



State Affairs Committee

**Thursday, February 13, 2020
8:00 AM – 12:00 PM
Morris Hall (17 HOB)**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 2/12/2020 2:42:03PM)

Amended(1)

State Affairs Committee

Start Date and Time: Thursday, February 13, 2020 08:00 am
End Date and Time: Thursday, February 13, 2020 12:00 pm
Location: Morris Hall (17 HOB)
Duration: 4.00 hrs

Consideration of the following bill(s):

HB 1 Dues and Uniform Assessments by Grant, J.
CS/HB 223 Homestead Exemptions by Ways & Means Committee, Buchanan
CS/HB 387 License Plate Fees by Transportation & Infrastructure Subcommittee, Hogan Johnson
CS/CS/HB 391 Transportation Facility Designations by Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Brannan, Fetterhoff
HB 401 Shark Fins by Jacobs
HB 593 Disability Retirement Benefits by Williamson
CS/HB 625 Public Nuisances by Civil Justice Subcommittee, Newton
CS/HB 659 Drones by Agriculture & Natural Resources Appropriations Subcommittee, Fischer
CS/HB 723 Peer-to-Peer Car Sharing by Insurance & Banking Subcommittee, Fischer
CS/HB 757 Cultural Affairs by Oversight, Transparency & Public Management Subcommittee, Raschein
HB 799 Pub. Rec./Trade Secrets by Gregory
CS/HB 801 Public Records by Oversight, Transparency & Public Management Subcommittee, Gregory
CS/HB 821 Pub. Rec. and Meetings/Information Technology Security Information by Oversight, Transparency & Public Management Subcommittee, Williamson
CS/HB 915 Commercial Service Airports by Transportation & Infrastructure Subcommittee, Avila
CS/HB 927 Lake County by Local Administration Subcommittee, Sabatini
CS/HB 931 Pub. Rec./Postconviction Reinvestigative Information by Criminal Justice Subcommittee, Byrd
HB 1135 License Plates by Grant, J.
HB 1149 Local Government Fiscal Transparency by DiCeglie
CS/HB 1185 Ethics Reform by Public Integrity & Ethics Committee, Brannan
HB 1303 Brevard and Volusia Counties by Plasencia
HB 1387 Sale of Surplus State-owned Lands by Grant, J.
HB 1433 Drones by Yarborough, Watson, C.
HB 1463 Dunnellon Airport Authority, Marion County by Stone
HB 7075 OGSR/Animal Medical Records by Oversight, Transparency & Public Management Subcommittee, Stevenson

NOTICE FINALIZED on 02/12/2020 2:42PM by Denson.Tori

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1 Dues and Uniform Assessments

SPONSOR(S): Grant, J.

TIED BILLS: **IDEN./SIM. BILLS:** SB 804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	9 Y, 5 N	Villa	Smith
2) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

Collective bargaining is a constitutional right afforded to public employees in Florida. The State Constitution also provides that Florida is a right to work state; therefore, the right of an individual to work cannot be denied based on membership or non-membership in any employee organization. As such, public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.

Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment. An employee organization that is authorized to represent public employees is known as a certified bargaining agent. A certified bargaining agent may deduct dues and uniform assessments from the salaries of employees who authorize such a deduction. The authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization. The deductions start upon the bargaining agent's written request to the employer. The right to deductions will remain in effect as long as the employee organization remains the certified bargaining agent.

The bill requires a public employee who desires to join an employee organization to sign a membership authorization form. The form must contain an acknowledgement that Florida is a right to work state and union membership is not required as a condition of employment. The authorization form must also provide that union membership and payment of union dues and assessments is voluntary and the employee may not be discriminated against in any manner if he or she refuses to join or financially support a union.

The bill requires an employee organization to revoke an employee's membership upon the employee's written request. The bill prohibits an employer or employee organization from asking an employee to provide a reason for his or her decision to revoke membership in an employee organization.

The bill states that dues and uniform assessments may not be deducted from an employee's salary until the employer receives a signed authorization form from the bargaining agent and is able to confirm with the employee, electronically or otherwise, that he or she authorized such deductions. The bill provides that the deductions are in force for one year and must be reauthorized annually by the employee.

The bill may have an indeterminate, but likely insignificant, fiscal impact on public employers. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Right-to-Work

The State Constitution provides that Florida is a right to work state; therefore, the right of an individual to work cannot be denied based on membership or non-membership in any employee organization.¹ As such, public employees² have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.³

Collective Bargaining

Collective bargaining is a constitutional right afforded to public employees in Florida.⁴ To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.⁵ Through collective bargaining, public employees collectively negotiate with their public employer⁶ in the determination of the terms and conditions of their employment.⁷ The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.⁸

An “employee organization” is any “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.”⁹ An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.¹⁰ A certified bargaining agent is the exclusive representative of all employees in that unit.¹¹

¹ Art. I, s. 6, FLA. CONST.

² Section 447.203(3), F.S., defines the term “public employee” to mean any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
 1. Federal license requirement.
 2. Federal autonomy regarding investigation and disciplining of appointees.
 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

³ Section 447.301(1) and (2), F.S.

⁴ Art. I, s. 6, FLA. CONST.

⁵ Section 447.201, F.S.

⁶ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁷ Section 447.301(2), F.S.

⁸ Section 447.201(3), F.S.

⁹ Section 447.203(11), F.S.

¹⁰ Section 447.203(12), F.S.

¹¹ Section 447.307(1), F.S.

After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of wages, hours, and terms and conditions of employment of the employees.¹² Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.¹³ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁴ Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.¹⁵

Employee Dues

The certified bargaining agent may have its dues and uniform assessments deducted and collected by the public employer from the salaries of those employees who authorize the deductions.¹⁶ Such authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization.¹⁷ The deductions start upon the bargaining agent's written request to the employer.¹⁸ The right to deductions remains in force for as long as the employee organization remains the certified bargaining agent for that group of employees.¹⁹

Effect of the Bill

The bill requires a public employee who desires to join an employee organization to sign a membership authorization form that contains the following acknowledgement:

I acknowledge and understand that Florida is a right to work state and union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

The bill requires an employee organization to revoke an employee's membership upon receipt of the employee's written request. The employee organization and public employer cannot ask the employee to provide a reason for his or her decision to revoke his or her membership in the employee organization. If the employee must complete a form to request revocation, the form may not require a reason for the employee's decision.

The bill revises the requirements for the deduction of dues and requires the employer to verify that the employee authorized the deduction. Specifically, the bill states that dues and uniform assessments may not be deducted from an employee's salary until the employer receives a signed authorization form from the bargaining agent and is able to confirm with the employee, electronically or otherwise, that he or she authorized the deduction of dues and uniform assessments.

The bill provides that the deductions are in force for one year and must be reauthorized annually by the employee.

B. SECTION DIRECTORY:

Section 1 amends s. 447.301, F.S., relating to public employees' rights to join or refrain from joining an employee organization.

¹² Section 447.309(1), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 447.309(5), F.S.

¹⁶ Section 447.303, F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Section 2 amends s. 447.303, F.S., relating to dues and uniform assessments.

Section 3 reenacts s. 110.114, F.S., relating to employee wage deductions.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on employee organizations related to creating authorization and membership forms.

D. FISCAL COMMENTS:

The bill requires a public employer to confirm with the employee that he or she authorized the deduction of dues and uniform assessments prior to commencing the deduction of said dues and assessments from the employee's salary. Currently, employers are not required to verify the dues deduction authorization before beginning the deduction. As such, the verification may result in an indeterminate, but likely insignificant, fiscal impact on public employers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the State Constitution may apply because the bill requires employers to verify, prior to deducting dues and assessments from an employees paycheck, that the employee authorized the deduction of said dues and assessments; however, an exemption may apply because the fiscal impact is likely insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to dues and uniform assessments;
 3 amending s. 447.301, F.S.; requiring specified
 4 information be provided in an employee organization
 5 authorization form; prohibiting certain information
 6 from being elicited from certain employees; amending
 7 s. 447.303, F.S.; revising when certain deductions
 8 commence; requiring annual renewal of the
 9 authorization for such deductions; reenacting s.
 10 110.114(3), F.S., relating to employee wage
 11 deductions, to incorporate the amendments made by the
 12 act; providing an effective date.

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

15
 16 Section 1. Subsection (1) of section 447.301, Florida
 17 Statutes, is amended to read:

18 447.301 Public employees' rights; organization and
 19 representation.—

20 (1) (a) Public employees ~~shall~~ have the right to form,
 21 join, and participate in, or to refrain from forming, joining,
 22 or participating in, any employee organization of their own
 23 choosing.

24 (b)1. An employee who desires to join an employee
 25 organization must sign a membership authorization form with the

26 bargaining agent. The membership form must contain the following
 27 acknowledgment in bold letters and in at least a 14-point type:

28
 29 I acknowledge and understand that Florida is a right
 30 to work state and union membership is not required as
 31 a condition of employment. I understand that union
 32 membership and payment of union dues and assessments
 33 is voluntary and that I may not be discriminated
 34 against in any manner if I refuse to join or
 35 financially support a union.

36
 37 2. An employee organization must revoke an employee's
 38 membership upon receipt of his or her written request for
 39 revocation, except as provided in s. 447.303. An employer or
 40 employee organization may not ask an employee to provide a
 41 reason for his or her decision to revoke his or her membership
 42 in the employee organization. If an employee must complete a
 43 form to request revocation from the employee organization, the
 44 form may not require a reason for the employee's decision to
 45 revoke his or her membership.

46 Section 2. Section 447.303, Florida Statutes, is amended
 47 to read:

48 447.303 Dues; deduction and collection.—An ~~Any~~ employee
 49 organization that ~~which~~ has been certified as a bargaining agent
 50 has ~~shall have~~ the right to have its dues and uniform

51 assessments deducted and collected by the employer from the
52 salaries of those employees who authorize the deduction of said
53 dues and uniform assessments. However, such authorization is
54 revocable at the employee's request upon 30 days' written notice
55 to the employer and employee organization. Said deductions shall
56 commence when the employer receives a signed authorization form
57 from the bargaining agent and is able to confirm with the
58 employee, electronically or by other means, that he or she
59 authorized the deduction of dues and uniform assessments ~~upon~~
60 ~~the bargaining agent's written request to the employer.~~
61 Reasonable costs to the employer of said deductions is ~~shall be~~
62 a proper subject of collective bargaining. Such right to
63 deduction, unless revoked under ~~pursuant to~~ s. 447.507, is ~~shall~~
64 ~~be~~ in force for 1 year after the date the deduction begins and
65 must be reauthorized annually ~~so long as the employee~~
66 ~~organization remains the certified bargaining agent for the~~
67 ~~employees in the unit.~~ The public employer is expressly
68 prohibited from any involvement in the collection of fines,
69 penalties, or special assessments.

70 Section 3. For the purpose of incorporating the amendment
71 made by this act to section 447.303, Florida Statutes, in a
72 reference thereto, subsection (3) of section 110.114, Florida
73 Statutes, is reenacted to read:

74 110.114 Employee wage deductions.—

75 (3) Notwithstanding the provisions of subsections (1) and

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76 (2), the deduction of an employee's membership dues deductions
77 as defined in s. 447.203(15) for an employee organization as
78 defined in s. 447.203(11) shall be authorized or permitted only
79 for an organization that has been certified as the exclusive
80 bargaining agent pursuant to chapter 447 for a unit of state
81 employees in which the employee is included. Such deductions
82 shall be subject to the provisions of s. 447.303.

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

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Grant, J. offered the following:

Amendment (with title amendment)

Remove lines 37-69 and insert:

6 2. An employee organization must revoke an employee's
 7 membership upon receipt of his or her written request for
 8 revocation, except as provided in s. 447.303. If an employee
 9 must complete a form to request revocation from the employee
 10 organization, the form may not require a reason for the
 11 employee's decision to revoke his or her membership.

12 Section 2. Section 447.303, Florida Statutes, is amended
 13 to read:

14 447.303 Dues; deduction and collection.—~~An~~ ~~Any~~ employee
 15 organization that ~~which~~ has been certified as a bargaining agent
 16 has ~~shall have~~ the right to have its dues and uniform

Amendment No.

17 assessments deducted and collected by the employer from the
18 salaries of those employees who authorize the deduction of said
19 dues and uniform assessments. However, such authorization is
20 revocable at the employee's request upon 30 days' written notice
21 to the employer and employee organization. Said deductions shall
22 commence when the employer receives a signed authorization form
23 from the bargaining agent and is able to confirm with the
24 employee, electronically or by other means, that he or she
25 authorized the deduction of dues and uniform assessments ~~upon~~
26 ~~the bargaining agent's written request to the employer.~~
27 Reasonable costs to the employer of said deductions ~~is shall be~~
28 a proper subject of collective bargaining. Such right to
29 deduction, unless revoked under ~~pursuant to~~ s. 447.507, ~~is shall~~
30 ~~be~~ in force until the certified bargaining agent ratifies a new
31 collective bargaining agreement with the public employer or for
32 3 years after the date the deduction begins, whichever is
33 earlier, ~~for~~ so long as the employee organization remains the
34 certified bargaining agent for the employees in the unit. The
35 public employer is expressly prohibited from any involvement in
36 the collection of fines, penalties, or special assessments.

37
38 -----
39 **T I T L E A M E N D M E N T**

40 Remove lines 8-9 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1 (2020)

Amendment No.

41 commence; providing for the termination of the authorization for
42 dues deduction upon a specified period or event; reenacting s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 223 Homestead Exemptions
SPONSOR(S): Ways & Means Committee, Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Darden	Miller
2) Ways & Means Committee	14 Y, 0 N, As CS	Curry	Langston
3) State Affairs Committee		Darden	Williamson

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, school districts, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

A homestead exemption may not be claimed by a person who receives or claims the benefit of an ad valorem tax exemption or tax credit in another state, if permanent residency is required as a basis for granting that ad valorem tax exemption or tax credit.

The bill classifies certain title transfers by joint tenants with rights of survivorship as transfers that do not constitute a change of ownership for purposes of claiming a homestead exemption. The bill provides that a person receiving a homestead ad valorem tax exemption in Florida and simultaneously receiving, in another state, a similar exemption that requires permanent residency in that state is entitled to the Florida homestead exemption if that person or family unit can demonstrate, to the property appraiser's satisfaction, that they did not apply for the exemption or credit and that they are no longer receiving or will no longer receive the exemption or credit in the other state. The provisions of the bill apply to tax exemptions or tax credits in another state for which a benefit was received after 2009 and are discovered by the property appraiser after July 1, 2020. The bill also provides that an automatic renewal of a tax exemption or tax credit constitutes an application for the exemption or credit if the renewal is subsequent to the initial application.

The bill requires the forms to claim a homestead exemption to ask the taxpayer whether he or she receives an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for the granting of that exemption.

The bill will have an indeterminate negative impact on local government revenues.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Property Tax

Ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts.¹ The tax is based on the taxable value of property as of January 1 of each year.² The property appraiser annually determines the assessed or “just value”³ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁴ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁵ however, the Florida Constitution authorizes certain types of property to be valued based on current use (classified use assessments), which often result in lower assessments. Properties receiving classified use treatment in Florida include agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for non-commercial recreational purposes;⁶ land used for conservation purposes;⁷ historic properties when authorized by the county or municipality;⁸ and certain working waterfront property.⁹

Homestead Exemption

Every person having legal and equitable title to real estate who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹⁰ An additional \$25,000 exemption applies to homestead property valued between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

A homestead exemption may not be claimed by a person who receives or claims the benefit of an ad valorem tax exemption or tax credit in another state, if permanent residency is required as a basis for granting that ad valorem tax exemption or tax credit.¹¹

¹ The Florida Constitution prohibits the state from levying ad valorem taxes. Art. VII, s. 1(a), Fla. Const.

² Both real property and tangible personal property are subject to ad valorem tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines the term “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

³ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. Art. VII, s. 4, Fla. Const. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴ *See* s. 192.001(2) and (16), F.S. The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized. Art. VII, s. 4, Fla. Const.

⁵ S. 193.011(2), F.S.

⁶ Art. VII, s. 4(a), Fla. Const.

⁷ Art. VII, s. 4(b), Fla. Const.

⁸ Art. VII, s. 4(e), Fla. Const.

⁹ Art. VII, s. 4(j), Fla. Const.

¹⁰ Art. VII, s. 6(a), Fla. Const.

¹¹ S. 196.031(5), F.S.

Assessment Limitations

When a homestead owner sells homestead property and purchases a new homestead, he or she is entitled to transfer a portion of the assessment limitation accrued on the prior homestead to his or her new homestead.¹² Property generally is assessed at just value on January 1 of the year following a “change in ownership,” except where the same person is entitled to the homestead exemption and:¹³

- The transfer of title was to correct an error;
- The transfer is between legal and equitable title or equitable and equitable title and no additional person applies for a homestead exemption on the property;
- The change or transfer is by means of an instrument in which the owner is listed as both grantor and grantee of the real property and one or more other individuals are additionally named as grantee;¹⁴ or
- The person is the holder of certain types of long-term leases.¹⁵

Additionally, a change in ownership does not occur where:¹⁶

- Legal or equitable title is changed or transferred between husband and wife, including a change or transfer to a surviving spouse or a transfer due to a dissolution of marriage;
- A property owner dies intestate and title is transferred to a surviving spouse or minor child(ren); or
- Title is transferred between the owner and another who is a permanent resident and who is legally or naturally dependent upon the owner, if the transfer occurs upon the death of the owner.

Improperly Granted Homestead Exemptions

Florida provides several property tax exemptions for homestead property.¹⁷ Since Florida’s homestead tax exemptions require that the property owner use the homestead property as a permanent residence, a property owner can only have one exempt homestead.

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.¹⁸ The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser may file a tax lien.¹⁹ The tax lien remains on the property until it is paid or until it expires after 20 years.²⁰

If a homestead exemption is improperly granted due to a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption may not be assessed penalties and interest.²¹

The property appraiser may become aware of a property owner having a homestead within Florida and a homestead exemption in another state when the property owner dies and the estate of the decedent is administered in another state because the decedent allegedly was a resident of that other state.²² In

¹² See Fla. Const. Art. VII, s. 4(d)(8).

¹³ S. 193.155(3)(a), F.S. A “change in ownership” occurs during any sale, foreclosure, or transfer of legal or beneficial title.

¹⁴ This transfer is considered a change in ownership if the additional person named as a grantee applies for a homestead exemption on the property. S. 193.155(3)(a)1.c., F.S.

¹⁵ See s. 196.041(1), F.S.

¹⁶ S. 193.155(3)(a)2.-4., F.S.

¹⁷ See, e.g., ss. 196.031, 196.071, 196.075, 196.081, and 196.091, F.S.

¹⁸ See ss. 196.011(9)(a), 196.075, and 196.161(1)(b), F.S.

¹⁹ *Id.*

²⁰ S. 95.091(1)(b), F.S.

²¹ S. 196.161, F.S.

²² See s. 196.161(1)(a), F.S.

such cases, property appraisers must use the lien process described above, unless the circuit court having jurisdiction over the ancillary administration of the estate in Florida determines that the decedent was a resident of Florida for the years in question.²³

Effect of Proposed Changes

The bill classifies certain transfers of title related to joint tenants with rights of survivorship as transfers that do not constitute a change of ownership for purposes of claiming a homestead exemption.

Specifically, the bill provides that no change in ownership occurs where:

- An owner entitled to the homestead exemption is listed as both a grantor and grantee and one or more other individuals, all of whom hold title as joint tenants with rights of survivorship with the owner, are named only as grantors and are removed from the title, or
- A transfer occurs upon the death of one or more owners of a property held by multiple owners as joint tenants with rights of survivorship, if one or more owners were entitled to and received homestead property on the property and continue to be entitled to and receive the homestead exemption after the transfer.

The bill provides that a person or family unit receiving a homestead ad valorem tax exemption in Florida and simultaneously receiving, in another state, a similar exemption requiring permanent residency in that state is entitled to the Florida homestead exemption if that person or family unit can demonstrate, to the property appraiser's satisfaction, that they did not apply for the exemption or credit and that they are no longer receiving or will no longer receive the exemption or credit in the other state.²⁴ The provisions of the bill relating to homestead exemption disqualification apply to tax exemptions or tax credits in another state for which a benefit was received after 2009, and are discovered by the property appraiser after July 1, 2020. The bill also provides that an automatic renewal of a tax exemption or tax credit constitutes an application for the exemption or credit if the renewal is subsequent to the initial application.

The bill requires the forms to claim homestead exemption that are promulgated by the Department of Revenue to ask the taxpayer whether he or she receives an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for the granting of that exemption.

B. SECTION DIRECTORY:

Section 1: Amends s. 193.155, F.S., providing exceptions related to change of ownership for purposes of certain homestead assessment limitations.

Section 2: Amends s. 196.031, F.S., concerning eligibility for homestead exemption.

Section 3: Creates an undesignated section of law providing that the bill's amendments to s. 196.031, F.S., apply to tax exemptions and credits received after 2009 and discovered by the property appraiser after July 1, 2020.

Section 4: Amends s. 196.121, F.S., concerning homestead exemption forms.

Section 5: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

²³ *Id.*

²⁴ This provision may expand the number of property owners eligible for homestead exemption. *See Fitts v. Furst*, 44 Fla. L. Weekly D2314, at 6, n. 5 (Fla. 2nd DCA Sept. 13, 2019) (stating similar language in HB 1151 (2019), if it had been current law when the tax liability arose, would have enabled the plaintiffs in that case to show they were not "person[s] who [were] not entitled to a homestead exemption [but] w[ere] granted a homestead exemption.")

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Based on an analysis of a similar bill by the Revenue Estimating Conference, staff estimates that the bill will have an indeterminate negative impact on local government revenues.

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 county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces the ability of local governments to collect property taxes owed from prior years when a homestead exemption was being used in Florida and a similar tax benefit was being used in another state. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Revenue form furnished to taxpayers relating to homestead exemptions to ask the taxpayer whether he or she receives an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for the granting of that exemption. The department has sufficient rulemaking authority to comply with this requirement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 27, 2020, the Ways & Means Committee adopted a strike-all amendment as amended and reported the bill favorably as a committee substitute.

The committee substitute classifies certain title transfers related to joint tenants with rights of survivorship as transfers that do not constitute a change of ownership. The amendment provides that a title transfer when the owner entitled to the homestead exemption is listed as both a grantor and grantee and one or more other individuals, all of whom hold title as joint tenants with rights of survivorship with the owner, are named only as grantors and are removed from the title will not constitute a change of ownership. The

amendment also provides that a change of ownership does not occur when a transfer of title occurs with respect to property where:

- Multiple owners hold title as joint tenants with rights of survivorship;
- One or more owners were entitled to and received the homestead exemption on the property;
- Death of one or more owners occurs; and
- Subsequent to the transfer, the surviving owner or owners previously entitled to and receiving the homestead exemption continue to be entitled to and receive the homestead exemption.

The committee substitute clears up ambiguity in the bill by clarifying when the person or family unit must demonstrate to the property appraiser that they are entitled to the Florida homestead exemption when the person or family unit is simultaneously receiving a similar benefit in another state, and requires the person or family unit to demonstrate that they have or will relinquish the tax exemption or credit in the other state.

The committee substitute also clarifies that an automatic renewal of a tax exemption or tax credit constitutes an application for the exemption or credit if the renewal is subsequent to the initial application. The committee substitute clarifies applicability by specifying that the provisions of the bill relating to homestead exemption disqualification apply to tax exemptions or tax credits in another state for which a benefit was received after 2009, and are discovered by the property appraiser after July 1, 2020.

This analysis is drafted to the committee substitute as approved by the Ways & Means Committee.

A bill to be entitled

An act relating to homestead exemptions; amending s. 193.155, F.S.; providing exceptions to the definition of the term "change of ownership" for purposes of a certain homestead assessment limitation; amending s. 196.031, F.S.; providing that a person or family unit receiving or claiming the benefit of certain ad valorem tax exemptions or tax credits in another state is not entitled to the homestead exemption in this state unless the person or family unit demonstrates to the property appraiser that certain conditions have been met; providing for construction and retroactive applicability; amending s. 196.121, F.S.; providing that homestead exemption forms prescribed by the Department of Revenue may include taxpayer information relating to ad valorem tax exemptions or tax credits in another state; providing applicability; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving

26 | the homestead exemption after January 1, 1994, shall be assessed
27 | at just value as of January 1 of the year in which the property
28 | receives the exemption unless the provisions of subsection (8)
29 | apply.

30 | (3) (a) Except as provided in this subsection or subsection
31 | (8), property assessed under this section shall be assessed at
32 | just value as of January 1 of the year following a change of
33 | ownership. Thereafter, the annual changes in the assessed value
34 | of the property are subject to the limitations in subsections
35 | (1) and (2). For the purpose of this section, a change of
36 | ownership means any sale, foreclosure, or transfer of legal
37 | title or beneficial title in equity to any person, except if:

38 | 1. Subsequent to the change or transfer, the same person
39 | is entitled to the homestead exemption as was previously
40 | entitled and:

41 | a. The transfer of title is to correct an error;

42 | b. The transfer is between legal and equitable title or
43 | equitable and equitable title and no additional person applies
44 | for a homestead exemption on the property;

45 | c. The change or transfer is by means of an instrument in
46 | which the owner is listed as both grantor and grantee of the
47 | real property and one or more other individuals are additionally
48 | named as grantee. However, if any individual who is additionally
49 | named as a grantee applies for a homestead exemption on the
50 | property, the application is considered a change of ownership;

51 ~~or~~

52 d. The change or transfer is by means of an instrument in

53 which the owner entitled to the homestead exemption is listed as

54 both grantor and grantee of the real property and one or more

55 other individuals, all of whom held title as joint tenants with

56 rights of survivorship with the owner, are named only as

57 grantors and are removed from the title; or

58 ~~e.d.~~ The person is a lessee entitled to the homestead

59 exemption under s. 196.041(1);~~;~~

60 2. Legal or equitable title is changed or transferred

61 between husband and wife, including a change or transfer to a

62 surviving spouse or a transfer due to a dissolution of marriage;

63 3. The transfer occurs by operation of law to the

64 surviving spouse or minor child or children under s. 732.401; ~~or~~

65 4. Upon the death of the owner, the transfer is between

66 the owner and another who is a permanent resident and who is

67 legally or naturally dependent upon the owner; or

68 5. The transfer occurs with respect to a property where:

69 a. Multiple owners hold title as joint tenants with rights

70 of survivorship;

71 b. One or more owners were entitled to and received the

72 homestead exemption on the property;

73 c. Death of one or more owners occurs; and

74 d. Subsequent to the transfer, the surviving owner or

75 owners previously entitled to and receiving the homestead

76 exemption continue to be entitled to and receive the homestead
 77 exemption.

78 Section 2. Subsection (5) of section 196.031, Florida
 79 Statutes, is amended to read:

80 196.031 Exemption of homesteads.—

81 (5) (a) A person or family unit that ~~who~~ is receiving or
 82 claiming the benefit of an ad valorem tax exemption or a tax
 83 credit in another state where permanent residency is required as
 84 a basis for the granting of that ad valorem tax exemption or tax
 85 credit is not entitled to the homestead exemption provided by
 86 this section, unless, upon a determination by the property
 87 appraiser that the person or family unit is receiving or has
 88 received the tax exemption or tax credit in another state, that
 89 person or family unit demonstrates to the satisfaction of the
 90 property appraiser that the person or family unit:

91 1. Did not apply for the tax exemption or tax credit in
 92 the other state; and

93 2. Is no longer receiving or will no longer receive the
 94 tax exemption or tax credit in the other state.

95
 96 For purposes of this paragraph, an automatic renewal of a tax
 97 exemption or tax credit constitutes application for the tax
 98 exemption or tax credit if the automatic renewal occurs
 99 subsequent to an initial application by the person or family
 100 unit.

101 (b) This subsection does not apply to a person or family
102 unit that ~~who~~ has the legal or equitable title to real estate in
103 Florida and maintains thereon the permanent residence of another
104 legally or naturally dependent upon the owner.

105 Section 3. The provisions of this act relating to
106 subsection 196.031(5), Florida Statutes, amending conditions
107 under which a person or family unit is not entitled to the
108 homestead exemption, apply to tax exemptions or tax credits in
109 another state for which a benefit for an ad valorem tax
110 exemption or a tax credit was received after 2009, and that are
111 discovered by a property appraiser after July 1, 2020.

112 Section 4. Subsection (2) of section 196.121, Florida
113 Statutes, is amended to read:

114 196.121 Homestead exemptions; forms.-

115 (2) The forms shall require the taxpayer to furnish
116 certain information to the property appraiser for the purpose of
117 determining that the taxpayer is a permanent resident as defined
118 in s. 196.012(16). Such information may include, but need not be
119 limited to, the factors enumerated in s. 196.015 and any ad
120 valorem tax exemption or tax credit granted in another state
121 where permanent residency is required as a basis for the
122 granting of the ad valorem tax exemption or tax credit described
123 in s. 196.031(5).

124 Section 5. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 387 Specialty License Plate Fees

SPONSOR(S): Transportation & Infrastructure Subcommittee, Hogan Johnson and others

TIED BILLS: HB 1135 **IDEN./SIM. BILLS:** CS/SB 414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	10 Y, 0 N	Hicks	Davis
3) State Affairs Committee		Johnson	Williamson

SUMMARY ANALYSIS

There are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional annual use fee for such plate. The fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity.

HB 1135 (2020), which this bill is linked to, creates various specialty license plates and provides for the design of each plate and the use of the annual use fees associated with each plate.

The bill creates a uniform annual use fee for specialty license plates. Specifically, the bill provides that unless the amount of an annual use fee is otherwise specified for a particular specialty license plate, the annual use fee of \$25 will be charged for any specialty license plate that is required to be developed. The bill also establishes an annual use fee of \$50 for the Auburn University, University of Georgia, and University of Alabama specialty license plates.

The bill will have a negative, but insignificant, fiscal impact on DHSMV associated with programming costs. These costs can be absorbed within existing resources.

This bill authorizes a new state fee, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Legislation Imposing or Raising State Fees or Taxes

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.¹ For purposes of this requirement, a “fee” is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to “raise” a fee or tax means to:²

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.³

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.⁴

Specialty License Plates

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and 10 Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.⁵ The fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. A vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor is not eligible for specialty license plates.⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷ The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁸

HB 1135 (2020)

HB 1135 (2020), which this bill is linked to, creates 19 new specialty license plates and provides for their design and the use of their annual use fees.

¹ Fla. Const. art. VII, s. 19(a)-(b).

² Fla. Const. art. VII, s. 19(d).

³ Fla. Const. art. VII, s. 19(e).

⁴ Fla. Const. art. VII s. 19(c).

⁵ The annual use fees for specific specialty license plates are provided in s. 320.08056(4), F.S.

⁶ Section 320.08056(2), F.S.

⁷ Section 320.08062, F. S.

⁸ Section 320.08056(10)(a), F.S.

Effect of Proposed Changes

The bill creates a uniform annual use fee for specialty license plates. Specifically, the bill provides that unless the amount of an annual use fee is otherwise specified for a particular specialty license plate, an annual use fee of \$25 will be charged.

The bill also establishes an annual use fee of \$50 for the Auburn University, University of Georgia, and University of Alabama specialty license plates.

B. SECTION DIRECTORY:

Section 1 amends s. 320.08056, F.S., relating to specialty license plates.

Section 2 provides that this act takes effect on the same date that HB 1135 (2020) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have a negative, but insignificant, fiscal impact on DHSMV associated with programming costs. These costs can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Recipient organizations may see an increase in revenues associated with the sale of specialty license plates.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate

Article VII, s. 19 of the Florida Constitution because the bill authorizes a \$25 fee for specialty license plates and a \$50 fee for specialty license plates for out-of-state universities.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 21, 2020, the Transportation & Infrastructure Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The bill, as originally filed, provided for a \$25 annual use fee for the Highwaymen specialty license plate. The PCS provided that unless the amount of an annual use fee is specified in statute, the annual use fee would be \$25. The PCS also established a \$50 annual use fee for the Auburn University, University of Georgia, and University of Alabama specialty license plates.

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 license plate fees; amending s.
 3 320.08056, F.S.; providing for collection of a uniform
 4 annual use fee for a specialty license plate unless
 5 otherwise specified; establishing annual use fees for
 6 certain specialty license plates; providing a
 7 contingent effective date.

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

10
 11 Section 1. Paragraph (d) of subsection (3) of section
 12 320.08056, Florida Statutes, is amended, and paragraphs (z),
 13 (aa), and (bb) are added to subsection (4) of that section, as
 14 amended by HB 1135, 2020 Regular Session, to read:

15 320.08056 Specialty license plates.—

16 (3) Each request must be made annually to the department
 17 or an authorized agent serving on behalf of the department,
 18 accompanied by the following tax and fees:

19 (d) Unless the amount of an annual use fee is otherwise
 20 specified ~~A license plate annual use fee as required in~~
 21 subsubsection (4) for a particular specialty license plate, an
 22 annual use fee of \$25 for any specialty license plate that is
 23 required to be developed under s. 320.08058.

24
 25 A request may be made any time during a registration period. If

26 | a request is made for a specialty license plate to replace a
27 | current valid license plate, the specialty license plate must be
28 | issued with appropriate decals attached at no tax for the plate,
29 | but all fees and service charges must be paid. If a request is
30 | made for a specialty license plate at the beginning of the
31 | registration period, the tax, together with all applicable fees
32 | and service charges, must be paid.

33 | (4) The following license plate annual use fees shall be
34 | collected for the appropriate specialty license plates:

35 | (z) Auburn University license plate, \$50.

36 | (aa) University of Georgia license plate, \$50.

37 | (bb) University of Alabama license plate, \$50.

38 | Section 2. This act shall take effect on the same date
39 | that HB 1135 or similar legislation takes effect, if such
40 | legislation is adopted in the same legislative session or an
41 | extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 391 Transportation Facility Designations

SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Brannan and Fetterhoff

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	12 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Davis	Davis
3) State Affairs Committee		Johnson	Williamson

SUMMARY ANALYSIS

State law authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings. State law also requires the appropriate city or county commission to pass a resolution supporting the designation prior to the erection of markers indicating the designation.

The bill designates the Austin D. Gay Memorial Highway in Columbia County, the Wesley L. Silas Memorial Highway in Suwannee County, the Joshua S. Montaad Memorial Highway in Taylor County, and the Sergeant Tracy Vickers Memorial Expressway in Orange County, and directs the Department of Transportation (DOT) to erect suitable markers for each of these designations.

DOT estimates a \$4,000 negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the above designations. This cost can be absorbed within existing DOT resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Designations

Section 267.062, F.S., provides for the naming of state buildings and other facilities. The statute provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.

Section 334.071, F.S., authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

Road Markers

The Department of Transportation (DOT) must place a marker at each termini or intersection of an identified road or bridge and erect other markers it deems appropriate for the transportation facility. The appropriate city or county commission must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of the Bill

The bill provides honorary designations for three Department of Agriculture and Consumer Services law enforcement personnel killed in the line of duty, and a designation for a member of the Florida Highway Patrol who also died in the line of duty.

The bill requires DOT to erect suitable markers designating each of the below designations.

Subsection 1 designates that portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County as the “Austin D. Gay Memorial Highway.”

On April 14 1979, Inspector Gay was shot and killed after being abducted from his inspection station on U.S. 441.¹

Subsection 2 designates that portion of I-10 between the Madison County line and mile marker 275 in Suwannee County as the “Wesley L. Silas Memorial Highway.”

On March 1, 1994, Officer Silas was killed after being struck by a tractor trailer at the Agricultural Inspection Station on I-10 near Live Oak.²

Subsection 3 designates that portion of U.S. 19 between Luther Wilson Road and the Econfina River Bridge in Taylor County as the “Joshua S. Montaad Memorial Highway.”

On June 6, 2017, Officer Montaad was killed in a single vehicle crash on U.S. 19 in Taylor County, when his patrol car left the roadway and struck a tree and caught fire.³

¹ <https://www.odmp.org/officer/20615-inspector-austin-dewey-gay> (Last visited Oct. 18, 2019).

² <https://www.odmp.org/officer/986-officer-wesley-l-silas> (Last visited Oct. 18, 2019).

³ <https://www.odmp.org/officer/23268-officer-joshua-sanchez-montaad> (Last visited Oct. 18, 2019).

Subsection 4 designates that portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Dr. and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”

On September 27, 2019, Sergeant Vickers was killed as a result of a crash when his patrol car struck a construction truck in Orange County.⁴

B. SECTION DIRECTORY:

Section 1 provides honorary designations of various transportation facilities and directs DOT to erect suitable markers.

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 does not impact state government revenues.

2. Expenditures:

DOT estimates a cost of \$1,000 per designation for the appropriate markers, which provides for two signs per designation at \$500 per sign.⁵ Therefore, the bill has an estimated negative fiscal impact of \$4,000 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not impact local government revenues.

2. Expenditures:

The bill does not impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

⁴ <https://www.flhsmv.gov/florida-highway-patrol/fhp-memorial/tracy-vickers/> (Last Visited Jan. 30, 2020).

⁵ Email from Amanda Marsh, Office of Legislative Programs, Florida Department of Transportation, RE: Road Designation Fiscal (Aug. 14, 2019). Copy on file with the Transportation & Infrastructure Subcommittee.

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

On November 13, 2019, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified that the Wesley L. Silas Memorial Highway designation begins at the Madison County line in Suwannee County.

On January 22, 2020, the Transportation & Tourism Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment created an additional honorary designation for Sergeant Tracy Vickers.

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

1 A bill to be entitled
 2 An act relating to transportation facility
 3 designations; providing honorary designations of
 4 certain transportation facilities in specified
 5 counties; directing the Department of Transportation
 6 to erect suitable markers; providing an effective
 7 date.

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

10
 11 Section 1. Transportation facility designations;
 12 Department of Transportation to erect suitable markers.-

13 (1) That portion of U.S. 441 between Deep Creek Bridge and
 14 C.R. 6 in Columbia County is designated as "Austin D. Gay
 15 Memorial Highway."

16 (2) That portion of I-10 between the Madison County line
 17 and mile marker 275 in Suwannee County is designated as "Wesley
 18 L. Silas Memorial Highway."

19 (3) That portion of U.S. 19 between Luther Wilson Road and
 20 the Econfina River Bridge in Taylor County is designated as
 21 "Joshua S. Montaad Memorial Highway."

22 (4) That portion of S.R. 408/Spessard L. Holland East-West
 23 Expressway between S. Crystal Lake Drive and S. Semoran
 24 Boulevard in Orange County is designated as "Sergeant Tracy
 25 Vickers Memorial Expressway."

26 (5) The Department of Transportation is directed to erect
27 suitable markers designating the transportation facilities as
28 described in this section.

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

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Remove lines 26-28 and insert:

6 (5) That portion of I-95 between mile markers 105 and 110
7 in Martin County is designated as the "Trooper Joseph Bullock
8 Memorial Highway."

9 (6) That portion of I-95 between the Florida state line in
10 Nassau County and S.W. 32nd Road in Miami-Dade County is
11 designated as "Purple Heart Memorial Highway."

12 (7) That portion of U.S. 98 between C.R. 386 and Pine
13 Street in Gulf County is designated as "Willis V. Rowan Memorial
14 Highway."

