. The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order.

Current law provides a public record exemption for the following criminal intelligence and criminal investigative information:

- Any information that reveals the identity of a person under the age of 18 who is the victim of a crime of human trafficking for labor or services;
- Any information that reveals the identity of the victim of the crime of child abuse;
- Any information that may reveal the identity of a person who is a victim of any sexual offense;
- Any information that may reveal the identity of a person who is the victim of a crime of human trafficking for commercial sexual activity; and
- A photograph, videotape, or image of any part of the body of a victim of a crime of certain sexual offenses, including human trafficking involving commercial sexual activity.

Additionally, a separate but related public record exemption provides that criminal intelligence and criminal investigative information that reveals or may reveal the identity of a victim of human trafficking whose criminal history has been expunged or ordered expunged is confidential and exempt from public records requirements. The information contained in both exemptions may be shared by a law enforcement agency in certain instances.

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)<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. The act 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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> 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 trafficking<sup>5</sup> is a form of modern-day slavery, which involves exploiting a person for commercial sex or forced labor.<sup>6</sup> An estimated 40.6 million persons were victims of human trafficking in 2016, with one in four victims being children.<sup>7</sup> Human traffickers use various techniques to instill fear in victims and to keep them enslaved<sup>8</sup> including the use of "violence, threats, deception, [and] debt bondage."<sup>9</sup> Some traffickers keep their victims under lock and key.<sup>10</sup> However, the most frequently used practices are less obvious techniques that include isolating a victim from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward a victim or the victim's family; threatening a victim with imprisonment or deportation for immigration violations if he or she contacts authorities; and controlling a victim's access to money by

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Article I, s. 24(c), FLA. CONST.

<sup>5</sup> 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.

<sup>6</sup> Section 787.06(1)(a), F.S.

<sup>7</sup> *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. 24, 2020).

<sup>8</sup> Section 787.06(1)(c), F.S.

<sup>9</sup> *The Facts*, POLARIS PROJECT, <https://polarisproject.org/human-trafficking/facts> (last visited Jan. 24, 2020).

<sup>10</sup> *Id.*

holding on to it, ostensibly for safekeeping.<sup>11</sup> It is estimated that human trafficking “generates \$150 billion dollars in illegal profits a year.”<sup>12</sup>

### Expunction of Human Trafficking Records

In 2013, the Legislature created a process to allow a victim of human trafficking to petition a court for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking. To be eligible for expunction, the offense must be related to a human trafficking scheme of which the person was a victim or must have been committed at the direction of an operator of the scheme.<sup>13</sup>

The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order. Any criminal history record that is ordered expunged must be physically destroyed or obliterated by any criminal justice agency having custody of such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained.<sup>14</sup>

### Public Record Exemptions under Review

Current law provides a public record exemption<sup>15</sup> for criminal intelligence<sup>16</sup> and criminal investigative information<sup>17</sup> that includes:

- Any information that reveals the identity of a victim of the crime of child abuse;<sup>18</sup>
- Any information that may reveal the identity of a person who is a victim of any sexual offense;<sup>19</sup> and
- A photograph, videotape, or image of any part of the body of a victim of a crime of certain sexual offenses.<sup>20</sup>

In 2015, the Legislature expanded the exemption to include:

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;<sup>21</sup>
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity;<sup>22</sup> and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.<sup>23</sup>

In addition, criminal intelligence and criminal investigative information that reveals or may reveal the identity of a victim of human trafficking whose criminal history has been expunged or ordered expunged is confidential and exempt<sup>24</sup> from public records requirements.<sup>25</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> *Profits and Poverty: The Economics of Forced Labour*, INTERNATIONAL LABOUR ORGANIZATION, [http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS\\_243391/lang--en/index.htm](http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang--en/index.htm) (last visited Jan. 21, 2020).

<sup>13</sup> Chapter 2013-99, L.O.F.; codified as s. 943.0583, F.S.

<sup>14</sup> Section 943.045(16), F.S.

<sup>15</sup> Section 119.071(2)(h), F.S.

<sup>16</sup> The term “criminal intelligence information” means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity. Section 119.011(3)(a), F.S.

<sup>17</sup> The term “criminal investigative information” means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance. Section 119.011(3)(b), F.S.

<sup>18</sup> *See* ch. 827, F.S.

<sup>19</sup> *See* chs. 794, 796, 800, 827, and 847, F.S.

<sup>20</sup> *See* s. 810.145, F.S., and chs. 794, 796, 800, 827, and 847, F.S.

<sup>21</sup> *See* s. 787.06(3)(a), F.S.

<sup>22</sup> *See* s. 787.06(3)(b), (d), (f), and (g), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> 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.

While the criminal intelligence and criminal investigative information is confidential and exempt from public records requirements, a law enforcement agency may share such information:

- In the furtherance of its official duties and responsibilities;
- With another governmental agency in the furtherance of its official duties and responsibilities; or
- For print, publication, or broadcast, if the law enforcement agency determines that releasing the information will assist in locating or identifying a person the agency believes is missing or endangered; however, the information provided should be limited to information needed to identify or locate the victim.<sup>26</sup>

The 2015 public necessity statement<sup>27</sup> for the exemption provides the following:

The Legislature finds that it is important to strengthen the protections afforded victims of human trafficking for labor who are minors and victims of human trafficking for commercial sexual activity, regardless of age, in order to ensure their privacy and to prevent their revictimization by making such information confidential and exempt. The identity of these victims is information of a sensitive personal nature. As such, this exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy already visited upon their lives and would be defamatory to or cause unwarranted damage to the good name or reputation of the victims. Protecting the release of identifying information of such victims protects them from further embarrassment, harassment, or injury. The Legislature also finds that it is a public necessity that information in the investigative or intelligence records related to a criminal history record ordered expunged under s. 943.0583, Florida Statutes, which would or could reasonably be expected to reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under s. 943.0583, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Persons who are victims of human trafficking and who have been charged with crimes allegedly committed at the behest of their traffickers are themselves victims of crimes. Such victims face barriers to employment and other life opportunities as long as these criminal charges remain on record and accessible to potential employers and others.<sup>28</sup>

Pursuant to the Open Government Sunset Review Act, the exemptions for human trafficking victim information will repeal on October 2, 2020, unless reenacted by the Legislature.<sup>29</sup>

During the 2019 interim, subcommittee staff sent a questionnaire to the Department of Law Enforcement (FDLE), the Department of Juvenile Justice, and each sheriff's office and police department to gather information concerning the implementation of the exemptions.<sup>30</sup> Of the respondents that possess records covered by the exemptions, a large majority believed that the exemptions should be reenacted without changes.<sup>31</sup> In its response, FDLE indicated that the

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*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 Riviera 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. 85-62(1985).

<sup>25</sup> Section 943.0583(11), F.S.

<sup>26</sup> Sections 119.071(2)(h)2. and 943.0583(11)(b), F.S.

<sup>27</sup> Article I, s. 24(c), FLA. CONST., requires each public record exemption "state with specificity the public necessity justifying the exemption."

<sup>28</sup> Section 3, ch. 2015-146, L.O.F.

<sup>29</sup> Sections 119.071(2)(h)4. and 943.0583(11)(d), F.S.

<sup>30</sup> Open Government Sunset Review Questionnaire, Criminal Intelligence and Investigative Information related to Human Trafficking, responses on file with the Oversight, Transparency & Public Management Subcommittee.

<sup>31</sup> *Id.*



confidential and exempt information has been released for broadcast in the form of Amber Alerts.<sup>32</sup> Additionally, FDLE stated that according to its records 59 people have met the criteria to have their criminal history record expunged under the human trafficking victim expunction provision.<sup>33</sup> Most respondents indicated they believe the exemptions had accomplished their purpose of protecting victims of human trafficking by preventing revictimization and minimizing the trauma to those persons.<sup>34</sup>

### **Effect of the Bill**

The bill removes the scheduled repeal date of the public record exemptions, thereby reenacting the public record exemptions for certain criminal intelligence and criminal investigative information.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 119.071, F.S., to save from repeal the public record exemption for certain criminal intelligence and criminal investigative information related to victims of various crimes.

Section 2 amends s. 943.0583, F.S., to save from repeal the public record exemption for certain criminal intelligence and criminal investigative information that reveals or may reveal the identity of a victim of human trafficking whose criminal history has been expunged or order expunged.

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.

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

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 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. 119.071, F.S., which  
 4           provides an exemption from public records requirements  
 5           for certain criminal intelligence and criminal  
 6           investigative information that reveals the identity of  
 7           a victim of certain human trafficking offenses;  
 8           removing the scheduled repeal of the exemption;  
 9           amending s. 943.0583, F.S., which provides an  
 10          exemption from public records requirements for  
 11          criminal intelligence and criminal investigative  
 12          information revealing the identity of a victim of  
 13          human trafficking whose criminal history record has  
 14          been ordered expunged; removing the scheduled repeal  
 15          of the exemption; providing an effective date.

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

18  
 19           Section 1. Paragraph (h) of subsection (2) of section  
 20           119.071, Florida Statutes, is amended to read:

21           119.071 General exemptions from inspection or copying of  
 22           public records.—

23           (2) AGENCY INVESTIGATIONS.—

24           (h)1. The following criminal intelligence information or  
 25           criminal investigative information is confidential and exempt

26 | from s. 119.07(1) and s. 24(a), Art. I of the State  
27 | Constitution:

28 |       a. Any information that reveals the identity of the victim  
29 | of the crime of child abuse as defined by chapter 827 or that  
30 | reveals the identity of a person under the age of 18 who is the  
31 | victim of the crime of human trafficking proscribed in s.  
32 | 787.06(3) (a).

33 |       b. Any information that may reveal the identity of a  
34 | person who is a victim of any sexual offense, including a sexual  
35 | offense proscribed in s. 787.06(3) (b), (d), (f), or (g), chapter  
36 | 794, chapter 796, chapter 800, chapter 827, or chapter 847.

37 |       c. A photograph, videotape, or image of any part of the  
38 | body of the victim of a sexual offense prohibited under s.  
39 | 787.06(3) (b), (d), (f), or (g), chapter 794, chapter 796,  
40 | chapter 800, s. 810.145, chapter 827, or chapter 847, regardless  
41 | of whether the photograph, videotape, or image identifies the  
42 | victim.

43 |       2. Criminal investigative information and criminal  
44 | intelligence information made confidential and exempt under this  
45 | paragraph may be disclosed by a law enforcement agency:

46 |       a. In the furtherance of its official duties and  
47 | responsibilities.

48 |       b. For print, publication, or broadcast if the law  
49 | enforcement agency determines that such release would assist in  
50 | locating or identifying a person that such agency believes to be

51 missing or endangered. The information provided should be  
52 limited to that needed to identify or locate the victim and not  
53 include the sexual nature of the offense committed against the  
54 person.

55 c. To another governmental agency in the furtherance of  
56 its official duties and responsibilities.

57 3. This exemption applies to such confidential and exempt  
58 criminal intelligence information or criminal investigative  
59 information held by a law enforcement agency before, on, or  
60 after the effective date of the exemption.

61 ~~4. This paragraph is subject to the Open Government Sunset~~  
62 ~~Review Act in accordance with s. 119.15, and shall stand~~  
63 ~~repealed on October 2, 2020, unless reviewed and saved from~~  
64 ~~repeal through reenactment by the Legislature.~~

65 Section 2. Paragraph (d) of subsection (11) of section  
66 943.0583, Florida Statutes, is amended to read:

67 943.0583 Human trafficking victim expunction.—

68 (11)

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

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7027      PCB OTM 20-08      OGSR/ Servicemembers and Families  
**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, Andrade  
**TIED BILLS:**                      **IDEN./SIM. BILLS:** CS/SB 7010

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

Current law provides a public record exemption for identification and location information of current or former members of the United States Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. In order for the exemption to apply, the servicemember or former servicemember must submit to the custodial agency a written request that his or her information be exempt and a written statement that reasonable efforts have been made to protect the identification and location information from being accessible through other means available to the public.

The public record exemption provides that the following "identification and location information" is exempt from public disclosure:

- Home address, telephone number, and date of birth of a servicemember or former servicemember;
- Home address, telephone number, date of birth, and place of employment of the spouse or dependent of a servicemember or former servicemember; and
- Name and location of a school attended by the spouse or dependent of a servicemember or former servicemember, or the day care facility attended by a dependent.

The bill reenacts the public record exemption for the identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. The bill expands the exemption by removing the requirement that a servicemember provide a written statement to the custodial agency attesting that reasonable efforts have been made to protect the exempted information from being accessible through other means available to the public. As a result, the bill extends the repeal date from October 2, 2020, to October 2, 2025. It also provides a public necessity statement as required by the State Constitution.

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

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> 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<sup>5</sup> then a public necessity statement and a two-thirds vote for passage are not required.

##### Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for the identification and location information of current or former members of the United States Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents.<sup>6</sup> Specifically, the public record exemption provides that the following "identification and location information" is exempt<sup>7</sup> from public disclosure:<sup>8</sup>

- Home address, telephone number, and date of birth of the servicemember or former servicemember;
- Home address, telephone number, date of birth, and place of employment of the spouse or dependent of the servicemember or former servicemember; and
- Name and location of a school attended by the spouse or dependent of a servicemember or former servicemember or day care facility attended by a dependent.

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Section 24(c), Art. I of the State Constitution.

<sup>5</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

<sup>6</sup> Chapter 2015-86, L.O.F., codified as s. 119.071(5)(k), F.S.

<sup>7</sup> 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).

<sup>8</sup> Section 119.071(5)(k)2., F.S.



In order for the exemption to apply, the servicemember or former servicemember must submit to the custodial agency a written request to exempt the information from public record requirements.<sup>9</sup> In addition, the servicemember must submit a written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.<sup>10</sup> The 2015 public necessity statement for the exemption provides that:<sup>11</sup>

Servicemembers perform among the most critical, most effective, and most dangerous operations in defense of our nation's freedom. Terrorist groups have threatened servicemembers and their families and have encouraged terrorist sympathizers to harm servicemembers and their families within the United States. One terrorist group has allegedly gathered the photographs and home addresses of servicemembers from public sources to create and publish a list of servicemembers in order to make such persons vulnerable to an act of terrorism. The Legislature finds that allowing continued public access to the identification and location information of current or former servicemember and their families jeopardizes the safety of servicemembers, their spouses, and their dependents. The Legislature finds that protecting the safety and security of current or former members of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, or the National Guard, who served after September 11, 2001, and their spouse and dependents, outweighs any public benefit that may be derived from the public disclosure of the identification and location information.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.<sup>12</sup>

During the 2019 interim, subcommittee staff sent a questionnaire to various state entities regarding the public records exemption. Based on the responses, it appears that some agencies have a difficult time determining whether the servicemember or former servicemember has made reasonable efforts to protect his or her identification and location information. This difficulty is due, in part, to no clear guidance in law on what constitutes "reasonable efforts." As such, it was recommended that the public record exemption be expanded to remove the requirement.

### **Effect of the Bill**

The bill reenacts and expands the public record exemption for identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. The bill expands the exemption by removing the requirement that a servicemember provide a written statement to the custodial agency attesting that reasonable efforts were made to protect the identification and location information from being accessible through other means available to the public. Because the bill expands the current exemption, the bill extends the repeal date from October 2, 2020, to October 2, 2025. It also provides a public necessity statement as required by the State Constitution.

### **B. SECTION DIRECTORY:**

Section 1 amends s. 119.071, F.S., relating to a public record exemption for identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouse and dependents.

Section 2 provides a public necessity statement.

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<sup>9</sup> Section 119.071(5)(k)2.a., F.S.

<sup>10</sup> Section 119.071(5)(k)2.b., F.S.

<sup>11</sup> Section 2, ch. 2015-86, L.O.F.

<sup>12</sup> Section 119.071(5)(k)4., F.S.

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:

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 could have a minimal fiscal impact on agencies who are not currently redacting the identification and location information for current and former servicemembers who have not submitted written information that reasonable efforts were made to protect the identification and location information from being accessible through other means available to the public. The costs, however, would likely be absorbed within existing resources as they are part of the day-to-day responsibilities of the clerks.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not 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:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the

law. The bill expands a public record exemption by removing the requirement that a servicemember provide a statement that reasonable efforts were made to protect his or her identification and location information from being accessible through other means available to the public. The exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

**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 a review under the Open Government  
 3           Sunset Review Act; amending s. 119.071, F.S., which  
 4           provides a public records exemption for the  
 5           identification and location information of  
 6           servicemembers and the spouses and dependents thereof;  
 7           expanding the exemption by removing the requirement  
 8           that a servicemember submit a written statement that  
 9           reasonable efforts have been made to protect the  
 10          information in order to claim the exemption; extending  
 11          the repeal date; providing a statement of public  
 12          necessity; providing an effective date.