15 (8) That portion of U.S. 98 between Pine Street and C.R.
16 382/Industrial Road in Gulf County is designated as "John C.

Amendment No.

17 Gainous Memorial Highway."

18 (9) That portion of S.R. 438 between Winters Landing Drive
19 and Clarke Road in Orange County is designated as "Julius 'July'
20 Perry Memorial Highway."

21 (10) Bridge numbers 880052, 880051, 880050, and 880053 on
22 S.R. 510 between Wabasso and Wabasso Beach in Indian River
23 County are designated as the "A.B. Michael Bridges."

24 (11) That portion of U.S. 90/Beaver Street between Chaffee
25 Road and U.S. 301 in Duval County is designated as "John B.
26 Coxwell Memorial Highway."

27 (12) Bridge number 930361 on S.R. A1A/Jack Nicklaus Drive
28 in Palm Beach County is designated as "Gold Star Family Memorial
29 Bridge, dedicated to Army Capt. Joseph M. Berkson."

30 (13) That portion of U.S. 41/S.W. 8th Street between S.W.
31 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County is
32 designated as "Manuel H. 'Manny' Piedra Memorial Highway."

33 (14) That portion of S.R. 285 between S.R. 20 and College
34 Boulevard in Okaloosa County is designated as "Mayor Randall
35 Wise Memorial Highway."

36 (15) Upon completion of construction, that portion of S.R.
37 64 and Pope Road/Greyhawk Boulevard in Manatee County is
38 designated as "Chase Coyner and Matthew Powers Memorial
39 Roundabout."

Amendment No.

40 (16) Bridge Nos. 280070 and 280071 on S.R. 223 in Bradford
41 County are designated as "Archibald Johns Thomas Memorial
42 Bridges."

43 (17) The Department of Transportation is directed to erect
44 suitable markers designating the transportation facilities as
45 described in this section.

46 Section 2. Subsection (40) of Section 21 of Chapter 2019-
47 169, 2019 Laws of Florida is amended to read:

48 Section 21. Transportation facility designations;
49 Department of Transportation to erect suitable markers.—

50 (40) That portion of S.R. 535 between S.R. 91/Florida's
51 Turnpike S.R. 526 in Orange County and the Osceola County line
52 in Orange County is designated as "Robert L. 'Bob' Billingslea
53 Highway."

54 Section 3. Section 7 of chapter 2014-228, Laws of Florida,
55 is amended to read:

56 Section 7. Brigadier General ~~Colonel~~ Bud Day Overpass
57 designated; Department of Transportation to erect suitable
58 markers.—

59 (1) The Hurlburt Field Air Force Base overpass on U.S. 98
60 in Okaloosa County is designated as "Brigadier General ~~Colonel~~
61 Bud Day Overpass."

62 (2) The Department of Transportation is directed to erect
63 suitable markers designating Brigadier General ~~Colonel~~ Bud Day
64 Overpass as described in subsection (1).

Amendment No.

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

Remove line 6 and insert:

to erect suitable markers; amending chs. 2019-169 and 2014-228,
Laws of Florida; revising honorary designations of certain
transportation facilities in specified counties; providing an
effective

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 391 (2020)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

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

3
4 **Amendment to Amendment (724723) by Representative Brannan**

5 Between lines 42 and 43 of the amendment, insert:

6 (17) The Pensacola Bay Bridge (bridge numbers 480289 and
7 480290) on U.S. 98/S.R. 30 over Pensacola Bay between 17th
8 Avenue in Escambia County and Baybridge Drive in Santa Rosa
9 County is designated as "General Daniel 'Chappie' James, Jr.,
10 Bridge."

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 401 Shark Fins

SPONSOR(S): Jacobs and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 680

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 2 N	Mears	Moore
2) Business & Professions Subcommittee	13 Y, 2 N	Thompson	Anstead
3) State Affairs Committee		Mears	Williamson

SUMMARY ANALYSIS

Shark finning is the process of catching a shark, removing its fins, and discarding the rest of the shark. Shark finners often throw the shark back into the ocean alive once they have removed the fins. Unable to swim properly, the shark either bleeds to death or suffocates. This practice decimates shark populations around the world. Congress banned shark finning in United States waters in 2000 under the Shark Conservation Act. However, the trade of lawfully acquired shark fins is not prohibited. Shark fins command a high price and hold significant cultural value in some Asian countries, yielding more value per pound than the shark's body.

In Florida, a fisherman may only catch one shark per day, and each vessel is limited to two sharks per day, even if more than two fishermen are on board. Fishermen may only catch sharks by hook and line gear. All sharks harvested in Florida waters must be brought ashore with the fin attached to the shark's body.

Florida law prohibits the possession of a shark fin separated from the shark unless the Fish and Wildlife Conservation Commission authorizes such possession or the fin was obtained on land, was prepared by taxidermy, and is possessed for the purposes of display.

The bill prohibits the import, export, and sale of shark fins.

The bill may have an indeterminate fiscal impact on the state. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Shark Finning

Shark finning is the process of catching a shark, removing its fins, and discarding the rest of the shark.¹ Shark fins command a high price and hold significant cultural value in some Asian countries. Considered a symbol of status in Chinese culture, shark fin soup is a popular dish at weddings and other special occasions. Shark fins yield more value per pound than the shark's body.²

Shark finners often throw the shark back into the ocean alive once they have removed the fins. Unable to swim properly, the shark either bleeds to death or suffocates. This practice decimates shark populations around the world. Humans kill approximately 100 million sharks globally each year, and one major reason is the shark fin trade. A shark's slow growth and low reproductive rates make sharks highly susceptible to extinction because they cannot replenish their populations as quickly as they are being destroyed.³

A dramatic shark population plunge poses a threat not only to sharks, but also to the entire ecosystem. When shark populations decrease, a ripple effect may spread throughout the rest of the ecosystem, creating an imbalance. For example, the loss of the smooth hammerheads caused their prey, rays, to increase. The larger ray population now can eat more scallops, clams, and other bivalves. This not only hurts the bivalve populations and, therefore, the biodiversity of the ecosystem, it also harms human fisheries.⁴

In response to concerns about growing shark harvests internationally, many countries have banned shark fishing in their waters. In addition, many other nations have adopted finning bans, including the Bahamas, Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, the Maldives, Nicaragua, Palau, Panama, and Taiwan.⁵

The United States Congress banned shark finning in U.S. waters in 2000.⁶ The Shark Conservation Act makes it unlawful for any person:

- To remove any of the fins of a shark (including the tail) at sea;
- To have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;
- To transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or
- To land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached.⁷

A person who violates these federal laws may be subject to a civil penalty of up to \$100,000 for each violation, as determined by the U.S. Secretary of Commerce.⁸

Import, Export, and Sale of Shark Fins

¹ National Oceanic and Atmospheric Administration (NOAA), *2017 Shark Finning Report to Congress*, available at <https://repository.library.noaa.gov/view/noaa/19769> (last visited Jan. 7, 2019) (herein "NOAA Report").

² Smithsonian National Museum of Natural History, *Sharking Finning: Sharks Turned Prey*, available at <https://ocean.si.edu/ocean-news/shark-finning-sharks-turned-prey> (last visited Dec. 3, 2019).

³ *Id.*

⁴ *Id.*

⁵ NOAA Report at 3.

⁶ NOAA, *Shark Conservation Act*, available at <https://www.fisheries.noaa.gov/national/laws-and-policies/shark-conservation-act> (last visited Jan. 7, 2019).

⁷ 16 U.S.C. § 1857(1)(P), (2015).

⁸ 16 U.S.C. § 1858 (1996).

While the practice of shark finning is prohibited in the U.S., the trade of shark fins is legal. Between 2012 and 2016, the U.S. imported an average of 49 tons of shark fins and exported an average of 25 tons of shark fins per year.⁹ A number of countries from which the U.S. imports shark fins do not have a shark finning ban in place, such as China, Indonesia, and Japan. In response, 12 states have banned the trade of shark fins: California, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Nevada, New York, Oregon, Rhode Island, Texas, and Washington.¹⁰

Fish and Wildlife Conservation Commission

The Florida Constitution authorizes the Fish and Wildlife Conservation Commission (FWC) to enact rules and regulations regarding the state's fish and wildlife resources.¹¹ Florida residents and visitors must have a freshwater fishing or saltwater fishing license from FWC if they attempt to take or assist in a take of fish or marine organisms,¹² unless they are under the age of 16, are over the age of 65, or meet another licensure exemption.¹³

Shark Fishing Regulations in Florida

In Florida, a fisherman may only catch one shark per day, and each vessel is limited to two sharks per day, even if more than two fishermen are on board.¹⁴ Sharks may only be caught by hook and line gear¹⁵ and may not be caught by using multiple hooks with live or dead natural bait or by snagging.¹⁶

Fishermen must land all sharks harvested in Florida waters¹⁷ in a whole condition.¹⁸ A marine organism is "landed" when the animal is harvested and physically brought ashore. Individuals may not possess a shark that has had the head removed; been divided, filleted, ground, skinned, or finned;¹⁹ or had the caudal fin (tail) removed, while in or on the waters of the state, on any public or private fishing pier, or on a bridge or catwalk attached to a bridge from which fishing is allowed. Fishermen may eviscerate or gut the shark or slice the base of the caudal fin to bleed the carcass as long as the caudal fin remains attached before landing.²⁰

Florida law imposes restrictions on harvesting sharks based on the species and size of the shark. The following sharks have no minimum size limit for harvest in Florida waters: Atlantic sharpnose shark; blacknose shark; blacktip shark; bonnethead; finetooth shark; and all species of dogfish and smoothhounds within the Genus *mustelus*.²¹ The following sharks must be at least 54 inches long to harvest in Florida waters: bull shark; nurse shark; spinner shark; blue shark; oceanic whitetip shark; porbeagle; shortfin mako shark; and thresher shark.²² No person may harvest the following sharks in Florida waters: Atlantic angel shark; basking shark; bigeye sand tiger; bigeye sixgill shark; bigeye thresher; bignose shark; bluntnose sixgill shark; Caribbean reef shark; Caribbean sharpnose shark; dusky shark; Galapagos shark; great hammerhead; lemon shark; longfin mako; narrowtooth shark; night shark; sandbar shark; sand tiger; scalloped hammerhead; sharpnose sevengill shark; silky shark; smalltail shark; smooth hammerhead; spiny dogfish; tiger shark; whale shark; and white shark.²³

⁹ NOAA Report at 23-24.

¹⁰ See CAL. FISH & GAME CODE § 2021; DEL. CODE ANN. tit. 7 § 928A; HAW. REV. STAT. § 188-40.7; 515 ILL. COMP. STAT. 5/5-30; MD. CODE ANN. NAT. RES. § 4-747; MASS. GEN. LAWS ANN. ch. 130, § 106; NEV. REV. STAT. § 597.2-3; N.Y. ENVTL. CONSERV. LAW § 13-0338; OR. REV. STAT. § 509.160; R.I. GEN. LAWS § 20-1-29; TEX. PARKS & WILD. CODE § 66.2161; WASH. REV. CODE § 77.15.770.

¹¹ Art. IV, s. 9, FLA. CONST.

¹² Section 379.352, F.S.

¹³ Section 379.353, F.S.

¹⁴ Rule 68B-44.004(1)-(2), F.A.C.

¹⁵ Rule 68B-44.006(1), F.A.C.

¹⁶ Rule 68B-44.006(2), F.A.C.

¹⁷ Florida's seaward boundary extends nine nautical miles in the Gulf of Mexico and three nautical miles in the Atlantic Ocean. Art. II, s. 1, FLA. CONST.

¹⁸ Rule 68B-44.003(2), F.A.C.

¹⁹ The term "finned" means one or more fins, including the caudal fin (tail), are no longer naturally attached to the body of the shark. Rule 68B-44.002(1), F.A.C.

²⁰ Rule 68B-44.003(2), F.A.C.

²¹ Rule 68B-44.003(1), F.A.C.; FWC, *Sharks*, <http://myfwc.com/fishing/saltwater/recreational/sharks/> (last visited Jan. 7, 2019).

²² *Id.*

²³ Rule 68B-44.004(3), F.A.C.

While fishermen may not harvest, possess, land, purchase, sell, or exchange these species of shark, including any part of these species, in state waters, the prohibition does not apply to sharks harvested lawfully in federal waters when the shark is transported directly through state waters with fishing gear appropriately stowed.²⁴

Florida law prohibits the possession of a shark fin separated from the shark in Florida waters unless such possession is authorized by FWC or the fin was legally obtained on land, was prepared by taxidermy, and is possessed for the purposes of display.²⁵ An individual who violates this prohibition is subject to the following penalties:

Violations	Type of Criminal Infraction	Civil Penalty and Jail Time	License Restriction	Administrative Fines
1st offense ²⁶	2nd Degree Misdemeanor	Max. \$500 ²⁷ Max. 60 days ²⁸	Suspension of license for six months	\$4,500
2nd Offense ²⁹	2 nd degree Misdemeanor	Max. \$500 ³⁰ Max. 60 days ³¹	Suspension of license for 12 m months	\$9,500
3rd offense and subsequent offenses ³²	1st degree Misdemeanor	Max. \$1000 ³³ Max. 12 months ³⁴	Permanent revocation of all license privileges	\$9,500

Shark Fin Litigation

In 2012, California’s ban on the trade of shark fins was challenged in federal court. On appeal, the plaintiffs alleged that the ban violated the Supremacy Clause by interfering with the federal government’s authority to manage fishing in the ocean, and the Dormant Commerce Clause of the United States by interfering with interstate commerce relating to shark fins.³⁵ The Ninth Circuit Court of Appeals held that states are authorized to regulate “on land activities.” Additionally, the court held that the ban did not violate the Commerce Clause as it did not “interfere with activity that is inherently national or that requires a uniform system of regulation,” and its purpose was to “conserve state resources, prevent animal cruelty, and protect wildlife and public health,” which are matters of local concern.

Effect of the Bill

The bill prohibits the import, export, and sale of shark fins. An individual who violates this prohibition is subject to the penalties outlined in the table above.

B. SECTION DIRECTORY:

Section 1. Amends s. 379.2426, F.S., relating to the possession, import, export, and sale of shark fins.

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

²⁴ Rule 68B-44.003(4), F.A.C.

²⁵ Section 379.2426(2), F.S.

²⁶ Section 379.2426(3)(a), F.S.

²⁷ Section 775.083(1)(e), F.S.

²⁸ Section 775.082(4)(b), F.S.

²⁹ Section 379.2426(3)(b), F.S.

³⁰ *Id.*

³¹ Section 775.082(4)(b), F.S.

³² Section 379.2426(3)(c), F.S.

³³ Section 775.083(1)(d), F.S.

³⁴ Section 775.082(4)(a), F.S.

³⁵ *Chinatown Neighborhood Ass’n v. Harris*, 794 F.3d 1136 (9th Cir. 2015), *cert. denied*, 136 S.Ct. 2448 (2016).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a negative fiscal impact on commercial harvesters and wholesale dealers because they would no longer be able to buy and sell shark fins.

D. FISCAL COMMENTS:

The bill may have an indeterminate positive fiscal impact on the state by creating a penalty for the import, export, and sale of shark fins. In addition, the bill may have a negative fiscal impact related to jail bed impacts.

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:

Dormant Foreign Affairs Doctrine

The United States Constitution grants the federal government various powers related to foreign affairs, such as the power to declare war,³⁶ maintain a military,³⁷ enter into treaties and other international agreements,³⁸ regulate foreign commerce,³⁹ and hear cases involving foreign states and citizens.⁴⁰ These grants of power have been interpreted to grant the federal government the exclusive power to act in the area of foreign affairs.⁴¹ The federal government's exclusive authority to act in the area of foreign affairs is known as the Dormant Foreign Affairs Doctrine.

³⁶ Section 8, Art. I, U.S. Constitution.

³⁷ *Id.*

³⁸ Section 2, Art. II, U.S. Constitution.

³⁹ Section 8, Art. I, U.S. Constitution.

⁴⁰ Section 2, Art. III, U.S. Constitution.

⁴¹ *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941) (stating that the "Federal Government, representing as it does the collective interests of the forty-eight states, is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties.").

When a state law operates in the field of foreign affairs without federal authorization, a reviewing court might find the state law to be invalid as a violation of the dormant foreign affairs doctrine.⁴² If the purpose of the bill is to impact foreign affairs,⁴³ or if the effects of the bill have a sufficiently serious impact on foreign policy,⁴⁴ the bill may be found in violation of the Dormant Foreign Affairs Doctrine.⁴⁵

Commerce Clause

The United States Constitution provides that Congress shall have the power to “regulate commerce...among the states.”⁴⁶ The Commerce Clause acts not only as a positive grant of powers to Congress, but also as a negative constraint upon the states.⁴⁷ The Dormant Commerce Clause is the theory that, where Congress has not acted to regulate or deregulate a specific form of commerce between the states, it is presumed that Congress would prohibit unreasonable restrictions upon that form of interstate commerce.⁴⁸

The Dormant Commerce Clause doctrine distinguishes between state regulations that “affirmatively discriminate” against interstate commerce and evenhanded regulations that “burden interstate transactions only incidentally.”⁴⁹ Regulations that “clearly discriminate against interstate commerce [are] virtually invalid per se,”⁵⁰ while those that incidentally burden interstate commerce will be struck down only if “the burden imposed on such commerce is clearly excessive in relation to the putative local benefits.”⁵¹

B. RULE-MAKING AUTHORITY:

The bill does not authorize or require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

⁴² *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass’n v. Garamendi*, 539 U.S. 396 (2003).

⁴³ *Crosby v. National Foreign Trade Council*, 530 U.S. 363, 381 (2000) (pointing out that a congressional invocation of exclusively national powers with respect to addressing human rights violations in Burma precluded Massachusetts from restricting its agencies from purchasing goods or services from companies that did business with Burma; the case, however, was decided on the basis that a federal law preempted the state law.).

⁴⁴ *Clark v. Allen*, 331 U.S. 503, 517-518 (1947) (finding a state law that addressed the disposition of personal property of alien decedents valid, in spite of noting that the law would “have some incidental or indirect effect in foreign countries.”); *Zschernig v. Miller*, 389 U.S. 429 (1968).

⁴⁵ Matthew Shaefer, *Constraints on State-Level Foreign Policy: (Re) Justifying, Refining, and Distinguishing the Dormant Foreign Affairs Doctrine*, 41 SETON HALL L. REV. 201, 237-239 (2011).

⁴⁶ U.S. Const. art. I, s. 8, cl. 3.

⁴⁷ See *Gibbons v. Ogden*, 22 U.S. 1 (1824).

⁴⁸ The Commerce Clause also allows Congress to specifically leave regulation of an area to the states, even if the effect of leaving such regulation to the states leads to burdensome and conflicting regulation. The most notable example of this is regulation of the insurance industry.

⁴⁹ *Maine v. Taylor*, 477 U.S. 131, 138 (1986).

⁵⁰ *National Electric Manufacturers Association v. Sorrell*, 272 F.3d 104, 108 (2d Cir.2001).

⁵¹ *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

HB 401

2020

1 A bill to be entitled
 2 An act relating to shark fins; amending s. 379.2426,
 3 F.S.; prohibiting the import, export, and sale of
 4 shark fins; providing an effective date.

5
 6 Be It Enacted by the Legislature of the State of Florida:

7
 8 Section 1. Subsection (3) of section 379.2426, Florida
 9 Statutes, is renumbered as subsection (4), and a new subsection
 10 (3) is added to that section, to read:

11 379.2426 Possession, import, export, and sale of separated
 12 shark fins ~~on the water~~ prohibited; penalties.-

13 (3) Notwithstanding any other law, the import, export, and
 14 sale of shark fins is prohibited and nothing in this section
 15 authorizes such activities.

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

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with directory and title amendments)

Between lines 15 and 16, insert:

6 (4) The prohibitions in subsection (3) relating to the
 7 sale and export of shark fins do not apply to any commercial
 8 fishermen holding a valid federal shark fishing permit on
 9 January 1, 2020, or to seafood dealers who harvest and possess
 10 sharks, shark fins, and associated shark products that are
 11 legally landed, handled, processed, and transported. This
 12 subsection expires on January 1, 2025.

13
 14
 15 -----
 16 **D I R E C T O R Y A M E N D M E N T**

Amendment No.

17 Remove lines 9-10 and insert:
18 Statutes, is renumbered as subsection (5), and new subsections
19 (3) and (4) are added to that section, to read:

20
21 -----

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

23 Remove line 4 and insert:
24 shark fins; providing applicability; providing an effective
25 date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 593 Disability Retirement Benefits

SPONSOR(S): Williamson and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 936

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N	Villa	Smith
2) Appropriations Committee	29 Y, 0 N	Keith	Pridgeon
3) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits for employees of state and county government agencies, district school boards, state colleges, and universities; it also serves as the retirement plan for participating employees of the cities and special districts that have elected to join the system. Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan.

The FRS provides disability retirement benefits for members that are totally and permanently disabled. In order to qualify for disability retirement benefits, a member must provide certification of the member's total and permanent disability from two Florida licensed physicians, or if the member is required to work full time outside this state, then the member can provide certification from two licensed physicians of that state.

The bill allows an FRS member who is receiving care at a federal Veterans' Health Administration facility (VA facility) to provide certification by two licensed physicians employed by the VA facility as proof of total and permanent disability, regardless of the state where the physicians are licensed.

The bill has no fiscal impact to the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Trust Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated into the FRS as a closed group.¹

The FRS is a multi-employer, contributory plan governed by the Florida Retirement System Act.² As of June 30, 2019, the FRS had 647,942 active members,³ 424,895 annuitants, 15,783 disabled retirees, and 32,670 active participants of the Deferred Retirement Option Program.⁴ As of June 30, 2019, the FRS consisted of 976 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 176 cities and 136 special districts that have elected to join the system.⁵

The membership of the FRS is divided into five membership classes:

- Regular Class⁶ has 562,260 members;
- Special Risk Class⁷ has 75,386 members;
- Special Risk Administrative Support Class⁸ has 101 members;
- Elected Officers' Class⁹ has 2,200 members; and
- Senior Management Service Class¹⁰ has 7,981 members.¹¹

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

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

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

¹ *Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019*, at 35. A copy of the report can be found at:

https://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports [hereinafter *Annual Report*].

² See Chapter 121, F.S.

³ As of June 30, 2018, the pension plan, which is a defined benefit plan, had 502,146 members, and the investment plan, which is a defined contribution plan, had 145,796 members. *Annual Report*, *supra* note 1, at 158.

⁴ *Annual Report*, *supra* note 1, at 158.

⁵ *Annual Report*, *supra* note 1, at 193.

⁶ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁷ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

⁸ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

⁹ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹⁰ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹¹ All figures from *Annual Report*, *supra* note 1, at 161.

FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹² The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹³

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹⁴ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁵ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁶

The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁷ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁸

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement.¹⁹ Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.²⁰ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²¹ A member vests immediately in all employee contributions paid to the pension plan. Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²²

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²³ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁴ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁵

¹² Section 121.4501(8), F.S.

¹³ Art. IV, s. 4(e), FLA. CONST.

¹⁴ Section 121.4501(6)(a), F.S.

¹⁵ If a member terminated employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

¹⁶ Section 121.591, F.S.

¹⁷ See s. 121.4501(16), F.S.

¹⁸ FRS, *Disability*, https://myfrs.com/FRSPro_ComparePlan_Disability.htm (last visited December 10, 2019).

¹⁹ Section 121.025, F.S.

²⁰ Section 121.021(45)(a), F.S.

²¹ Section 121.021(45)(b), F.S.

²² Section 121.091, F.S.

²³ Section 121.021(29)(a)1., F.S.

²⁴ Section 121.021(9)(b)1., F.S.

²⁵ Section 121.021(9)(a)2. and (b)2., F.S.

Disability Retirement Benefit

There are two types of disability retirement benefits available under the FRS: in-line-of-duty and regular disability. In-line-of-duty disability benefits are available to members from their first date of employment.²⁶ The minimum in-line-of-duty disability benefit is 42 percent of the member's average monthly compensation for all members except those in the Special Risk Class, who may not receive less than 65 percent of their average monthly compensation.²⁷ To qualify for regular disability retirement, members must complete eight years of credible service.²⁸ The minimum benefit under regular disability is 25 percent of the member's average monthly compensation.²⁹ If a disabled member's service benefit would be higher than the minimum disability benefit, the member can elect to receive the higher benefit.

A member cannot receive any disability retirement benefit if the disability is a result of any of the following:

- Injury or disease sustained by the member while willfully participating in a riot, civil insurrection, or other act of violence or while committing a felony;
- Injury or disease sustained by the member after his or her employment has terminated; or
- Intentional, self-inflicted injury.³⁰

To qualify for either type of disability retirement benefit, members must be totally and permanently disabled to the extent that they are unable to work.³¹ DMS must require proof that the FRS member is totally and permanently disabled before approving any disability retirement payment. The proof must include the certification of the member's total and permanent disability by two licensed physicians in this state. If a member's position with an employer requires the member to work full time outside of this state in the United States, then the member may include certification by two licensed physicians of the state where the member works.³² Regardless, it must be documented that the:

- Member's medical condition occurred or became symptomatic during the time the member was employed.
- Member was totally and permanently disabled at the time he or she terminated covered employment.
- Member has not been employed after such termination.

In addition, for in-line-of-duty benefits, it must be documented that the disability was caused by a job-related illness or accident that occurred while the member was an FRS employee.³³

Federal Veterans' Health Administration Facility

The Veterans' Health Administration (VA) is the largest healthcare network in the United States serving over 9 million enrolled veterans, and is made up of 1,255 health care facilities, including 170 medical centers and 1,074 outpatient sites of varying complexity.³⁴ The mission of the VA is to honor America's veterans by providing exceptional health care that improves their health and well-being.³⁵ Each VA facility provides traditional hospital-based services, and most offer specialty care services such as speech pathology, dermatology, dental, geriatrics, neurology, oncology, podiatry, prosthetics, urology, and vision care.³⁶

²⁶ Section 121.091(4)(a)1.b., F.S.

²⁷ Section 121.091(4)(f), F.S.

²⁸ Section 121.091(4)(a)1.b., F.S.

²⁹ Section 121.091(4)(f), F.S.

³⁰ Section 121.091(4)(i), F.S.

³¹ Section 121.091(4), F.S.

³² Section 121.091(4)(c), F.S.

³³ *Id.*

³⁴ U.S. Department of Veterans Affairs, <https://www.va.gov/health/aboutvha.asp> (last visited January 10, 2020).

³⁵ *Id.*

³⁶ *Id.*

Many VA physicians and staff rotate throughout the country and are not necessarily Florida-licensed physicians.³⁷ However, each VA physician must possess at least one full, active, current, and unrestricted license that authorizes the licensee to practice in the state of licensure.³⁸ A physician who has had his or her license revoked for professional misconduct, professional incompetence, or substandard care is not eligible to work as a VA physician unless his or her license is restored to a full and unrestricted status.³⁹ Additionally, the VA consults with the National Practitioner Data Bank, which provides a background check for each new hire.⁴⁰ Physician applicants must also provide the VA with employment history, pre-employment references, and details of past involvement with malpractice allegations.⁴¹

Effect of the Bill

For proof of total and permanent disability, the bill allows an FRS member who is receiving care at a federal VA facility to provide certification by two licensed physicians employed by the facility; regardless of the state the physicians are licensed. This change will allow FRS members receiving care from such a facility to more timely and conveniently prove total and permanent disability as the FRS member would no longer have to go outside his or her current medical care provider to obtain certification of disability.

B. SECTION DIRECTORY:

Section 1 amends s. 121.091, F.S., to allow members receiving care at a federal VA facility to use certification by two licensed physicians at that facility as proof of total and permanent disability.

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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would allow FRS members who receive care at VA facilities to receive proof of total and permanent disability certification from two physicians licensed by the facility, rather than two Florida licensed physicians. This will have a positive fiscal impact to those patients due to the saved time and

³⁷ Department of Management Services, Agency Analysis of 2020 House Bill 593, p. 2 (December 23, 2019).

³⁸ U.S. Department of Veterans Affairs, Veterans Health Administration Handbook 1100.19, available at: <https://www.va.gov/vhapublications/publications.cfm?pub=2> (last visited January 14, 2020).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

expense of not having to go outside his or her current medical care provider to obtain the certification of disability.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not require agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to disability retirement benefits;
3 amending s. 121.091, F.S.; allowing members receiving
4 care at federal Veterans' Health Administration
5 facilities to use certification by a specified number
6 of physicians working at such facilities as proof of
7 total and permanent disability; providing an effective
8 date.

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

11
12 Section 1. Paragraph (c) of subsection (4) of section
13 121.091, Florida Statutes, is amended to read:

14 121.091 Benefits payable under the system.—Benefits may
15 not be paid under this section unless the member has terminated
16 employment as provided in s. 121.021(39) (a) or begun
17 participation in the Deferred Retirement Option Program as
18 provided in subsection (13), and a proper application has been
19 filed in the manner prescribed by the department. The department
20 may cancel an application for retirement benefits when the
21 member or beneficiary fails to timely provide the information
22 and documents required by this chapter and the department's
23 rules. The department shall adopt rules establishing procedures
24 for application for retirement benefits and for the cancellation
25 of such application when the required information or documents

26 | are not received.

27 | (4) DISABILITY RETIREMENT BENEFIT.—

28 | (c) Proof of disability.—The administrator, before
 29 | approving payment of any disability retirement benefit, shall
 30 | require proof that the member is totally and permanently
 31 | disabled as provided herein:

32 | 1. Such proof shall include the certification of the
 33 | member's total and permanent disability by two licensed
 34 | physicians of the state and such other evidence of disability as
 35 | the administrator may require, including reports from vocational
 36 | rehabilitation, evaluation, or testing specialists who have
 37 | evaluated the applicant for employment. A member whose position
 38 | with an employer requires that the member work full time outside
 39 | this state in the United States may include certification by two
 40 | licensed physicians of the state where the member works. A
 41 | member who is receiving care at a federal Veterans' Health
 42 | Administration facility may include certification by two
 43 | licensed physicians working at the facility.

44 | 2. It must be documented that:

45 | a. The member's medical condition occurred or became
 46 | symptomatic during the time the member was employed in an
 47 | employee/employer relationship with his or her employer;

48 | b. The member was totally and permanently disabled at the
 49 | time he or she terminated covered employment; and

50 | c. The member has not been employed with any other

51 | employer after such termination.

52 | 3. If the application is for in-line-of-duty disability,
53 | in addition to the requirements of subparagraph 2., it must be
54 | documented by competent medical evidence that the disability was
55 | caused by a job-related illness or accident which occurred while
56 | the member was in an employee/employer relationship with his or
57 | her employer.

58 | 4. The unavailability of an employment position that the
59 | member is physically and mentally capable of performing will not
60 | be considered as proof of total and permanent disability.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 625 Public Nuisances
SPONSOR(S): Civil Justice Subcommittee, Newton and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 888

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	15 Y, 0 N, As CS	Mawn	Luczynski
2) State Affairs Committee		Moehrle	Williamson
3) Judiciary Committee			

SUMMARY ANALYSIS

A nuisance is an activity arising from a person's unreasonable, unwarranted, or unlawful use of his or her own property in a way that injures the rights of another or the public and produces such material annoyance, inconvenience, and discomfort that the law presumes resulting damage. A nuisance may also be something that annoys and disturbs a person in possession of his or her property, making its ordinary use or occupation physically uncomfortable.

A nuisance is either private, affecting an individual or a limited number of individuals, or public, violating public rights, subverting public order, decency, and morals, or generally inconveniencing the public. The Legislature has broad discretion to designate a particular activity a public nuisance, and the state, through its police power, has the authority to abate and enjoin a public nuisance.

The bill:

- Reduces the number of occasions a location must be used by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity before the location is declared a public nuisance from two or more occasions to one or more occasions.
- Provides that any place or premises used on two or more occasions within a six-month period as the site of any specified felony is a public nuisance that may be abated or enjoined.
- Increases a defendant's notice period when nuisance abatement and injunction is sought, requiring a written notice demanding nuisance abatement within 10 days.
- Requires, if the nuisance is not abated after a first written notice, a second written notice demanding nuisance abatement within 15 days, or a longer period if the defendant sends a written response making specified allegations, after which an injunction application may be made.
- Expands incidents for which a place or premises may be declared a nuisance and enjoined by a local government's administrative board to include two or more specified violent felony offenses in a six-month period.
- Creates a rental property exception when a property is declared a nuisance for specified activity but the nuisance was committed by someone other than the property owner and the property owner takes specified remediation measures.

The bill may have a fiscal impact on state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Nuisance

A nuisance is an activity arising from a person's unreasonable, unwarranted, or unlawful use of his or her own property in a way that injures the rights of another or the public and produces such material annoyance, inconvenience, and discomfort that the law presumes resulting damage.¹ A nuisance may also be something that annoys and disturbs a person in possession of his or her property, making its ordinary use or occupation physically uncomfortable.²

A nuisance is either private, affecting an individual or a limited number of individuals, or public, violating public rights, subverting public order, decency, and morals, or generally inconveniencing the public.³ The Legislature has broad discretion to designate a particular activity a public nuisance, and the state, through its police power, has the authority to abate and enjoin a public nuisance.⁴

Places and Groups Declared a Nuisance

Under Florida law, a person is guilty of maintaining a nuisance if he or she erects, establishes, continues, maintains, owns, or leases any:

- Building, booth, tent, or place that tends to annoy or injures the health of the community or becomes manifestly injurious to the people's morals and manners;
- House or place of prostitution, assignation, or lewdness;
- Place in which persons illegally engage in games of chance; or
- Place where any law of the state is violated.⁵

The building, erection, place, tent, or booth and the furniture, fixtures, and contents of such premises are also declared a nuisance.⁶

Additionally, a criminal gang,⁷ criminal gang member,⁸ or criminal gang associate⁹ engaging in the commission of criminal gang-related activity¹⁰ is a public nuisance, as is the use of a location two or more times by such a person to engage in criminal gang-related activity.¹¹

¹ Black's Law Dictionary 736 (6th ed. 1996).

² *Id.*

³ *Orlando Sports Stadium, Inc. v. Powell*, 262 So. 2d 881 (Fla. 1972).

⁴ *Powell*, 262 So. 2d at 881.

⁵ S. 823.05(1), F.S.

⁶ *Id.*

⁷ "Criminal gang" means a formal or informal ongoing organization, association, or group that has one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including terrorist organizations and hate groups. S. 874.03(1), F.S.

⁸ A "criminal gang member" is a person who meets two or more of the following criteria: (1) admits to criminal gang membership; (2) is identified as a criminal gang member by a parent, guardian, or documented reliable informant; (3) adopts the style of dress of a criminal gang; (4) adopts the use of a hand sign or has a tattoo identified as used by a criminal gang; (5) associates with one or more known criminal gang members; (6) is identified as a criminal gang member by physical evidence; (7) has been observed in the company of one or more known criminal gang members four or more times; and (8) has authored any communication indicating responsibility for the commission of any crime by the criminal gang. S. 874.03(3), F.S.

⁹ A "criminal gang associate" is a person who admits to criminal gang association or meets any single defining criterion for criminal gang membership. S. 874.03(2), F.S.

¹⁰ "Criminal gang-related activity" is an activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or to increase one's own standing in a criminal gang; in which the participants are identified as criminal gang members or associates acting individually or collectively to further any criminal purpose; identified as criminal gang activity by a documented reliable informant; or that is identified as criminal gang activity by an information of previously untested reliability and such information is corroborated by independent information. S. 874.03(4), F.S.

¹¹ S. 823.05(2)(b) and (c), F.S.

A massage establishment engaging in illegal practices or unable to immediately present specified identification and documentation for each employee is also a public nuisance.¹²

Nuisance Abatement and Enjoinment

The persons and places identified as a public nuisance may be enjoined.¹³ When any such nuisance exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county where the nuisance exists may bring a nuisance abatement action in the name of the state to enjoin the nuisance, the person maintaining it, and the owner or agent of the premises where the nuisance is located.¹⁴

The person bringing suit may apply for a temporary nuisance injunction after giving the defendant at least three days' written notice of the time and place where such application will occur.¹⁵ A court issuing an injunction must specify what activities are enjoined but may not preclude the operation of a lawful business not conducive to the maintenance of a nuisance.¹⁶

If a nuisance is found to exist at trial, the court must issue a permanent injunction and order the person establishing or maintaining the nuisance to pay the proceedings' costs, which may include a lien on personal property found in the place of the nuisance and, if the property does not bring enough to repay the costs, on the real estate occupied by the nuisance.¹⁷ However, no lien may attach on real property belonging to someone other than the person establishing or maintaining the nuisance unless such person received five days' written notice and failed to start abating the nuisance within that time.¹⁸

Additionally, if a tenant was convicted of an offense involving controlled substances or prostitution, the court may order the tenant to vacate the property within 72 hours so long as the tenant and premises owner are parties to the nuisance abatement action and the order will lead to nuisance abatement.¹⁹

Local Administrative Action

Current law authorizes local administrative boards to impose administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in counties and municipalities under circumstances when a pending or repeated violation continues to exist. Any place or premises used in the following manner may be declared a public nuisance:

- On more than two occasions in a six-month period as the site of:
 - Prostitution;
 - The unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or
 - An offense relating to dealing in stolen property;
- On one occasion as the site of the unlawful, felony possession of a controlled substance and previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- By a criminal gang for the purpose of conducting criminal gang activity; or
- On two or more occasions within a six-month period as the site of a violation of the Florida Drug and Cosmetic Act.²⁰

A county or municipality may, by ordinance, create an administrative board to hear complaints about such nuisances, and any county or municipal employee, officer, or resident may bring a complaint

¹² S. 823.05(3), F.S.

¹³ S. 823.05(1), (2)(b) and (c), and (3), F.S.

¹⁴ S. 60.05(1), F.S.

¹⁵ A nuisance is enjoined when an injunction is issued against it. An injunction is a court order requiring a person to do or stop doing a specific action. S. 60.05(2), F.S.; see Legal Information Institute, Enjoin, <https://www.law.cornell.edu/wex/enjoin> (last visited Jan. 29, 2020); see also Legal Information Institute, Injunction, <https://www.law.cornell.edu/wex/injunction> (last visited Jan. 29, 2020).

¹⁶ *Id.*

¹⁷ S. 60.05(4), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ S. 893.138(2), F.S.

before the board after giving the premises' owner at least three days' notice of such complaint at his or her last known address.²¹ After a hearing, the board may declare the premises to be a public nuisance and may enter an order requiring the premises owner to adopt appropriate procedures to abate the nuisance or immediately prohibiting the:

- Maintaining of the nuisance;
- Operating or maintaining of the place or premises; or
- Conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.²²

Additionally, the board may bring a complaint seeking temporary and permanent injunctive relief against such a nuisance.²³ The administrative action process does not restrict the right of any person to bring a nuisance abatement action to enjoin the nuisance, the person maintaining it, and the owner or agent of the building or ground where the nuisance exists.²⁴ Further, a county or municipal ordinance may include provisions:

- Establishing additional penalties for public nuisance, including fines not exceeding \$250 per day.
- For the payment of reasonable costs, including reasonable attorney fees.
- For continuing jurisdiction over any premises declared a nuisance for up to one year.
- Establishing penalties, including fines not exceeding \$500 a day, for a recurring public nuisance.
- For a recorded public nuisance order to become a lien against the property subject to the order.
- For the foreclosure of property subject to a lien.²⁵
- For the recovery of all costs associated with the recording of orders and foreclosure.

Effect of Proposed Changes

Places and Groups Declared a Nuisance

The bill provides that the use of a location by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity is a public nuisance regardless of the number of times the location is used in that manner, allowing a quicker response to gang-related activity threatening public safety and order. The bill also adds to the list of places declared a nuisance, specifying that any place used on two or more occasions within a six-month period for any of the following violations is a public nuisance:

- Dealing in stolen property.²⁶
- Assault and battery.²⁷
- Burglary.²⁸
- Theft.²⁹
- Robbery by sudden snatching.³⁰

Further, the bill protects the property rights of rental property owners, providing that a rental property declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act³¹ if the nuisance was committed by someone other than the property owner and the property owner:

- Begins rehabilitating the property within 30 days after the property is declared a nuisance; and
- Completes the property's rehabilitation within a reasonable time.

²¹ S. 893.138(4), F.S.

²² S. 893.138(4) and (5), F.S.

²³ S. 893.138(8), F.S.

²⁴ S. 893.138(9), F.S.

²⁵ However, no lien may be foreclosed on real property that is a homestead under s. 4, art. X of the Florida Constitution. S. 893.138(11), F.S.

²⁶ See s. 812.019, F.S.

²⁷ See ss. 784.011, 784.021, 784.03, or 784.045, F.S.

²⁸ See s. 810.02, F.S.

²⁹ See s. 812.014, F.S.

³⁰ See s. 812.131, F.S.

³¹ Ss. 932.701-932.7062, F.S. See s. 932.701(1), F.S.

Nuisance Abatement and Enjoinment

The bill increases a defendant's notice periods when nuisance abatement and enjoinment is sought. Specifically, the bill provides that a defendant must be given written notice requiring nuisance abatement within 10 days after the issuance of the notice informing the defendant that an application for temporary injunction may be filed if the nuisance is not timely abated. Before such an injunction may be filed, the defendant must be given a second written notice informing the defendant that an application for a temporary injunction will be filed if the nuisance is not abated within 15 days after the end of the initial 10-day period given in the first notice.³² The bill requires the defendant to be given a second written notice providing the defendant with sufficient time to comply if the defendant responds to the first notice in writing within the initial 10-day period providing proof that:

- Nuisance abatement involves compliance with another state law, and the requirements of such law make nuisance abatement within 10 days impossible; or
- The terms of an executed contract to perform services necessary for nuisance abatement require more than 10 days to complete.

The second notice must specify the location and the time when the application for the temporary injunction will be filed and:

- Describe the building, booth, tent, or place that is an alleged nuisance;
- State the activities that led to the nuisance allegations;
- State the actions necessary to abate the alleged nuisance; and
- State that costs will be assessed if nuisance abatement is not completed and if the court determines that the nuisance exists.

If the nuisance is not timely abated as provided in the second notice, an application for a temporary injunction must be filed as indicated in the notice.

The initial and second written notice must be sent by personal service to the premises owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such address or, if the owner's address cannot be found, to the location of the alleged nuisance where it must also be displayed prominently and conspicuously.

Local Administrative Action

The bill provides that any place or premises may be declared a public nuisance if it is on more than two occasions within a six-month period the site of any combination of the following violations:

- Murder;³³
- Attempted felony murder;³⁴
- Aggravated battery with a deadly weapon;³⁵ or
- Aggravated assault without intent to kill.³⁶

As under current law, any county or municipal employee, officer, or resident may bring a complaint before an administrative board created to hear such a complaint after giving the premises' owner at least three days' notice of such complaint at his or her last known address. After a hearing, the board may declare the premises to be a public nuisance and may enter an order requiring the premises owner to adopt appropriate procedures to abate the nuisance or immediately prohibiting the:

- Maintaining of the nuisance;
- Operating or maintaining of the place or premises; or
- Conducting, operating, or maintaining any business or activity on the premises, which is conducive to such nuisance.

³² The notice periods provided in the bill do not take into account that nuisance abatement may involve compliance with another law or the formation of a contract for services, the requirements or terms of which make nuisance abatement impossible within 25 days.

³³ See s. 782.04, F.S.

³⁴ See s. 782.051, F.S.

³⁵ See s. 784.045(1)(a)2., F.S.

³⁶ See s. 784.021(1)(a), F.S.

Additionally, the board retains its ability to bring a complaint seeking temporary and permanent injunctive relief against such a nuisance, and the administrative action process does not restrict the right of any person to bring a nuisance abatement action to enjoin the nuisance, the person maintaining it, and the owner or agent of the building or ground where the nuisance exists.³⁷ However, the bill protects the property rights of rental property owners, providing that a rental property declared a nuisance under this section may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the property owner and the property owner:

- Begins rehabilitating the property within 30 days after the property is declared a nuisance; and
- Completes the property's rehabilitation within a reasonable time.

B. SECTION DIRECTORY:

Section 1: Amends s. 60.05, F.S., relating to abatement of nuisances.

Section 2: Amends s. 823.05, F.S., relating to places and groups engaged in criminal gang-related activity declared a nuisance; massage establishments engaged in prohibited activity; may be abated and enjoined.

Section 3: Amends s. 893.138, F.S., relating to local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity.

Section 4: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There may be an indeterminate fiscal impact on state and local governments as the bill provides additional activities and properties that may be enjoined as a public nuisance. State and local governments may incur additional expenses from legal proceedings related to nuisance abatement.

³⁷ However, the bill does not provide an exception for a rental property declared a nuisance under this section if the nuisance was committed by someone other than the property owner.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2020, the Civil Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Extended the time frame for nuisance abatement if the defendant responds to the first ten-day abatement notice alleging and providing proof that:
 - Nuisance abatement involves compliance with another law and such compliance makes nuisance abatement within ten days impossible; or
 - The terms of an executed contract for nuisance abatement services require more than ten days to complete.
- Changed references in a nuisance abatement notice from the “declared” nuisance to the “alleged” nuisance.
- Extended rental property protection to a rental property declared a nuisance for specified activity when the nuisance was not committed by the property owner and the property owner takes specified remediation measures.
- Made conforming changes.

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

1 A bill to be entitled
2 An act relating to public nuisances; amending s.
3 60.05, F.S.; revising notice requirements for the
4 filing of temporary injunctions relating to the
5 enjoinment of certain nuisances; extending the period
6 of notice before a lien may attach to certain real
7 estate; amending s. 823.05, F.S.; making technical
8 changes; declaring that the use of a location by a
9 criminal gang, criminal gang members, or criminal gang
10 associates for criminal gang-related activity is a
11 public nuisance; declaring that any place or premises
12 that has been used on more than two occasions during a
13 certain time period as the site of specified
14 violations is a nuisance and may be abated or enjoined
15 pursuant to specified provisions; providing a property
16 owner an opportunity to remedy a nuisance before
17 specified legal actions may be taken against the
18 property under certain circumstances; amending s.
19 893.138, F.S.; declaring that any place or premises
20 that has been used on more than two occasions during a
21 certain time period as the site of any combination of
22 specified violations is a nuisance and may be abated
23 pursuant to specified provisions; prohibiting a rental
24 property from being abated or subject to forfeiture
25 under certain conditions; providing an effective date.

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

Section 1. Section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should be issued ~~issue~~, the court, pending the determination on final hearing, may enjoin any of the following:

- (a) The maintaining of a nuisance. †
- (b) The operating and maintaining of the place or premises where the nuisance is maintained. †
- (c) The owner or agent of the building or ground upon which the nuisance exists. †
- (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of

51 the nuisance.

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The injunction shall specify the activities enjoined and may
~~shall~~ not preclude the operation of any lawful business not
conducive to the maintenance of the nuisance complained of. ~~At~~
~~least 3 days' notice in writing shall be given defendant of the~~
~~time and place of application for the temporary injunction.~~

(3) (a) The defendant shall be given written notice to
abate the nuisance within 10 days after the issuance of the
notice. The notice must inform the defendant that an application
for temporary injunction may be filed if the nuisance is not
timely abated. If the nuisance is not timely abated, the
defendant must be given a second written notice that informs the
defendant that an application for a temporary injunction will be
filed if the nuisance is not abated within 15 days after the end
of the initial 10-day period. However, if the defendant responds
to the first notice in writing within the initial 10-day period,
and in such response alleges and provides proof that:

1. Nuisance abatement involves compliance with another law
of this state and the requirements of such law make nuisance
abatement within 10 days impossible; or

2. The terms of an executed contract to perform services
necessary to abate the nuisance require more than 10 days to
complete,

76 | the defendant must be given a second written notice providing
 77 | the defendant with an extended time period to abate the nuisance
 78 | sufficient to comply with such other law or contract terms.

79 | (b) A second notice sent under paragraph (a) must also
 80 | provide the location where the application will be filed and the
 81 | time when it will be filed. If the nuisance is not timely abated
 82 | as provided in the second notice, the application for the
 83 | temporary injunction must be filed as indicated in the notice.

84 | (c) In addition to the information required under
 85 | paragraphs (a) and (b), each notice must:

86 | 1. If applicable, describe the building, booth, tent, or
 87 | place that is an alleged nuisance.

88 | 2. State the activities that led to the nuisance
 89 | allegations.

90 | 3. State the actions necessary to abate the nuisance.

91 | 4. State that costs will be assessed if abatement of the
 92 | nuisance is not completed and if the court determines that the
 93 | nuisance exists.

94 | (d) The notices provided in this subsection must be sent
 95 | by personal service to the owner at his or her address as it
 96 | appears on the latest tax assessment roll or to the tenant of
 97 | such address. If an address is not found for the owner, the
 98 | notices must be sent to the location of the alleged nuisance and
 99 | displayed prominently and conspicuously at that location.

100 | (4)~~(3)~~ Evidence of the general reputation of the alleged

101 nuisance and place is admissible to prove the existence of the
 102 nuisance. An ~~No~~ action filed by a citizen may not ~~shall~~ be
 103 dismissed unless the court is satisfied that it should be
 104 dismissed. Otherwise the action shall continue and the state
 105 attorney notified to proceed with it. If the action is brought
 106 by a citizen and the court finds that there was no reasonable
 107 ground for the action, the costs shall be taxed against the
 108 citizen.

109 (5) ~~(4)~~ On trial if the existence of a nuisance is shown,
 110 the court shall issue a permanent injunction and order the costs
 111 to be paid by the persons establishing or maintaining the
 112 nuisance and shall adjudge that the costs are a lien on all
 113 personal property found in the place of the nuisance and on the
 114 failure of the property to bring enough to pay the costs, then
 115 on the real estate occupied by the nuisance. A ~~No~~ lien may not
 116 ~~shall~~ attach to the real estate of any other than such ~~said~~
 117 persons unless a second ~~5 days~~ written notice has been given in
 118 accordance with paragraph (3) (a) to the owner or his or her
 119 agent who fails to begin to abate the nuisance within the time
 120 specified therein ~~said 5 days~~. In a proceeding abating a
 121 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
 122 been convicted of an offense under chapter 893 or s. 796.07, the
 123 court may order the tenant to vacate the property within 72
 124 hours if the tenant and owner of the premises are parties to the
 125 nuisance abatement action and the order will lead to the

126 abatement of the nuisance.

127 (6)~~(5)~~ If the action was brought by the Attorney General,
 128 a state attorney, or any other officer or agency of state
 129 government; if the court finds either before or after trial that
 130 there was no reasonable ground for the action; and if judgment
 131 is rendered for the defendant, the costs and reasonable attorney
 132 ~~attorney's~~ fees shall be taxed against the state.

133 Section 2. Section 823.05, Florida Statutes, is amended to
 134 read:

135 823.05 Places and groups engaged in certain activities
 136 ~~criminal gang-related activity~~ declared a nuisance; abatement
 137 and enjoinder ~~massage establishments engaged in prohibited~~
 138 ~~activity; may be abated and enjoined.-~~

139 (1) A person who erects, establishes, continues,
 140 maintains, owns, or leases any of the following is deemed to be
 141 maintaining a nuisance, and the building, erection, place, tent,
 142 or booth, and the furniture, fixtures, and contents of such
 143 structure, are declared a nuisance, and all such places or
 144 persons shall be abated or enjoined as provided in ss. 60.05 and
 145 60.06:

146 (a) A ~~Whoever shall erect, establish, continue, or~~
 147 ~~maintain, own or lease any~~ building, booth, tent, or place that
 148 ~~which~~ tends to annoy the community or injure the health of the
 149 community, or becomes ~~become~~ manifestly injurious to the morals
 150 or manners of the people as provided ~~described~~ in s. 823.01, ~~or~~

151 (b) A ~~any~~ house or place of prostitution, assignation, or
 152 lewdness. ~~or~~

153 (c) A place or building in which persons engage in ~~where~~
 154 games of chance ~~are engaged~~ in violation of law. ~~or~~

155 (d) A ~~any~~ place where any law of the state is violated,
 156 ~~shall be deemed guilty of maintaining a nuisance, and the~~
 157 ~~building, erection, place, tent or booth and the furniture,~~
 158 ~~fixtures, and contents are declared a nuisance. All such places~~
 159 ~~or persons shall be abated or enjoined as provided in ss. 60.05~~
 160 ~~and 60.06.~~

161 (2) (a) As used in this subsection, the terms "criminal
 162 gang," "criminal gang member," "criminal gang associate," and
 163 "criminal gang-related activity" have the same meanings as
 164 provided in s. 874.03.

165 (b) A criminal gang, criminal gang member, or criminal
 166 gang associate who engages in the commission of criminal gang-
 167 related activity is a public nuisance. ~~Any and~~ All such persons
 168 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

169 (c) The use of a location ~~on two or more occasions~~ by a
 170 criminal gang, criminal gang members, or criminal gang
 171 associates for the purpose of engaging in criminal gang-related
 172 activity is a public nuisance. Such use of a location as a
 173 public nuisance shall be abated or enjoined as provided in ss.
 174 60.05 and 60.06.

175 (d) ~~Nothing in~~ This subsection does not ~~shall~~ prevent a

176 | local governing body from adopting and enforcing laws consistent
177 | with this chapter relating to criminal gangs and gang violence.
178 | Where local laws duplicate or supplement this chapter, this
179 | chapter shall be construed as providing alternative remedies and
180 | not as preempting the field.

181 | (e) The state, through the Department of Legal Affairs or
182 | any state attorney, or any of the state's agencies,
183 | instrumentalities, subdivisions, or municipalities having
184 | jurisdiction over conduct in violation of a provision of this
185 | chapter may institute civil proceedings under this subsection.
186 | In any action brought under this subsection, the circuit court
187 | shall proceed as soon as practicable to the hearing and
188 | determination. Pending final determination, the circuit court
189 | may at any time enter such injunctions, prohibitions, or
190 | restraining orders, or take such actions, including the
191 | acceptance of satisfactory performance bonds, as the court may
192 | deem proper.

193 | (3) A massage establishment as defined in s. 480.033(7)
194 | which ~~that~~ operates in violation of s. 480.0475 or s.
195 | 480.0535(2) is declared a nuisance and may be abated or enjoined
196 | as provided in ss. 60.05 and 60.06.

197 | (4) (a) Any place or premises that has been used on more
198 | than two occasions within a 6-month period as the site of any of
199 | the following violations is declared a nuisance and may be
200 | abated or enjoined as provided in ss. 60.05 and 60.06:

201 1. Section 812.019, relating to dealing in stolen
 202 property.

203 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
 204 relating to assault and battery.

205 3. Section 810.02, relating to burglary.

206 4. Section 812.014, relating to theft.

207 5. Section 812.131, relating to robbery by sudden
 208 snatching.

209 (b) Notwithstanding any other law, a rental property that
 210 is declared a nuisance under this subsection may not be abated
 211 or subject to forfeiture under the Florida Contraband Forfeiture
 212 Act if the nuisance was committed by someone other than the
 213 owner of the property and the property owner commences
 214 rehabilitation of the property within 30 days after the property
 215 is declared a nuisance and completes the rehabilitation within a
 216 reasonable time thereafter.

217 Section 3. Section 893.138, Florida Statutes, is amended
 218 to read:

219 893.138 Local administrative action to abate certain
 220 activities declared ~~drug-related, prostitution-related, or~~
 221 ~~stolen-property-related~~ public nuisances and ~~criminal-gang~~
 222 ~~activity.~~—

223 (1) It is the intent of this section to promote, protect,
 224 and improve the health, safety, and welfare of the citizens of
 225 the counties and municipalities of this state by authorizing the

226 creation of administrative boards with authority to impose
 227 administrative fines and other noncriminal penalties in order to
 228 provide an equitable, expeditious, effective, and inexpensive
 229 method of enforcing ordinances in counties and municipalities
 230 under circumstances when a pending or repeated violation
 231 continues to exist.

232 (2) Any place or premises that has been used:

233 (a) On more than two occasions within a 6-month period, as
 234 the site of a violation of s. 796.07;

235 (b) On more than two occasions within a 6-month period, as
 236 the site of the unlawful sale, delivery, manufacture, or
 237 cultivation of any controlled substance;

238 (c) On one occasion as the site of the unlawful possession
 239 of a controlled substance, where such possession constitutes a
 240 felony and that has been previously used on more than one
 241 occasion as the site of the unlawful sale, delivery,
 242 manufacture, or cultivation of any controlled substance;

243 (d) By a criminal gang for the purpose of conducting
 244 criminal gang activity as defined by s. 874.03;

245 (e) On more than two occasions within a 6-month period, as
 246 the site of a violation of s. 812.019 relating to dealing in
 247 stolen property; ~~or~~

248 (f) On two or more occasions within a 6-month period, as
 249 the site of a violation of chapter 499; or

250 (g) On more than two occasions within a 6-month period, as

251 the site of a violation of any combination of the following:
 252 1. Section 782.04, relating to murder;
 253 2. Section 782.051, relating to attempted felony murder;
 254 3. Section 784.045(1) (a)2., relating to aggravated battery
 255 with a deadly weapon; or
 256 4. Section 784.021(1) (a), relating to aggravated assault
 257 with a deadly weapon without intent to kill,

258
 259 may be declared to be a public nuisance, and such nuisance may
 260 be abated pursuant to the procedures provided in this section.

261 (3) Any pain-management clinic, as described in s.
 262 458.3265 or s. 459.0137, which has been used on more than two
 263 occasions within a 6-month period as the site of a violation of:

264 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
 265 relating to assault and battery;

266 (b) Section 810.02, relating to burglary;

267 (c) Section 812.014, relating to theft;

268 (d) Section 812.131, relating to robbery by sudden
 269 snatching; or

270 (e) Section 893.13, relating to the unlawful distribution
 271 of controlled substances,

272
 273 may be declared to be a public nuisance, and such nuisance may
 274 be abated pursuant to the procedures provided in this section.

275 (4) Any county or municipality may, by ordinance, create

276 an administrative board to hear complaints regarding the
277 nuisances described in subsection (2). Any employee, officer, or
278 resident of the county or municipality may bring a complaint
279 before the board after giving not less than 3 days' written
280 notice of such complaint to the owner of the place or premises
281 at his or her last known address. After a hearing in which the
282 board may consider any evidence, including evidence of the
283 general reputation of the place or premises, and at which the
284 owner of the premises shall have an opportunity to present
285 evidence in his or her defense, the board may declare the place
286 or premises to be a public nuisance as described in subsection
287 (2).

288 (5) If the board declares a place or premises to be a
289 public nuisance, it may enter an order requiring the owner of
290 such place or premises to adopt such procedure as may be
291 appropriate under the circumstances to abate any such nuisance
292 or it may enter an order immediately prohibiting:

293 (a) The maintaining of the nuisance;

294 (b) The operating or maintaining of the place or premises,
295 including the closure of the place or premises or any part
296 thereof; or

297 (c) The conduct, operation, or maintenance of any business
298 or activity on the premises which is conducive to such nuisance.

299 (6) An order entered under subsection (5) shall expire
300 after 1 year or at such earlier time as is stated in the order.

301 (7) An order entered under subsection (5) may be enforced
302 pursuant to the procedures contained in s. 120.69. This
303 subsection does not subject a municipality that creates a board
304 under this section, or the board so created, to any other
305 provision of chapter 120.

306 (8) The board may bring a complaint under s. 60.05 seeking
307 temporary and permanent injunctive relief against any nuisance
308 described in subsection (2).

309 (9) This section does not restrict the right of any person
310 to proceed under s. 60.05 against any public nuisance.

311 (10) As used in this section, the term "controlled
312 substance" includes any substance sold in lieu of a controlled
313 substance in violation of s. 817.563 or any imitation controlled
314 substance defined in s. 817.564.

315 (11) The provisions of this section may be supplemented by
316 a county or municipal ordinance. The ordinance may include, but
317 is not limited to, provisions that establish additional
318 penalties for public nuisances, including fines not to exceed
319 \$250 per day; provide for the payment of reasonable costs,
320 including reasonable attorney fees associated with
321 investigations of and hearings on public nuisances; provide for
322 continuing jurisdiction for a period of 1 year over any place or
323 premises that has been or is declared to be a public nuisance;
324 establish penalties, including fines not to exceed \$500 per day
325 for recurring public nuisances; provide for the recording of

326 orders on public nuisances so that notice must be given to
327 subsequent purchasers, successors in interest, or assigns of the
328 real property that is the subject of the order; provide that
329 recorded orders on public nuisances may become liens against the
330 real property that is the subject of the order; and provide for
331 the foreclosure of property subject to a lien and the recovery
332 of all costs, including reasonable attorney fees, associated
333 with the recording of orders and foreclosure. No lien created
334 pursuant to the provisions of this section may be foreclosed on
335 real property which is a homestead under s. 4, Art. X of the
336 State Constitution. Where a local government seeks to bring an
337 administrative action, based on a stolen property nuisance,
338 against a property owner operating an establishment where
339 multiple tenants, on one site, conduct their own retail
340 business, the property owner shall not be subject to a lien
341 against his or her property or the prohibition of operation
342 provision if the property owner evicts the business declared to
343 be a nuisance within 90 days after notification by registered
344 mail to the property owner of a second stolen property
345 conviction of the tenant. The total fines imposed pursuant to
346 the authority of this section shall not exceed \$15,000. Nothing
347 contained within this section prohibits a county or municipality
348 from proceeding against a public nuisance by any other means.

349 (12) Notwithstanding any other law, a rental property that
350 is declared a nuisance under this section may not be abated or

351 subject to forfeiture under the Florida Contraband Forfeiture
352 Act if the nuisance was committed by someone other than the
353 property owner and the property owner commences rehabilitation
354 of the property within 30 days after the property is declared a
355 nuisance and completes the rehabilitation within a reasonable
356 time thereafter.

357 Section 4. This act shall take effect July 1, 2020.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 625 (2020)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

3

4 **Amendment**

5 Remove line 34 and insert:

6 attorney, sheriff, or any citizen of the county may sue in the
7 name of

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 659 Drones

SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee, Fischer

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 822

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

SUMMARY ANALYSIS

Nonnative species are animals or plants living outside captivity or human cultivation that were not historically present in the state. Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.

Each year, thousands of acres of wildland and many homes are destroyed by wildfires that can erupt at any time of the year from a variety of causes, including arson, lightning, and debris burning. In addition to placing human lives and property at risk, wildfires can also alter hydrology and destroy or degrade wildlife habitat, including that of endangered species.

Florida law defines a drone as a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload. Studies have shown that drones can efficiently and inexpensively cover a large geographic range, reach places that are physically difficult for humans to access, cover substantially more territory and topography, carry a variety of cameras and sensors, collect biological specimens, and target and eliminate individual organisms through ballistic application of herbicides. Florida law restricts the use of drones by individuals and government entities to conduct surveillance. Law enforcement may not use a drone to gather evidence or other information, with certain exceptions.

The bill allows the use of a drone by a non-law enforcement employee of the Fish and Wildlife Conservation Commission or the Florida Forest Service for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

The bill may have an indeterminate positive fiscal impact on the state and does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Nonnative Plant and Animal Species

Nonnative¹ species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.² More than 500 fish and wildlife nonnative species have been documented in Florida and over 1,180 nonnative plant species have become established outside of human cultivation.³ Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.⁴

Florida Fish and Wildlife Conservation Commission

Pursuant to the Florida Constitution, the Fish and Wildlife Conservation Commission (FWC) exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.⁵ These powers include authority with respect to the control and management of nonnative plant and animal species.

To manage and minimize the impacts of nonnative animal species, individuals may not import, introduce, or possess any nonnative animal species without a permit from FWC.⁶ Permittees who possess these species must meet certain requirements set by FWC related to identifying, inspecting, and transporting such species as well as record-keeping requirements and certain captivity requirements to prevent escape. Permittees are also required to maintain disaster incident plans and detailed research plans.⁷ To further manage invasive and nonnative species, FWC provides public education, exotic pet amnesty days to surrender nonnative pets to pre-qualified adopters,⁸ and nonnative species eradication programs for fish and wildlife as well as plants.

FWC's Nonnative Fish and Wildlife Program aims to minimize the adverse impacts of nonnative animal species through prevention, early detection, rapid response, control and management, and education and outreach. The program staff work to monitor and remove nonnative species, respond to new invasions, and assess the risk of species not yet present in the state.⁹

FWC's Upland Invasive Exotic Plant Management Program conducts invasive plant removal on public conservation lands throughout the state.¹⁰ Invasive plant removal projects are recommended by a network of regional invasive plant working groups, which are comprised of local land managers who are interested in or responsible for maintaining and restoring federal, state, and local government conservation land. The program identifies areas that are in need of restoration and hires private

¹ The terms "nonnative" and "exotic" have the same meaning and are used interchangeably.

² FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan. 7, 2020).

³ Nicole Dodds, Mary Miller, and Alexa Lamm, University of Florida Institute of Food and Agricultural Sciences, *Floridians' Perceptions of Invasive Species*, Feb. 2014, p. 1, available at <http://edis.ifas.ufl.edu/pdf/WC/WC18600.pdf> (last visited Jan. 7, 2020).

⁴ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan. 7, 2020).

⁵ Art. IV, s. 9, FLA. CONST.

⁶ Section 379.231(1), F.S.

⁷ Rule 68-5.005, F.A.C.

⁸ FWC, *Exotic Pet Amnesty Programs*, available at <https://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Jan. 7, 2020); r. 68-5.008, F.A.C.

⁹ FWC, *Florida's Nonnative Fish and Wildlife*, available at <https://myfwc.com/wildlifehabitats/nonnatives/> (last visited Jan. 7, 2020).

¹⁰ FWC, *Upland Plant Management*, available at <https://myfwc.com/wildlifehabitats/habitat/invasive-plants/upland-plant/> (last visited Jan. 7, 2020); s. 369.252, F.S.

vegetation management contractors to do the removal.¹¹ The Upland Invasive Plant Management Program has conducted 2,000 invasive plant control operations targeting 2.7 million acres and has assisted land managers on 700 federal, state, and county-managed natural areas that comprise over 10 million acres, or 90 percent of public conservation land in the state.¹²

Florida Forest Service

As a division of the Department of Agriculture and Consumer Services (DACS), the Florida Forest Service works to protect and manage the forest resources of Florida. The Florida Forest Service manages 37 state forests, totaling over 1.1 million acres, for multiple public uses, including timber, recreation, and wildlife habitat.¹³

Invasive plants can have significant effects on forest health, productivity, access, and use. These plants displace native plants and associated wildlife and can alter natural processes such as fire regimes and hydrology.¹⁴ In addition, some forestry techniques involve soil disturbance (e.g., harvesting, site prep, and planting) and alteration of the canopy (e.g., harvesting), which affect sunlight and water penetration to the soil level. These techniques may aid in the introduction or spread of nonnative plant species on forestland.¹⁵

Wildfires

Each year, thousands of acres of wildland and many homes are destroyed by wildfires that can erupt at any time of the year from a variety of causes, including arson, lightning, and debris burning.¹⁶ In addition to placing human lives and property at risk, wildfires can also alter hydrology and destroy or degrade wildlife habitat, including that of endangered species.¹⁷

The Florida Forest Service serves as the primary authority on wildfires and conducts wildfire mitigation activities throughout the year. Wildfire mitigation is the proactive implementation of various measures designed to minimize the destructive effects of wildfires, such as prescribed burns and fire-resilient landscaping.¹⁸ The Florida Forest Service, equipped with a team of highly trained firefighters and foresters, works to provide a level of fire management that reduces threats to life and property, forests, and other related at-risk wildland resources, while promoting natural resource management using prescribed fire.¹⁹

Drones

Under Florida law, a drone is a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.²⁰

¹¹ FWC, *Upland Plant Management*, available at <https://myfwc.com/wildlifehabitats/habitat/invasive-plants/upland-plant/> (last visited Jan. 7, 2020).

¹² *Id.*

¹³ DACS, *Florida Forest Service*, available at <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service> (last visited Jan. 7, 2020); DACS, *State Forests*, available at <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service/Our-Forests/State-Forests> (last visited Jan. 7, 2020).

¹⁴ DACS, *Invasive Non-native Plants*, available at <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service/Our-Forests/Forest-Health/Invasive-Non-Native-Plants#> (last visited Jan 7, 2020).

¹⁵ *Id.*

¹⁶ Florida Division of Emergency Management, *Wildfires*, available at <https://www.floridadisaster.org/hazards/wildfire/> (last visited Jan. 28, 2020).

¹⁷ DACS, *Wildfire Mitigation*, available at https://www.fdacs.gov/content/download/4798/file/wildfire_mitigation_South_Florida.pdf (last visited Jan. 28, 2020).

¹⁸ *Id.*

¹⁹ DACS, *Wildland Fire*, available at <https://www.fdacs.gov/Divisions-Offices/Florida-Forest-Service/Wildland-Fire> (last visited Jan. 28, 2020).

²⁰ Section 934.50(2)(a), F.S.

The full system comprised of a drone and its associated elements, including communication links and components used to control the drone, is called an unmanned aircraft system.²¹

Drones can range vastly in size and weight and may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone. Drones can also be equipped with infrared cameras²² and "LADAR" (laser radar).²³

Federal Drone Regulation

The Federal Aviation Administration (FAA) regulates the use of navigable airspace.²⁴ The FAA has allowed drone use for essential public operations such as firefighting, disaster relief, search and rescue, law enforcement, border patrol, and scientific research since 1990.²⁵ In February 2012, Congress passed the Federal Aviation Authority Modernization and Reform Act (Act), which required the FAA to safely open the nation's airspace to drones by September 2015.²⁶

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.²⁷ The 2016 small drone regulations facilitated civilian drone use in the navigable airspace and included airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.²⁸ These regulations, which are currently in effect, also include a maximum altitude of 400 feet above the ground or a structure,²⁹ a requirement that the operator maintain visual line of sight of the aircraft,³⁰ and a prohibition on operating a drone at night.³¹

On January 18, 2019, the FAA announced a new proposed regulation for the use of drones that would allow drone operators to routinely fly over people and fly at night.³² The proposed regulation creates a risk-assessment model based upon the weight and design of the drone, and considers mitigation of the drone design to prohibit serious injury or property damage should the drone make contact with a person or property on the ground.³³ The FAA began accepting public comment on the proposed regulation on February 13, 2019, and has yet to complete a final draft.³⁴

²¹ Section 330.41(2)(c), F.S.

²² Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Apr. 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited Jan. 7, 2020).

²³ The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Massachusetts Institute of Technology, *Micro-lidar*, available at <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last visited Jan. 7, 2020).

²⁴ 49 U.S.C. § 40103 (2019).

²⁵ FAA, *Fact Sheet – Unmanned Aircraft Systems*, Feb. 15, 2015, available at https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=18297 (last visited Jan. 7, 2020).

²⁶ The FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95, 126 Stat. 11 (2012). Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Apr. 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited Jan. 7, 2020).

²⁷ 81 Fed. Reg. 42063 (2016).

²⁸ FAA, *Press Release – Fact Sheet-Small Unmanned Aircraft Regulations (Part 107)*, July 23, 2018, available at https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=22615 (last visited Jan. 7, 2020).

²⁹ 14 C.F.R. § 107.51 (2019).

³⁰ 14 C.F.R. § 107.31 (2019).

³¹ 14 C.F.R. § 107.29 (2019). Both the Lakeland Police Department and the Polk County Sheriff's Office have obtained waivers of the daylight-only operational restriction from the FAA, as has St. Johns County Fire Rescue. Certificates of Waiver 107W-2018-16741 (dated November 28, 2018), 107W-2018-16274 (dated November 6, 2018); and 107W-2019-03646 (dated August 8, 2019), FAA, *Part 107 Waivers Issued*, available at https://www.faa.gov/uas/commercial_operators/part_107_waivers/waivers_issued/ (last visited Jan. 7, 2020).

³² Safe and Secure Operations of Small Unmanned Aircraft Systems, 84 Fed. Reg. 3732 (February 13, 2019) (to be codified at 14 CFR Part 107), available at <https://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-00758.pdf> (last visited Jan. 7, 2020).

³³ *Id.*

³⁴ *Id.*

Florida Drone Regulation

Section 934.50, F.S., restricts the use of drones by individuals and government entities to conduct surveillance. The law recognizes that a real property owner is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be.³⁵ Thus, law enforcement may not use a drone to gather evidence or other information, with certain exceptions. When law enforcement has reasonable suspicion that swift action is needed, drone use is permitted to:

- Prevent imminent danger to life or serious damage to property;
- Forestall the imminent escape of a suspect or the destruction of evidence; or
- Achieve certain purposes such as facilitating the search for a missing person.³⁶

Other exceptions authorizing drone use include:

- Countering terrorist attacks;
- Effecting search warrants, authorized by a judge;
- Lawful business activities licensed by the state, with certain exceptions;
- Assessing property for ad valorem taxation purposes;
- Capturing images of utilities for specified purposes;
- Aerial mapping;
- Cargo delivery;
- Capturing images necessary for drone navigation; and
- Routing, siting, installing, maintaining, or inspecting communications service facilities.³⁷

Section 934.50, F.S., further provides that evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in the state, unless it is permitted under one of the statute's exceptions.³⁸

Use of Drones for Managing Invasive Species and Suppressing and Mitigating Wildfire Threats

Remote sensing using drones for the surveillance, detection, and reporting of an invasive species on a landscape scale can improve early detection of invading plants and animals, making their management more efficient and less expensive.³⁹ Studies have shown that drones can efficiently and inexpensively cover a large geographic range, reach places that are physically difficult for humans to access, cover substantially more territory and topography, carry a variety of cameras and sensors, collect biological specimens, and target and eliminate individual organisms through ballistic application of herbicides.⁴⁰

Effect of the Bill

The bill allows the use of a drone by a non-law enforcement employee of FWC or the Florida Forest Service for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

B. SECTION DIRECTORY:

Section 1. Amends s. 934.50, F.S., to provide an exception for drone use under certain conditions for FWC and the Florida Forest Service.

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

³⁵ Sections 934.50(3)(a) and 934.50(4), F.S.

³⁶ Section 943.50(4)(c), F.S.

³⁷ Sections 943.50(4)(a)-(b) and 943.50(4)(d)-(j), F.S.

³⁸ Section 934.50(6), F.S.

³⁹ Barbara Martinez, Alex Dehgan, Brad Zamft, David Baisch, Colin McCormick, Anthony J. Giordano, Rebecca Aicher, Shah Selbe, Cassie Hoffman, *Advancing federal capacities for the early detection of and rapid response to invasive species through technology innovation*, National Invasive Species Council: Contractor's Report, Mar. 2017, available at https://www.doi.gov/sites/doi.gov/files/uploads/federal_capacities_for_edrr_through_technology_innovation_contractorsreport_10.22.18.pdf (last visited Jan. 7, 2020).

⁴⁰ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive indeterminate fiscal impact on state government expenditures because the use of drones may prove to be a more cost- and time-efficient method for invasive species management and removal and wildfire suppression and mitigation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to 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:

Privacy

Currently, a person does not have a reasonable expectation of privacy on public lands. However, with the evolution of technology as it relates to intrusion into a person's privacy interests, the law applying the Fourth Amendment to the United States Constitution may evolve.⁴¹

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁴¹ The Fourth Amendment to the U.S. Constitution protects persons from unreasonable searches and seizures by the government. U.S. CONST. AMEND. IV. See *Katz v. United States*, 389 U.S. 347 (1967), finding there is no reasonable expectation of privacy in the public view. See also *Carpenter v. United States*, 138 S.Ct. 2206 (2018), a recent Fourth Amendment case finding a reasonable expectation of privacy in historical cell phone location records.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment provided an exception for drone use for the purposes of suppressing and mitigating wildfires.

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

1 A bill to be entitled
2 An act relating to drones; amending s. 934.50, F.S.;
3 adding an exception to prohibited uses of a drone;
4 providing an effective date.

5

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

7

8 Section 1. Paragraph (k) is added to subsection (4) of
9 section 934.50, Florida Statutes, and subsection (3) of that
10 section is republished, to read:

11 934.50 Searches and seizure using a drone.—

12 (3) PROHIBITED USE OF DRONES.—

13 (a) A law enforcement agency may not use a drone to gather
14 evidence or other information.

15 (b) A person, a state agency, or a political subdivision
16 as defined in s. 11.45 may not use a drone equipped with an
17 imaging device to record an image of privately owned real
18 property or of the owner, tenant, occupant, invitee, or licensee
19 of such property with the intent to conduct surveillance on the
20 individual or property captured in the image in violation of
21 such person's reasonable expectation of privacy without his or
22 her written consent. For purposes of this section, a person is
23 presumed to have a reasonable expectation of privacy on his or
24 her privately owned real property if he or she is not observable
25 by persons located at ground level in a place where they have a

26 | legal right to be, regardless of whether he or she is observable
27 | from the air with the use of a drone.

28 | (4) EXCEPTIONS.—This section does not prohibit the use of
29 | a drone:

30 | (k) By a non-law enforcement employee of the Fish and
31 | Wildlife Conservation Commission or of the Florida Forest
32 | Service for the purposes of managing and eradicating invasive
33 | exotic plants or animals on public lands and suppressing and
34 | mitigating wildfire threats.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 723 Peer-to-Peer Car Sharing
SPONSOR(S): Insurance & Banking Subcommittee; Fischer and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 1 N, As CS	Lloyd	Cooper
2) State Affairs Committee		Roth	Williamson
3) Commerce Committee			

SUMMARY ANALYSIS

In recent years, the private market, through the use of the Internet and smart phone technology, has allowed the development of new forms of direct person to person economic arrangements. Companies have emerged to facilitate the sharing of motor vehicles such that a private passenger vehicle is given over to another individual to operate for a period. This is known as “peer-to-peer car sharing.” These services are different from transportation network companies, like Uber, Sidecar, and Lyft, in that another person takes over possession and control of the motor vehicle from the owner.