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

15  
 16           Section 1. Paragraph (k) of subsection (5) of section  
 17   119.071, Florida Statutes, is amended to read:

18           119.071 General exemptions from inspection or copying of  
 19   public records.—

20           (5) OTHER PERSONAL INFORMATION.—

21           (k)1. For purposes of this paragraph, the term:

22           a. "Identification and location information" means the:

23           (I) Home address, telephone number, and date of birth of a  
 24   servicemember, and the telephone number associated with a  
 25   servicemember's personal communication device.

26 (II) Home address, telephone number, date of birth, and  
 27 place of employment of the spouse or dependent of a  
 28 servicemember, and the telephone number associated with such  
 29 spouse's or dependent's personal communication device.

30 (III) Name and location of a school attended by the spouse  
 31 of a servicemember or a school or day care facility attended by  
 32 a dependent of a servicemember.

33 b. "Servicemember" means a current or former member of the  
 34 Armed Forces of the United States, a reserve component of the  
 35 Armed Forces of the United States, or the National Guard, who  
 36 served after September 11, 2001.

37 2. Identification and location information held by an  
 38 agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the  
 39 State Constitution if a servicemember submits to an agency that  
 40 has custody of the identification and location information:

41 ~~a. a written request to exempt the identification and~~  
 42 ~~location information from public disclosure; and~~

43 ~~b. A written statement that he or she has made reasonable~~  
 44 ~~efforts to protect the identification and location information~~  
 45 ~~from being accessible through other means available to the~~  
 46 ~~public.~~

47 3. This exemption applies to identification and location  
 48 information held by an agency before, on, or after the effective  
 49 date of this exemption.

50 4. This paragraph is subject to the Open Government Sunset

51 | Review Act in accordance with s. 119.15 and shall stand repealed  
52 | on October 2, 2025 ~~2020~~, unless reviewed and saved from repeal  
53 | through reenactment by the Legislature.

54 |       Section 2. The Legislature finds that it is a public  
55 | necessity to make identification and location information of  
56 | current or former members of the Armed Forces of the United  
57 | States, a reserve component of the Armed Forces of the United  
58 | States, or the National Guard, who served after September 11,  
59 | 2001, and the spouses and dependents of servicemembers, exempt  
60 | from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
61 | the State Constitution, regardless of whether such individuals  
62 | made reasonable efforts to protect such information from being  
63 | public. Servicemembers perform among the most critical, most  
64 | effective, and most dangerous operations in defense of our  
65 | nation's freedom. Terrorist groups continue to threaten  
66 | servicemembers and their families and encourage terrorist  
67 | sympathizers to harm servicemembers and their families within  
68 | the United States. The Legislature finds that allowing public  
69 | access to the identification and location information of current  
70 | or former servicemembers and their families jeopardizes the  
71 | safety of servicemembers and their spouses and dependents. The  
72 | Legislature finds that protecting the safety and security of  
73 | current or former members of the Armed Forces of the United  
74 | States, a reserve component of the Armed Forces of the United  
75 | States, or the National Guard, who served after September 11,

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76 | 2001, and their spouses and dependents, outweighs any public  
77 | benefit that may be derived from the public disclosure of the  
78 | identification and location information.

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





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB SAC 20-02 Information about Counties and Municipalities

**SPONSOR(S):** State Affairs Committee

**TIED BILLS:**           **IDEN./SIM. BILLS:** SJR 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Darden	Williamson

**SUMMARY ANALYSIS**

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state. The CFO is responsible for settling and approving accounts against the state, keeping all state funds and securities, and is designated as the State Fire Marshal. The office of CFO was created by Amendment 8 (1998), which merged the offices of Treasurer and Comptroller. The CFO is the head of the Department of Financial Services (DFS). DFS currently receives local government audits and annual financial reports and makes those reports available online.

The joint resolution proposes an amendment to the Florida Constitution to require the CFO to provide information about counties and municipalities, as prescribed by general law, to residents on an annual basis. The required information would allow residents to compare economic and non-economic factors of each local government.

The joint resolution has a nonrecurring fiscal impact on the Department of State for the publication of the proposed constitutional amendment in newspapers of general circulation in each county and for publication of booklets or posters with the amendment language for the supervisors of elections.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 3, 2020. If adopted at the 2020 general election, the resolution would take effect January 5, 2021.

**A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If placed on the ballot, the Constitution requires 60 percent voter approval for passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state.<sup>1</sup> The CFO is responsible for settling and approving accounts against the state and keeping all state funds and securities. The CFO is also designated as the State Fire Marshal.<sup>2</sup> The office of CFO was created by Amendment 8 (1998), which merged the offices of Treasurer and Comptroller.<sup>3</sup> The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal and the Department of Banking and Finance merged into DFS.<sup>4</sup>

The various departments of the executive branch receive their statutory powers, duties and functions either in a general grant of authority to either the department head or the department by name or by a specific grant with reference to a particular named unit. The department head has discretion when allocating or reallocating those powers, duties and functions that are assigned to them or their department in a general manner.<sup>5</sup> If the powers, duties and functions are specifically assigned to a particular unit by statute, they cannot be reallocated by the department head. Rather, they must be reallocated by subsequent legislative enactment. There are similar limitations regarding the allocation and reallocation of existing organizational units or the establishment of new ones, including a restriction on establishing new divisions.

Section 20.121, F.S., establishes the following 13 divisions (and one independent office) within DFS:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;<sup>6</sup>
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;<sup>7</sup>
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.<sup>8</sup> The Financial Services Commission has two

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<sup>1</sup> Art. IV, s. 4, Fla. Const.