The bill establishes statutory requirements for peer-to-peer car sharing, including liabilities and insurance obligations among participants. The bill:

- Defines the term “peer-to-peer car sharing” as the authorized use of a motor vehicle by an individual other than the vehicle’s owner through a peer-to-peer car-sharing program. The term does not include the renting of a motor vehicle through a rental company, the use of a for-hire vehicle, or joint use of motor vehicles, such as ridesharing or carpooling.
- Establishes insurance requirements for each party involved in peer-to-peer car sharing. During the period that the owner is sharing the car with another driver, the peer-to-peer car-sharing program (e.g., Turo, Drift, and Getaround) is responsible for providing motor vehicle insurance at or above the statutory minimums for private passenger motor vehicles. It coordinates coverage if there are multiple insurance policies involved and depending on the circumstances. If the owner’s or driver’s policy lapses or is inadequate, the program is responsible for the insurance requirements.
- Allows motor vehicle insurers insuring the shared vehicle owner to exclude coverage for use of the vehicle in car sharing.
- Provides that the peer-to-peer car-sharing program and vehicle owner are not vicariously liable for the actions and damages of the driver during periods of peer-to-peer car sharing use.
- Specifies recordkeeping requirements and retention periods.
- Includes requirements for consumer protection notifications.
- Addresses the repair, use, and non-use of motor vehicles under a safety recall notice.
- Provides that the bill does not limit the liability of the peer-to-peer car-sharing program for its acts or omissions that cause bodily harm during peer-to-peer car sharing; nor, the owner or driver to the peer-to-peer car-sharing program for economic losses due to a breach of contract.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In recent years, the private market, using the Internet and smart phone technology, has allowed the development of new forms of direct person-to-person economic arrangements. Transportation network companies (TNCs) have organized to allow individuals to earn extra income by sharing rides in their personal cars. Entities like Uber, Lyft, and Sidecar facilitate the connection of individuals seeking rides with those offering rides and manage payment transactions for the service. Because of questions over safety, regulations, and insurance considerations, the Legislature passed CS/HB 221¹ in 2017 to preempt local regulations and establish statutory requirements for TNCs, including defining insurance liabilities and standards.

In a manner similar to TNCs, new companies have emerged to facilitate the sharing of motor vehicles such that a private passenger vehicle is given over to another individual to operate for a period. This is known as peer-to-peer car sharing.

Currently, there are three motor vehicle rental or sharing models available. They are motor vehicle rental companies, car-sharing services, and peer-to-peer car-sharing programs. Motor vehicle rental companies and car-sharing services are regulated by statute; however, there are no statutes specifically regulating the standards and requirements applicable to peer-to-peer car sharing.

For-Hire Vehicles

With certain exceptions, offering for lease or rent any motor vehicle in the state qualifies the vehicle as a “for-hire vehicle.” Specifically, s. 320.01(15)(a), F.S., provides:

“For-hire vehicle” means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire.” The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire.”

Renting a Motor Vehicle to Another

Current law establishes the requirements for a person (including natural persons and businesses) who wishes to rent a motor vehicle to another.² These include requiring: inspection of the driver license of the person to whom the vehicle is to be rented; and, comparing and verifying the signature thereon with the signature of such person written in his or her presence before the vehicle can be rented. Further, a record must be kept of the registration number of the motor vehicle rented, the name and address of the person renting, and the number, date, and place of issue.

¹ Ch. 2017-12, Laws of Fla.

² S. 322.38, F.S.,

Car Sharing Service

For the purposes of defining the applicability of the rental car surcharge³ authorized by s. 212.0606, F.S., a “car sharing service” is a membership-based organization or business that requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The car rental surcharge applicable to car-sharing services does not apply to the lease, rental, or usage of a motor vehicle from a location-owned, operated, or leased by or for the benefit of an airport or airport authority.⁴

Peer-to-Peer Car Sharing

In peer-to-peer car sharing, owners interested in sharing their vehicles can register as a host on a peer-to-peer car-sharing site.⁵ Sites require photos of the car and help the owner determine a fee based on the location and type of vehicle. The host then specifies the vehicle’s availability. The host may choose to have the vehicle picked up at his or her house, deliver the vehicle, or have it picked up at another location, such as an airport. Hosts typically receive between 65 and 75 percent of fees. Payments are typically made to the owner through direct deposit.⁶ The site provides the recordkeeping necessary to the transaction and in compliance with requirements of law.

Guests also register with the peer-to-peer car-sharing site. The site will conduct a background check and look at the guests’ driving records before approving them. The process involves choosing an available vehicle, reserving a date and time, and providing credit card information if it is not already on file. At the end of the sharing period, the driver replaces any consumed fuel before returning the vehicle to its pickup location.⁷

One peer-to-peer car-sharing website, Turo.com, reports that its company has users in 56 countries in over 5,500 cities across the world. It also has over 850 makes and models of vehicles and offers up to \$1 million in liability insurance.⁸ The average host earns \$500 per month. Hosts with three or more vehicles average over \$3,000 per month.⁹

³ A rental car surcharge of \$2.00 per day for each day of the first 30 days of a car rental and \$1.00 per day for a car sharing service, if the rental by the service is less than 24 hours, is required to be collected and paid to the state. S. 212.0606, F.S.

⁴ S. 212.0606(2), F.S.

⁵ Turo, Getaround, and Avail are examples of car sharing websites/applications.

⁶ Russ Heaps, *The Good, Bad and Ugly of Peer-to-Peer Car Sharing*, Autotrader, (Feb. 2015), <https://www.autotrader.com/car-shopping/good-bad-and-ugly-peer-peer-car-sharing-234961> (last visited Jan. 25, 2020).

⁷ *Id.*

⁸ Turo, *About Turo*, <https://turo.com/en-us/about> (last visited Jan. 25, 2020).

⁹ *Id.*

Documentation Required for Operation of a Vehicle

Section 320.0605(1), F.S., requires that at all times while a vehicle is being used or operated on the roads of Florida, the operator of the vehicle must be in the possession of:

- The registration certificate or an official copy;
- A true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period;
- A temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet; or
- A cab card issued for a vehicle registered under the International Registration Plan.

The certificate or document must be shown upon demand of any authorized law enforcement officer or agent of the Department of Highway Safety and Motor Vehicles (DHSMV), except for a registered fleet vehicle.¹⁰ This provision does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S.¹¹

Section 320.0605(2), F.S., specifies that for a vehicle rented from a motor vehicle rental company, the rental or lease documentation must include:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle's make, model, and color;
- Vehicle's mileage; and
- Authorized renter's name.

Effect of the Bill

The bill creates a new section of the Florida Insurance Code¹² providing requirements for "peer-to-peer car sharing," also called "car sharing" in the bill. Peer-to-peer car sharing is the authorized use of a shared vehicle (vehicle or car) through a peer-to-peer car-sharing program (program) by an individual, the shared vehicle driver (driver) that is not the shared vehicle owner (owner).

The bill defines the term "peer-to-peer car sharing" as the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car-sharing program. The term does not include the renting of a motor vehicle through a rental company, the use of a for-hire vehicle, or joint use of motor vehicles, such as ridesharing or carpooling. The bill defines the term "peer-to-peer car sharing program" (program) as a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. It does not include a rental car company, taxi cab association, the owner of a for-hire vehicle, or a car sharing service.¹³

¹⁰ A fleet vehicle registered under s. 320.0657, F.S., provides for the permanent registration of fleet license plates.

¹¹ Chapter 318, F.S., relates to the disposition of traffic infractions.

¹² The Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.

¹³ A "for-hire vehicle" means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is "for hire." The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for hire." S. 320.01(15), F.S.

Peer-to-Peer Car Sharing Insurance Requirements

The bill requires the program to ensure that, during each car-sharing period, the owner and driver of the vehicle have the following minimum coverage for motor vehicle insurance, which are the statutory minimums required for private passenger motor vehicles, during peer-to-peer car sharing periods:

- Property damage coverage of at least \$10,000;
- Bodily injury coverage of at least \$10,000 for injury to one person and \$20,000 for injury to two or more persons;
- Personal injury protection of \$10,000; and
- Uninsured/underinsured motorist coverage, as required by s. 627.727, F.S.¹⁴

The program must also ensure that the insurance policy either recognizes the use of the vehicle in peer-to-peer car sharing or does not exclude shared use. Compliant insurance coverage may be maintained by the vehicle owner, driver, the program, or any combination thereof, which will be the primary insurance coverage during periods the vehicle is shared. If the owner's or driver's insurance lapses or does not provide the required coverage, the program's coverage must provide coverage as if it were primary from day one, i.e., provide coverage from the first dollar claimed. Further, the program's coverage must not require that a claim be denied by another insurer. The program is authorized to maintain multiple insurance policies to meet its obligations.¹⁵

Liabilities and Exclusions

If it is determined that the vehicle owner was in control¹⁶ of the vehicle at the time of a loss, the owner must indemnify the program to the extent of the insurer's obligation.

During shared periods, the program assumes the liability of the vehicle owner for bodily injury and property damage to third parties, uninsured/underinsured motorists, and personal injury protection coverages in the amount specified in the car sharing agreement, which must meet statutory minimums. This shifting of liability is void if the owner makes an intentional or fraudulent material misrepresentation or omission to the program before the sharing period when the loss occurred or if the owner acts in concert with a vehicle driver who fails to return the vehicle as provided in the peer-to-peer car-sharing agreement.

If a dispute exists about who was in control of a vehicle at the time of a loss and the program does not have, did not retain, or fails to provide specific required information, the program will have primary liability for a claim.

If the owner's insurer defends or indemnifies a claim related to a vehicle that it has excluded from coverage and for which it is not liable under the bill, the owner's insurer is entitled to contribution from the program's insurer under certain conditions.

Exemption from Vicarious Liability

The program and the shared vehicle owner are exempted from vicarious liability under any local or state law that imposes liability based on vehicle ownership.¹⁷ This means that the actions and liabilities of the driver cannot be imputed to be those of the program or the vehicle owner.

¹⁴ While uninsured/underinsured motorist coverage is required to be offered to every purchaser of motor vehicle insurance in this state, the purchaser may reject such coverage in writing. S. 627.727(1), F.S. Therefore, such insurance is elective.

¹⁵ The program has an insurable interest in the shared vehicle. Also, it may meet its insurance obligations by purchasing insurance from an admitted insurer, which means claims are backed by the Florida Insurance Guaranty Association, in the event the insurer becomes insolvent, or the insurance may be purchased from an authorized surplus lines company, provided the company carries a minimum rating specified by the bill.

¹⁶ See Section III.C. Drafting Issues or Other Comments.

¹⁷ The bill references the federal Graves Amendment, 49 U.S.C. 30106 (2005). The Graves Amendment provides that the owner of a motor vehicle who engages in the business of renting or leasing vehicles and has not been negligent or committed a crime is not liable for the damages caused by a

Motor Vehicle Insurance Policy Exclusions

The bill specifies that a motor vehicle insurer may exclude coverage and the duty to defend or indemnify any claim under an owner's policy, including, but not limited to, all types of motor vehicle coverage. The bill provides current insurance policies approved for use in Florida that exclude coverage of vehicles offered for rent, sharing, or hire or for any business use are not invalidated or limited.

Notification Regarding Liens

If the vehicle has a lien against it at the time it is registered for use within the program, the program must notify the owner that using the vehicle for car sharing may violate the terms of the contract with the lienholder.

Required Recordkeeping

The program must collect and verify records regarding vehicle use, including the times used, fees paid by the driver, and revenues received by the owner. These records must be retained for at least the duration of the statute of limitations for personal injuries and provided on request to the vehicle owner, the owner's insurer, or the vehicle driver's insurer. The program must also keep the following records:¹⁸

- The name and address of the driver;
- The driver license number of the driver and each other person, if any, who will operate the vehicle; and
- The place of issuance of the driver license.

Consumer Protections

The peer-to-peer car-sharing agreement must include the following disclosures to the owner and driver:

- Any right of the program to seek indemnification from either the owner or driver for economic losses due to a breach of contract;
- A motor vehicle insurance policy issued to the owner for the vehicle or to the driver does not provide a defense or indemnification for any claim asserted by the program;
- The program's insurance is only in effect during the sharing period;
- If the driver uses the vehicle beyond the agreed termination time, the owner and driver may not have insurance coverage;
- The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the owner or the driver;
- The vehicle owner's motor vehicle liability insurance may exclude coverage for a vehicle;
- An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries; and
- Any conditions under which a vehicle driver must maintain a personal motor vehicle insurance policy with certain coverage on a primary basis in order to book a vehicle.

renter/lessee during the rental or lease period merely based on being the owner of the rented or leased vehicle. The Graves Amendment defines owner as a person who is—

(A) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle;

(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

(C) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise.

¹⁸ See Section III.C. Drafting Issues or Other Comments.

The program may not enter into an agreement with a driver, unless the driver:

- Holds a Florida driver license of the type required for the class of vehicle shared;
- Holds a driver license issued by the driver's state or country of the type required for the class of vehicle and the driver is the minimum age to operate a vehicle in Florida; or
- Is specifically authorized by DHSMV to drive vehicles of the class shared.

The program is solely responsible for program equipment installed in or on the vehicle for the purposes of allowing use of the vehicle in car sharing through the program. The program must indemnify the owner for any damage to or theft of such equipment during share periods that is not caused by the owner; the program may seek indemnification from the driver for such damage.

Motor Vehicle Safety Recalls

The program must verify the recall and repair status of the vehicle when it is registered for use with the program. The owner must be notified by the program that: vehicles under recall cannot be shared until repaired; if the owner receives a recall notice while the vehicle is available for sharing, the vehicle must be removed from sharing as soon as practicable; and, if the vehicle is in the possession of a driver, the owner must notify the program as soon as practicable so that it can be repaired.¹⁹

Construction

The bill specifically provides that it does not limit the liability of the program for acts and omissions by the program that cause bodily harm to a person as a result of peer-to-peer car sharing. It also provides that it does not limit the program's right to contract for indemnification from owners or drivers for economic losses due to a breach of contract.

B. SECTION DIRECTORY:

Section 1. Creates s. 627.7483, F.S., relating to peer-to-peer car sharing; insurance requirements.

Section 2. Provides an effective date of March 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None known.
2. Expenditures:
None known.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None known.
2. Expenditures:
None known.

¹⁹ *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Providing specific requirements and delineating insurance obligations and liabilities of the various parties to a peer-to-peer car sharing agreement may increase economic activity and avoid litigation over the scope of each party's liability.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill defines a "shared vehicle owner" as the registered owner, or a natural person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program. The bill uses the term "shared vehicle owner" exclusively in the context of the role of the registered owner of the motor vehicle. It does not provide a separate context for when an individual or entity designated by the owner would act on behalf of the owner or limit the liability of designated person or entity to only the liabilities that could arise from their actions performed in the interest of the owner. Therefore, all responsibilities, obligations, and liabilities that the bill places on the owner are shared by the designee, without limitation. This may create a situation where a person is designated only to facilitate delivery or return of a vehicle and they become liable for all of the owner's insurance obligations with respect to the vehicle and the program.

The bill requires the peer-to-peer car-sharing program to ensure that the owner and driver of a vehicle have uninsured/underinsured motorist coverage as required by law. The uninsured/underinsured motorist coverage statute is elective. However, on lines 175-182, the bill shifts liability for specified coverages from the owner to the program, including liability to uninsured/underinsured motorists. This language implies that the program is required to provide uninsured/underinsured motorist coverage meeting or exceeding statutory minimums. It is unclear if the intent of the bill is to require uninsured/underinsured motorist coverage, despite its elective status or to allow the program to accept arrangements and be free from liability where the owner and or the driver have rejected uninsured/underinsured motorist coverage.

The bill provides that the "car-sharing termination time" is when agreed use time ends and the vehicle is returned to the agreed upon location, the vehicle is returned to an alternate agreed upon location, or the vehicle owner takes *possession and control* of the vehicle. In three instances, the bill provides for limitations or liabilities when the vehicle owner is in control of the vehicle. It is unclear if references to "in control" and "in possession and control" are intended to have the same meaning. Further, it is unclear if "in control" refers to an individual actively operating the vehicle or if it means the general responsibility for a vehicle by means of being able to exclude others from its use without permission.

Since a clear understanding of this term is needed to understand the extent of liability shifting between the owner and the program, the use of the term may need to be clarified.

On lines 289-291, the bill requires designation of personnel capable of fielding calls for roadside assistance and other customer service inquiries. It is not clear to whom the term “personnel” refers to for this purpose or who will designate them.

On lines 313-318, the bill specifies certain records that the program must keep. This occurs in a section titled “Consumer Protections” rather than in an earlier section titled “Recordkeeping.” The bill requires the retention of a non-exclusive list of specified records for a designated period. It is unclear if listing additional recordkeeping requirements in another portion of the bill is subject to the same retention period. It may avoid confusion to list all recordkeeping requirements in a single section of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Insurance & Banking Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments clarified the term “person” is a “natural person,” for purposes of designating someone to act on behalf of a vehicle owner and replaced the term “network” where context indicated with the term “peer-to-peer car-sharing program.”

The analysis is drafted to the committee substitute as approved by the Insurance & Banking Subcommittee.

1 A bill to be entitled
2 An act relating to peer-to-peer car sharing; creating
3 s. 627.7483, F.S.; providing definitions; providing
4 motor vehicle insurance requirements for peer-to-peer
5 car sharing; providing that peer-to-peer car-sharing
6 programs have an insurable interest in shared vehicles
7 in specified periods; authorizing peer-to-peer car-
8 sharing programs to own and maintain certain policies
9 of motor vehicle insurance; providing liabilities
10 under certain circumstances; providing applicability;
11 requiring shared vehicle owners' insurers to indemnify
12 networks under certain circumstances; providing
13 exemptions from vicarious liabilities; authorizing
14 motor vehicle insurance policies to exclude specified
15 coverages under certain circumstances; authorizing
16 specified insurers to seek contributions against
17 indemnifications under certain circumstances;
18 providing requirements for notifications of
19 implications of liens; providing requirements for
20 recordkeeping; requiring specified disclosures to
21 shared vehicle drivers and owners; requiring driver
22 license verification and data retention under certain
23 circumstances; providing responsibilities and
24 indemnifications for specified equipment; providing
25 requirements for verification and notification

26 relating to motor vehicle safety recalls; providing
 27 construction; providing an effective date.

28
 29 Be It Enacted by the Legislature of the State of Florida:
 30

31 Section 1. Section 627.7483, Florida Statutes, is created
 32 to read:

33 627.7483 Peer-to-peer car sharing; insurance
 34 requirements.-

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

36 (a) "Car-sharing delivery period" means the period of time
 37 during which a shared vehicle is being delivered to the location
 38 of the car-sharing start time, if applicable, as documented by
 39 the governing peer-to-peer car-sharing program agreement.

40 (b) "Car-sharing period" means the period of time that
 41 commences either at the car-sharing delivery period or, if there
 42 is no car-sharing delivery period, at the car-sharing start time
 43 and that ends at the car-sharing termination time.

44 (c) "Car-sharing start time" means the time when the
 45 shared vehicle is under the control of the shared vehicle
 46 driver, which time occurs at or after the time the reservation
 47 of the shared vehicle is scheduled to begin, as documented in
 48 the records of a peer-to-peer car-sharing program.

49 (d) "Car-sharing termination time" means the earliest of
 50 the following events:

51 1. The expiration of the agreed-upon period of time
52 established for the use of a shared vehicle according to the
53 terms of the peer-to-peer car-sharing program agreement if the
54 shared vehicle is delivered to the location agreed upon in the
55 peer-to-peer car-sharing program agreement;

56 2. The time the shared vehicle is returned to a location
57 as alternatively agreed upon by the shared vehicle owner and
58 shared vehicle driver, as communicated through a peer-to-peer
59 car-sharing program; or

60 3. The time the shared vehicle owner takes possession and
61 control of the shared vehicle.

62 (e) "Peer-to-peer car sharing" or "car sharing" means the
63 authorized use of a motor vehicle by an individual other than
64 the vehicle's owner through a peer-to-peer car-sharing program.
65 For the purposes of this section, the term does not include the
66 renting of a motor vehicle through a rental car company, the use
67 of a for-hire vehicle as defined in s. 320.01(15), ridesharing
68 as defined in s. 341.031(9), carpool as defined in s. 450.28(3),
69 or the use of a motor vehicle under an agreement for a car-
70 sharing service as defined in s. 212.0606(2).

71 (f) "Peer-to-peer car-sharing program" means a business
72 platform that enables peer-to-peer car sharing by connecting
73 motor vehicle owners with drivers for financial consideration.
74 For the purposes of this section, the term does not include a
75 rental car company, a car-sharing service as defined in s.

76 212.0606(2), a taxicab association, or the owner of a for-hire
77 vehicle as defined in s. 320.01(15).

78 (g) "Peer-to-peer car-sharing program agreement" means the
79 terms and conditions established by the peer-to-peer car-sharing
80 program which are applicable to a shared vehicle owner and a
81 shared vehicle driver and which govern the use of a shared
82 vehicle through a peer-to-peer car-sharing program. For the
83 purposes of this section, the term does not include a rental
84 agreement or an agreement for a for-hire vehicle as defined in
85 s. 320.01(15) or for a car-sharing service as defined in s.
86 212.0606(2).

87 (h) "Shared vehicle" means a motor vehicle that is
88 available for sharing through a peer-to-peer car-sharing
89 program. For the purposes of this section, the term does not
90 include a rental car, a for-hire vehicle as defined in s.
91 320.01(15), or a motor vehicle used for ridesharing as defined
92 in s. 341.031(9), for carpool as defined in s. 450.28(3), or for
93 car-sharing service as defined in s. 212.0606(2).

94 (i) "Shared vehicle driver" means an individual who has
95 been authorized by the shared vehicle owner to drive the shared
96 vehicle under the peer-to-peer car-sharing program agreement.

97 (j) "Shared vehicle owner" means the registered owner, or
98 a natural person or entity designated by the registered owner,
99 of a motor vehicle made available for sharing to shared vehicle
100 drivers through a peer-to-peer car-sharing program. For the

101 purposes of this section, the term does not include an owner of
102 a for-hire vehicle as defined in s. 320.01(15).

103 (2) INSURANCE COVERAGE REQUIREMENTS.—

104 (a)1. A peer-to-peer car-sharing program shall ensure
105 that, during each car-sharing period, the shared vehicle owner
106 and the shared vehicle driver are insured under a motor vehicle
107 insurance policy that provides all of the following:

108 a. Property damage liability coverage that meets the
109 minimum coverage amounts required under s. 324.022.

110 b. Bodily injury liability coverage limits as described in
111 s. 324.021(7) (a) and (b).

112 c. Personal injury protection benefits that meet the
113 minimum coverage amounts required under s. 627.736.

114 d. Uninsured and underinsured vehicle coverage as required
115 under s. 627.727.

116 2. The peer-to-peer car-sharing program shall also ensure
117 that the motor vehicle insurance policy under subparagraph 1.:

118 a. Recognizes that the shared vehicle insured under the
119 policy is made available and used through a peer-to-peer car-
120 sharing program; or

121 b. Does not exclude the use of a shared vehicle by a
122 shared vehicle driver.

123 (b)1. The insurance described under paragraph (a) may be
124 satisfied by a motor vehicle insurance policy maintained by:

125 a. A shared vehicle owner;

126 b. A shared vehicle driver;

127 c. A peer-to-peer car-sharing program; or

128 d. A combination of a shared vehicle owner, a shared
129 vehicle driver, and a peer-to-peer car-sharing program.

130 2. The insurance policy maintained in subparagraph 1.
131 which satisfies the insurance requirements under paragraph (a)
132 is primary during each car-sharing period.

133 3.a. If the insurance maintained by a shared vehicle owner
134 or shared vehicle driver in accordance with subparagraph 1. has
135 lapsed or does not provide the coverage required under paragraph
136 (a), the insurance maintained by the peer-to-peer car-sharing
137 program must provide the coverage required under paragraph (a),
138 beginning with the first dollar of a claim, and must defend such
139 claim, except under circumstances as set forth in subparagraph
140 (3) (a) 2.

141 b. Coverage under a motor vehicle insurance policy
142 maintained by the peer-to-peer car-sharing program must not be
143 dependent on another motor vehicle insurer first denying a
144 claim, and another motor vehicle insurance policy is not
145 required to first deny a claim.

146 c. Notwithstanding any other law, statute, rule, or
147 regulation to the contrary, a peer-to-peer car-sharing program
148 has an insurable interest in a shared vehicle during the car-
149 sharing period. This sub-subparagraph does not create liability
150 for a peer-to-peer car-sharing program for maintaining the

151 coverage required under paragraph (a) and under this paragraph,
152 if applicable.

153 d. A peer-to-peer car-sharing program may own and maintain
154 as the named insured one or more policies of motor vehicle
155 insurance which provide coverage for:

156 (I) Liabilities assumed by the peer-to-peer car-sharing
157 program under a peer-to-peer car-sharing program agreement;

158 (II) Liability of the shared vehicle owner;

159 (III) Liability of the shared vehicle driver;

160 (IV) Damage or loss to the shared motor vehicle; or

161 (V) Damage, loss, or injury to persons or property to

162 satisfy the personal injury protection and uninsured and
163 underinsured motorist coverage requirements of this section.

164 e. Insurance required under paragraph (a), when maintained
165 by a peer-to-peer car-sharing program, may be provided by an
166 insurer authorized to do business in this state which is a
167 member of the Florida Insurance Guaranty Association or an
168 eligible surplus lines insurer that has a superior, excellent,
169 exceptional, or equivalent financial strength rating by a rating
170 agency acceptable to the office. A peer-to-peer car-sharing
171 program is not transacting in insurance when it maintains the
172 insurance required under this section.

173 (3) LIABILITIES AND INSURANCE EXCLUSIONS.-

174 (a) Liability.-

175 1. A peer-to-peer car-sharing program shall assume

176 liability, except as provided in subparagraph 2., of a shared
177 vehicle owner for bodily injury or property damage to third
178 parties or uninsured and underinsured motorist or personal
179 injury protection losses during the car-sharing period in an
180 amount stated in the peer-to-peer car-sharing program agreement,
181 which amount may not be less than those set forth in ss.
182 324.021(7)(a) and (b), 324.022, 627.727, and 627.736,
183 respectively.

184 2. The assumption of liability under subparagraph 1. does
185 not apply if a shared vehicle owner:

186 a. Makes an intentional or fraudulent material
187 misrepresentation or omission to the peer-to-peer car-sharing
188 program before the car-sharing period in which the loss occurs;
189 or

190 b. Acts in concert with a shared vehicle driver who fails
191 to return the shared vehicle pursuant to the terms of the peer-
192 to-peer car-sharing program agreement.

193 3. A peer-to-peer car-sharing program shall assume primary
194 liability for a claim when it is in whole or in part providing
195 the insurance required under paragraph (2)(a) and:

196 a. A dispute exists as to who was in control of the shared
197 motor vehicle at the time of the loss; and

198 b. The peer-to-peer car-sharing program does not have
199 available, did not retain, or fails to provide the information
200 required under subsection (5).

201
202 The shared vehicle owner's insurer shall indemnify the peer-to-
203 peer car-sharing program to the extent of the insurer's
204 obligation, if any, under the applicable insurance policy if it
205 is determined that the shared vehicle owner was in control of
206 the shared motor vehicle at the time of the loss.

207 (b) Vicarious liability.—A peer-to-peer car-sharing
208 program and a shared vehicle owner are exempt from vicarious
209 liability consistent with 49 U.S.C. s. 30106 (2005) under any
210 state or local law that imposes liability solely based on
211 vehicle ownership.

212 (c) Exclusions in motor vehicle insurance policies.—An
213 authorized insurer that writes motor vehicle liability insurance
214 in this state may exclude any and all coverage and the duty to
215 defend or indemnify for any claim afforded under a shared
216 vehicle owner's motor vehicle insurance policy, including, but
217 not limited to:

- 218 1. Liability coverage for bodily injury and property
219 damage;
220 2. Personal injury protection coverage;
221 3. Uninsured and underinsured motorist coverage;
222 4. Medical payments coverage;
223 5. Comprehensive physical damage coverage; and
224 6. Collision physical damage coverage.
225

226 This paragraph does not invalidate or limit any exclusion
227 contained in a motor vehicle insurance policy, including any
228 insurance policy in use or approved for use which excludes
229 coverage for motor vehicles made available for rent, sharing, or
230 hire or for any business use.

231 (d) Contribution against indemnification.—A shared vehicle
232 owner's motor vehicle insurer that defends or indemnifies a
233 claim against a shared vehicle which is excluded under the terms
234 of its policy has the right to seek contribution against the
235 motor vehicle insurer of the peer-to-peer car-sharing program if
236 the claim is:

237 1. Made against the shared vehicle owner or the shared
238 vehicle driver for loss or injury that occurs during the car-
239 sharing period; and

240 2. Excluded under the terms of its policy.

241 (4) NOTIFICATION OF IMPLICATIONS OF LIEN.—At the time a
242 motor vehicle owner registers as a shared vehicle owner on a
243 peer-to-peer car-sharing program and before the shared vehicle
244 owner may make a shared vehicle available for car sharing on the
245 peer-to-peer car-sharing program, the peer-to-peer car-sharing
246 program must notify the shared vehicle owner that, if the shared
247 vehicle has a lien against it, the use of the shared vehicle
248 through a peer-to-peer car-sharing program, including the use
249 without physical damage coverage, may violate the terms of the
250 contract with the lienholder.

251 (5) RECORDKEEPING.—A peer-to-peer car-sharing program
252 shall:

253 (a) Collect and verify records pertaining to the use of a
254 shared vehicle, including, but not limited to, the times used,
255 fees paid by the shared vehicle driver, and revenues received by
256 the shared vehicle owner.

257 (b) Retain the records in paragraph (a) for a time period
258 not less than the applicable personal injury statute of
259 limitations.

260 (c) Provide the information contained in the records in
261 paragraph (a) upon request to the shared vehicle owner, the
262 shared vehicle owner's insurer, or the shared vehicle driver's
263 insurer to facilitate a claim coverage investigation.

264 (6) CONSUMER PROTECTIONS.—

265 (a) Disclosures.—Each peer-to-peer car-sharing program
266 agreement made in this state must disclose to the shared vehicle
267 owner and the shared vehicle driver:

268 1. Any right of the peer-to-peer car-sharing program to
269 seek indemnification from the shared vehicle owner or the shared
270 vehicle driver for economic loss resulting from a breach of the
271 terms and conditions of the peer-to-peer car-sharing program
272 agreement.

273 2. That a motor vehicle insurance policy issued to the
274 shared vehicle owner for the shared vehicle or to the shared
275 vehicle driver does not provide a defense or indemnification for

276 any claim asserted by the peer-to-peer car-sharing program.

277 3. That the peer-to-peer car-sharing program's insurance
278 coverage on the shared vehicle owner and the shared vehicle
279 driver is in effect only during each car-sharing period and
280 that, for any use of the shared vehicle by the shared vehicle
281 driver after the car-sharing termination time, the shared
282 vehicle driver and the shared vehicle owner may not have
283 insurance coverage.

284 4. The daily rate, fees, and, if applicable, any insurance
285 or protection package costs that are charged to the shared
286 vehicle owner or the shared vehicle driver.

287 5. That the shared vehicle owner's motor vehicle liability
288 insurance may exclude coverage for a shared vehicle.

289 6. An emergency telephone number of the personnel capable
290 of fielding calls for roadside assistance and other customer
291 service inquiries.

292 7. Any conditions under which a shared vehicle driver must
293 maintain a personal motor vehicle insurance policy with certain
294 applicable coverage limits on a primary basis in order to book a
295 shared vehicle.

296 (b) Driver license verification and data retention.-

297 1. A peer-to-peer car-sharing program may not enter into a
298 peer-to-peer car-sharing program agreement with a driver unless
299 the driver:

300 a. Holds a driver license issued under chapter 322 which

301 authorizes the driver to drive vehicles of the class of the
302 shared vehicle;

303 b. Is a nonresident who:

304 (I) Holds a driver license issued by the state or country
305 of the driver's residence which authorizes the driver in that
306 state or country to drive vehicles of the class of the shared
307 vehicle; and

308 (II) Is at least the same age as that required of a
309 resident to drive; or

310 c. Is otherwise specifically authorized by the Department
311 of Highway Safety and Motor Vehicles to drive vehicles of the
312 class of the shared vehicle.

313 2. A peer-to-peer car-sharing program shall keep a record
314 of:

315 a. The name and address of the shared vehicle driver;

316 b. The number of the driver license of the shared vehicle
317 driver and each other person, if any, who will operate the
318 shared vehicle; and

319 c. The place of issuance of the driver license.

320 (c) Responsibility for equipment.—A peer-to-peer car-
321 sharing program has sole responsibility for any equipment that
322 is put in or on the shared vehicle to monitor or facilitate the
323 peer-to-peer car-sharing transaction, including a GPS system.
324 The peer-to-peer car-sharing program shall indemnify and hold
325 harmless the shared vehicle owner for any damage to or theft of

326 such equipment during the car-sharing period which is not caused
327 by the shared vehicle owner. The peer-to-peer car-sharing
328 program may seek indemnity from the shared vehicle driver for
329 any damage to or loss of such equipment which occurs during the
330 car-sharing period.

331 (d) Motor vehicle safety recalls.—At the time a motor
332 vehicle owner registers as a shared vehicle owner on a peer-to-
333 peer car-sharing program and before the shared vehicle owner may
334 make a shared vehicle available for car sharing on the peer-to-
335 peer car-sharing program, the peer-to-peer car-sharing program
336 must:

337 1. Verify that the shared vehicle does not have any safety
338 recalls on the vehicle for which the repairs have not been made;
339 and

340 2. Notify the shared vehicle owner that if the shared
341 vehicle owner:

342 a. Has received an actual notice of a safety recall on the
343 vehicle, he or she may not make a vehicle available as a shared
344 vehicle on the peer-to-peer car-sharing program until the safety
345 recall repair has been made.

346 b. Receives an actual notice of a safety recall on a
347 shared vehicle while the shared vehicle is made available on the
348 peer-to-peer car-sharing program, he or she shall remove the
349 shared vehicle as available on the peer-to-peer car-sharing
350 program as soon as practicably possible after receiving the

351 notice of the safety recall and until the safety recall repair
352 has been made.

353 c. Receives an actual notice of a safety recall while the
354 shared vehicle is in the possession of a shared vehicle driver,
355 he or she shall notify the peer-to-peer car-sharing program
356 about the safety recall as soon as practicably possible after
357 receiving the notice of the safety recall, so that he or she may
358 address the safety recall repair.

359 (7) CONSTRUCTION.—This section does not limit:

360 (a) The liability of a peer-to-peer car-sharing program
361 for any act or omission of the peer-to-peer car-sharing program
362 which results in the bodily injury to a person as a result of
363 the use of a shared vehicle through peer-to-peer car sharing; or

364 (b) The ability of a peer-to-peer car-sharing program to
365 seek, by contract, indemnification from the shared vehicle owner
366 or the shared vehicle driver for economic loss resulting from a
367 breach of the terms and conditions of the peer-to-peer car-
368 sharing program agreement.

369 Section 2. This act shall take effect March 1, 2021.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 757 Cultural Affairs

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

TIED BILLS: **IDEN./SIM. BILLS:** SB 1632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	15 Y, 0 N, As CS	Villa	Smith
2) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

The Florida Arts and Culture Act (Act) was established to provide support to Florida artists, art agencies, museums, and nonprofit art organizations. The Division of Cultural Affairs (division), within the Department of State, is responsible for administering the Act. The Secretary of State (Secretary) is the head administrator of the division and is known as “Florida’s Chief Cultural Officer.”

The division is recognized by the National Endowment for the Arts (NEA), an independent federal agency that awards art related grants, as Florida’s official State Arts Agency.

The bill changes the division’s title from the “Division of Cultural Affairs” to the “Division of Arts and Culture” and the Secretary’s title from “Florida’s Chief Cultural Officer” to “Florida’s Chief Arts and Culture Officer.” The changes align the division with its mission to advance, support, and promote arts and culture.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Arts and Culture Act

The Florida Arts and Culture Act¹ (Act) was established to provide support for, and gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums, and nonprofit organizations. The intent of the Act is to foster and ensure that arts and culture have a significant and positive effect on Florida residents.²

Division of Cultural Affairs

The Secretary of State (Secretary) is Florida's chief cultural officer.³ The Secretary oversees the Division of Cultural Affairs (division),⁴ within the Department of State, which is designated as Florida's state arts administrative agency.⁵ As such, the division has direct administrative authority to oversee all of the programs authorized by the Act.⁶ The division's mission is to advance, support, and promote arts and culture to strengthen the economy and quality of life for all Floridians.⁷ To that end, the division must:

- Advance funds for grants on a quarterly basis;
- Enter into agreements for awarding grants or other contracts with any person, firm, corporation, or governmental entity as may be necessary to carry out its functions under the Act;
- Consult with and advise other individuals, groups, organizations, or state agencies and officials, particularly the Governor and Cabinet, concerning the acquisition of fine art works and the appropriate use and display of state-owned art treasures for maximum public benefit;
- Accept on behalf of the state donations of money, property, art objects, and antiquities;
- Sponsor performances and exhibits;
- Promote and encourage the study and appreciation of arts and culture;
- Collect, publish, and print pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state;
- Conduct and support cultural exchanges by coordinating with the appropriate state agencies and other organizations; and
- Enter into contracts to insure museum collections, artifacts, relics, and fine arts to which it holds title or which are on loan to the division.⁸

Florida Council on Arts and Culture

The Florida Council on Arts and Culture (council), within the Department of State, is an advisory body consisting of 15 members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives.⁹ Council member qualifications include a substantial history of community service in the performing or visual arts, service on boards of cultural institutions, and common recognition as a patron of the arts.¹⁰ It is the duty and responsibility of the council to:

- Advocate for arts and culture by encouraging the study and presentation of arts and cultural activities and to encourage participation in such activities;
- Advise the Secretary in matters pertaining to arts and cultural programs;

¹ Sections 265.281-265.709, F.S., are cited as the Florida Arts and Culture Act. Section 265.281, F.S.

² Section 265.282, F.S.

³ Section 15.18, F.S.; *see also* s. 265.284(1), F.S.

⁴ *Id.*

⁵ Section 265.284(2), F.S.

⁶ Section 265.284(3), F.S.

⁷ Florida Department of State Division of Cultural Affairs, *Strategic Plan 2020-2025*, (August 5, 2019), <https://dos.myflorida.com/media/702139/2020-2025-strategic-plan.pdf> (last visited January 27, 2020).

⁸ Section 265.284(3), F.S.

⁹ Section 265.285(1)(a), F.S.

¹⁰ *Id.*

- Advise the Secretary in matters concerning the awarding of grants authorized by the Act;
- Advise the Secretary in matters pertaining to grants administered by the division;
- Encourage the participation in and appreciation of arts and culture to meet the needs and aspirations of persons in all parts of the state;
- Encourage public interest in the state's cultural heritage and expand its cultural resources; and
- Encourage and assist freedom of artistic expression that is essential for the well-being of the arts.¹¹

National Endowment for the Arts

The National Endowment for the Arts (NEA) is an independent, federal agency with substantial discretion to award financial grants to support the arts. The NEA awards grants to groups and individuals whose artistic endeavors have substantial artistic and cultural significance or are otherwise worthy of public support, and to state agencies established to serve the same purpose.¹² The division is recognized by the NEA as Florida's official State Arts Agency and receives an annual partnership grant from the NEA.¹³ All 50 states have a State Arts Agency recognized by the NEA. Of those 50 State Arts Agencies, 47 include the word "Arts" in their name.¹⁴

Effect of the Bill

The bill changes the division's title from the "Division of Cultural Affairs" to the "Division of Arts and Culture" and the Secretary's title from "Florida's Chief Cultural Officer" to "Florida's Chief Arts and Culture Officer." The changes align the division with its mission to advance, support, and promote arts and culture.

B. SECTION DIRECTORY:

Section 1 amends s. 20.10, F.S., renaming the Division of Cultural Affairs as the Division of Arts and Culture.

Section 2 amends s. 15.18, F.S., providing that the Secretary must be known as Florida's Chief Arts and Culture Officer.

Sections 3 through 10 amend ss. 265.283, 265.284, 265.2865, 265.603, 265.701, 265.7025, 265.704, and 468.401, F.S., conforming provisions to changes made by the act.

Section 11 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:

¹¹ Section 265.285(2), F.S.

¹² 20 U.S.C. § 954 (2018).

¹³ Florida Department of State, *Division of Cultural Affairs - National Endowment for the Arts*,

<https://dos.myflorida.com/cultural/about-us/partners/national-endowment-for-the-arts/> (last visited January 28, 2020).

¹⁴ National Assembly of State Arts Agencies, *State Arts Agency Directory*, <https://nasaa-arts.org/state-arts-agencies/saa-directory/> (last visited January 28, 2020).

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not confer rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the Oversight, Transparency & Public Management Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably. The PCS removed a provision from the bill that repealed certain aspects of the Cultural Endowment Program.

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

1 A bill to be entitled
 2 An act relating to cultural affairs; amending s.
 3 20.10, F.S.; renaming the Division of Cultural Affairs
 4 as the Division of Arts and Culture; amending s.
 5 15.18, F.S.; providing that the Secretary of State
 6 shall be known as "Florida's Chief Arts and Culture
 7 Officer"; amending ss. 265.283, 265.284, 265.2865,
 8 265.603, 265.701, 265.7025, 265.704, and 468.401,
 9 F.S.; conforming provisions to changes made by the
 10 act; providing an effective date.

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

13
 14 Section 1. Paragraph (e) of subsection (2) of section
 15 20.10, Florida Statutes, is amended to read:

16 20.10 Department of State.—There is created a Department
 17 of State.

18 (2) The following divisions of the Department of State are
 19 established:

20 (e) Division of Arts and Culture ~~Cultural Affairs~~.

21 Section 2. Section 15.18, Florida Statutes, is amended to
 22 read:

23 15.18 International and cultural relations.—The Divisions
 24 of Arts and Culture ~~Cultural Affairs~~, Historical Resources, and
 25 Library and Information Services of the Department of State

26 | promote programs having substantial cultural, artistic, and
27 | indirect economic significance that emphasize American
28 | creativity. The Secretary of State, as the head administrator of
29 | these divisions, shall hereafter be known as "Florida's Chief
30 | Arts and Culture ~~Cultural~~ Officer." As this officer, the
31 | Secretary of State is encouraged to initiate and develop
32 | relationships between the state and foreign cultural officers,
33 | their representatives, and other foreign governmental officials
34 | in order to promote Florida as the center of American
35 | creativity. The Secretary of State shall coordinate
36 | international activities pursuant to this section with
37 | Enterprise Florida, Inc., and any other organization the
38 | secretary deems appropriate. For the accomplishment of this
39 | purpose, the Secretary of State shall have the power and
40 | authority to:

41 | (1) Disseminate any information pertaining to the State of
42 | Florida which promotes the state's cultural assets.

43 | (2) Plan and carry out activities designed to cause
44 | improved cultural and governmental programs and exchanges with
45 | foreign countries.

46 | (3) Plan and implement cultural and social activities for
47 | visiting foreign heads of state, diplomats, dignitaries, and
48 | exchange groups.

49 | (4) Encourage and cooperate with other public and private
50 | organizations or groups in their efforts to promote the cultural

51 advantages of Florida.

52 (5) Serve as the liaison with all foreign consular and
 53 ambassadorial corps, as well as international organizations,
 54 that are consistent with the purposes of this section.

55 (6) Provide, arrange, and make expenditures for the
 56 achievement of any or all of the purposes specified in this
 57 section.

58 Section 3. Subsections (3) and (4) of section 265.283,
 59 Florida Statutes, are amended to read:

60 265.283 Definitions.—The following definitions shall apply
 61 to ss. 265.281-265.709:

62 (3) "Director" means the Director of the Division of Arts
 63 and Culture ~~Cultural Affairs~~ of the Department of State.

64 (4) "Division" means the Division of Arts and Culture
 65 ~~Cultural Affairs~~ of the Department of State.

66 Section 4. Subsection (1) of section 265.284, Florida
 67 Statutes, is amended to read:

68 265.284 Chief arts and culture ~~cultural~~ officer; director
 69 of division; powers and duties.—

70 (1) The Secretary of State is the chief arts and culture
 71 ~~cultural~~ officer of the state.

72 Section 5. Subsection (6) of section 265.2865, Florida
 73 Statutes, is amended to read:

74 265.2865 Florida Artists Hall of Fame.—

75 (6) The Division of Arts and Culture ~~Cultural Affairs~~ of

76 | the Department of State shall adopt rules necessary to carry out
 77 | the purposes of this section, including, but not limited to,
 78 | procedures for accepting nominations to, making recommendations
 79 | for, selecting members of the Florida Artists Hall of Fame, and
 80 | providing travel expenses for such recipients. Notwithstanding
 81 | the provisions of s. 112.061, the Secretary of State may approve
 82 | first-class travel accommodations for recipients of the Florida
 83 | Artists Hall of Fame award and their representatives for health
 84 | or security purposes.

85 | Section 6. Subsection (2) of section 265.603, Florida
 86 | Statutes, is amended to read:

87 | 265.603 Definitions relating to Cultural Endowment
 88 | Program.—The following terms and phrases when used in ss.
 89 | 265.601-265.606 shall have the meaning ascribed to them in this
 90 | section, except where the context clearly indicates a different
 91 | meaning:

92 | (2) "Division" means the Division of Arts and Culture
 93 | ~~Cultural Affairs~~ of the Department of State.

94 | Section 7. Subsections (1) and (5) of section 265.701,
 95 | Florida Statutes, are amended to read:

96 | 265.701 Cultural facilities; grants for acquisition,
 97 | renovation, or construction; funding; approval; allocation.—

98 | (1) The Division of Arts and Culture ~~Cultural Affairs~~ may
 99 | accept and administer moneys appropriated to it for providing
 100 | grants to counties, municipalities, and qualifying nonprofit

101 corporations for the acquisition, renovation, or construction of
102 cultural facilities.

103 (5) The Division of Arts and Culture ~~Cultural Affairs~~
104 shall adopt rules prescribing the criteria to be applied by the
105 Florida Council on Arts and Culture in recommending applications
106 for the award of grants and rules providing for the
107 administration of the other provisions of this section.

108 Section 8. Subsection (2) of section 265.7025, Florida
109 Statutes, is amended to read:

110 265.7025 Definitions relating to historic programs.—For
111 the purposes of ss. 265.7025-265.709, the term:

112 (2) "Division" means the Division of Arts and Culture
113 ~~Cultural Affairs~~ of the Department of State.

114 Section 9. Section 265.704, Florida Statutes, is amended
115 to read:

116 265.704 Historical museums; powers and duties of the
117 Division of Arts and Culture ~~Cultural Affairs~~.—

118 (1) The division shall adopt rules pursuant to ss.
119 120.536(1) and 120.54 to administer the provisions of ss.
120 265.7025-265.709.

121 (2) The division may make and enter into all contracts and
122 agreements with other agencies, organizations, associations,
123 corporations, and individuals or with federal agencies as it may
124 determine are necessary, expedient, or incidental to the
125 performance of its duties or the execution of its powers under

126 ss. 265.7025-265.709.

127 (3) The division may accept gifts, grants, bequests,
128 loans, and endowments for purposes not inconsistent with its
129 responsibilities under this chapter. The division may also
130 establish an endowment that is consistent with the
131 responsibilities under ss. 265.7025-265.709.

132 (4) It is the duty of the division to:

133 (a) Promote and encourage throughout the state knowledge
134 and appreciation of Florida history by encouraging the people of
135 the state to engage in the preservation and care of artifacts,
136 museum items, treasure troves, and other historical properties;
137 the collection, research, fabrication, exhibition, preservation,
138 and interpretation of historical materials; the publicizing of
139 the state's history through public information media; and other
140 activities in historical and allied fields.

141 (b) Encourage, promote, maintain, and operate historical
142 museums, including, but not limited to, mobile museums, junior
143 museums, and the Museum of Florida History in the state capital.

144 (c) Plan and develop, in cooperation with other state
145 agencies and with municipalities, programs to promote and
146 encourage the teaching of Florida's history and heritage in
147 Florida schools and other educational institutions and other
148 such educational programs as may be appropriate.

149 (d) Establish professional standards for the preservation,
150 exclusive of acquisition, of historical resources in state

151 ownership or control.

152 (e) Take such other actions as are necessary or
153 appropriate to locate, acquire, protect, preserve, operate,
154 interpret, and promote the location, acquisition, protection,
155 preservation, operation, and interpretation of historical
156 resources to foster an appreciation of Florida history and
157 culture.

158 Section 10. Subsection (4) of section 468.401, Florida
159 Statutes, is amended to read:

160 468.401 Regulation of talent agencies; definitions.—As
161 used in this part or any rule adopted pursuant hereto:

162 (4) "Engagement" means any employment or placement of an
163 artist, where the artist performs in his or her artistic
164 capacity. However, the term "engagement" shall not apply to
165 procuring opera, music, theater, or dance engagements for any
166 organization defined in s. 501(c)(3) of the Internal Revenue
167 Code or any nonprofit Florida arts organization that has
168 received a grant from the Division of Arts and Culture ~~Cultural~~
169 ~~Affairs~~ of the Department of State or has participated in the
170 state touring program of the Division of Arts and Culture
171 ~~Cultural Affairs~~.

172 Section 11. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 799 Pub. Rec./Trade Secrets

SPONSOR(S): Gregory

TIED BILLS: CS/HB 801 **IDEN./SIM. BILLS:** SB 1532

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N	Villa	Smith
2) Commerce Committee	21 Y, 0 N	Willson	Hamon
3) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. Some exemptions also provide a specific process that an agency must use when protecting trade secret information under the exemption.

House Bill 801 (2020), which this bill is linked to, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

This bill creates a public record exemption for trade secrets that applies to most agencies that are subject to public record requirements.

The bill defines the term “trade secret” and specifically excludes from the definition certain information related to any contract or agreement, or an addendum thereto, with an agency. Such information includes the parties to the contract or agreement; the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties; the nature or type of commodities or services purchased; and applicable contract unit prices and deliverables.

The bill requires a person who submits a record claimed to contain a trade secret to an agency to mark the record clearly with the words “trade secret” and to submit with the record a notice verifying, under penalty of perjury, that the record contains a trade secret.

The bill provides for repeal of the exemption on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the Florida Constitution.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments.

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 creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution.¹ The general law must state with specificity the public necessity justifying the exemption² and must be no more broad than necessary to accomplish its purpose.³

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act⁴ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:⁵

- 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.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.⁶ Specified questions must be considered by the Legislature during the review process.⁷

Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt⁸ from public record requirements. Some exemptions only protect trade secrets, while others protect "proprietary business information" and define that term to specifically include trade secrets.

¹ Art. I, s. 24(c), FLA. CONST.

² This portion of a public record exemption is commonly referred to as a "public necessity statement."

³ Art. I, s. 24(c), FLA. CONST.

⁴ Section 119.15, F.S.

⁵ Section 119.15(6)(b), F.S.

⁶ Section 119.15(3), F.S.

⁷ Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁸ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

The following are examples of public record exemptions for trade secrets:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(9), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of Transportation as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2) and (3)(b) and 403.73, F.S., makes trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers' compensation employer compliance investigations confidential and exempt;
- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation confidential and exempt; and
- Section 815.04(3), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions of the term. Some of the exemptions define the term in accordance with Florida's criminal statutes, which define the term as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;

3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.⁹

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,¹⁰ which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.¹¹

In addition, some exemptions provide a specific process that an agency¹² must use when protecting trade secret information under the exemption. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, and some exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.¹³

House Bill 801 (2020)

House Bill 801 (2020), which this bill is linked to, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

Effect of the Bill

The bill, which is linked to the passage of HB 801 (2020) or similar legislation, creates a public record exemption for trade secrets that applies to most agencies that are subject to public record requirements.

The bill defines the term “trade secret” to have the same meaning as the definition currently codified in the Uniform Trade Secrets Act, which includes information that is a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

However, the bill specifically excludes from the definition the following information related to any contract or agreement, or an addendum thereto, with an agency:

- The parties to the contract or agreement, or an addendum thereto.

⁹ Section 812.081(1)(c), F.S.

¹⁰ Sections 688.001 through 688.009, F.S.

¹¹ Section 688.002(4), F.S.

¹² The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

¹³ See s. 381.83, F.S.

- The amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties.
- The nature or type of commodities or services purchased.
- Applicable contract unit prices and deliverables.

The bill requires a person who submits a record claimed to contain a trade secret to an agency to mark the record clearly with the words “trade secret” and to submit with the record a notice verifying that the record contains a trade secret. Verification occurs by signing a written declaration under penalty of perjury. Failure to submit the notice constitutes a waiver of any claim by the submitter that the record contains a trade secret.

The bill authorizes an agency to disclose a trade secret, together with the notice of trade secret, to an officer or employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.

The bill specifies that an agency employee who, while acting in good faith and in the performance of his or her duties, releases records pursuant to the process created by the bill is not liable, civilly or criminally, for release of the records.

The bill also specifies that the public record exemption does not apply to research institutes created or established in law, divisions of sponsored research at state universities, or technology transfer centers at Florida College System institutions.

The bill provides a public necessity statement as required by the Florida Constitution, specifying that the public record exemption is necessary to protect trade secret information provided to an agency by an individual or business because disclosure of such information to competitors of those businesses would be detrimental to the business. In addition, the exemption is necessary to protect trade secret information created by an agency in furtherance of the agency’s duties and responsibilities, and disclosure of such information would be detrimental to the effective and efficient operation of the agency.

The bill provides for repeal of the exemption on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

Section 1 creates s. 688.01, F.S., relating to a trade secret exemption from inspecting or copying public records.

Section 2 amends s. 688.001, F.S., relating to a short title.

Section 3 amends s. 688.006, F.S., relating to preservation of secrecy.

Section 4 provides a public necessity statement.

Section 5 provides that the bill takes effect on the same date that HB 801 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

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 because agency staff responsible for complying with public record requests may require training related to creation of the public record exemption. In addition, agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

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:

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 public record or public meeting exemption. The bill creates a new 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 creates a new 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 public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for trade secrets held by an agency. As such, 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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to public records; creating s. 688.01,
 3 F.S.; providing definitions; providing an exemption
 4 from public record requirements for a trade secret
 5 held by an agency; providing notice requirements;
 6 providing an exception to the exemption; providing
 7 that an agency employee is not liable for the release
 8 of records in compliance with the act; providing
 9 applicability; providing for future legislative review
 10 and repeal of the exemption; amending ss. 688.001 and
 11 688.006, F.S.; conforming cross-references; providing
 12 a statement of public necessity; providing a
 13 contingent effective date.

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

16
 17 Section 1. Section 688.01, Florida Statutes, is created to
 18 read:

19 688.01 Trade secret exemption from inspecting or copying
 20 public records.-

21 (1) DEFINITIONS.-As used in this section, the term:

22 (a) "Agency" has the same meaning as in s. 119.011.

23 (b) "Trade secret" has the same meaning as in s. 688.002,
 24 except that the term does not include the following information
 25 related to any contract or agreement, or an addendum thereto,

26 with an agency:

27 1. The parties to the contract or agreement, or an
28 addendum thereto.

29 2. The amount of money paid, any payment structure or
30 plan, expenditures, incentives, bonuses, fees, or penalties.

31 3. The nature or type of commodities or services
32 purchased.

33 4. Applicable contract unit prices and deliverables.

34 (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an
35 agency is confidential and exempt from s. 119.07(1) and s.
36 24(a), Art. I of the State Constitution.

37 (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.—

38 (a) If a person who submits records to an agency claims
39 that such submission contains a trade secret, such person shall
40 submit to the agency a notice of trade secret at the time such
41 records are submitted to the agency. Failure to do so
42 constitutes a waiver of any claim by such person that the record
43 contains a trade secret. The notice must provide the name,
44 telephone number, and mailing address of the person claiming the
45 record contains a trade secret. Such person is responsible for
46 updating his or her contact information with the agency.

47 (b) Each page of a record or specific portion of a record
48 that contains a trade secret must be clearly marked with the
49 words "trade secret."

50 (c) In submitting a notice of trade secret to the agency,
51 the submitting party must verify to the agency through a written
52 declaration in the manner provided in s. 92.525 the following:

53
54 [...I have/my company has...] read the definition of a
55 trade secret in s. 688.01, Florida Statutes, and [...I
56 believe/my company believes...] the information contained in
57 this record is a trade secret as defined in s. 688.01, Florida
58 Statutes.

59 [...I have/my company has...] taken measures to prevent the
60 disclosure of the record or specific portion of a record claimed
61 to be a trade secret to anyone other than those who have been
62 selected to have access for limited purposes, and [...I
63 intend/my company intends...] to continue to take such measures.

64 The record or specific portion of a record claimed to be a
65 trade secret is not, and has not been, reasonably obtainable
66 without [...my/our...] consent by other persons by use of
67 legitimate means.

68 The record or specific portion of a record claimed to be a
69 trade secret is not publicly available elsewhere.

70
71 (4) AGENCY ACCESS.—An agency may disclose a trade secret,
72 together with the notice of trade secret, to an officer or
73 employee of another agency or governmental entity whose use of
74 the trade secret is within the scope of his or her lawful duties

75 and responsibilities.

76 (5) LIABILITY.—An agency employee who, while acting in
77 good faith and in the performance of his or her duties, releases
78 a record containing a trade secret pursuant to this act is not
79 liable, civilly or criminally, for such release.

80 (6) APPLICABILITY.—This section does not apply to research
81 institutes created or established in law, divisions of sponsored
82 research at state universities, or technology transfer centers
83 at Florida College System institutions.

84 (7) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
85 to the Open Government Sunset Review Act in accordance with s.
86 119.15 and shall stand repealed on October 2, 2025, unless
87 reviewed and saved from repeal through reenactment by the
88 Legislature.

89 Section 2. Section 688.001, Florida Statutes, is amended
90 to read:

91 688.001 Short title.—Sections 688.001-688.01 ~~Sections~~
92 ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

93 Section 3. Section 688.006, Florida Statutes, is amended
94 to read:

95 688.006 Preservation of secrecy.—In an action under ss.
96 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the
97 secrecy of an alleged trade secret by reasonable means, which
98 may include granting protective orders in connection with
99 discovery proceedings, holding in camera hearings, sealing the

100 records of the action, and ordering any person involved in the
101 litigation not to disclose an alleged trade secret without prior
102 court approval.

103 Section 4. The Legislature finds that it is a public
104 necessity that trade secrets held by an agency be made
105 confidential and exempt from s. 119.07(1), Florida Statutes, and
106 s. 24(a), Article I of the State Constitution. The Legislature
107 recognizes that an agency may create trade secret information in
108 furtherance of the agency's duties and responsibilities and that
109 disclosure of such information would be detrimental to the
110 effective and efficient operation of the agency. If such trade
111 secret information were made available to the public, the agency
112 could suffer great economic harm. In addition, the Legislature
113 recognizes that in many instances, individuals and businesses
114 provide trade secret information for regulatory or other
115 purposes to an agency and that disclosure of such information to
116 competitors of those businesses would be detrimental to the
117 businesses. Without the public record exemption, those entities
118 would hesitate to cooperate with an agency, which would impair
119 the effective and efficient administration of governmental
120 functions. As such, the Legislature's intent is to protect trade
121 secret information of a confidential nature that includes a
122 formula, pattern, compilation, program, device, method,
123 technique, or process used that derives independent economic
124 value, actual or potential, from not being generally known to,

125 and not being readily ascertainable by proper means by, other
126 persons who can obtain economic value from its disclosure or
127 use. Therefore, the Legislature finds that the need to protect
128 trade secrets is sufficiently compelling to override this
129 state's public policy of open government and that the protection
130 of such information cannot be accomplished without this
131 exemption.

132 Section 5. This act shall take effect on the same date
133 that HB 801 or similar legislation takes effect, if such
134 legislation is adopted in the same legislative session or an
135 extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 801 Public Records

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

TIED BILLS: HB 799 **IDEN./SIM. BILLS:** SB 1534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N, As CS	Villa	Smith
2) Commerce Committee	21 Y, 0 N	Willson	Hamon
3) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. While some of the exemptions do not define the term “trade secret,” a majority of them rely on one of two different statutory definitions: the definition contained in Florida’s criminal law statutes or the definition in the Uniform Trade Secrets Act. Some exemptions also provide a specific process that an agency must use when protecting trade secret information under the exemption.

House Bill 799 (2020), which this bill is linked to, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. That bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

This bill repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

The bill repeals s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution.¹ The general law must state with specificity the public necessity justifying the exemption² and must be no more broad than necessary to accomplish its purpose.³

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act⁴ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:⁵

- 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.

Florida's Second District Court of Appeal has held that an amendment eliminating a public record exemption applies prospectively from the effective date of the amendment.⁶ Further, s. 119.15(7), F.S., provides that records created before the date of the repeal of an exemption may not be made public unless otherwise provided by law.

Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt⁷ from public record requirements. Some exemptions only protect trade secrets, while others protect "proprietary business information" and define that term to specifically include trade secrets.

The following are examples of public record exemptions for trade secrets:

¹ Art. I, s. 24(c), FLA. CONST.

² This portion of a public record exemption is commonly referred to as a "public necessity statement."

³ Art. I, s. 24(c), FLA. CONST.

⁴ Section 119.15, F.S.

⁵ Section 119.15(6)(b), F.S.

⁶ *Baker v. Eckerd Corporation*, 697 So. 2d 970 (Fla. 2d DCA 1997).

⁷ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(9), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of Transportation as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2) and (3)(b) and 403.73, F.S., makes trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers' compensation employer compliance investigations confidential and exempt;
- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation confidential and exempt; and
- Section 815.04(3), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions of the term. Some of the exemptions define the term in accordance with Florida's criminal statutes, which define the term as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and

4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.⁸

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,⁹ which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.¹⁰

In addition, some exemptions provide a specific process that an agency¹¹ must use when protecting trade secret information under the exemption. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, and some exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.¹²

Section 815.045, F.S., contains the statement of public necessity¹³ for a public record exemption for data, programs, or supporting documentation that is a trade secret as defined in s. 812.081, F.S., that is held by an agency as defined in chapter 119, F.S., and that resides or exists internal or external to a computer, computer system, computer network, or electronic device. In *SePRO Corporation v. Florida Department of Environmental Protection*,¹⁴ the public necessity statement was interpreted by a district court to be a public record exemption. This interpretation had the result of extending protection to certain information that had been filed with an agency.

House Bill 799 (2020)

House Bill 799 (2020), which this bill is linked to, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

Effect of the Bill

The bill, which is linked to the passage of HB 799 (2020) or similar legislation, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade

⁸ Section 812.081(1)(c), F.S.

⁹ Sections 688.001 through 688.009, F.S.

¹⁰ Section 688.002(4), F.S.

¹¹ The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

¹² See s. 381.83, F.S.

¹³ Section 815.045, F.S., which begins “[t]he Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt” is the required public necessity statement for s. 815.04(3), F.S., and it was inadvertently codified in the Florida Statutes. Public necessity statements are codified in the Laws of Florida.

¹⁴ See *SePRO Corporation v. Florida Department of Environmental Protection*, 839 So. 2d 781 (Fla. 1st DCA 2003).

secret, and most references to trade secrets contained in definitions for proprietary business information.

The bill repeals s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

The bill specifies that trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute, the Florida Institute for Human and Machine Cognition, Inc., and divisions of sponsored research at state universities are confidential and exempt if they meet the definition of “trade secret” in HB 799.

The bill also authorizes the Florida Office of Insurance Regulation (OIR) to make information reported to and collected by OIR available on an aggregate basis, even if marked trade secret pursuant to HB 799 (2020).

B. SECTION DIRECTORY:

Section 1. amends s. 73.0155, F.S., deleting provisions relating to public records exemptions for trade secrets held by governmental condemning authorities.

Section 2. amends s. 119.071, F.S., deleting a provision declaring that certain data processing software exempt from public records requirements is considered a trade secret; removing the scheduled repeal of the public record exemption.

Section 3. amends s. 119.0713, F.S., deleting a provision exempting trade secrets held by local government agencies from public records requirements.

Section 4. amends s. 125.0104, F.S., deleting a provision exempting trade secrets held by county tourism development agencies from public records requirements.

Section 5. amends s. 163.01, F.S., deleting a provision exempting trade secrets held by public agencies that are electric utilities from public records requirements.

Section 6. amends s. 202.195, F.S., deleting a provision exempting trade secrets obtained from a telecommunications company or franchised cable company for certain purposes from public records requirements.

Section 7. amends s. 215.4401, F.S., deleting provisions relating to confidentiality of trade secrets held by the State Board of Administration.

Section 8. amends s. 252.88, F.S., deleting provisions exempting certain information from public records requirements under the Florida Emergency Planning Community Right-to-Know Act.

Section 9. repeals s. 252.943, F.S., relating to a public record exemption under the Florida Accidental Release Prevention and Risk Management Planning Act.

Section 10. amends s. 287.0943, F.S., deleting provisions relating to confidentiality of certain information relating to applications for certification of minority business enterprises.

Section 11. amends s. 288.047, F.S., deleting a provision exempting potential trade secrets from public records requirements.

Section 12. amends s. 288.075, F.S., deleting provisions relating to a public records exemption for trade secrets held by economic development agencies.

Section 13. amends s. 288.1226, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Florida Tourism Industry Marketing Corporation.

Section 14. amends s. 288.776, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Export Finance Corporation.

Section 15. amends s. 288.9520, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by Enterprise Florida, Inc., and related entities.

Section 16. amends s. 288.9607, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Development Finance Corporation.

Section 17. amends s. 288.9626, F.S., deleting provisions relating to a public record exemption for trade secret and potential trade secrets held by the Florida Opportunity Fund; conforming provisions to changes made by the act.

Section 18. amends s. 288.9627, F.S., deleting provisions relating to a public records exemption for trade secrets and potential trade secrets held by the Institute for Commercialization of Florida Technology; conforming provisions to changes made by the act.

Section 19. amends s. 331.326, F.S., deleting provisions relating to a public records exemption for trade secrets held by Space Florida; conforming a provision to changes made by the act.

Section 20. amends s. 334.049, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Department of State.

Sections 21. and 22. amend ss. 350.121 and 364.183, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

Section 23. amends s. 365.174, F.S., deleting provisions relating to public record exemptions for trade secrets held by the E911 Board and the Division of State Technology within the Department of Management Services.

Sections 24., 25., and 26. amend ss. 366.093, 367.156, and 368.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

Section 27. repeals s. 381.83, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Health.

Section 28. amends s. 395.3035, F.S., deleting provisions relating to a public record exemption for trade secrets of hospitals.

Section 29. amends s. 403.7046, F.S., revising provisions relating to a public record exemption for trade secrets contained in certain reports to the Department of Environmental Protection.

Section 30. repeals s. 403.73, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Environmental Protection.

Section 31. amends s. 408.061, F.S., deleting a requirement that certain trade secret information submitted to the Agency for Healthcare Administration be clearly designated as such.

Section 32. amends s. 408.185, F.S., deleting provisions relating to public record exemptions for certain trade secrets held by the Office of the Attorney General.

Section 33. amends s. 408.910, F.S., deleting provisions relating to public record exemptions for trade secrets held by Florida Health Choices, Inc. as part of the Florida Health Choices Program.

Section 34. amends s. 409.91196, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Agency for Healthcare Administration; conforming provisions to changes made by the act.

Section 35. amends s. 440.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services.

Section 36. amends s. 494.00125, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 37. amends s. 497.172, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the Board of Funeral, Cemetery, and Consumer Services.

Sections 38., 39., 40., and 41. amend ss. 499.012, 499.0121, 499.05, and 499.051, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Business and Professional Regulation.

Section 42. repeals s. 499.931, F.S., relating to maintenance of information held by the Department of Business and Professional Regulation that is deemed a trade secret.

Section 43. amends s. 501.171, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Legal Affairs.

Section 44. repeals s. 502.222, F.S., relating to trade secrets of a dairy business held by DACS.

Sections 45. and 46. amend ss. 517.2015 and 520.9965, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 47. amends s. 526.311, F.S., deleting provisions relating to public record exemptions for trade secrets held by DACS.

Section 48. amends s. 548.062, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida State Boxing Commission.

Section 49. amends s. 556.113, F.S., deleting provisions relating to public record exemptions for trade secrets held by Sunshine State One-Call of Florida, Inc.

Section 50. amends s. 559.5558, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 51. amends s. 559.9285, F.S., revising provisions specifying that certain information provided to DACS does not constitute a trade secret.

Section 52. amends s. 560.129, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 53. amends s. 570.48, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Fruit and Vegetables within DACS.

Section 54. amends s. 570.544, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Consumer Services within DACS.

Section 55. amends s. 573.123, F.S., deleting provisions relating to public record exemptions for trade secrets held by DACS.

Section 56. repeals s. 581.199, F.S., relating to a prohibition on the use of trade secret information obtained under specified provisions for personal use or gain.

Sections 57., 58., and 59. amend ss. 601.10, 601.15, and 601.152, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Citrus within DACS.

Section 60. amends s. 601.76, F.S., relating to a public record exemption for certain formulas filed with DACS.

Sections 61. and 62. amend ss. 607.0505 and 617.0503, F.S., deleting provisions relating to public record exemptions for certain information that might reveal trade secrets held by the Department of Legal Affairs.

Section 63. amends s. 624.307, F.S., authorizing the Florida Office of Insurance Regulation to report certain information on an aggregate basis.

Section 64. amends s. 624.315, F.S., authorizing the Florida Office of Insurance Regulation to make certain information available on an aggregate basis.

Section 65. amends s. 624.4212, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Office of Insurance Regulation.

Section 66. repeals s. 624.4213, F.S., relating to trade secret documents submitted to the Department of Financial Services or the Florida Office of Insurance Regulation.

Sections 67. and 68. amend ss. 626.84195 and 626.884, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Office of Insurance Regulation.

Section 69. amends s. 626.9936, F.S., revising provisions relating to a public record exemption for trade secrets held by the Florida Office of Insurance Regulation.

Section 70. amends s. 627.0628, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Hurricane Loss Projection Methodology; conforming a provision to changes made by the act.

Section 71. amends s. 627.3518, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Citizens Property Insurance Corporation.

Section 72. amends s. 655.057, F.S., deleting and revising provisions relating to a public record exemption for trade secrets held by the Office of Financial Regulation.

Section 73. repeals s. 655.0591, F.S., relating to trade secret documents held by the Office of Financial Regulation.

Section 74. amends s. 663.533, F.S., revising a cross-reference.

Section 75. repeals s. 721.071, F.S., relating to trade secret documents filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Section 76. amends s. 815.04, F.S., deleting a public record exemption for certain trade secret information relating to offenses against intellectual property.

Section 77. repeals s. 815.045, F.S., relating to trade secret information.

Section 78. amends s. 1004.22, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets received, generated, ascertained, or discovered during the course of research conducted within the state universities.

Section 79. amends s. 1004.30, F.S., revising provisions relating to public record exemptions for trade secrets held by state university health support organizations.

Section 80. amends s. 1004.43, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute.

Section 81. amends s. 1004.4472, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the Florida Institute for Human and Machine Cognition, Inc.

Section 82. amends s. 1004.78, F.S., deleting provisions relating to public record exemptions for trade secrets and potential trade secrets held by the technology transfer centers at Florida College System institutions.

Section 83. amends s. 601.80, F.S., correcting a cross-reference.

Sections 84., 85., and 86. amend ss. 663.533, 721.13, and 921.0022, F.S., conforming provisions to changes made by the act.

Section 87. provides that the bill takes effect upon becoming a law if HB 799 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

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 because agency staff responsible for complying with public record requests may require training related to the repeal of the public record exemptions or the change in the definition of the term "trade secret." The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

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 appear to create the need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2020, the Oversight, Transparency & Public Management Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment corrected a cross reference.

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

1 A bill to be entitled
2 An act relating to public records; amending s.
3 73.0155, F.S.; deleting provisions relating to public
4 records exemptions for trade secrets held by
5 governmental condemning authorities; amending s.
6 119.071, F.S.; deleting a provision declaring that
7 certain data processing software exempt from public
8 records requirements is considered a trade secret;
9 removing the scheduled repeal of the public record
10 exemption; amending s. 119.0713, F.S.; deleting a
11 provision exempting trade secrets held by local
12 government agencies from public records requirements;
13 amending s. 125.0104, F.S.; deleting a provision
14 exempting trade secrets held by county tourism
15 development agencies from public records requirements;
16 amending s. 163.01, F.S.; deleting a provision
17 exempting trade secrets held by public agencies that
18 are electric utilities from public records
19 requirements; amending s. 202.195, F.S.; deleting a
20 provision exempting trade secrets obtained from a
21 telecommunications company or franchised cable company
22 for certain purposes from public records requirements;
23 amending s. 215.4401, F.S.; deleting provisions
24 relating to confidentiality of trade secrets held by
25 the State Board of Administration; amending s. 252.88,

26 F.S.; deleting provisions exempting certain
27 information from public records requirements under the
28 Florida Emergency Planning and Community Right-to-Know
29 Act; repealing s. 252.943, F.S., relating to a public
30 records exemption under the Florida Accidental Release
31 Prevention and Risk Management Planning Act; amending
32 s. 287.0943, F.S.; deleting provisions relating to
33 confidentiality of certain information relating to
34 applications for certification of minority business
35 enterprises; amending s. 288.047, F.S.; deleting
36 provisions exempting potential trade secrets from
37 public records requirements; amending s. 288.075,
38 F.S.; deleting provisions relating to a public records
39 exemption for trade secrets held by economic
40 development agencies; amending s. 288.1226, F.S.;
41 deleting provisions relating to a public records
42 exemption for trade secrets held by the Florida
43 Tourism Industry Marketing Corporation; amending s.
44 288.776, F.S.; deleting provisions relating to a
45 public records exemption for trade secrets held by the
46 Florida Export Finance Corporation; amending s.
47 288.9520, F.S.; deleting provisions relating to a
48 public records exemption for trade secrets and
49 potential trade secrets held by Enterprise Florida,
50 Inc., and related entities; amending s. 288.9607,

51 F.S.; deleting provisions relating to a public records
52 exemption for trade secrets held by the Florida
53 Development Finance Corporation; amending s. 288.9626,
54 F.S.; deleting provisions relating to a public records
55 exemption for trade secrets and potential trade
56 secrets held by the Florida Opportunity Fund;
57 conforming provisions to changes made by the act;
58 amending s. 288.9627, F.S.; deleting provisions
59 relating to a public records exemption for trade
60 secrets and potential trade secrets held by the
61 Institute for Commercialization of Florida Technology;
62 conforming provisions to changes made by the act;
63 amending s. 331.326, F.S.; deleting provisions
64 relating to a public records exemption for trade
65 secrets held by Space Florida; amending s. 334.049,
66 F.S.; deleting provisions relating to a public records
67 exemption for trade secrets held by the Department of
68 State; amending ss. 350.121 and 364.183, F.S.;

69 deleting provisions relating to public records
70 exemptions for trade secrets held by the Florida
71 Public Service Commission; amending 365.174, F.S.;

72 deleting provisions relating to public records
73 exemptions for trade secrets held by the E911 Board
74 and the Technology Program within the Department of
75 Management Services; amending ss. 366.093, 367.156,

76 | and 368.108, F.S.; deleting provisions relating to
77 | public records exemptions for trade secrets held by
78 | the Florida Public Service Commission; repealing s.
79 | 381.83, F.S., relating to confidentiality of certain
80 | information containing trade secrets obtained by the
81 | Department of Health; amending s. 395.3035, F.S.;
82 | deleting provisions relating to a public records
83 | exemption for trade secrets of hospitals; amending s.
84 | 403.7046, F.S.; revising provisions relating to an
85 | exemption for trade secrets contained in certain
86 | reports to the Department of Environmental Protection;
87 | repealing s. 403.73, F.S., relating to confidentiality
88 | of certain information containing trade secrets
89 | obtained by the Department of Environmental
90 | Protection; amending s. 408.061, F.S.; deleting a
91 | requirement that certain trade secret information
92 | submitted to the Agency for Healthcare Administration
93 | be clearly designated as such; amending s. 408.185,
94 | F.S.; deleting provisions relating to public records
95 | exemptions for certain trade secrets held by the
96 | Office of the Attorney General; amending s. 408.910,
97 | F.S.; deleting provisions relating to public records
98 | exemptions for trade secrets held by the Florida
99 | Health Choices Program; amending s. 409.91196, F.S.;
100 | deleting provisions relating to public records

101 exemptions for trade secrets held by the Agency for
102 Healthcare Administration; amending s. 440.108, F.S.;

103 deleting provisions relating to public records
104 exemptions for trade secrets held by the Department of
105 Financial Services; amending s. 494.00125, F.S.;

106 deleting provisions relating to public records
107 exemptions for trade secrets held by the Office of
108 Financial Regulation; amending s. 497.172, F.S.;

109 deleting provisions relating to public records
110 exemptions for trade secrets held by the Department of
111 Financial Services or the Board of Funeral, Cemetery,
112 and Consumer Services; amending ss. 499.012, 499.0121,
113 499.05, and 499.051, F.S.; deleting provisions
114 relating to public records exemptions for trade
115 secrets held by the Department of Business and
116 Professional Regulation; repealing s. 499.931, F.S.,
117 relating to maintenance of information held by the
118 Department of Business and Professional Regulation
119 that is deemed to be a trade secret; amending s.
120 501.171, F.S.; deleting provisions relating to public
121 records exemptions for trade secrets held by the
122 Department of Legal Affairs; repealing s. 502.222,
123 F.S., relating to trade secrets of a dairy business
124 held by the Department of Agriculture and Consumer
125 Services; amending ss. 517.2015 and 520.9965, F.S.;

126 deleting provisions relating to public records
 127 exemptions for trade secrets held by the Office of
 128 Financial Regulation; amending s. 526.311, F.S.;
 129 deleting provisions relating to public records
 130 exemptions for trade secrets held by the Department of
 131 Agriculture and Consumer Services; amending s.
 132 548.062, F.S.; deleting provisions relating to public
 133 records exemptions for trade secrets held by the
 134 Florida State Boxing Commission; amending s. 556.113,
 135 F.S.; deleting provisions relating to public records
 136 exemptions for trade secrets held by Sunshine State
 137 One-Call of Florida, Inc.; amending s. 559.5558, F.S.;
 138 deleting provisions relating to public records
 139 exemptions for trade secrets held by the Office of
 140 Financial Regulation; amending s. 559.9285, F.S.;
 141 revising provisions specifying that certain
 142 information provided to the Department of Agriculture
 143 and Consumer Services does not constitute a trade
 144 secret; amending s. 560.129, F.S.; deleting provisions
 145 relating to public records exemptions for trade
 146 secrets held by the Office of Financial Regulation;
 147 amending s. 570.48, F.S.; deleting provisions relating
 148 to public records exemptions for trade secrets held by
 149 the Division of Fruit and Vegetables; amending ss.
 150 570.544 and 573.123, F.S.; deleting provisions

151 relating to public records exemptions for trade
152 secrets held by the Division of Consumer Services;
153 repealing s. 581.199, F.S., relating to a prohibition
154 on the use of trade secret information obtained under
155 specified provisions for personal use or gain;
156 amending ss. 601.10, 601.15, and 601.152, F.S.;
157 deleting provisions relating to public records
158 exemptions for trade secrets held by the Department of
159 Citrus; amending s. 601.76, F.S.; deleting provisions
160 relating to a public records exemption for certain
161 formulas filed with the Department of Agriculture;
162 amending ss. 607.0505 and 617.0503, F.S.; deleting
163 provisions relating to public records exemptions for
164 certain information that might reveal trade secrets
165 held by the Department of Legal Affairs; amending s.
166 624.307, F.S.; authorizing the Office of Insurance
167 Regulation to report certain information on an
168 aggregate basis; amending s. 624.315, F.S.;
169 authorizing the Office of Insurance Regulation to make
170 certain information available on an aggregate basis;
171 amending s. 624.4212, F.S.; deleting provisions
172 relating to public records exemptions for trade
173 secrets held by the Office of Insurance Regulation;
174 revising a cross-reference; repealing s. 624.4213,
175 F.S., relating to trade secret documents submitted to

176 | the Department of Financial Services or the Office of
 177 | Insurance Regulation; amending ss. 626.84195 and
 178 | 626.884, F.S.; deleting provisions relating to public
 179 | records exemptions for trade secrets held by the
 180 | Office of Insurance Regulation; amending s. 626.9936,
 181 | F.S.; revising provisions relating to a public records
 182 | exemption for trade secrets held by the Office of
 183 | Insurance Regulation; amending ss. 627.0628 and
 184 | 627.3518, F.S.; deleting provisions relating to public
 185 | records exemptions for trade secrets held by the
 186 | Department of Financial Services or the Office of
 187 | Insurance Regulation; amending s. 655.057, F.S.;
 188 | revising provisions relating to a public records
 189 | exemption for trade secrets held by the Office of
 190 | Financial Regulation; repealing s. 655.0591, F.S.,
 191 | relating to trade secret documents held by the Office
 192 | of Financial Regulation; amending s. 663.533, F.S.;
 193 | revising a cross-reference; repealing s. 721.071,
 194 | F.S., relating to trade secret material filed with the
 195 | Division of Florida Condominiums, Timeshares, and
 196 | Mobile Homes of the Department of Business and
 197 | Professional Regulation; amending s. 815.04, F.S.;
 198 | deleting a public records exemption for certain trade
 199 | secret information relating to offenses against
 200 | intellectual property; repealing s. 815.045, F.S.,

201 relating to trade secret information; amending s.
202 1004.22, F.S.; revising provisions relating to public
203 records exemptions for trade secrets and potential
204 trade secrets received, generated, ascertained, or
205 discovered during the course of research conducted
206 within the state universities; amending s. 1004.30,
207 F.S.; revising provisions relating to public records
208 exemptions for trade secrets held by state university
209 health support organizations; amending s. 1004.43,
210 F.S.; revising provisions relating to public records
211 exemptions for trade secrets and potential trade
212 secrets held by the H. Lee Moffitt Cancer Center and
213 Research Institute; amending s. 1004.4472, F.S.;
214 revising provisions relating to public records
215 exemptions for trade secrets and potential trade
216 secrets held by the Florida Institute for Human and
217 Machine Cognition, Inc.; amending s. 1004.78, F.S.;
218 revising provisions relating to public records
219 exemptions for trade secrets and potential trade
220 secrets held by the technology transfers centers at
221 Florida College System institutions; amending s.
222 601.80, F.S.; correcting a cross-reference; amending
223 ss. 663.533, 721.13, and 921.0022, F.S.; conforming
224 provisions to changes made by the act; providing a
225 contingent effective date.