<sup>2</sup> S. 633.104(1), F.S.

<sup>3</sup> *Restructuring the State Cabinet*, Fla. Div. of Elections, <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=4> (last visited Jan. 23, 2020).

<sup>4</sup> See ch. 2002-404, Laws of Fla. (creating DFS and providing for reorganization of existing agencies).

<sup>5</sup> S. 20.04(7)(a), F.S.

<sup>6</sup> The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

<sup>7</sup> The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S. for state employees.

<sup>8</sup> S. 20.121(3), F.S.

subunits, the Office of Insurance Regulation and the Office of Financial Regulation.<sup>9</sup> Both subunits are managed by directors selected by the commission and must have at least 5 years of relevant experience in the previous 10 years.<sup>10</sup>

### Local Government Financial Reports

Currently, local government entities that are required to provide an audit under s. 218.39, F.S., must submit an audit report and annual financial report to DFS within 45 days of completion of the audit report, but no later than nine months after the end of the fiscal year.<sup>11</sup> Local government entities that are not required to submit an audit must submit an annual financial report to DFS no later than nine months after the end of the fiscal year.<sup>12</sup> The annual financial report must be signed by the chair of the local governing body and the chief financial officer for the entity.<sup>13</sup> The local government's website must contain a link to the DFS website where an interested person may view the entity's annual financial report.<sup>14</sup>

### **Effect of Proposed Changes**

The joint resolution proposes an amendment to Art. IV, s. 4 of the Florida Constitution to require the CFO to provide information about counties and municipalities, as prescribed by general law, to residents on an annual basis. The required information would allow residents to compare economic and non-economic factors of each local government.

#### **B. SECTION DIRECTORY:**

Not applicable.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

##### **1. Revenues:**

None.

##### **2. Expenditures:**

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions be published in a newspaper of general circulation in each county where a newspaper is published. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot, once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.<sup>15</sup>

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

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

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<sup>9</sup> S. 20.121(3)(a), F.S.

<sup>10</sup> S. 20.121(3)(d), F.S.

<sup>11</sup> S. 218.32(1)(d), F.S. A "local government entity" includes any county, municipality, or special district. S. 218.31(1), F.S.

<sup>12</sup> S. 218.32(1)(e), F.S.

<sup>13</sup> S. 218.32(1)(a), F.S.

<sup>14</sup> S. 218.32(1)(g), F.S.

<sup>15</sup> S. 101.171, F.S.

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 to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>16</sup> The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.<sup>17</sup>

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the next general election; as such, the effective date for the amendment, if approved, will be January 5, 2021.

B. RULE-MAKING AUTHORITY:

The House Joint Resolution neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

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<sup>16</sup> Art. XI, s. 1, Fla. Const.

<sup>17</sup> Art. XI, s. 5, Fla. Const.

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article IV of the State Constitution to require the Chief Financial Officer, as prescribed by general law, to annually provide information about counties and municipalities to residents in a manner that allows residents to compare economic and noneconomic factors of each local government.

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

That the following amendment to Section 4 of Article IV of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IV

Executive

SECTION 4. Cabinet.—

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall

26 | be deemed to prevail.

27 |       (b) The attorney general shall be the chief state legal  
 28 | officer. There is created in the office of the attorney general  
 29 | the position of statewide prosecutor. The statewide prosecutor  
 30 | shall have concurrent jurisdiction with the state attorneys to  
 31 | prosecute violations of criminal laws occurring or having  
 32 | occurred, in two or more judicial circuits as part of a related  
 33 | transaction, or when any such offense is affecting or has  
 34 | affected two or more judicial circuits as provided by general  
 35 | law. The statewide prosecutor shall be appointed by the attorney  
 36 | general from not less than three persons nominated by the  
 37 | judicial nominating commission for the supreme court, or as  
 38 | otherwise provided by general law.

39 |       (c) The chief financial officer shall serve as the chief  
 40 | fiscal officer of the state, and shall:

41 |       (1) Settle and approve accounts against the state; ~~and~~  
 42 | ~~shall~~

43 |       (2) Keep all state funds and securities; and

44 |       (3) As prescribed by general law, annually provide  
 45 | information about counties and municipalities to residents in a  
 46 | manner that allows residents to compare economic and noneconomic  
 47 | factors of each local government.

48 |       (d) The commissioner of agriculture shall have supervision  
 49 | of matters pertaining to agriculture except as otherwise  
 50 | provided by law.

51 (e) The governor as chair, the chief financial officer,  
 52 and the attorney general shall constitute the state board of  
 53 administration, which shall succeed to all the power, control,  
 54 and authority of the state board of administration established  
 55 pursuant to Article IX, Section 16 of the Constitution of 1885,  
 56 and which shall continue as a body at least for the life of  
 57 Article XII, Section 9(c).

58 (f) The governor as chair, the chief financial officer,  
 59 the attorney general, and the commissioner of agriculture shall  
 60 constitute the trustees of the internal improvement trust fund  
 61 and the land acquisition trust fund as provided by law.

62 (g) The governor as chair, the chief financial officer,  
 63 the attorney general, and the commissioner of agriculture shall  
 64 constitute the agency head of the Department of Law Enforcement.  
 65 The Office of Domestic Security and Counterterrorism is created  
 66 within the Department of Law Enforcement. The Office of Domestic  
 67 Security and Counterterrorism shall provide support for  
 68 prosecutors and federal, state, and local law enforcement  
 69 agencies that investigate or analyze information relating to  
 70 attempts or acts of terrorism or that prosecute terrorism, and  
 71 shall perform any other duties that are provided by law.