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

Section 1. Paragraph (e) of subsection (1) of section 73.0155, Florida Statutes, is amended to read:

73.0155 Confidentiality; business information provided to a governmental condemning authority.—

(1) The following business information provided by the owner of a business to a governmental condemning authority as part of an offer of business damages under s. 73.015 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the owner requests in writing that the business information be held confidential and exempt:

(e) Materials that relate to methods of manufacture or production or, ~~potential trade secrets, patentable material, or actual trade secrets as defined in s. 688.002.~~

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

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

(1) AGENCY ADMINISTRATION.—

(f) ~~Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and~~ Agency-produced data processing software that is sensitive is

251 ~~are~~ exempt from s. 119.07(1) and s. 24(a), Art. I of the State
252 Constitution. The designation of agency-produced software as
253 sensitive does not prohibit an agency head from sharing or
254 exchanging such software with another public agency. ~~This~~
255 ~~paragraph is subject to the Open Government Sunset Review Act in~~
256 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
257 ~~2021, unless reviewed and saved from repeal through reenactment~~
258 ~~by the Legislature.~~

259 Section 3. Paragraph (a) of subsection (4) of section
260 119.0713, Florida Statutes, is amended to read:

261 119.0713 Local government agency exemptions from
262 inspection or copying of public records.—

263 (4) (a) Proprietary confidential business information means
264 information, regardless of form or characteristics, which is
265 held by an electric utility that is subject to this chapter, is
266 intended to be and is treated by the entity that provided the
267 information to the electric utility as private in that the
268 disclosure of the information would cause harm to the entity
269 providing the information or its business operations, and has
270 not been disclosed unless disclosed pursuant to a statutory
271 provision, an order of a court or administrative body, or a
272 private agreement that provides that the information will not be
273 released to the public. Proprietary confidential business
274 information includes:

275 ~~1. Trade secrets, as defined in s. 688.002.~~

276 1.2. Internal auditing controls and reports of internal
 277 auditors.

278 2.3. Security measures, systems, or procedures.

279 3.4. Information concerning bids or other contractual
 280 data, the disclosure of which would impair the efforts of the
 281 electric utility to contract for goods or services on favorable
 282 terms.

283 4.5. Information relating to competitive interests, the
 284 disclosure of which would impair the competitive business of the
 285 provider of the information.

286 Section 4. Paragraph (d) of subsection (9) of section
 287 125.0104, Florida Statutes, is amended to read:

288 125.0104 Tourist development tax; procedure for levying;
 289 authorized uses; referendum; enforcement.—

290 (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any
 291 other powers and duties provided for agencies created for the
 292 purpose of tourism promotion by a county levying the tourist
 293 development tax, such agencies are authorized and empowered to:

294 (d) Undertake marketing research and advertising research
 295 studies and provide reservations services and convention and
 296 meetings booking services consistent with the authorized uses of
 297 revenue as set forth in subsection (5).

298 1. Information given to a county tourism promotion agency
 299 which, if released, would reveal the identity of persons or
 300 entities who provide data or other information as a response to

301 a sales promotion effort, an advertisement, or a research
302 project or whose names, addresses, meeting or convention plan
303 information or accommodations or other visitation needs become
304 booking or reservation list data, is exempt from s. 119.07(1)
305 and s. 24(a), Art. I of the State Constitution.

306 2. ~~The following information,~~ When held by a county
307 tourism promotion agency, booking business records, as defined
308 in s. 255.047, are ~~is~~ exempt from s. 119.07(1) and s. 24(a),
309 Art. I of the State Constitution.

310 a. ~~Booking business records, as defined in s. 255.047.~~

311 b. ~~Trade secrets and commercial or financial information~~
312 ~~gathered from a person and privileged or confidential, as~~
313 ~~defined and interpreted under 5 U.S.C. s. 552(b)(4), or any~~
314 ~~amendments thereto.~~

315 3. ~~A trade secret, as defined in s. 812.081, held by a~~
316 ~~county tourism promotion agency is exempt from s. 119.07(1) and~~
317 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~
318 ~~subject to the Open Government Sunset Review Act in accordance~~
319 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~
320 ~~unless reviewed and saved from repeal through reenactment by the~~
321 ~~Legislature.~~

322 Section 5. Paragraph (m) of subsection (15) of section
323 163.01, Florida Statutes, is amended to read:

324 163.01 Florida Interlocal Cooperation Act of 1969.—

325 (15) Notwithstanding any other provision of this section

326 or of any other law except s. 361.14, any public agency of this
 327 state which is an electric utility, or any separate legal entity
 328 created pursuant to the provisions of this section, the
 329 membership of which consists only of electric utilities, and
 330 which exercises or proposes to exercise the powers granted by
 331 part II of chapter 361, the Joint Power Act, may exercise any or
 332 all of the following powers:

333 (m) In the event that any public agency or any such legal
 334 entity, or both, should receive, in connection with its joint
 335 ownership or right to the services, output, capacity, or energy
 336 of an electric project, as defined in paragraph (3)(d), any
 337 material which is designated by the person supplying such
 338 material as proprietary confidential business information or
 339 which a court of competent jurisdiction has designated as
 340 confidential or secret shall be kept confidential and shall be
 341 exempt from the provisions of s. 119.07(1). As used in this
 342 paragraph, "proprietary confidential business information"
 343 includes, ~~but is not limited to, trade secrets;~~ internal
 344 auditing controls and reports of internal auditors; security
 345 measures, systems, or procedures; ~~information concerning bids or~~
 346 ~~other contractual data, the disclosure of which would impair the~~
 347 ~~efforts of the utility to contract for services on favorable~~
 348 ~~terms;~~ employee personnel information unrelated to compensation,
 349 duties, qualifications, or responsibilities; and formulas,
 350 patterns, devices, combinations of devices, ~~contract costs,~~ or

351 other information the disclosure of which would injure the
352 affected entity in the marketplace.

353 Section 6. Subsection (2) of section 202.195, Florida
354 Statutes, is amended to read:

355 202.195 Proprietary confidential business information;
356 public records exemption.—

357 (2) For the purposes of this exemption, "proprietary
358 confidential business information" includes maps, plans, billing
359 and payment records, ~~trade secrets~~, or other information
360 relating to the provision of or facilities for communications
361 service:

362 (a) That is intended to be and is treated by the company
363 as confidential;

364 (b) The disclosure of which would be reasonably likely to
365 be used by a competitor to harm the business interests of the
366 company; and

367 (c) That is not otherwise readily ascertainable or
368 publicly available by proper means by other persons from another
369 source in the same configuration as requested by the local
370 governmental entity.

371
372 Proprietary confidential business information does not include
373 schematics indicating the location of facilities for a specific
374 site that are provided in the normal course of the local
375 governmental entity's permitting process.

376 Section 7. Paragraphs (a), (c), and (d) of subsection (3)
 377 of section 215.4401, Florida Statutes, are amended to read:

378 215.4401 Board of Administration; public record
 379 exemptions.—

380 (3)(a) As used in this subsection, the term:

381 1. "Alternative investment" means an investment by the
 382 State Board of Administration in a private equity fund, venture
 383 fund, hedge fund, or distress fund or a direct investment in a
 384 portfolio company through an investment manager.

385 2. "Alternative investment vehicle" means the limited
 386 partnership, limited liability company, or similar legal
 387 structure or investment manager through which the State Board of
 388 Administration invests in a portfolio company.

389 3. "Portfolio company" means a corporation or other
 390 issuer, any of whose securities are owned by an alternative
 391 investment vehicle or the State Board of Administration and any
 392 subsidiary of such corporation or other issuer.

393 4. "Portfolio positions" means individual investments in
 394 portfolio companies which are made by the alternative investment
 395 vehicles, including information or specific investment terms
 396 associated with any portfolio company investment.

397 5. "Proprietor" means an alternative investment vehicle, a
 398 portfolio company in which the alternative investment vehicle is
 399 invested, or an outside consultant, including the respective
 400 authorized officers, employees, agents, or successors in

401 interest, which controls or owns information provided to the
402 State Board of Administration.

403 6. "Proprietary confidential business information" means
404 information that has been designated by the proprietor when
405 provided to the State Board of Administration as information
406 that is owned or controlled by a proprietor; that is intended to
407 be and is treated by the proprietor as private, the disclosure
408 of which would harm the business operations of the proprietor
409 and has not been intentionally disclosed by the proprietor
410 unless pursuant to a private agreement that provides that the
411 information will not be released to the public except as
412 required by law or legal process, or pursuant to law or an order
413 of a court or administrative body; and that concerns:

414 ~~a. Trade secrets as defined in s. 688.002.~~

415 a.b. Information provided to the State Board of
416 Administration regarding a prospective investment in a private
417 equity fund, venture fund, hedge fund, distress fund, or
418 portfolio company which is proprietary to the provider of the
419 information.

420 b.e. Financial statements and auditor reports of an
421 alternative investment vehicle.

422 c.d. Meeting materials of an alternative investment
423 vehicle relating to financial, operating, or marketing
424 information of the alternative investment vehicle.

425 d.e. Information regarding the portfolio positions in

426 | which the alternative investment vehicles invest.

427 | ~~e.f.~~ Capital call and distribution notices to investors of
428 | an alternative investment vehicle.

429 | ~~f.g.~~ Alternative investment agreements and related
430 | records.

431 | ~~g.h.~~ Information concerning investors, other than the
432 | State Board of Administration, in an alternative investment
433 | vehicle.

434 | 7. "Proprietary confidential business information" does
435 | not include:

436 | a. The name, address, and vintage year of an alternative
437 | investment vehicle and the identity of the principals involved
438 | in the management of the alternative investment vehicle.

439 | b. The dollar amount of the commitment made by the State
440 | Board of Administration to each alternative investment vehicle
441 | since inception.

442 | c. The dollar amount and date of cash contributions made
443 | by the State Board of Administration to each alternative
444 | investment vehicle since inception.

445 | d. The dollar amount, on a fiscal-year-end basis, of cash
446 | distributions received by the State Board of Administration from
447 | each alternative investment vehicle.

448 | e. The dollar amount, on a fiscal-year-end basis, of cash
449 | distributions received by the State Board of Administration plus
450 | the remaining value of alternative-vehicle assets that are

451 attributable to the State Board of Administration's investment
452 in each alternative investment vehicle.

453 f. The net internal rate of return of each alternative
454 investment vehicle since inception.

455 g. The investment multiple of each alternative investment
456 vehicle since inception.

457 h. The dollar amount of the total management fees and
458 costs paid on an annual fiscal-year-end basis by the State Board
459 of Administration to each alternative investment vehicle.

460 i. The dollar amount of cash profit received by the State
461 Board of Administration from each alternative investment vehicle
462 on a fiscal-year-end basis.

463 j. A description of any compensation, fees, or expenses,
464 including the amount or value, paid or agreed to be paid by a
465 proprietor to any person to solicit the board to make an
466 alternative investment or investment through an alternative
467 investment vehicle. This does not apply to an executive officer,
468 general partner, managing member, or other employee of the
469 proprietor, who is paid by the proprietor to solicit the board
470 to make such investments.

471 (c)1. Notwithstanding the provisions of paragraph (b), a
472 request to inspect or copy a record under s. 119.07(1) that
473 contains proprietary confidential business information shall be
474 granted if the proprietor of the information fails, within a
475 reasonable period of time after the request is received by the

476 State Board of Administration, to verify the following to the
477 State Board of Administration through a written declaration in
478 the manner provided by s. 92.525:

479 a. That the requested record contains proprietary
480 confidential business information and the specific location of
481 such information within the record;

482 ~~b. If the proprietary confidential business information is~~
483 ~~a trade secret, a verification that it is a trade secret as~~
484 ~~defined in s. 688.002;~~

485 ~~b.e.~~ That the proprietary confidential business
486 information is intended to be and is treated by the proprietor
487 as private, is the subject of efforts of the proprietor to
488 maintain its privacy, and is not readily ascertainable or
489 publicly available from any other source; and

490 ~~c.d.~~ That the disclosure of the proprietary confidential
491 business information to the public would harm the business
492 operations of the proprietor.

493 2. The State Board of Administration shall maintain a list
494 and a description of the records covered by any verified,
495 written declaration made under this paragraph.

496 (d) Any person may petition a court of competent
497 jurisdiction for an order for the public release of those
498 portions of any record made confidential and exempt by paragraph
499 (b). Any action under this paragraph must be brought in Leon
500 County, Florida, and the petition or other initial pleading

501 shall be served on the State Board of Administration and, if
502 determinable upon diligent inquiry, on the proprietor of the
503 information sought to be released. In any order for the public
504 release of a record under this paragraph, the court shall make a
505 finding ~~that the record or portion thereof is not a trade secret~~
506 ~~as defined in s. 688.002,~~ that a compelling public interest is
507 served by the release of the record or portions thereof which
508 exceed the public necessity for maintaining the confidentiality
509 of such record, and that the release of the record will not
510 cause damage to or adversely affect the interests of the
511 proprietor of the released information, other private persons or
512 business entities, the State Board of Administration, or any
513 trust fund, the assets of which are invested by the State Board
514 of Administration.

515 Section 8. Subsection (1) of section 252.88, Florida
516 Statutes, is amended to read:

517 252.88 Public records.—

518 (1) Whenever EPCRA authorizes an employer to exclude trade
519 secret information from its submittals, the employer shall
520 furnish the information so excluded to the commission upon
521 request. ~~Such information shall be confidential and exempt from~~
522 ~~the provisions of s. 119.07(1). The commission shall not~~
523 ~~disclose such information except pursuant to a final~~
524 ~~determination under s. 322 of EPCRA by the Administrator of the~~
525 ~~Environmental Protection Agency that such information is not~~

526 ~~entitled to trade secret protection, or pursuant to an order of~~
527 ~~court.~~

528 Section 9. Section 252.943, Florida Statutes, is repealed.

529 Section 10. Paragraph (h) of subsection (2) of section
530 287.0943, Florida Statutes, is amended to read:

531 287.0943 Certification of minority business enterprises.—

532 (2)

533 (h) The certification procedures should allow an applicant
534 seeking certification to designate on the application form the
535 information the applicant considers to be proprietary,
536 confidential business information. As used in this paragraph,
537 "proprietary, confidential business information" includes, ~~but~~
538 ~~is not limited to,~~ any information that would be exempt from
539 public inspection pursuant to the provisions of chapter 119;
540 ~~trade secrets;~~ internal auditing controls and reports; ~~contract~~
541 ~~costs;~~ or other information the disclosure of which would injure
542 the affected party in the marketplace or otherwise violate s.
543 286.041. The executor in receipt of the application shall issue
544 written and final notice of any information for which
545 noninspection is requested but not provided for by law.

546 Section 11. Subsection (7) of section 288.047, Florida
547 Statutes, is amended to read:

548 288.047 Quick-response training for economic development.—

549 (7) In providing instruction pursuant to this section,
550 materials that relate to methods of manufacture or production,

551 ~~potential trade secrets,~~ business transactions, or proprietary
552 information received, produced, ascertained, or discovered by
553 employees of the respective departments, district school boards,
554 community college district boards of trustees, or other
555 personnel employed for the purposes of this section is
556 confidential and exempt from the provisions of s. 119.07(1). The
557 state may seek copyright protection for instructional materials
558 and ancillary written documents developed wholly or partially
559 with state funds as a result of instruction provided pursuant to
560 this section, except for materials that are confidential and
561 exempt from the provisions of s. 119.07(1).

562 Section 12. Paragraph (c) of subsection (1) and subsection
563 (3) of section 288.075, Florida Statutes, are amended to read:

564 288.075 Confidentiality of records.—

565 (1) DEFINITIONS.—As used in this section, the term:

566 ~~(c) "Trade secret" has the same meaning as in s. 688.002.~~

567 ~~(3) TRADE SECRETS.—Trade secrets held by an economic~~
568 ~~development agency are confidential and exempt from s. 119.07(1)~~
569 ~~and s. 24(a), Art. I of the State Constitution.~~

570 Section 13. Subsection (9) of section 288.1226, Florida
571 Statutes, is amended to read:

572 288.1226 Florida Tourism Industry Marketing Corporation;
573 use of property; board of directors; duties; audit.—

574 (9) PUBLIC RECORDS EXEMPTION.—The identity of any person
575 who responds to a marketing project or advertising research

576 project conducted by the corporation in the performance of its
577 duties on behalf of Enterprise Florida, Inc., is ~~or trade~~
578 ~~secrets as defined by s. 812.081 obtained pursuant to such~~
579 ~~activities,~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of
580 the State Constitution. ~~This subsection is subject to the Open~~
581 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
582 ~~shall stand repealed on October 2, 2021, unless reviewed and~~
583 ~~saved from repeal through reenactment by the Legislature.~~

584 Section 14. Paragraph (d) of subsection (3) of section
585 288.776, Florida Statutes, is amended to read:

586 288.776 Board of directors; powers and duties.—

587 (3) The board shall:

588 (d) Adopt policies, including criteria, establishing which
589 exporters and export transactions shall be eligible for
590 insurance, coinsurance, loan guarantees, and direct, guaranteed,
591 or collateralized loans which may be extended by the
592 corporation. Pursuant to this subsection, the board shall
593 include the following criteria:

594 1. Any individual signing any corporation loan application
595 and loan or guarantee agreement shall have an equity in the
596 business applying for financial assistance.

597 2. Each program shall exclusively support the export of
598 goods and services by small and medium-sized businesses which
599 are domiciled in this state. Priority shall be given to goods
600 which have value added in this state.

601 3. Financial assistance shall only be extended when at
602 least one of the following circumstances exists:

603 a. The assistance is required to secure the participation
604 of small and medium-sized export businesses in federal, state,
605 or private financing programs.

606 b. No conventional source of lender support is available
607 for the business from public or private financing sources.

608
609 Personal financial records, ~~trade secrets~~, or proprietary
610 information of applicants shall be confidential and exempt from
611 the provisions of s. 119.07(1).

612 Section 15. Section 288.9520, Florida Statutes, is amended
613 to read:

614 288.9520 Public records exemption.—Materials that relate
615 to methods of manufacture or production, ~~potential trade~~
616 ~~secrets~~, potentially patentable material, ~~actual trade secrets~~,
617 business transactions, financial and proprietary information,
618 and agreements or proposals to receive funding that are
619 received, generated, ascertained, or discovered by Enterprise
620 Florida, Inc., including its affiliates or subsidiaries and
621 partnership participants, such as private enterprises,
622 educational institutions, and other organizations, are
623 confidential and exempt from the provisions of s. 119.07(1) and
624 s. 24(a), Art. I of the State Constitution, except that a
625 recipient of Enterprise Florida, Inc., research funds shall make

626 available, upon request, the title and description of the
 627 research project, the name of the researcher, and the amount and
 628 source of funding provided for the project.

629 Section 16. Subsection (5) of section 288.9607, Florida
 630 Statutes, is amended to read:

631 288.9607 Guaranty of bond issues.—

632 (5) Personal financial records, ~~trade secrets,~~ or
 633 proprietary information of applicants delivered to or obtained
 634 by the corporation shall be confidential and exempt from the
 635 provisions of s. 119.07(1).

636 Section 17. Paragraph (f) of subsection (1), paragraph (a)
 637 of subsection (2), paragraph (a) of subsection (3), and
 638 paragraphs (b) and (c) of subsection (4) of section 288.9626,
 639 Florida Statutes, are amended to read:

640 288.9626 Exemptions from public records and public
 641 meetings requirements for the Florida Opportunity Fund.—

642 (1) DEFINITIONS.—As used in this section, the term:

643 (f)1. "Proprietary confidential business information"
 644 means information that has been designated by the proprietor
 645 when provided to the Florida Opportunity Fund as information
 646 that is owned or controlled by a proprietor; that is intended to
 647 be and is treated by the proprietor as private, the disclosure
 648 of which would harm the business operations of the proprietor
 649 and has not been intentionally disclosed by the proprietor
 650 unless pursuant to a private agreement that provides that the

651 information will not be released to the public except as
652 required by law or legal process, or pursuant to law or an order
653 of a court or administrative body; and that concerns:

654 ~~a.~~ Trade secrets as defined in s. 688.002.

655 a.b. Information provided to the Florida Opportunity Fund
656 regarding an existing or prospective alternative investment in a
657 private equity fund, venture capital fund, angel fund, or
658 portfolio company that is proprietary to the provider of the
659 information.

660 b.e. Financial statements and auditor reports of an
661 alternative investment vehicle or portfolio company, unless
662 publicly released by the alternative investment vehicle or
663 portfolio company.

664 c.d. Meeting materials of an alternative investment
665 vehicle or portfolio company relating to financial, operating,
666 or marketing information of the alternative investment vehicle
667 or portfolio company.

668 d.e. Information regarding the portfolio positions in
669 which the alternative investment vehicles or Florida Opportunity
670 Fund invest.

671 e.f. Capital call and distribution notices to investors or
672 the Florida Opportunity Fund of an alternative investment
673 vehicle.

674 f.g. Alternative investment agreements and related
675 records.

676 ~~g.h.~~ Information concerning investors, other than the
677 Florida Opportunity Fund, in an alternative investment vehicle
678 or portfolio company.

679 2. "Proprietary confidential business information" does
680 not include:

681 a. The name, address, and vintage year of an alternative
682 investment vehicle or Florida Opportunity Fund and the identity
683 of the principals involved in the management of the alternative
684 investment vehicle or Florida Opportunity Fund.

685 b. The dollar amount of the commitment made by the Florida
686 Opportunity Fund to each alternative investment vehicle since
687 inception, if any.

688 c. The dollar amount and date of cash contributions made
689 by the Florida Opportunity Fund to each alternative investment
690 vehicle since inception, if any.

691 d. The dollar amount, on a fiscal-year-end basis, of cash
692 or other fungible distributions received by the Florida
693 Opportunity Fund from each alternative investment vehicle.

694 e. The dollar amount, on a fiscal-year-end basis, of cash
695 or other fungible distributions received by the Florida
696 Opportunity Fund plus the remaining value of alternative-vehicle
697 assets that are attributable to the Florida Opportunity Fund's
698 investment in each alternative investment vehicle.

699 f. The net internal rate of return of each alternative
700 investment vehicle since inception.

701 g. The investment multiple of each alternative investment
 702 vehicle since inception.

703 h. The dollar amount of the total management fees and
 704 costs paid on an annual fiscal-year-end basis by the Florida
 705 Opportunity Fund to each alternative investment vehicle.

706 i. The dollar amount of cash profit received by the
 707 Florida Opportunity Fund from each alternative investment
 708 vehicle on a fiscal-year-end basis.

709 (2) PUBLIC RECORDS EXEMPTION.—

710 (a) The following records held by the Florida Opportunity
 711 Fund are confidential and exempt from s. 119.07(1) and s. 24(a),
 712 Art. I of the State Constitution:

713 1. Materials that relate to methods of manufacture or
 714 production, ~~potential trade secrets~~, or patentable material
 715 received, generated, ascertained, or discovered during the
 716 course of research or through research projects and that are
 717 provided by a proprietor.

718 2. Information that would identify an investor or
 719 potential investor who desires to remain anonymous in projects
 720 reviewed by the Florida Opportunity Fund.

721 3. Proprietary confidential business information regarding
 722 alternative investments for 7 years after the termination of the
 723 alternative investment.

724 (3) PUBLIC MEETINGS EXEMPTION.—

725 (a) That portion of a meeting of the board of directors

726 of the Florida Opportunity Fund at which information is
727 discussed which is confidential and exempt under subsection (2)
728 or s. 688.01 is exempt from s. 286.011 and s. 24(b), Art. I of
729 the State Constitution.

730 (4) REQUEST TO INSPECT OR COPY A RECORD.—

731 (b) Notwithstanding the provisions of paragraph (2)(a), a
732 request to inspect or copy a public record that contains
733 proprietary confidential business information shall be granted
734 if the proprietor of the information fails, within a reasonable
735 period of time after the request is received by the Florida
736 Opportunity Fund, to verify the following to the Florida
737 Opportunity Fund through a written declaration in the manner
738 provided by s. 92.525:

739 1. That the requested record contains proprietary
740 confidential business information and the specific location of
741 such information within the record;

742 ~~2. If the proprietary confidential business information is~~
743 ~~a trade secret, a verification that it is a trade secret as~~
744 ~~defined in s. 688.002;~~

745 ~~2.3.~~ That the proprietary confidential business
746 information is intended to be and is treated by the proprietor
747 as private, is the subject of efforts of the proprietor to
748 maintain its privacy, and is not readily ascertainable or
749 publicly available from any other source; and

750 ~~3.4.~~ That the disclosure of the proprietary confidential

751 business information to the public would harm the business
752 operations of the proprietor.

753 (c)1. Any person may petition a court of competent
754 jurisdiction for an order for the public release of those
755 portions of any record made confidential and exempt by
756 subsection (2).

757 2. Any action under this subsection must be brought in
758 Orange County, and the petition or other initial pleading shall
759 be served on the Florida Opportunity Fund and, if determinable
760 upon diligent inquiry, on the proprietor of the information
761 sought to be released.

762 3. In any order for the public release of a record under
763 this subsection, the court shall make a finding that:

764 ~~a. The record or portion thereof is not a trade secret as~~
765 ~~defined in s. 688.002;~~

766 a. ~~b.~~ A compelling public interest is served by the
767 release of the record or portions thereof which exceed the
768 public necessity for maintaining the confidentiality of such
769 record; and

770 b. ~~e.~~ The release of the record will not cause damage to
771 or adversely affect the interests of the proprietor of the
772 released information, other private persons or business
773 entities, or the Florida Opportunity Fund.

774 Section 18. Paragraph (b) of subsection (1), paragraph (a)
775 of subsection (2), paragraph (a) of subsection (3), and

776 paragraphs (b) and (c) of subsection (4) of section 288.9627,
777 Florida Statutes, are amended to read:

778 288.9627 Exemptions from public records and public
779 meetings requirements for the Institute for Commercialization of
780 Florida Technology.—

781 (1) DEFINITIONS.—As used in this section, the term:

782 (b)1. "Proprietary confidential business information"
783 means information that has been designated by the proprietor
784 when provided to the institute as information that is owned or
785 controlled by a proprietor; that is intended to be and is
786 treated by the proprietor as private, the disclosure of which
787 would harm the business operations of the proprietor and has not
788 been intentionally disclosed by the proprietor unless pursuant
789 to a private agreement that provides that the information will
790 not be released to the public except as required by law or legal
791 process, or pursuant to law or an order of a court or
792 administrative body; and that concerns:

793 ~~a. Trade secrets as defined in s. 688.002.~~

794 a.b. Financial statements and internal or external auditor
795 reports of a proprietor corporation, partnership, or person
796 requesting confidentiality under this statute, unless publicly
797 released by the proprietor.

798 b.e. Meeting materials related to financial, operating,
799 investment, or marketing information of the proprietor
800 corporation, partnership, or person.

801 c.d. Information concerning private investors in the
 802 proprietor corporation, partnership, or person.

803 2. "Proprietary confidential business information" does
 804 not include:

805 a. The identity and primary address of the proprietor's
 806 principals.

807 b. The dollar amount and date of the financial commitment
 808 or contribution made by the institute.

809 c. The dollar amount, on a fiscal-year-end basis, of cash
 810 repayments or other fungible distributions received by the
 811 institute from each proprietor.

812 d. The dollar amount, if any, of the total management fees
 813 and costs paid on an annual fiscal-year-end basis by the
 814 institute.

815 (2) PUBLIC RECORDS EXEMPTION.—

816 (a) The following records held by the institute are
 817 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 818 of the State Constitution:

819 1. Materials that relate to methods of manufacture or
 820 production, ~~potential trade secrets~~, or patentable material
 821 received, generated, ascertained, or discovered during the
 822 course of research or through research projects conducted by
 823 universities and other publicly supported organizations in this
 824 state and that are provided to the institute by a proprietor.

825 2. Information that would identify an investor or

826 potential investor who desires to remain anonymous in projects
827 reviewed by the institute for assistance.

828 3. Any information received from a person from another
829 state or nation or the Federal Government which is otherwise
830 confidential or exempt pursuant to the laws of that state or
831 nation or pursuant to federal law.

832 4. Proprietary confidential business information for 7
833 years after the termination of the institute's financial
834 commitment to the company.

835 (3) PUBLIC MEETINGS EXEMPTION.—

836 (a) That portion of a meeting of the institute's board of
837 directors at which information is discussed which is
838 confidential and exempt under subsection (2) or s. 688.01 is
839 exempt from s. 286.011 and s. 24(b), Art. I of the State
840 Constitution.

841 (4) REQUEST TO INSPECT OR COPY A RECORD.—

842 (b) Notwithstanding the provisions of paragraph (2)(a), a
843 request to inspect or copy a public record that contains
844 proprietary confidential business information shall be granted
845 if the proprietor of the information fails, within a reasonable
846 period of time after the request is received by the institute,
847 to verify the following to the institute through a written
848 declaration in the manner provided by s. 92.525:

849 1. That the requested record contains proprietary
850 confidential business information and the specific location of

851 such information within the record;

852 ~~2. If the proprietary confidential business information is~~
853 ~~a trade secret, a verification that it is a trade secret as~~
854 ~~defined in s. 688.002;~~

855 2.3. That the proprietary confidential business
856 information is intended to be and is treated by the proprietor
857 as private, is the subject of efforts of the proprietor to
858 maintain its privacy, and is not readily ascertainable or
859 publicly available from any other source; and

860 3.4. That the disclosure of the proprietary confidential
861 business information to the public would harm the business
862 operations of the proprietor.

863 (c)1. Any person may petition a court of competent
864 jurisdiction for an order for the public release of those
865 portions of any record made confidential and exempt by
866 subsection (2).

867 2. Any action under this subsection must be brought in
868 Palm Beach County or Alachua County, and the petition or other
869 initial pleading shall be served on the institute and, if
870 determinable upon diligent inquiry, on the proprietor of the
871 information sought to be released.

872 3. In any order for the public release of a record under
873 this subsection, the court shall make a finding that:

874 ~~a. The record or portion thereof is not a trade secret as~~
875 ~~defined in s. 688.002;~~

876 ~~a.b.~~ A compelling public interest is served by the release
 877 of the record or portions thereof which exceed the public
 878 necessity for maintaining the confidentiality of such record;
 879 and

880 ~~b.e.~~ The release of the record will not cause damage to or
 881 adversely affect the interests of the proprietor of the released
 882 information, other private persons or business entities, or the
 883 institute.

884 Section 19. Section 331.326, Florida Statutes, is amended
 885 to read:

886 331.326 Information relating to trade secrets
 887 confidential.—The records of Space Florida regarding matters
 888 encompassed by this act are public records subject to chapter
 889 119. ~~Any information held by Space Florida which is a trade~~
 890 ~~secret, as defined in s. 812.081, including trade secrets of~~
 891 ~~Space Florida, any spaceport user, or the space industry~~
 892 ~~business, is confidential and exempt from s. 119.07(1) and s.~~
 893 ~~24(a), Art. I of the State Constitution and may not be~~
 894 ~~disclosed. If Space Florida determines that any information~~
 895 ~~requested by the public will reveal a trade secret, it shall, in~~
 896 ~~writing, inform the person making the request of that~~
 897 ~~determination. The determination is a final order as defined in~~
 898 ~~s. 120.52.~~ Any meeting or portion of a meeting of Space
 899 Florida's board is exempt from s. 286.011 and s. 24(b), Art. I
 900 of the State Constitution when the board is discussing trade

901 secrets as defined in s. 688.01. Any public record generated
902 during the closed portions of the meetings, such as minutes,
903 tape recordings, and notes, is confidential and exempt from s.
904 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This~~
905 ~~section is subject to the Open Government Sunset Review Act in~~
906 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
907 ~~2021, unless reviewed and saved from repeal through reenactment~~
908 ~~by the Legislature.~~

909 Section 20. Subsection (4) of section 334.049, Florida
910 Statutes, is amended to read:

911 334.049 Patents, copyrights, trademarks; notice to
912 Department of State; ~~confidentiality of trade secrets.~~

913 ~~(4) Any information obtained by the department as a result~~
914 ~~of research and development projects and revealing a method of~~
915 ~~process, production, or manufacture which is a trade secret as~~
916 ~~defined in s. 688.002, is confidential and exempt from the~~
917 ~~provisions of s. 119.07(1).~~

918 Section 21. Section 350.121, Florida Statutes, is amended
919 to read:

920 350.121 Commission inquiries; confidentiality of business
921 material.—If the commission undertakes an inquiry, any records,
922 documents, papers, maps, books, tapes, photographs, files, sound
923 recordings, or other business material, regardless of form or
924 characteristics, obtained by the commission incident to the
925 inquiry are considered confidential and exempt from s. 119.07(1)

926 while the inquiry is pending. If at the conclusion of an inquiry
 927 the commission undertakes a formal proceeding, any matter
 928 determined by the commission or by a judicial or administrative
 929 body, federal or state, to be ~~trade secrets or~~ proprietary
 930 confidential business information coming into its possession
 931 pursuant to such inquiry shall be considered confidential and
 932 exempt from s. 119.07(1). Such material may be used in any
 933 administrative or judicial proceeding so long as the
 934 confidential or proprietary nature of the material is
 935 maintained.

936 Section 22. Subsection (3) of section 364.183, Florida
 937 Statutes, is amended to read:

938 364.183 Access to company records.—

939 (3) The term "proprietary confidential business
 940 information" means information, regardless of form or
 941 characteristics, which is owned or controlled by the person or
 942 company, is intended to be and is treated by the person or
 943 company as private in that the disclosure of the information
 944 would cause harm to the ratepayers or the person's or company's
 945 business operations, and has not been disclosed unless disclosed
 946 pursuant to a statutory provision, an order of a court or
 947 administrative body, or private agreement that provides that the
 948 information will not be released to the public. The term
 949 includes, ~~but is not limited to:~~

950 ~~(a) Trade secrets.~~

951 (a)~~(b)~~ Internal auditing controls and reports of internal
 952 auditors.

953 (b)~~(c)~~ Security measures, systems, or procedures.

954 (c)~~(d)~~ Information concerning bids or other contractual
 955 data, the disclosure of which would impair the efforts of the
 956 company or its affiliates to contract for goods or services on
 957 favorable terms.

958 (d)~~(e)~~ Information relating to competitive interests, the
 959 disclosure of which would impair the competitive business of the
 960 provider of information.

961 (e)~~(f)~~ Employee personnel information unrelated to
 962 compensation, duties, qualifications, or responsibilities.

963 Section 23. Subsection (3) of section 365.174, Florida
 964 Statutes, is amended to read:

965 365.174 Proprietary confidential business information.—

966 (3) As used in this section, the term "proprietary
 967 confidential business information" means customer lists,
 968 customer numbers, individual or aggregate customer data by
 969 location, usage and capacity data, network facilities used to
 970 serve subscribers, technology descriptions, or technical
 971 information, ~~or trade secrets, including trade secrets as~~
 972 ~~defined in s. 812.081,~~ and the actual or developmental costs of
 973 E911 systems that are developed, produced, or received
 974 internally by a provider or by a provider's employees,
 975 directors, officers, or agents.

976 Section 24. Subsection (3) of section 366.093, Florida
977 Statutes, is amended to read:

978 366.093 Public utility records; confidentiality.—

979 (3) Proprietary confidential business information means
980 information, regardless of form or characteristics, which is
981 owned or controlled by the person or company, is intended to be
982 and is treated by the person or company as private in that the
983 disclosure of the information would cause harm to the ratepayers
984 or the person's or company's business operations, and has not
985 been disclosed unless disclosed pursuant to a statutory
986 provision, an order of a court or administrative body, or
987 private agreement that provides that the information will not be
988 released to the public. Proprietary confidential business
989 information includes, ~~but is not limited to:~~

990 ~~(a) Trade secrets.~~

991 (a) ~~(b)~~ Internal auditing controls and reports of internal
992 auditors.

993 (b) ~~(e)~~ Security measures, systems, or procedures.

994 (c) ~~(d)~~ Information concerning bids or other contractual
995 data, the disclosure of which would impair the efforts of the
996 public utility or its affiliates to contract for goods or
997 services on favorable terms.

998 (d) ~~(e)~~ Information relating to competitive interests, the
999 disclosure of which would impair the competitive business of the
1000 provider of the information.

1001 (e)~~(f)~~ Employee personnel information unrelated to
 1002 compensation, duties, qualifications, or responsibilities.
 1003 Section 25. Subsection (3) of section 367.156, Florida
 1004 Statutes, is amended to read:
 1005 367.156 Public utility records; confidentiality.—
 1006 (3) Proprietary confidential business information means
 1007 information, regardless of form or characteristics, which is
 1008 owned or controlled by the person or company, is intended to be
 1009 and is treated by the person or company as private in that the
 1010 disclosure of the information would cause harm to the ratepayers
 1011 or the person's or company's business operations, and has not
 1012 been disclosed unless disclosed pursuant to a statutory
 1013 provision, an order of a court or administrative body, or a
 1014 private agreement that provides that the information will not be
 1015 released to the public. Proprietary business information
 1016 includes, ~~but is not limited to:~~
 1017 ~~(a) Trade secrets.~~
 1018 (a)~~(b)~~ Internal auditing controls and reports of internal
 1019 auditors.
 1020 (b)~~(e)~~ Security measures, systems, or procedures.
 1021 (c)~~(d)~~ Information concerning bids or other contractual
 1022 data, the disclosure of which would impair the efforts of the
 1023 utility or its affiliates to contract for goods or services on
 1024 favorable terms.
 1025 (d)~~(e)~~ Information relating to competitive interests, the

1026 disclosure of which would impair the competitive businesses of
 1027 the provider of the information.

1028 (e)~~(f)~~ Employee personnel information unrelated to
 1029 compensation, duties, qualifications, or responsibilities.

1030 Section 26. Subsection (3) of section 368.108, Florida
 1031 Statutes, is amended to read:

1032 368.108 Confidentiality; discovery.—

1033 (3) "Proprietary confidential business information" means
 1034 information, regardless of form or characteristics, which is
 1035 owned or controlled by the person or company, is intended to be
 1036 and is treated by the person or company as private in that the
 1037 disclosure of the information would cause harm to the ratepayers
 1038 or the person's or company's business operations, and has not
 1039 been disclosed unless disclosed pursuant to a statutory
 1040 provision, an order of a court or administrative body, or a
 1041 private agreement that provides that the information will not be
 1042 released to the public. "Proprietary confidential business
 1043 information" includes, ~~but is not limited to:~~

1044 ~~(a) Trade secrets.~~

1045 (a)~~(b)~~ Internal auditing controls and reports of internal
 1046 auditors.

1047 (b)~~(e)~~ Security measures, systems, or procedures.

1048 (c)~~(d)~~ Information concerning bids or other contractual
 1049 data, the disclosure of which would impair the efforts of the
 1050 natural gas transmission company or its affiliates to contract

1051 for goods or services on favorable terms.

1052 (d)~~(e)~~ Information relating to competitive interests, the
 1053 disclosure of which would impair the competitive business of the
 1054 provider of the information.

1055 (e)~~(f)~~ Employee personnel information unrelated to
 1056 compensation, duties, qualifications, or responsibilities.

1057 Section 27. Section 381.83, Florida Statutes, is repealed.

1058 Section 28. Paragraph (c) of subsection (2) of section
 1059 395.3035, Florida Statutes, is amended to read:

1060 395.3035 Confidentiality of hospital records and
 1061 meetings.—

1062 (2) The following records and information of any hospital
 1063 that is subject to chapter 119 and s. 24(a), Art. I of the State
 1064 Constitution are confidential and exempt from the provisions of
 1065 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1066 (c) ~~Trade secrets, as defined in s. 688.002, including~~
 1067 Reimbursement methodologies and rates.

1068 Section 29. Subsection (2) and paragraph (b) of subsection
 1069 (3) of section 403.7046, Florida Statutes, are amended to read:

1070 403.7046 Regulation of recovered materials.—

1071 (2) Notwithstanding s. 688.01, information reported
 1072 pursuant to this section or any rule adopted pursuant to this
 1073 section which, if disclosed, would reveal a trade secret, as
 1074 defined in s. 688.01, may be provided by the department ~~s.~~
 1075 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~

1076 ~~24(a), Art. I of the State Constitution. For reporting or~~
1077 ~~information purposes, however, the department may provide this~~
1078 ~~information~~ in such form that the names of the persons reporting
1079 such information and the specific information reported are not
1080 revealed. ~~This subsection is subject to the Open Government~~
1081 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
1082 ~~repealed on October 2, 2021, unless reviewed and saved from~~
1083 ~~repeal through reenactment by the Legislature.~~

1084 (3) Except as otherwise provided in this section or
1085 pursuant to a special act in effect on or before January 1,
1086 1993, a local government may not require a commercial
1087 establishment that generates source-separated recovered
1088 materials to sell or otherwise convey its recovered materials to
1089 the local government or to a facility designated by the local
1090 government, nor may the local government restrict such a
1091 generator's right to sell or otherwise convey such recovered
1092 materials to any properly certified recovered materials dealer
1093 who has satisfied the requirements of this section. A local
1094 government may not enact any ordinance that prevents such a
1095 dealer from entering into a contract with a commercial
1096 establishment to purchase, collect, transport, process, or
1097 receive source-separated recovered materials.

1098 (b)~~1~~. Before engaging in business within the jurisdiction
1099 of the local government, a recovered materials dealer or
1100 pyrolysis facility must provide the local government with a copy

1101 of the certification provided for in this section. In addition,
1102 the local government may establish a registration process
1103 whereby a recovered materials dealer or pyrolysis facility must
1104 register with the local government before engaging in business
1105 within the jurisdiction of the local government. Such
1106 registration process is limited to requiring the dealer or
1107 pyrolysis facility to register its name, including the owner or
1108 operator of the dealer or pyrolysis facility, and, if the dealer
1109 or pyrolysis facility is a business entity, its general or
1110 limited partners, its corporate officers and directors, its
1111 permanent place of business, evidence of its certification under
1112 this section, and a certification that the recovered materials
1113 or post-use polymers will be processed at a recovered materials
1114 processing facility or pyrolysis facility satisfying the
1115 requirements of this section. The local government may not use
1116 the information provided in the registration application to
1117 compete unfairly with the recovered materials dealer until 90
1118 days after receipt of the application. All counties, and
1119 municipalities whose population exceeds 35,000 according to the
1120 population estimates determined pursuant to s. 186.901, may
1121 establish a reporting process that must be limited to the
1122 regulations, reporting format, and reporting frequency
1123 established by the department pursuant to this section, which
1124 must, at a minimum, include requiring the dealer or pyrolysis
1125 facility to identify the types and approximate amount of

1126 recovered materials or post-use polymers collected, recycled, or
1127 reused during the reporting period; the approximate percentage
1128 of recovered materials or post-use polymers reused, stored, or
1129 delivered to a recovered materials processing facility or
1130 pyrolysis facility or disposed of in a solid waste disposal
1131 facility; and the locations where any recovered materials or
1132 post-use polymers were disposed of as solid waste. The local
1133 government may charge the dealer or pyrolysis facility a
1134 registration fee commensurate with and no greater than the cost
1135 incurred by the local government in operating its registration
1136 program. Registration program costs are limited to those costs
1137 associated with the activities described in this paragraph
1138 ~~subparagraph~~. Any reporting or registration process established
1139 by a local government with regard to recovered materials or
1140 post-use polymers is governed by this section and department
1141 rules adopted pursuant thereto.

1142 ~~2. Information reported under this subsection which, if~~
1143 ~~disclosed, would reveal a trade secret, as defined in s.~~
1144 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~
1145 ~~24(a), Art. I of the State Constitution. This subparagraph is~~
1146 ~~subject to the Open Government Sunset Review Act in accordance~~
1147 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~
1148 ~~unless reviewed and saved from repeal through reenactment by the~~
1149 ~~Legislature.~~

1150 Section 30. Section 403.73, Florida Statutes, is repealed.

1151 Section 31. Paragraph (c) of subsection (1) of section
 1152 408.061, Florida Statutes, is amended to read:

1153 408.061 Data collection; uniform systems of financial
 1154 reporting; information relating to physician charges;
 1155 confidential information; immunity.—

1156 (1) The agency shall require the submission by health care
 1157 facilities, health care providers, and health insurers of data
 1158 necessary to carry out the agency's duties and to facilitate
 1159 transparency in health care pricing data and quality measures.
 1160 Specifications for data to be collected under this section shall
 1161 be developed by the agency and applicable contract vendors, with
 1162 the assistance of technical advisory panels including
 1163 representatives of affected entities, consumers, purchasers, and
 1164 such other interested parties as may be determined by the
 1165 agency.

1166 (c) Data to be submitted by health insurers may include,
 1167 but are not limited to: claims, payments to health care
 1168 facilities and health care providers as specified by rule,
 1169 premium, administration, and financial information. Data
 1170 submitted shall be certified by the chief financial officer, an
 1171 appropriate and duly authorized representative, or an employee
 1172 of the insurer that the information submitted is true and
 1173 accurate. ~~Information that is considered a trade secret under s.~~
 1174 ~~812.081 shall be clearly designated.~~

1175 Section 32. Subsection (1) of section 408.185, Florida

1176 Statutes, is amended to read:

1177 408.185 Information submitted for review of antitrust
 1178 issues; confidentiality.—The following information held by the
 1179 Office of the Attorney General, which is submitted by a member
 1180 of the health care community pursuant to a request for an
 1181 antitrust no-action letter shall be confidential and exempt from
 1182 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 1183 Constitution for 1 year after the date of submission.

1184 ~~(1) Documents that reveal trade secrets as defined in s.~~
 1185 ~~688.002.~~

1186 Section 33. Paragraph (a) of subsection (14) of section
 1187 408.910, Florida Statutes, is amended to read:

1188 408.910 Florida Health Choices Program.—

1189 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—

1190 (a) Definitions.—For purposes of this subsection, the
 1191 term:

1192 1. "Buyer's representative" means a participating
 1193 insurance agent as described in paragraph (4)(g).

1194 2. "Enrollee" means an employer who is eligible to enroll
 1195 in the program pursuant to paragraph (4)(a).

1196 3. "Participant" means an individual who is eligible to
 1197 participate in the program pursuant to paragraph (4)(b).

1198 4. "Proprietary confidential business information" means
 1199 information, regardless of form or characteristics, that is
 1200 owned or controlled by a vendor requesting confidentiality under

1201 this section; that is intended to be and is treated by the
 1202 vendor as private in that the disclosure of the information
 1203 would cause harm to the business operations of the vendor; that
 1204 has not been disclosed unless disclosed pursuant to a statutory
 1205 provision, an order of a court or administrative body, or a
 1206 private agreement providing that the information may be released
 1207 to the public; and that is information concerning:

- 1208 a. Business plans.
- 1209 b. Internal auditing controls and reports of internal
 1210 auditors.
- 1211 c. Reports of external auditors for privately held
 1212 companies.
- 1213 d. Client and customer lists.
- 1214 e. Potentially patentable material.
- 1215 ~~f. A trade secret as defined in s. 688.002.~~

1216 5. "Vendor" means a participating insurer or other
 1217 provider of services as described in paragraph (4) (d).

1218 Section 34. Section 409.91196, Florida Statutes, is
 1219 amended to read:

1220 409.91196 Supplemental rebate agreements; public records
 1221 and public meetings exemption.—

1222 (1) The rebate amount, percent of rebate, manufacturer's
 1223 pricing, and supplemental rebate, ~~and other trade secrets as~~
 1224 ~~defined in s. 688.002 that the agency has identified for use in~~
 1225 ~~negotiations,~~ held by the Agency for Health Care Administration

1226 | under s. 409.912(5)(a)7. are confidential and exempt from s.
 1227 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

1228 | (2) That portion of a meeting of the Medicaid
 1229 | Pharmaceutical and Therapeutics Committee at which the rebate
 1230 | amount, percent of rebate, manufacturer's pricing, or
 1231 | supplemental rebate, or confidential and exempt ~~other~~ trade
 1232 | secrets as provided for in s. 688.01 ~~defined in s. 688.002~~ that
 1233 | the agency has identified for use in negotiations, are discussed
 1234 | is exempt from s. 286.011 and s. 24(b), Art. I of the State
 1235 | Constitution. A record shall be made of each exempt portion of a
 1236 | meeting. Such record must include the times of commencement and
 1237 | termination, all discussions and proceedings, the names of all
 1238 | persons present at any time, and the names of all persons
 1239 | speaking. No exempt portion of a meeting may be held off the
 1240 | record.

1241 | Section 35. Paragraph (b) of subsection (2) of section
 1242 | 440.108, Florida Statutes, is amended to read:

1243 | 440.108 Investigatory records relating to workers'
 1244 | compensation employer compliance; confidentiality.—

1245 | (2) After an investigation is completed or ceases to be
 1246 | active, information in records relating to the investigation
 1247 | remains confidential and exempt from the provisions of s.
 1248 | 119.07(1) and s. 24(a), Art. I of the State Constitution if
 1249 | disclosure of that information would:

1250 | ~~(b) Reveal a trade secret, as defined in s. 688.002;~~

1251 Section 36. Paragraph (c) of subsection (1) of section
 1252 494.00125, Florida Statutes, is amended to read:
 1253 494.00125 Public records exemptions.—
 1254 (1) INVESTIGATIONS OR EXAMINATIONS.—
 1255 (c) Except as necessary for the office to enforce the
 1256 provisions of this chapter, a consumer complaint and other
 1257 information relative to an investigation or examination shall
 1258 remain confidential and exempt from s. 119.07(1) after the
 1259 investigation or examination is completed or ceases to be active
 1260 to the extent disclosure would:
 1261 1. Jeopardize the integrity of another active
 1262 investigation or examination.
 1263 2. Reveal the name, address, telephone number, social
 1264 security number, or any other identifying number or information
 1265 of any complainant, customer, or account holder.
 1266 3. Disclose the identity of a confidential source.
 1267 4. Disclose investigative techniques or procedures.
 1268 ~~5. Reveal a trade secret as defined in s. 688.002.~~
 1269 Section 37. Subsection (4) of section 497.172, Florida
 1270 Statutes, is amended to read:
 1271 497.172 Public records exemptions; public meetings
 1272 exemptions.—
 1273 ~~(4) TRADE SECRETS. Trade secrets, as defined in s.~~
 1274 ~~688.002, held by the department or board, are confidential and~~
 1275 ~~exempt from s. 119.07(1) and s. 24(a), Art. I of the State~~

1276 ~~Constitution.~~

1277 Section 38. Paragraph (c) of subsection (3) of section
1278 499.012, Florida Statutes, is amended to read:

1279 499.012 Permit application requirements.—

1280 (3)

1281 ~~(c) Information submitted by an applicant on an~~
1282 ~~application required pursuant to this subsection which is a~~
1283 ~~trade secret, as defined in s. 812.081, shall be maintained by~~
1284 ~~the department as trade secret information pursuant to s.~~
1285 ~~499.051(7).~~

1286 Section 39. Paragraph (b) of subsection (7) of section
1287 499.0121, Florida Statutes, is amended to read:

1288 499.0121 Storage and handling of prescription drugs;
1289 recordkeeping.—The department shall adopt rules to implement
1290 this section as necessary to protect the public health, safety,
1291 and welfare. Such rules shall include, but not be limited to,
1292 requirements for the storage and handling of prescription drugs
1293 and for the establishment and maintenance of prescription drug
1294 distribution records.

1295 (7) PRESCRIPTION DRUG PURCHASE LIST.—

1296 ~~(b) Such portions of the information required pursuant to~~
1297 ~~this subsection which are a trade secret, as defined in s.~~
1298 ~~812.081, shall be maintained by the department as trade secret~~
1299 ~~information is required to be maintained under s. 499.051. This~~
1300 ~~paragraph is subject to the Open Government Sunset Review Act in~~

1301 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
 1302 ~~2021, unless reviewed and saved from repeal through reenactment~~
 1303 ~~by the Legislature.~~

1304 Section 40. Paragraph (g) of subsection (1) of section
 1305 499.05, Florida Statutes, is amended to read:

1306 499.05 Rules.—

1307 (1) The department shall adopt rules to implement and
 1308 enforce this chapter with respect to:

1309 (g) Inspections and investigations conducted under s.
 1310 499.051 or s. 499.93, ~~and the identification of information~~
 1311 ~~claimed to be a trade secret and exempt from the public records~~
 1312 ~~law as provided in s. 499.051(7).~~

1313 Section 41. Paragraph (b) of subsection (7) of section
 1314 499.051, Florida Statutes, is amended to read:

1315 499.051 Inspections and investigations.—

1316 (7)

1317 ~~(b) Information that constitutes a trade secret, as~~
 1318 ~~defined in s. 812.081, contained in the complaint or obtained by~~
 1319 ~~the department pursuant to the investigation must remain~~
 1320 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~
 1321 ~~of the State Constitution as long as the information is held by~~
 1322 ~~the department. This paragraph is subject to the Open Government~~
 1323 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 1324 ~~repealed on October 2, 2021, unless reviewed and saved from~~
 1325 ~~repeal through reenactment by the Legislature.~~

1326 Section 42. Section 499.931, Florida Statutes, is
 1327 repealed.

1328 Section 43. Paragraph (d) of subsection (11) of section
 1329 501.171, Florida Statutes, is amended to read:

1330 501.171 Security of confidential personal information.—

1331 (11) PUBLIC RECORDS EXEMPTION.—

1332 (d) For purposes of this subsection, the term "proprietary
 1333 information" means information that:

1334 1. Is owned or controlled by the covered entity.

1335 2. Is intended to be private and is treated by the covered
 1336 entity as private because disclosure would harm the covered
 1337 entity or its business operations.

1338 3. Has not been disclosed except as required by law or a
 1339 private agreement that provides that the information will not be
 1340 released to the public.

1341 4. Is not publicly available or otherwise readily
 1342 ascertainable through proper means from another source in the
 1343 same configuration as received by the department.

1344 5. Includes:

1345 ~~a. Trade secrets as defined in s. 688.002.~~

1346 ~~b.~~ competitive interests, the disclosure of which would
 1347 impair the competitive business of the covered entity who is the
 1348 subject of the information.

1349 Section 44. Section 502.222, Florida Statutes, is
 1350 repealed.

1351 Section 45. Paragraph (b) of subsection (1) of section
 1352 517.2015, Florida Statutes, is amended to read:

1353 517.2015 Confidentiality of information relating to
 1354 investigations and examinations.—

1355 (1)

1356 (b) Except as necessary for the office to enforce the
 1357 provisions of this chapter, a consumer complaint and other
 1358 information relative to an investigation or examination shall
 1359 remain confidential and exempt from s. 119.07(1) after the
 1360 investigation or examination is completed or ceases to be active
 1361 to the extent disclosure would:

1362 1. Jeopardize the integrity of another active
 1363 investigation or examination.

1364 2. Reveal the name, address, telephone number, social
 1365 security number, or any other identifying number or information
 1366 of any complainant, customer, or account holder.

1367 3. Disclose the identity of a confidential source.

1368 4. Disclose investigative techniques or procedures.

1369 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1370 Section 46. Paragraph (b) of subsection (1) of section
 1371 520.9965, Florida Statutes, is amended to read:

1372 520.9965 Confidentiality of information relating to
 1373 investigations and examinations.—

1374 (1)

1375 (b) Except as necessary for the office to enforce the

1376 provisions of this chapter, a consumer complaint and other
 1377 information relative to an investigation or examination shall
 1378 remain confidential and exempt from s. 119.07(1) after the
 1379 investigation or examination is completed or ceases to be active
 1380 to the extent disclosure would:

- 1381 1. Jeopardize the integrity of another active
- 1382 investigation or examination.
- 1383 2. Reveal the name, address, telephone number, social
- 1384 security number, or any other identifying number or information
- 1385 of any complainant, customer, or account holder.
- 1386 3. Disclose the identity of a confidential source.
- 1387 4. Disclose investigative techniques or procedures.
- 1388 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1389 Section 47. Subsection (2) of section 526.311, Florida
 1390 Statutes, is amended to read:

1391 526.311 Enforcement; civil penalties; injunctive relief.-

1392 (2) The Department of Agriculture and Consumer Services
 1393 shall investigate any complaints regarding violations of this
 1394 act and may request in writing the production of documents and
 1395 records as part of its investigation of a complaint. If the
 1396 person upon whom such request was made fails to produce the
 1397 documents or records within 30 days after the date of the
 1398 request, the department, through the department's office of
 1399 general counsel, may issue and serve a subpoena to compel the
 1400 production of such documents and records. If any person shall

1401 refuse to comply with a subpoena issued under this section, the
 1402 department may petition a court of competent jurisdiction to
 1403 enforce the subpoena and assess such sanctions as the court may
 1404 direct. Refiners shall afford the department reasonable access
 1405 to the refiners' posted terminal price. Any records, documents,
 1406 papers, maps, books, tapes, photographs, files, sound
 1407 recordings, or other business material, regardless of form or
 1408 characteristics, obtained by the department are confidential and
 1409 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 1410 of the State Constitution while the investigation is pending. At
 1411 the conclusion of an investigation, any matter determined by the
 1412 department or by a judicial or administrative body, federal or
 1413 state, to be ~~a trade secret or~~ proprietary confidential business
 1414 information held by the department pursuant to such
 1415 investigation shall be considered confidential and exempt from
 1416 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 1417 Constitution. Such materials may be used in any administrative
 1418 or judicial proceeding so long as the confidential or
 1419 proprietary nature of the material is maintained.

1420 Section 48. Paragraph (e) of subsection (1) of section
 1421 548.062, Florida Statutes, is amended to read:

1422 548.062 Public records exemption.—

1423 (1) As used in this section, the term "proprietary
 1424 confidential business information" means information that:

1425 (e) Concerns any of the following:

1426 | 1. The number of ticket sales for a match;
 1427 | 2. The amount of gross receipts after a match;
 1428 | ~~3. A trade secret, as defined in s. 688.002;~~
 1429 | 3.4. Business plans;
 1430 | ~~4.5.~~ Internal auditing controls and reports of internal
 1431 | auditors; or
 1432 | ~~5.6.~~ Reports of external auditors.
 1433 | Section 49. Paragraph (a) of subsection (1) of section
 1434 | 556.113, Florida Statutes, is amended to read:
 1435 | 556.113 Sunshine State One-Call of Florida, Inc.; public
 1436 | records exemption.—
 1437 | (1) As used in this section, the term "proprietary
 1438 | confidential business information" means information provided
 1439 | by:
 1440 | (a) A member operator which is a map, plan, facility
 1441 | location diagram, internal damage investigation report or
 1442 | analysis, or dispatch methodology, ~~or trade secret as defined in~~
 1443 | ~~s. 688.002,~~ or which describes the exact location of a utility
 1444 | underground facility or the protection, repair, or restoration
 1445 | thereof, and:
 1446 | 1. Is intended to be and is treated by the member operator
 1447 | as confidential;
 1448 | 2. The disclosure of which would likely be used by a
 1449 | competitor to harm the business interests of the member operator
 1450 | or could be used for the purpose of inflicting damage on

1451 | underground facilities; and

1452 | 3. Is not otherwise readily ascertainable or publicly
1453 | available by proper means by other persons from another source
1454 | in the same configuration as provided to Sunshine State One-Call
1455 | of Florida, Inc.

1456 | Section 50. Paragraph (b) of subsection (2) of section
1457 | 559.5558, Florida Statutes, is amended to read:

1458 | 559.5558 Public records exemption; investigations and
1459 | examinations.—

1460 | (2)

1461 | (b) Information made confidential and exempt pursuant to
1462 | this section is no longer confidential and exempt once the
1463 | investigation or examination is completed or ceases to be active
1464 | unless disclosure of the information would:

1465 | 1. Jeopardize the integrity of another active
1466 | investigation or examination.

1467 | 2. Reveal the personal identifying information of a
1468 | consumer, unless the consumer is also the complainant. A
1469 | complainant's personal identifying information is subject to
1470 | disclosure after the investigation or examination is completed
1471 | or ceases to be active. However, a complainant's personal
1472 | financial and health information remains confidential and
1473 | exempt.

1474 | 3. Reveal the identity of a confidential source.

1475 | 4. Reveal investigative or examination techniques or

1476 | procedures.

1477 | ~~5. Reveal trade secrets, as defined in s. 688.002.~~

1478 | Section 51. Paragraph (c) of subsection (3) of section
 1479 | 559.9285, Florida Statutes, is amended to read:

1480 | 559.9285 Certification of business activities.—

1481 | (3) The department shall specify by rule the form of each
 1482 | certification under this section which shall include the
 1483 | following information:

1484 | (c) The legal name, any trade names or fictitious names,
 1485 | mailing address, physical address, telephone number or numbers,
 1486 | facsimile number or numbers, and all Internet and electronic
 1487 | contact information of every other commercial entity with which
 1488 | the certifying party engages in business or commerce that is
 1489 | related in any way to the certifying party's business or
 1490 | commerce with any terrorist state. The information disclosed
 1491 | pursuant to this paragraph does not constitute customer lists
 1492 | or, ~~customer names, or trade secrets~~ protected under s.
 1493 | 570.544(8) or trade secrets protected under s. 688.01.

1494 | Section 52. Subsection (2) of section 560.129, Florida
 1495 | Statutes, is amended to read:

1496 | 560.129 Confidentiality.—

1497 | (2) All information obtained by the office in the course
 1498 | of its investigation or examination ~~which is a trade secret, as~~
 1499 | ~~defined in s. 688.002, or~~ which is personal financial
 1500 | information shall remain confidential and exempt from s.

1501 119.07(1) and s. 24(a), Art. I of the State Constitution. If any
 1502 administrative, civil, or criminal proceeding against a money
 1503 services business, its authorized vendor, or an affiliated party
 1504 is initiated and the office seeks to use matter that a licensee
 1505 believes to be ~~a trade secret or~~ personal financial information,
 1506 such records shall be subject to an in camera review by the
 1507 administrative law judge, if the matter is before the Division
 1508 of Administrative Hearings, or a judge of any court of this
 1509 state, any other state, or the United States, as appropriate,
 1510 for the purpose of determining if the matter is ~~a trade secret~~
 1511 ~~or is~~ personal financial information. ~~If it is determined that~~
 1512 ~~the matter is a trade secret, the matter shall remain~~
 1513 ~~confidential.~~ If it is determined that the matter is personal
 1514 financial information, the matter shall remain confidential
 1515 unless the administrative law judge or judge determines that, in
 1516 the interests of justice, the matter should become public.

1517 Section 53. Subsection (3) of section 570.48, Florida
 1518 Statutes, is amended to read:

1519 570.48 Division of Fruit and Vegetables; powers and
 1520 duties; records.—The duties of the Division of Fruit and
 1521 Vegetables include, but are not limited to:

1522 (3) Maintaining the records of the division. The records
 1523 of the division are public records .; ~~however, trade secrets as~~
 1524 ~~defined in s. 812.081 are confidential and exempt from s.~~
 1525 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~

1526 ~~subsection is subject to the Open Government Sunset Review Act~~
 1527 ~~in accordance with s. 119.15 and shall stand repealed on October~~
 1528 ~~2, 2021, unless reviewed and saved from repeal through~~
 1529 ~~reenactment by the Legislature. This Section 688.01 may not be~~
 1530 ~~construed to prohibit:~~

1531 ~~(a) A disclosure necessary to enforcement procedures.~~

1532 ~~(b) The department from releasing information to other~~
 1533 ~~governmental agencies. Other governmental agencies that receive~~
 1534 ~~confidential information from the department under this~~
 1535 ~~subsection shall maintain the confidentiality of that~~
 1536 ~~information.~~

1537 ~~(c) the department or other agencies from compiling and~~
 1538 ~~publishing appropriate data regarding procedures, yield,~~
 1539 ~~recovery, quality, and related matters, provided such released~~
 1540 ~~data do not reveal by whom the activity to which the data relate~~
 1541 ~~was conducted.~~

1542 Section 54. Subsection (8) of section 570.544, Florida
 1543 Statutes, is amended to read:

1544 570.544 Division of Consumer Services; director; powers;
 1545 processing of complaints; records.—

1546 (8) The records of the Division of Consumer Services are
 1547 public records. However, customer lists and, customer names, ~~and~~
 1548 ~~trade secrets~~ are confidential and exempt from the provisions of
 1549 s. 119.07(1). Disclosure necessary to enforcement procedures
 1550 does not violate this prohibition.

1551 Section 55. Subsection (2) of section 573.123, Florida
1552 Statutes, is amended to read:

1553 573.123 Maintenance and production of records.—

1554 ~~(2) Information that, if disclosed, would reveal a trade~~
1555 ~~secret, as defined in s. 812.081, of any person subject to a~~
1556 ~~marketing order is confidential and exempt from s. 119.07(1) and~~
1557 ~~s. 24(a), Art. I of the State Constitution and may not be~~
1558 ~~disclosed except to an attorney who provides legal advice to the~~
1559 ~~division about enforcing a marketing order or by court order. A~~
1560 ~~person who receives confidential information under this~~
1561 ~~subsection shall maintain the confidentiality of that~~
1562 ~~information. This subsection is subject to the Open Government~~
1563 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
1564 ~~repealed on October 2, 2021, unless reviewed and saved from~~
1565 ~~repeal through reenactment by the Legislature.~~

1566 Section 56. Section 581.199, Florida Statutes, is
1567 repealed.

1568 Section 57. Paragraph (b) of subsection (8) of section
1569 601.10, Florida Statutes, is amended to read:

1570 601.10 Powers of the Department of Citrus.—The department
1571 shall have and shall exercise such general and specific powers
1572 as are delegated to it by this chapter and other statutes of the
1573 state, which powers shall include, but are not limited to, the
1574 following:

1575 (8)

1576 ~~(b) Any information provided to the department which~~
 1577 ~~constitutes a trade secret as defined in s. 812.081 is~~
 1578 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~
 1579 ~~of the State Constitution. This paragraph is subject to the Open~~
 1580 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
 1581 ~~shall stand repealed on October 2, 2021, unless reviewed and~~
 1582 ~~saved from repeal through reenactment by the Legislature.~~

1583 Section 58. Paragraph (d) of subsection (7) of section
 1584 601.15, Florida Statutes, is amended to read:

1585 601.15 Advertising campaign; methods of conducting;
 1586 assessments; emergency reserve fund; citrus research.—

1587 (7) All assessments levied and collected under this
 1588 chapter shall be paid into the State Treasury on or before the
 1589 15th day of each month. Such moneys shall be accounted for in a
 1590 special fund to be designated as the Florida Citrus Advertising
 1591 Trust Fund, and all moneys in such fund are appropriated to the
 1592 department for the following purposes:

1593 (d)1. The pro rata portion of moneys allocated to each
 1594 type of citrus product in noncommodity programs shall be used by
 1595 the department to encourage substantial increases in the
 1596 effectiveness, frequency, and volume of noncommodity
 1597 advertising, merchandising, publicity, and sales promotion of
 1598 such citrus products through rebates and incentive payments to
 1599 handlers and trade customers for these activities. The
 1600 department shall adopt rules providing for the use of such

1601 moneys. The rules shall establish alternate incentive programs,
1602 including at least one incentive program for product sold under
1603 advertised brands, one incentive program for product sold under
1604 private label brands, and one incentive program for product sold
1605 in bulk. For each incentive program, the rules must establish
1606 eligibility and performance requirements and must provide
1607 appropriate limitations on amounts payable to a handler or trade
1608 customer for a particular season. Such limitations may relate to
1609 the amount of citrus assessments levied and collected on the
1610 citrus product handled by such handler or trade customer during
1611 a 12-month representative period.

1612 2. The department may require from participants in
1613 noncommodity advertising and promotional programs commercial
1614 information necessary to determine eligibility for and
1615 performance in such programs. ~~Any information required which~~
1616 ~~constitutes a trade secret as defined in s. 812.081 is~~
1617 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~
1618 ~~of the State Constitution. This subparagraph is subject to the~~
1619 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
1620 ~~and shall stand repealed on October 2, 2021, unless reviewed and~~
1621 ~~saved from repeal through reenactment by the Legislature.~~

1622 Section 59. Paragraph (c) of subsection (8) of section
1623 601.152, Florida Statutes, is amended to read:

1624 601.152 Special marketing orders.—

1625 (8)

1626 (c)~~1~~. Every handler shall, at such times as the department
 1627 may require, file with the department a return, not under oath,
 1628 on forms to be prescribed and furnished by the department,
 1629 certified as true and correct, stating the quantity of the type,
 1630 variety, and form of citrus fruit or citrus product specified in
 1631 the marketing order first handled in the primary channels of
 1632 trade in the state by such handler during the period of time
 1633 specified in the marketing order. Such returns must contain any
 1634 further information deemed by the department to be reasonably
 1635 necessary to properly administer or enforce this section or any
 1636 marketing order implemented under this section.

1637 ~~2. Information that, if disclosed, would reveal a trade
 1638 secret, as defined in s. 812.081, of any person subject to a
 1639 marketing order is confidential and exempt from s. 119.07(1) and
 1640 s. 24(a), Art. I of the State Constitution. This subparagraph is
 1641 subject to the Open Government Sunset Review Act in accordance
 1642 with s. 119.15 and shall stand repealed on October 2, 2021,
 1643 unless reviewed and saved from repeal through reenactment by the
 1644 Legislature.~~

1645 Section 60. Section 601.76, Florida Statutes, is amended
 1646 to read:

1647 601.76 Manufacturer to furnish formula and other
 1648 information.—Any formula required to be filed with the
 1649 Department of Agriculture ~~shall be deemed a trade secret as~~
 1650 ~~defined in s. 812.081,~~ is confidential and exempt from s.

1651 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 1652 may be divulged only to the Department of Agriculture or to its
 1653 duly authorized representatives or upon court order when
 1654 necessary in the enforcement of this law. A person who receives
 1655 such a formula from the Department of Agriculture under this
 1656 section shall maintain the confidentiality of the formula. ~~This~~
 1657 ~~section is subject to the Open Government Sunset Review Act in~~
 1658 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
 1659 ~~2021, unless reviewed and saved from repeal through reenactment~~
 1660 ~~by the Legislature.~~

1661 Section 61. Subsection (6) of section 607.0505, Florida
 1662 Statutes, is amended to read:

1663 607.0505 Registered agent; duties.—

1664 (6) Information provided to, and records and
 1665 transcriptions of testimony obtained by, the Department of Legal
 1666 Affairs pursuant to this section are confidential and exempt
 1667 from the provisions of s. 119.07(1) while the investigation is
 1668 active. For purposes of this section, an investigation shall be
 1669 considered "active" while such investigation is being conducted
 1670 with a reasonable, good faith belief that it may lead to the
 1671 filing of an administrative, civil, or criminal proceeding. An
 1672 investigation does not cease to be active so long as the
 1673 Department of Legal Affairs is proceeding with reasonable
 1674 dispatch and there is a good faith belief that action may be
 1675 initiated by the Department of Legal Affairs or other

1676 administrative or law enforcement agency. Except for active
1677 criminal intelligence or criminal investigative information, as
1678 defined in s. 119.011, and information which, if disclosed,
1679 ~~would reveal a trade secret, as defined in s. 688.002, or~~ would
1680 jeopardize the safety of an individual, all information,
1681 records, and transcriptions become public record when the
1682 investigation is completed or ceases to be active. The
1683 Department of Legal Affairs shall not disclose confidential
1684 information, records, or transcriptions of testimony except
1685 pursuant to the authorization by the Attorney General in any of
1686 the following circumstances:

1687 (a) To a law enforcement agency participating in or
1688 conducting a civil investigation under chapter 895, or
1689 participating in or conducting a criminal investigation.

1690 (b) In the course of filing, participating in, or
1691 conducting a judicial proceeding instituted pursuant to this
1692 section or chapter 895.

1693 (c) In the course of filing, participating in, or
1694 conducting a judicial proceeding to enforce an order or judgment
1695 entered pursuant to this section or chapter 895.

1696 (d) In the course of a criminal or civil proceeding.

1697

1698 A person or law enforcement agency which receives any
1699 information, record, or transcription of testimony that has been
1700 made confidential by this subsection shall maintain the

1701 confidentiality of such material and shall not disclose such
1702 information, record, or transcription of testimony except as
1703 provided for herein. Any person who willfully discloses any
1704 information, record, or transcription of testimony that has been
1705 made confidential by this subsection, except as provided for
1706 herein, is guilty of a misdemeanor of the first degree,
1707 punishable as provided in s. 775.082 or s. 775.083. If any
1708 information, record, or testimony obtained pursuant to
1709 subsection (2) is offered in evidence in any judicial
1710 proceeding, the court may, in its discretion, seal that portion
1711 of the record to further the policies of confidentiality set
1712 forth herein.

1713 Section 62. Subsection (6) of section 617.0503, Florida
1714 Statutes, is amended to read:

1715 617.0503 Registered agent; duties; confidentiality of
1716 investigation records.—

1717 (6) Information provided to, and records and
1718 transcriptions of testimony obtained by, the Department of Legal
1719 Affairs pursuant to this section are confidential and exempt
1720 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
1721 State Constitution while the investigation is active. For
1722 purposes of this section, an investigation shall be considered
1723 "active" while such investigation is being conducted with a
1724 reasonable, good faith belief that it may lead to the filing of
1725 an administrative, civil, or criminal proceeding. An

1726 investigation does not cease to be active so long as the
 1727 department is proceeding with reasonable dispatch and there is a
 1728 good faith belief that action may be initiated by the department
 1729 or other administrative or law enforcement agency. Except for
 1730 active criminal intelligence or criminal investigative
 1731 information, as defined in s. 119.011, and information which, if
 1732 disclosed, ~~would reveal a trade secret, as defined in s.~~
 1733 ~~688.002, or~~ would jeopardize the safety of an individual, all
 1734 information, records, and transcriptions become available to the
 1735 public when the investigation is completed or ceases to be
 1736 active. The department shall not disclose confidential
 1737 information, records, or transcriptions of testimony except
 1738 pursuant to authorization by the Attorney General in any of the
 1739 following circumstances:

1740 (a) To a law enforcement agency participating in or
 1741 conducting a civil investigation under chapter 895, or
 1742 participating in or conducting a criminal investigation.