72 BE IT FURTHER RESOLVED that the following statement be  
 73 placed on the ballot:

74 CONSTITUTIONAL AMENDMENT

75 ARTICLE IV, SECTION 4

76 DUTIES OF THE CHIEF FINANCIAL OFFICER.—Proposing an  
77 amendment to the State Constitution to require the Chief  
78 Financial Officer, as prescribed by general law, to annually  
79 provide information about counties and municipalities to  
80 residents in a manner that allows residents to compare economic  
81 and noneconomic factors of each local government.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SAC 20-03 Local Government Reporting

**SPONSOR(S):** State Affairs Committee

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Darden	Williamson

### SUMMARY ANALYSIS

Each county and municipal budget officer is required, by October 15 of each year, to submit to the Office of Economic and Demographic Research (EDR), in a format and on forms prescribed by EDR, specified information regarding the final budget and the economic status of the local government.

The bill repeals the requirement that county and municipal budget officers report specified information regarding its final budget and the economic status of the local government to EDR. Instead, the bill requires counties and municipalities to submit similar information to DFS. The bill requires each county and municipality, beginning October 15, 2020, and each October 15 thereafter, to submit specified information regarding its fiscal and economic status to the Department of Financial Services (DFS). Specifically, each county and municipality must submit:

- Government spending per resident, including the rate for the five preceding fiscal years, for the county or municipality;
- Government debt per resident, including the rate for the five preceding fiscal years, for the county or municipality;
- Average county or municipal employee salary and the percentage of the budget spent on its employees' salaries and benefits;
- Median income in the county or municipality;
- Average school grade for the county or municipality;
- Crime rate for the county;
- Population of the county or municipality;
- Unemployment rate for the county or municipality;
- Government revenue per resident for the county or municipality; and
- Number of special taxing districts located wholly or partially within the county or municipality.

Beginning January 15, 2021 (and each January 15 thereafter), the bill requires DFS to generate and distribute a local government report depicting the fiscal and economic status of each county and municipality in the state and providing a comparative ranking with all other counties and municipalities. The local government report must be mailed to each household containing a registered voter and must be specific to the household's county (and municipality, if applicable). The report must assist the household in making direct comparisons of fiscal and economic metrics, fit on a single page, use colorful graphics, and provide the required information in an easy-to-understand format.

The bill also requires DFS to establish an interactive website, by January 15, 2021, that allows residents to compare certain information about counties and municipalities.

The bill may have an indeterminate fiscal impact on the state and local governments. See fiscal discussion.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Department of Financial Services

The Department of Financial Services (DFS) was formed, effective January 2003, by the merger of the Department of Insurance, Treasury, State Fire Marshal, and the Department of Banking and Finance.<sup>1</sup> The Chief Financial Officer (CFO) is the head of the department.<sup>2</sup>

Section 20.121, F.S., establishes the following 13 divisions (and one independent office) within DFS:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;<sup>3</sup>
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;<sup>4</sup>
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.<sup>5</sup> The Financial Services Commission has two subunits, the Office of Insurance Regulation and the Office of Financial Regulation.<sup>6</sup> Both subunits are managed by directors selected by the commission and must have at least five years of relevant experience in the previous 10 years.<sup>7</sup>

##### Local Government Reporting

##### *Financial Reports*

Currently, local government entities that are required to provide an audit under s. 218.39, F.S., must submit an audit report and annual financial report to DFS within 45 days of completion of the audit report, but no later than nine months after the end of the fiscal year.<sup>8</sup> Local government entities that are not required to submit an audit must submit an annual financial report to DFS no later than nine months

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<sup>1</sup> See ch. 2002-404, Laws of Fla. (creating DFS and providing for reorganization of existing agencies).

<sup>2</sup> S. 20.121(1), F.S.

<sup>3</sup> The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

<sup>4</sup> The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S., for state employees.

<sup>5</sup> S. 20.121(3), F.S.

<sup>6</sup> S. 20.121(3)(a), F.S.

<sup>7</sup> S. 20.121(3)(d), F.S.

<sup>8</sup> S. 218.32(1)(d), F.S. A "local government entity" includes any county, municipality, or special district. S. 218.31(1), F.S.

after the end of the fiscal year.<sup>9</sup> The annual financial report must be signed by the chair of the local governing body and the chief financial officer for the entity.<sup>10</sup> The local government's website must contain a link to the DFS website where an interested person may view the entity's annual financial report.<sup>11</sup>

### *Budget and Economic Reports*

Each county and municipal budget officer is required, by October 15 of each year, to submit to the Office of Economic and Demographic Research (EDR),<sup>12</sup> in a format and on forms prescribed by EDR, specified information regarding the final budget and the economic status of the local government.<sup>13</sup> Specifically, each county and each municipality must submit:

- Government spending per resident, including the rate for the five preceding fiscal years;
- Government debt per resident, including the rate for the five preceding fiscal years;
- Median income within the county or municipality;
- Average county or municipal employee salary;
- Percent of the entity's budget spent on salaries and benefits for the entity's employees; and
- Number of special taxing districts located wholly or partially within the county or municipality.

### **Effect of Proposed Changes**

The bill repeals provisions requiring county and municipal budget officers to report specified information regarding its final budget and the economic status of the local government to EDR. Instead, the bill requires such local governments to submit similar information to DFS.

Beginning October 15, 2020, and each October 15 thereafter, the bill requires each county and municipality to submit to DFS, in a method and format established by department rule, specified information regarding the fiscal and economic status of the local government. Specifically, each county and municipality must submit:

- Government spending per resident, including the rate for the five preceding fiscal years, for the county or municipality;
- Government debt per resident, including the rate for the five preceding fiscal years, for the county or municipality;
- Average county or municipal employee salary and the percent of the budget spent on its employees' benefits and salaries;
- Median income in the county or municipality;
- Average school grade for the county or municipality;
- Crime rate for the county;
- Population of the county or municipality;
- Unemployment rate for the county or municipality;
- Number of special taxing districts located wholly or partially within the county or municipality; and
- Government revenue per resident for the county or municipality.

By January 15, 2021, the bill requires DFS to establish an interactive website that allows residents to compare the information submitted by each county and municipality.

Beginning January 15, 2021, and each January 15 thereafter, the bill also requires DFS to generate and distribute a local government report depicting the fiscal and economic status of each county and

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<sup>9</sup> S. 218.32(1)(e), F.S.

<sup>10</sup> S. 218.32(1)(a), F.S.

<sup>11</sup> S. 218.32(1)(g), F.S.

<sup>12</sup> The Office of Economic and Demographic Research is an entity established by Joint Rule 3.1 of the Legislature to provide research support services, principally regarding forecasting economic and social trends that affect policymaking, revenues, and appropriations. EDR maintains a compilation of annual reports and data regarding local governments, which can be found at <http://edr.state.fl.us/Content/local-government/index.cfm#reporting> (last visited Jan. 22, 2020).

<sup>13</sup> Ss. 129.03(3)(d) and 166.241(4), F.S.

municipality in the state and providing a comparative ranking with all other counties and municipalities. The local government report must be mailed to each household containing a registered voter and must be specific to the household's county (and municipality, if applicable). Such report must:

- Assist the household in making direct comparisons of fiscal and economic metrics;
- Fit on a single page;
- Use colorful graphics; and
- Provide the required information in an easy-to-understand format.

In addition, the local government report must include the following information reported by the county or municipality:

- Government spending per resident and debt per resident, including the rate for the five preceding years;
- Average county or municipal employee salary;
- Median income in the county or municipality;
- Average school grade for the county or municipality; and
- Crime rate for the county.

The bill authorizes DFS to choose one or more contractors to design and distribute the local government report to residents and to create the interactive website; however, DFS must select contractors through an open request for proposal process pursuant to ch. 287, F.S.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 129.03, F.S., relating to the preparation and adoption of county budgets.

Section 2: Amends s. 166.241, F.S., relating to municipal fiscal years, budgets, and budget amendments.

Section 3: Creates s. 218.323, F.S., relating to county and municipal fiscal and economic information and reporting requirements.

Section 4 Provides the bill takes effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill has an indeterminate negative fiscal impact on expenditures and staff time of DFS. The bill requires DFS, by January 15, 2021, to establish an interactive website that allows residents to compare information about counties and municipalities. The bill also requires DFS, starting January 15, 2021, and each January 15 thereafter, to generate and distribute a local government report to all households in the state containing a registered voter.

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

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill requires each county and municipality to submit electronically certain information regarding its fiscal and economic status to DFS and repeals a requirement that each county and municipality

electronically submit certain information regarding its final budget and economic status to EDR. The submission of this information may have an indeterminate, yet insignificant, fiscal impact on the expenditures and staff time of local governments; however, the information submitted to DFS is largely the same information as is currently submitted to EDR. As such, the fiscal impact of this bill should be minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DFS to establish by rule the method and format for counties and municipalities to submit electronically certain information regarding their fiscal and economic status as required by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to local government reporting;  
 3           amending ss. 129.03 and 166.241, F.S.; deleting an  
 4           annual requirement for county budget officers and  
 5           municipal budget officers, respectively, to report  
 6           specified budget information to the Office of Economic  
 7           and Demographic Research; creating s. 218.323, F.S.;  
 8           providing legislative intent; requiring each county  
 9           and municipality to annually report specified fiscal  
 10          and economic information to the Department of  
 11          Financial Services; requiring the department to adopt  
 12          rules; requiring the department to establish a certain  
 13          website by a specified date; requiring the department  
 14          to annually generate and distribute to residents a  
 15          specified local government report; specifying  
 16          requirements for preparing and distributing the  
 17          report; specifying required information in the report;  
 18          specifying required information on the department's  
 19          website; authorizing the department to select  
 20          contractors for certain purposes; providing a  
 21          procurement requirement; providing an effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:  
 24  
 25

26 Section 1. Paragraph (d) of subsection (3) of section  
 27 129.03, Florida Statutes, is amended to read:

28 129.03 Preparation and adoption of budget.—

29 (3) The county budget officer, after tentatively  
 30 ascertaining the proposed fiscal policies of the board for the  
 31 next fiscal year, shall prepare and present to the board a  
 32 tentative budget for the next fiscal year for each of the funds  
 33 provided in this chapter, including all estimated receipts,  
 34 taxes to be levied, and balances expected to be brought forward  
 35 and all estimated expenditures, reserves, and balances to be  
 36 carried over at the end of the year.

37 ~~(d) By October 15, 2019, and each October 15 annually~~  
 38 ~~thereafter, the county budget officer shall electronically~~  
 39 ~~submit the following information regarding the final budget and~~  
 40 ~~the county's economic status to the Office of Economic and~~  
 41 ~~Demographic Research in the format specified by the office:~~

42 1. ~~Government spending per resident, including, at a~~  
 43 ~~minimum, the spending per resident for the previous 5 fiscal~~  
 44 ~~years.~~

45 2. ~~Government debt per resident, including, at a minimum,~~  
 46 ~~the debt per resident for the previous 5 fiscal years.~~

47 3. ~~Median income within the county.~~

48 4. ~~The average county employee salary.~~

49 5. ~~Percent of budget spent on salaries and benefits for~~  
 50 ~~county employees.~~



51 ~~6. Number of special taxing districts, wholly or~~  
52 ~~partially, within the county.~~

53 Section 2. Subsections (4) and (6) of section 166.241,  
54 Florida Statutes, are amended to read:

55 166.241 Fiscal years, budgets, and budget amendments.—

56 ~~(4) Beginning October 15, 2019, and each October 15~~  
57 ~~thereafter, the municipal budget officer shall electronically~~  
58 ~~submit the following information regarding the final budget and~~  
59 ~~the municipality's economic status to the Office of Economic and~~  
60 ~~Demographic Research in the format specified by the office:~~

61 ~~(a) Government spending per resident, including, at a~~  
62 ~~minimum, the spending per resident for the previous 5 fiscal~~  
63 ~~years.~~

64 ~~(b) Government debt per resident, including, at a minimum,~~  
65 ~~the debt per resident for the previous 5 fiscal years.~~

66 ~~(c) Average municipal employee salary.~~

67 ~~(d) Median income within the municipality.~~

68 ~~(e) Number of special taxing districts wholly or partially~~  
69 ~~within the municipality.~~

70 ~~(f) Percent of budget spent on salaries and benefits for~~  
71 ~~municipal employees.~~

72 (5)(6) If the governing body of a municipality amends the  
73 budget pursuant to paragraph (4)(c) ~~(5)(e)~~, the adopted  
74 amendment must be posted on the official website of the  
75 municipality within 5 days after adoption and must remain on the

76 | website for at least 2 years. If the municipality does not  
 77 | operate an official website, the municipality must, within a  
 78 | reasonable period of time as established by the county or  
 79 | counties in which the municipality is located, transmit the  
 80 | adopted amendment to the manager or administrator of such county  
 81 | or counties who shall post the adopted amendment on the county's  
 82 | website.

83 | Section 3. Section 218.323, Florida Statutes, is created  
 84 | to read:

85 | 218.323 County and municipal fiscal and economic  
 86 | information; reporting requirement.—

87 | (1) The Legislature intends to create an interactive  
 88 | repository for county and municipal financial information and to  
 89 | distribute a report that enables residents to compare the fiscal  
 90 | and economic status of counties and municipalities.

91 | (2) By October 15, 2020, and each October 15 thereafter,  
 92 | each county and each municipality shall electronically submit to  
 93 | the department, in the method and format established by  
 94 | department rule, the information necessary to facilitate the  
 95 | preparation of the local government report and interactive  
 96 | website created pursuant to subsection (3).

97 | (3)(a) By January 15, 2021, the department must establish  
 98 | an interactive website that allows residents to compare certain  
 99 | information about counties and municipalities. By January 15,  
 100 | 2021, and each January 15 thereafter, the department must

101 generate and distribute a local government report depicting the  
102 fiscal and economic status of each county and municipality and  
103 providing a comparative ranking with all other counties and  
104 municipalities in this state.

105 (b) The local government report must be mailed to each  
106 household with a registered voter at the address. The local  
107 government report must be specific to the household's  
108 municipality and county. Each household not residing within a  
109 municipality must receive a local government report specific to  
110 the household's county. The local government report must assist  
111 the household in making direct comparisons of fiscal and  
112 economic metrics, must be a single page and use colorful  
113 graphics, and must provide the following information in an easy  
114 to understand format:

115 1. The government spending per resident, including the  
116 per-resident spending for the past 5 fiscal years. The local  
117 government report must depict total per-resident spending for  
118 the county or municipality, as applicable, and the rank for the  
119 county or municipality compared to all counties or  
120 municipalities, as applicable.

121 2. The government debt per resident, including the per-  
122 resident debt for the previous 5 fiscal years. The local  
123 government report must depict the total debt for the county or  
124 municipality, as applicable, and the rank for the county or  
125 municipality compared to all counties or municipalities, as

126 applicable.

127 3. The average county or municipal employee salary, as  
 128 applicable. The local government report must depict the average  
 129 county or municipal employee salary, as applicable.

130 4. The median income. The local government report must  
 131 depict the median income for the county or municipality, as  
 132 applicable, and the rank for the county or municipality compared  
 133 to all counties or municipalities, as applicable.

134 5. The average school grade for the county or  
 135 municipality, as applicable.

136 6. The crime rate for the county. The local government  
 137 report must depict the crime rate for the county and the rank  
 138 for the county compared to all counties.

139 (c) In addition to the information included in the local  
 140 government report required under paragraph (b), the interactive  
 141 website must, at a minimum, include the following information:

142 1. The population of the county or municipality, as  
 143 applicable.

144 2. The unemployment rate for the county or municipality,  
 145 as applicable.

146 3. The percent of budget spent on salaries and benefits  
 147 for county or municipal employees, as applicable. The website  
 148 must depict the percent of budget spent on salaries and benefits  
 149 for the county or municipality, as applicable, and the rank for  
 150 the county or municipality compared to all counties or

151 municipalities, as applicable.

152 4. The number of special taxing districts, wholly or  
 153 partially, within the county or municipality, as applicable.

154 5. The government revenue per resident for the county or  
 155 municipality, as applicable. The website must depict government  
 156 revenue per resident for the county or municipality, as  
 157 applicable, and the rank for the county or municipality compared  
 158 to all counties or municipalities, as applicable.

159 (4) The department may choose one or more contractors to  
 160 design and distribute the local government report to enable  
 161 residents to compare the fiscal and economic status data  
 162 reported by each county and municipality, and to create the  
 163 interactive website. The department must select contractors  
 164 through an open request for proposal process pursuant to chapter  
 165 287.

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