1743 (b) In the course of filing, participating in, or
 1744 conducting a judicial proceeding instituted pursuant to this
 1745 section or chapter 895.

1746 (c) In the course of filing, participating in, or
 1747 conducting a judicial proceeding to enforce an order or judgment
 1748 entered pursuant to this section or chapter 895.

1749 (d) In the course of a criminal proceeding.
 1750

1751 A person or law enforcement agency that receives any
 1752 information, record, or transcription of testimony that has been
 1753 made confidential by this subsection shall maintain the
 1754 confidentiality of such material and shall not disclose such
 1755 information, record, or transcription of testimony except as
 1756 provided for herein. Any person who willfully discloses any
 1757 information, record, or transcription of testimony that has been
 1758 made confidential by this subsection, except as provided for in
 1759 this subsection, commits a misdemeanor of the first degree,
 1760 punishable as provided in s. 775.082 or s. 775.083. If any
 1761 information, record, or testimony obtained pursuant to
 1762 subsection (2) is offered in evidence in any judicial
 1763 proceeding, the court may, in its discretion, seal that portion
 1764 of the record to further the policies of confidentiality set
 1765 forth in this subsection.

1766 Section 63. Subsection (4) of section 624.307, Florida
 1767 Statutes, is amended to read:

1768 624.307 General powers; duties.—

1769 (4) The department and office may each collect, propose,
 1770 publish, and disseminate information relating to the subject
 1771 matter of any duties imposed upon it by law. Notwithstanding any
 1772 other provision of law, information reported to and collected by
 1773 the office may be made available on an aggregate basis. The
 1774 office may report, publish, or otherwise make available such
 1775 information from all insurers on an aggregate basis by line of

1776 business and by county, even if marked trade secret pursuant to
 1777 s. 688.01, but shall otherwise maintain trade secret
 1778 confidentiality in accordance with s. 688.01.

1779 Section 64. Subsection (4) is added to section 624.315,
 1780 Florida Statutes, to read:

1781 624.315 Department; annual report.—

1782 (4) Notwithstanding any other provision of law, the office
 1783 may make the information in subsection (2) available on an
 1784 aggregate basis. The office may include such statistical
 1785 information from all insurers on an aggregate basis by line of
 1786 business and by county, even if marked trade secret pursuant to
 1787 s. 688.01, but shall otherwise maintain trade secret
 1788 confidentiality in accordance with s. 688.01.

1789 Section 65. Paragraph (c) of subsection (1) and subsection
 1790 (5) of section 624.4212, Florida Statutes, are amended to read:

1791 624.4212 Confidentiality of proprietary business and other
 1792 information.—

1793 (1) As used in this section, the term "proprietary
 1794 business information" means information, regardless of form or
 1795 characteristics, which is owned or controlled by an insurer, or
 1796 a person or an affiliated person who seeks acquisition of
 1797 controlling stock in a domestic stock insurer or controlling
 1798 company, and which:

1799 (c) Includes:

1800 ~~1. Trade secrets as defined in s. 688.002 which comply~~

1801 ~~with s. 624.4213.~~

1802 1.2. Information relating to competitive interests, the
1803 disclosure of which would impair the competitive business of the
1804 provider of the information.

1805 2.3. The source, nature, and amount of the consideration
1806 used or to be used in carrying out a merger or other acquisition
1807 of control in the ordinary course of business, including the
1808 identity of the lender, if the person filing a statement
1809 regarding consideration so requests.

1810 3.4. Information relating to bids or other contractual
1811 data, the disclosure of which would impair the efforts of the
1812 insurer or its affiliates to contract for goods or services on
1813 favorable terms.

1814 4.5. Internal auditing controls and reports of internal
1815 auditors.

1816 (5) The office may disclose information made confidential
1817 and exempt under this section or s. 688.01:

1818 (a) If the insurer to which it pertains gives prior
1819 written consent;

1820 (b) Pursuant to a court order;

1821 (c) To the Actuarial Board for Counseling and Discipline
1822 upon a request stating that the information is for the purpose
1823 of professional disciplinary proceedings and specifying
1824 procedures satisfactory to the office for preserving the
1825 confidentiality of the information;

1826 (d) To other states, federal and international agencies,
 1827 the National Association of Insurance Commissioners and its
 1828 affiliates and subsidiaries, and state, federal, and
 1829 international law enforcement authorities, including members of
 1830 a supervisory college described in s. 628.805 if the recipient
 1831 agrees in writing to maintain the confidential and exempt status
 1832 of the document, material, or other information and has
 1833 certified in writing its legal authority to maintain such
 1834 confidentiality; or

1835 (e) For the purpose of aggregating information on an
 1836 industrywide basis and disclosing the information to the public
 1837 only if the specific identities of the insurers, or persons or
 1838 affiliated persons, are not revealed.

1839 Section 66. Section 624.4213, Florida Statutes, is
 1840 repealed.

1841 Section 67. Paragraph (d) of subsection (1) of section
 1842 626.84195, Florida Statutes, is amended to read:

1843 626.84195 Confidentiality of information supplied by title
 1844 insurance agencies and insurers.—

1845 (1) As used in this section, the term "proprietary
 1846 business information" means information that:

1847 (d) Concerns:

- 1848 1. Business plans;
- 1849 2. Internal auditing controls and reports of internal
 1850 auditors;

1851 3. Reports of external auditors for privately held
 1852 companies; or
 1853 ~~4. Trade secrets, as defined in s. 688.002; or~~
 1854 4.5. Financial information, including revenue data, loss
 1855 expense data, gross receipts, taxes paid, capital investment,
 1856 and employee wages.

1857 Section 68. Subsection (2) of section 626.884, Florida
 1858 Statutes, is amended to read:

1859 626.884 Maintenance of records by administrator; access;
 1860 confidentiality.—

1861 (2) The office shall have access to books and records
 1862 maintained by the administrator for the purpose of examination,
 1863 audit, and inspection. ~~Information contained in such books and~~
 1864 ~~records is confidential and exempt from the provisions of s.~~
 1865 ~~119.07(1) if the disclosure of such information would reveal a~~
 1866 ~~trade secret as defined in s. 688.002. However,~~ The office may
 1867 use such information in any proceeding instituted against the
 1868 administrator.

1869 Section 69. Paragraph (a) of subsection (1) of section
 1870 626.9936, Florida Statutes, is amended to read:

1871 626.9936 Access to records.—

1872 (1) Notwithstanding subsections (1) and (2) of Article
 1873 VIII, subsection (2) of Article X, and subsection (6) of Article
 1874 XII of the Interstate Insurance Product Regulation Compact, a
 1875 request by a resident of this state for public inspection and

1876 copying of information, data, or official records that includes:

1877 (a) An insurer's trade secrets shall be referred to the

1878 commissioner who shall respond to the request, with the

1879 cooperation and assistance of the commission, in accordance with

1880 s. 688.01 ~~s. 624.4213~~; or

1881 Section 70. Paragraph (g) of subsection (3) of section

1882 627.0628, Florida Statutes, is amended to read:

1883 627.0628 Florida Commission on Hurricane Loss Projection

1884 Methodology; public records exemption; public meetings

1885 exemption.—

1886 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

1887 ~~(g)1. A trade secret, as defined in s. 688.002, which is~~

1888 ~~used in designing and constructing a hurricane or flood loss~~

1889 ~~model and which is provided pursuant to this section, by a~~

1890 ~~private company, to the commission, office, or consumer advocate~~

1891 ~~appointed pursuant to s. 627.0613 is confidential and exempt~~

1892 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~

1893 ~~Constitution.~~

1894 (g)1.2.a. That portion of a meeting of the commission or

1895 of a rate proceeding on an insurer's rate filing at which a

1896 trade secret made confidential and exempt pursuant to s. 688.01

1897 ~~by this paragraph~~ is discussed is exempt from s. 286.011 and s.

1898 24(b), Art. I of the State Constitution. The closed meeting must

1899 be recorded, and no portion of the closed meeting may be off the

1900 record.

1901 ~~2.b.~~ The recording of a closed portion of a meeting is
 1902 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 1903 Constitution.

1904 Section 71. Paragraph (a) of subsection (11) of section
 1905 627.3518, Florida Statutes, is amended to read:

1906 627.3518 Citizens Property Insurance Corporation
 1907 policyholder eligibility clearinghouse program.—The purpose of
 1908 this section is to provide a framework for the corporation to
 1909 implement a clearinghouse program by January 1, 2014.

1910 (11) Proprietary business information provided to the
 1911 corporation's clearinghouse by insurers with respect to
 1912 identifying and selecting risks for an offer of coverage is
 1913 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 1914 of the State Constitution.

1915 (a) As used in this subsection, the term "proprietary
 1916 business information" means information, regardless of form or
 1917 characteristics, which is owned or controlled by an insurer and:

1918 1. Is identified by the insurer as proprietary business
 1919 information and is intended to be and is treated by the insurer
 1920 as private in that the disclosure of the information would cause
 1921 harm to the insurer, an individual, or the company's business
 1922 operations and has not been disclosed unless disclosed pursuant
 1923 to a statutory requirement, an order of a court or
 1924 administrative body, or a private agreement that provides that
 1925 the information will not be released to the public;

1926 2. Is not otherwise readily ascertainable or publicly
 1927 available by proper means by other persons from another source
 1928 in the same configuration as provided to the clearinghouse; and

1929 3. Includes-

1930 ~~a. Trade secrets, as defined in s. 688.002.~~

1931 ~~b.~~ information relating to competitive interests, the
 1932 disclosure of which would impair the competitive business of the
 1933 provider of the information.

1934
 1935 Proprietary business information may be found in underwriting
 1936 criteria or instructions which are used to identify and select
 1937 risks through the program for an offer of coverage and are
 1938 shared with the clearinghouse to facilitate the shopping of
 1939 risks with the insurer.

1940 Section 72. Subsections (5) through (14) of section
 1941 655.057, Florida Statutes, are renumbered as subsections (4)
 1942 through (13), respectively, and present subsections (4), (5),
 1943 and (14) are amended to read:

1944 655.057 Records; limited restrictions upon public access.-

1945 ~~(4) Except as otherwise provided in this section and~~
 1946 ~~except for those portions that are otherwise public record,~~
 1947 ~~trade secrets as defined in s. 688.002 which comply with s.~~
 1948 ~~655.0591 and which are held by the office in accordance with its~~
 1949 ~~statutory duties with respect to the financial institutions~~
 1950 ~~codes are confidential and exempt from s. 119.07(1) and s.~~

1951 ~~24(a), Art. I of the State Constitution.~~

1952 (4)~~(5)~~ Neither this section nor s. 688.01 prevents ~~does~~
 1953 ~~not prevent~~ or restricts ~~restrict~~:

1954 (a) Publishing reports that are required to be submitted
 1955 to the office pursuant to s. 655.045(2) or required by
 1956 applicable federal statutes or regulations to be published.

1957 (b) Furnishing records or information to any other state,
 1958 federal, or foreign agency responsible for the regulation or
 1959 supervision of financial institutions.

1960 (c) Disclosing or publishing summaries of the condition of
 1961 financial institutions and general economic and similar
 1962 statistics and data, provided that the identity of a particular
 1963 financial institution is not disclosed.

1964 (d) Reporting any suspected criminal activity, with
 1965 supporting documents and information, to appropriate law
 1966 enforcement and prosecutorial agencies.

1967 (e) Furnishing information upon request to the Chief
 1968 Financial Officer or the Division of Treasury of the Department
 1969 of Financial Services regarding the financial condition of any
 1970 financial institution that is, or has applied to be, designated
 1971 as a qualified public depository pursuant to chapter 280.

1972 (f) Furnishing information to Federal Home Loan Banks
 1973 regarding its member institutions pursuant to an information
 1974 sharing agreement between the Federal Home Loan Banks and the
 1975 office.

1976
 1977 Any confidential information or records obtained from the office
 1978 pursuant to this subsection shall be maintained as confidential
 1979 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 1980 Constitution.

1981 (13)~~(14)~~ Subsections (1), (2), ~~(5)~~, and (8) ~~(9)~~ are
 1982 subject to the Open Government Sunset Review Act in accordance
 1983 with s. 119.15 and are repealed on October 2, 2022, unless
 1984 reviewed and saved from repeal through reenactment by the
 1985 Legislature.

1986 Section 73. Section 655.0591, Florida Statutes, is
 1987 repealed.

1988 Section 74. Subsection (11) of section 663.533, Florida
 1989 Statutes, is amended to read:

1990 663.533 Applicability of the financial institutions
 1991 codes.—A qualified limited service affiliate is subject to the
 1992 financial institutions codes. Without limiting the foregoing,
 1993 the following provisions are applicable to a qualified limited
 1994 service affiliate:

1995 (11) Section 688.01 ~~655.0591~~, relating to trade secret
 1996 documents.

1997
 1998 This section does not prohibit the office from investigating or
 1999 examining an entity to ensure that it is not in violation of
 2000 this chapter or applicable provisions of the financial

2001 institutions codes.

2002 Section 75. Section 721.071, Florida Statutes, is
 2003 repealed.

2004 Section 76. Subsections (3) and (4) of section 815.04,
 2005 Florida Statutes, are amended to read:

2006 815.04 Offenses against intellectual property; ~~public~~
 2007 ~~records exemption.~~—

2008 ~~(3) Data, programs, or supporting documentation that is a~~
 2009 ~~trade secret as defined in s. 812.081, that is held by an agency~~
 2010 ~~as defined in chapter 119, and that resides or exists internal~~
 2011 ~~or external to a computer, computer system, computer network, or~~
 2012 ~~electronic device is confidential and exempt from the provisions~~
 2013 ~~of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~
 2014 ~~This subsection is subject to the Open Government Sunset Review~~
 2015 ~~Act in accordance with s. 119.15 and shall stand repealed on~~
 2016 ~~October 2, 2021, unless reviewed and saved from repeal through~~
 2017 ~~re enactment by the Legislature.~~

2018 (3)(4) A person who willfully, knowingly, and without
 2019 authorization discloses or takes data, programs, or supporting
 2020 documentation that is a trade secret as defined in s. 812.081 ~~or~~
 2021 ~~is confidential as provided by law~~ residing or existing internal
 2022 or external to a computer, computer system, computer network, or
 2023 electronic device commits an offense against intellectual
 2024 property.

2025 Section 77. Section 815.045, Florida Statutes, is

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2026 repealed.

2027 Section 78. Subsection (2) of section 1004.22, Florida
2028 Statutes, is amended to read:

2029 1004.22 Divisions of sponsored research at state
2030 universities.—

2031 (2) The university shall set such policies to regulate the
2032 activities of the divisions of sponsored research as it may
2033 consider necessary to administer the research programs in a
2034 manner which assures efficiency and effectiveness, producing the
2035 maximum benefit for the educational programs and maximum service
2036 to the state. To this end, materials that relate to methods of
2037 manufacture or production, ~~potential trade secrets~~, potentially
2038 patentable material, ~~actual~~ trade secrets, as defined in s.
2039 688.01, business transactions, or proprietary information
2040 received, generated, ascertained, or discovered during the
2041 course of research conducted within the state universities shall
2042 be confidential and exempt from the provisions of s. 119.07(1),
2043 except that a division of sponsored research shall make
2044 available upon request the title and description of a research
2045 project, the name of the researcher, and the amount and source
2046 of funding provided for such project.

2047 Section 79. Paragraph (c) of subsection (2) and
2048 subsections (3), (4), and (7) of section 1004.30, Florida
2049 Statutes, are amended to read:

2050 1004.30 University health services support organization;

2051 confidentiality of information.—

2052 (2) The following university health services support
 2053 organization's records and information are confidential and
 2054 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 2055 of the State Constitution:

2056 ~~(c) Trade secrets, as defined in s. 688.002, including~~
 2057 ~~reimbursement methodologies and rates.~~

2058 (3) Any portion of a governing board or peer review panel
 2059 or committee meeting during which a confidential and exempt
 2060 contract, document, record, or marketing plan, ~~or trade secret,~~
 2061 as provided for in subsection (2), or a confidential and exempt
 2062 trade secret, as provided for in s. 688.01, is discussed is
 2063 exempt from the provisions of s. 286.011 and s. 24(b), Art. I of
 2064 the State Constitution.

2065 (4) Those portions of any public record, such as a tape
 2066 recording, minutes, and notes, generated during that portion of
 2067 a governing board or peer review panel or committee meeting
 2068 which is closed to the public pursuant to this section, ~~which~~
 2069 ~~contain information relating to contracts, documents, records,~~
 2070 ~~marketing plans, or trade secrets which are made confidential~~
 2071 ~~and exempt by this section,~~ are confidential and exempt from the
 2072 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 2073 Constitution.

2074 (7) Those portions of any public record, such as a tape
 2075 recording, minutes, or notes, generated during that portion of a

2076 governing board meeting at which negotiations for contracts for
2077 managed-care arrangements occur, are reported on, or are acted
2078 on by the governing board, which record is made confidential and
2079 exempt by subsection (4), shall become public records 2 years
2080 after the termination or completion of the term of the contract
2081 to which such negotiations relate or, if no contract was
2082 executed, 2 years after the termination of the negotiations.
2083 Notwithstanding paragraph (2)(a) and subsection (4), a
2084 university health services support organization must make
2085 available, upon request, the title and general description of a
2086 contract for managed-care arrangements, the names of the
2087 contracting parties, and the duration of the contract term. All
2088 contracts for managed-care arrangements which are made
2089 confidential and exempt by paragraph (2)(a), except those
2090 portions of any contract containing trade secrets which are made
2091 confidential and exempt by s. 688.01 ~~paragraph (2)(c)~~, shall
2092 become public 2 years after the termination or completion of the
2093 term of the contract.

2094 Section 80. Paragraph (b) of subsection (8) of section
2095 1004.43, Florida Statutes, is amended to read:

2096 1004.43 H. Lee Moffitt Cancer Center and Research
2097 Institute.—There is established the H. Lee Moffitt Cancer Center
2098 and Research Institute, a statewide resource for basic and
2099 clinical research and multidisciplinary approaches to patient
2100 care.

2101 (8)

2102 (b) Proprietary confidential business information is

2103 confidential and exempt from the provisions of s. 119.07(1) and

2104 s. 24(a), Art. I of the State Constitution. However, the Auditor

2105 General, the Office of Program Policy Analysis and Government

2106 Accountability, and the Board of Governors, pursuant to their

2107 oversight and auditing functions, must be given access to all

2108 proprietary confidential business information upon request and

2109 without subpoena and must maintain the confidentiality of

2110 information so received. As used in this paragraph, the term

2111 "proprietary confidential business information" means

2112 information, regardless of its form or characteristics, which is

2113 owned or controlled by the not-for-profit corporation or its

2114 subsidiaries; is intended to be and is treated by the not-for-

2115 profit corporation or its subsidiaries as private and the

2116 disclosure of which would harm the business operations of the

2117 not-for-profit corporation or its subsidiaries; has not been

2118 intentionally disclosed by the corporation or its subsidiaries

2119 unless pursuant to law, an order of a court or administrative

2120 body, a legislative proceeding pursuant to s. 5, Art. III of the

2121 State Constitution, or a private agreement that provides that

2122 the information may be released to the public; and which is

2123 information concerning:

2124 1. Internal auditing controls and reports of internal

2125 auditors;

- 2126 2. Matters reasonably encompassed in privileged attorney-
 2127 client communications;
- 2128 3. Contracts for managed-care arrangements, including
 2129 preferred provider organization contracts, health maintenance
 2130 organization contracts, and exclusive provider organization
 2131 contracts, and any documents directly relating to the
 2132 negotiation, performance, and implementation of any such
 2133 contracts for managed-care arrangements;
- 2134 4. Bids or other contractual data, banking records, and
 2135 credit agreements the disclosure of which would impair the
 2136 efforts of the not-for-profit corporation or its subsidiaries to
 2137 contract for goods or services on favorable terms;
- 2138 5. Information relating to private contractual data, the
 2139 disclosure of which would impair the competitive interest of the
 2140 provider of the information;
- 2141 6. Corporate officer and employee personnel information;
- 2142 7. Information relating to the proceedings and records of
 2143 credentialing panels and committees and of the governing board
 2144 of the not-for-profit corporation or its subsidiaries relating
 2145 to credentialing;
- 2146 8. Minutes of meetings of the governing board of the not-
 2147 for-profit corporation and its subsidiaries, except minutes of
 2148 meetings open to the public pursuant to subsection (9);
- 2149 9. Information that reveals plans for marketing services
 2150 that the corporation or its subsidiaries reasonably expect to be

2151 provided by competitors;

2152 10. Trade secrets as defined in s. 688.01 ~~s. 688.002~~,
2153 including:

2154 a. Information relating to methods of manufacture or
2155 production, ~~potential trade secrets~~, potentially patentable
2156 materials, or proprietary information received, generated,
2157 ascertained, or discovered during the course of research
2158 conducted by the not-for-profit corporation or its subsidiaries;
2159 and

2160 b. Reimbursement methodologies or rates;

2161 11. The identity of donors or prospective donors of
2162 property who wish to remain anonymous or any information
2163 identifying such donors or prospective donors. The anonymity of
2164 these donors or prospective donors must be maintained in the
2165 auditor's report; or

2166 12. Any information received by the not-for-profit
2167 corporation or its subsidiaries from an agency in this or
2168 another state or nation or the Federal Government which is
2169 otherwise exempt or confidential pursuant to the laws of this or
2170 another state or nation or pursuant to federal law.

2171
2172 As used in this paragraph, the term "managed care" means systems
2173 or techniques generally used by third-party payors or their
2174 agents to affect access to and control payment for health care
2175 services. Managed-care techniques most often include one or more

2176 of the following: prior, concurrent, and retrospective review of
 2177 the medical necessity and appropriateness of services or site of
 2178 services; contracts with selected health care providers;
 2179 financial incentives or disincentives related to the use of
 2180 specific providers, services, or service sites; controlled
 2181 access to and coordination of services by a case manager; and
 2182 payor efforts to identify treatment alternatives and modify
 2183 benefit restrictions for high-cost patient care.

2184 Section 81. Paragraph (a) of subsection (2) of section
 2185 1004.4472, Florida Statutes, is amended to read:

2186 1004.4472 Florida Institute for Human and Machine
 2187 Cognition, Inc.; public records exemption; public meetings
 2188 exemption.—

2189 (2) The following information held by the corporation or
 2190 its subsidiary is confidential and exempt from s. 119.07(1) and
 2191 s. 24(a), Art. I of the State Constitution:

2192 (a) Material relating to methods of manufacture or
 2193 production, ~~potential trade secrets,~~ patentable material, ~~actual~~
 2194 trade secrets as defined in s. 688.01 ~~s. 688.002~~ or proprietary
 2195 information received, generated, ascertained, or discovered
 2196 during the course of research conducted by or through the
 2197 corporation or a subsidiary, and business transactions resulting
 2198 from such research.

2199 Section 82. Subsection (2) of section 1004.78, Florida
 2200 Statutes, is amended to read:

2201 1004.78 Technology transfer centers at Florida College
2202 System institutions.—

2203 (2) The Florida College System institution board of
2204 trustees shall set such policies to regulate the activities of
2205 the technology transfer center as it may consider necessary to
2206 effectuate the purposes of this section and to administer the
2207 programs of the center in a manner which assures efficiency and
2208 effectiveness, producing the maximum benefit for the educational
2209 programs and maximum service to the state. To this end,
2210 materials that relate to methods of manufacture or production,
2211 ~~potential trade secrets,~~ potentially patentable material, ~~actual~~
2212 trade secrets as defined in s. 688.01, business transactions, or
2213 proprietary information received, generated, ascertained, or
2214 discovered during the course of activities conducted within the
2215 Florida College System institutions shall be confidential and
2216 exempt from the provisions of s. 119.07(1), except that a
2217 Florida College System institution shall make available upon
2218 request the title and description of a project, the name of the
2219 investigator, and the amount and source of funding provided for
2220 such project.

2221 Section 83. Section 601.80, Florida Statutes, is amended
2222 to read:

2223 601.80 Unlawful to use uncertified coloring matter.—It is
2224 unlawful for any person to use on oranges or citrus hybrids any
2225 coloring matter which has not first received the approval of the

2226 Department of Agriculture ~~as provided under s. 601.76.~~

2227 Section 84. Subsection (11) of section 663.533, Florida
 2228 Statutes, is amended to read:

2229 663.533 Applicability of the financial institutions
 2230 codes.—A qualified limited service affiliate is subject to the
 2231 financial institutions codes. Without limiting the foregoing,
 2232 the following provisions are applicable to a qualified limited
 2233 service affiliate:

2234 ~~(11) Section 655.0591, relating to trade secret documents.~~

2235
 2236 This section does not prohibit the office from investigating or
 2237 examining an entity to ensure that it is not in violation of
 2238 this chapter or applicable provisions of the financial
 2239 institutions codes.

2240 Section 85. Paragraph (c) of subsection (12) of section
 2241 721.13, Florida Statutes, is amended to read:

2242 721.13 Management.—

2243 (12)

2244 (c) The managing entity shall maintain copies of all
 2245 records, data, and information supporting the processes,
 2246 analyses, procedures, and methods utilized by the managing
 2247 entity in its determination to reserve accommodations of the
 2248 timeshare plan pursuant to this subsection for a period of 5
 2249 years from the date of such determination. In the event of an
 2250 investigation by the division for failure of a managing entity

2251 to comply with this subsection, the managing entity shall make
 2252 all such records, data, and information available to the
 2253 division for inspection, ~~provided that if the managing entity~~
 2254 ~~complies with the provisions of s. 721.071, any such records,~~
 2255 ~~data, and information provided to the division shall constitute~~
 2256 ~~a trade secret pursuant to that section.~~

2257 Section 86. Paragraphs (a) and (c) of subsection (3) of
 2258 section 921.0022, Florida Statutes, are amended to read:

2259 921.0022 Criminal Punishment Code; offense severity
 2260 ranking chart.—

2261 (3) OFFENSE SEVERITY RANKING CHART

2262 (a) LEVEL 1

2263

Florida Statute	Felony Degree	Description
24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2) (b)	3rd	Failure to remit sales taxes, amount \$1,000 or more but less

2264

2265

2266

			than \$20,000.
2267	316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
2268	319.30 (5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
2269	319.35 (1) (a)	3rd	Tamper, adjust, change, etc., an odometer.
2270	320.26 (1) (a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
2271	322.212 (1) (a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
2272	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.

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2273	322.212 (5) (a)	3rd	False application for driver license or identification card.
2274	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
2275	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
2276	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value \$1,000 or more.
2277	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
2278	713.69	3rd	Tenant removes property upon which lien has accrued, value \$1,000 or more.
2279			

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2280	812.014 (3) (c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
2281	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
2282	<u>815.04 (4) (a)</u> 815.04 (5) (a)	3rd	Offense against intellectual property (i.e., computer programs, data).
2283	817.52 (2)	3rd	Hiring with intent to defraud, motor vehicle services.
2284	817.569 (2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
2285	826.01	3rd	Bigamy.
2286	828.122 (3)	3rd	Fighting or baiting animals.

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2287	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
2288	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
2289	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
2290	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
2291	838.15 (2)	3rd	Commercial bribe receiving.
2292	838.16	3rd	Commercial bribery.
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.

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2293	847.011 (1) (a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
2294	849.09 (1) (a) - (d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
2295	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
2296	849.25 (2)	3rd	Engaging in bookmaking.
2297	860.08	3rd	Interfere with a railroad signal.
2298	860.13 (1) (a)	3rd	Operate aircraft while under the influence.
2299	893.13 (2) (a) 2.	3rd	Purchase of cannabis.
2300			

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2301	893.13 (6) (a)	3rd	Possession of cannabis (more than 20 grams).
2302	934.03 (1) (a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
2303	(c) LEVEL 3		
2304			
2305	Florida Statute	Felony Degree	Description
2306	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
2307	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
2308	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

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2309	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
2310	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
2311	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
2312	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
2313	327.35 (2) (b)	3rd	Felony BUI.
2314	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
2315	328.07 (4)	3rd	Manufacture, exchange, or

2316	376.302 (5)	3rd	possess vessel with counterfeit or wrong ID number. Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
2317	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
2318	379.2431 (1) (e) 6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
2319	379.2431	3rd	Soliciting to commit or

2320	(1) (e) 7.		conspiring to commit a violation of the Marine Turtle Protection Act.
2321	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
2322	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
2323	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
2324	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.

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2325	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
2326	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
2327	697.08	3rd	Equity skimming.
2328	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
2329	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
2330	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
2331	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed

			with firearm or dangerous weapon.
2332	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
2333	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
2334	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
2335	<u>815.04 (4) (b)</u> 815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
2336	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
2337	817.233	3rd	Burning to defraud insurer.
2338	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor

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2339			vehicle accidents.
	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
2340			
	817.236	3rd	Filing a false motor vehicle insurance application.
2341			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
2342			
	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
2343			
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
2344			
	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.

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2345	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
2346	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
2347	860.15 (3)	3rd	Overcharging for repairs and parts.
2348	870.01 (2)	3rd	Riot; inciting or encouraging.
2349	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).
2350	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs

2351	893.13(1)(f)2.	2nd	within 1,000 feet of university.
2352	893.13(4)(c)	3rd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
2353	893.13(6)(a)	3rd	Use or hire of minor; deliver to minor other controlled substances.
2354	893.13(7)(a)8.	3rd	Possession of any controlled substance other than felony possession of cannabis.
2355	893.13(7)(a)9.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
			Obtain or attempt to obtain

			controlled substance by fraud, forgery, misrepresentation, etc.
2356	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
2357	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
2358	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
2359	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person,

			or owner of an animal in obtaining a controlled substance.
2360	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
2361	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
2362	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
2363	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
2364	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 821 Pub. Rec and Meetings/Information Technology Security Information
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee; Williamson and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1170

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N, As CS	Toliver	Smith
2) State Affairs Committee		Toliver	Williamson

SUMMARY ANALYSIS

The Information Technology (IT) Security Act requires the Department of Management Services (DMS) and state agency heads to meet certain requirements in order to secure and protect state IT resources and the information contained therein. Currently, the IT security act provides public record exemptions for:

- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of data or IT resources;
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources;
- The results of internal audits and evaluations; and
- Records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents.

The bill expands the public record exemption in the IT Security Act to include network schematics, hardware and software configurations, or encryption. The bill also creates a public meeting exemption for those portions of a public meeting that reveal certain confidential and exempt records. Any portion of an exempt meeting must be recorded and transcribed and those recordings and transcripts are confidential and exempt from public record requirements, unless a court of competent jurisdiction determines that the meeting was not restricted to the discussion of confidential and exempt data and information.

The bill provides for retroactive application of the public record exemption. It also provides for repeal of the public record and public meeting exemptions on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. Lastly, the bill provides a public necessity statement as required by the Florida Constitution.

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 relating to IT security and creates a public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It 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, to be noticed and open to the public.

Public policy regarding access to government meetings is also 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 to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.¹ Minutes of a public meeting must be promptly recorded and be open to public inspection.²

No resolution, rule, or formal action is considered binding, unless action is taken or made at a public meeting.³ Acts taken by a board or commission in violation of this requirement are considered void,⁴ though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.⁵

Public Record and Public Meeting Exemptions

The Legislature may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution.⁶ The general law must state with specificity the public necessity justifying the exemption and must be no more broad than necessary to accomplish its purpose.⁷

Furthermore, the Open Government Sunset Review Act⁸ 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.

¹ Section 286.011(1), F.S.

² Section 286.011(2), F.S.

³ Section 286.011(1), F.S.

⁴ *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).

⁵ *Finch v. Seminole Cnty. Sch. Bd.*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

⁶ Art. I, s. 24(c), FLA. CONST.

⁷ *Id.*

⁸ Section 119.15, F.S.

- 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.⁹

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁰

Information Technology Security Act

The Information Technology (IT) Security Act¹¹ requires the Department of Management Services (DMS) and the heads of state agencies¹² to meet certain requirements to enhance the IT¹³ security of state agencies. Specifically, the IT security act provides that DMS is responsible for establishing standards and processes consistent with generally accepted best practices for IT security,¹⁴ including cybersecurity, and adopting rules that safeguard an agency's data, information, and IT resources to ensure availability, confidentiality, and integrity and to mitigate risks.¹⁵ In addition, DMS must:

- Designate a state chief information security officer;
- Develop, and annually update, a statewide IT security strategic plan;
- Develop and publish an IT security framework for state agencies;
- Collaborate with the Cybercrime Office within the Florida Department of Law Enforcement (FDLE) in providing training for state agency information security managers; and
- Annually review the strategic and operational IT security plans of executive branch agencies.¹⁶

The IT Security Act requires the head of each state agency to designate an information security manager to administer the IT security program of the state agency.¹⁷ In addition, the head of each state agency must annually submit to DMS the state agency's strategic and operational IT security plans; conduct, and update every three years, a comprehensive risk assessment to determine the security threats to the data, information, and IT resources of the state agency; develop, and periodically update, written internal policies and procedures, including procedures for reporting IT security incidents and breaches; and ensure that periodic internal audits and evaluations of the agency's IT security program for the data, information, and IT resources are conducted.¹⁸

⁹ Section 119.15(6)(b), F.S.

¹⁰ Section 119.15(3), F.S.

¹¹ Section 282.318, F.S.

¹² The term "state agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. Section 282.0041(27), F.S. For purposes of the IT security act, the term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services. Section 282.318(2), F.S.

¹³ The term "information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. Section 282.0041(14), F.S.

¹⁴ The term "information technology security" means the protection afforded to an automated information system in order to attain the applicable objectives of preserving the integrity, availability, and confidentiality of data, information, and information technology resources. Section 282.0041(17), F.S.

¹⁵ Section 282.318(3), F.S.

¹⁶ *Id.*

¹⁷ Section 282.318(4)(a), F.S.

¹⁸ Section 282.318(4), F.S.

Public Record Exemptions under the IT Security Act

The IT Security Act provides that the following state agency information is confidential and exempt¹⁹ from public record requirements:

- Comprehensive risk assessments;²⁰
- Portions of risk assessments, evaluations, external audits,²¹ and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of:
 - Physical or virtual data or information; or
 - IT resources, including information relating to the security of the state agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or physical or virtual security information that relates to the state agency's existing or proposed IT systems.²²
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or IT resources;²³
- The results of internal audits and evaluations;²⁴ and
- Records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents.²⁵

The confidential and exempt information must be available to the Auditor General, the Cybercrime Office within FDLE, the Division of State Technology²⁶ within DMS, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.²⁷ In addition, the records may be made available to a local government, another state agency, or a federal agency for IT security purposes or in the furtherance of the state agency's official duties.²⁸

Effect of the Bill

The bill expands the public record exemption to include network schematics, hardware and software configurations, or encryption. As such, agency IT security related network schematics, hardware and software configurations, or encryption would be confidential and exempt from public records requirements and would only be available as provided in the IT Security Act.

The bill also creates a public meeting exemption in the IT Security Act for those portions of a public meeting that would reveal any of the following confidential and exempt records:

- Portions of records which contain network schematics, hardware or software configurations, or encryption;
- Portions of records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents;

¹⁹ There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 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 WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53-54 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-62 (1985).

²⁰ Section 282.318(4)(d), F.S.

²¹ The term "external audit" means an audit that is conducted by an entity other than the state agency that is the subject of the audit. Section 282.318(5), F.S.

²² Section 282.318(5), F.S.

²³ Section 282.318(4)(e), F.S.

²⁴ Section 282.318(4)(g), F.S.

²⁵ Section 282.318(4)(j)3., F.S.

²⁶ The Division of State Technology (formerly the Agency for State Technology) is a subdivision of DMS and is charged with overseeing the state's IT resources. Section 20.22(2)(b), F.S.

²⁷ Sections 282.318(4)(d), (e), (g), (j) and 282.318(5), F.S.

²⁸ *Id.*

- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of:
 - Physical or virtual data or information; or
 - IT resources, including information relating to the security of the state agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or physical or virtual security information that relates to the state agency's existing or proposed IT systems.

Any portion of an exempt meeting must be recorded and transcribed. The recordings and transcripts are confidential and exempt from public record requirements unless a court of competent jurisdiction, following an in camera review, determines that the meeting was not restricted to the discussion of confidential and exempt data and information. If such a judicial determination occurs, only the portion of the recording or transcript which reveals nonexempt data may be disclosed to a third party.

The bill provides for retroactive application of the public record exemption. It also provides for repeal of the public record and public meeting exemptions on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. Finally, the bill provides a public necessity statement as required by the Florida Constitution.

B. SECTION DIRECTORY:

Section 1 amends s. 282.318, F.S., relating to the IT Security Act.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill could have a minimal fiscal impact on state agencies because staff responsible for complying with public records requests may require training related to expansion of the public record exemption. In addition, agencies could incur costs associated with redacting the confidential and exempt records prior to release and for complying with the public meeting exemption. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of state agencies.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

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 and creates a public meeting exemption; therefore, 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 and creates a public meeting exemption; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created 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 and creates a public meeting exemption related to IT security. The release of such records could result in the identification of vulnerabilities or gaps in a state agency's IT security system or processes and thereby increase the risk of an IT security incident or breach. Thus, the bill does not appear to be in conflict with the constitutional requirement that an exemption be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2020, the Oversight, Transparency & Public Management Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment relocated the definition of "external audit," which applied to the entire subsection, from a subparagraph to the subsection as a whole.

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

1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending s. 282.318, F.S.; revising a provision to
4 reflect the abolishment of the Agency for State
5 Technology; providing an exemption from public records
6 requirements for portions of records held by a state
7 agency that contain network schematics, hardware and
8 software configurations, and encryption; providing an
9 exemption from public meetings requirements for
10 portions of meetings that would reveal such records;
11 requiring recording and transcription of exempt
12 portions of such meetings; providing an exemption from
13 public records requirements for such recordings and
14 transcripts; providing for future legislative review
15 and repeal of the exemptions under the Open Government
16 Sunset Review Act; providing for retroactive
17 application of the exemptions; providing a public
18 necessity statement; providing an effective date.

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

21
22 Section 1. Section 282.318, Florida Statutes, is amended
23 to read:

24 282.318 Security of data and information technology.—

25 (1) This section may be cited as the "Information

26 | Technology Security Act."

27 | (2) As used in this section, the term "state agency" has
28 | the same meaning as provided in s. 282.0041, except that the
29 | term includes the Department of Legal Affairs, the Department of
30 | Agriculture and Consumer Services, and the Department of
31 | Financial Services.

32 | (3) The department is responsible for establishing
33 | standards and processes consistent with generally accepted best
34 | practices for information technology security, to include
35 | cybersecurity, and adopting rules that safeguard an agency's
36 | data, information, and information technology resources to
37 | ensure availability, confidentiality, and integrity and to
38 | mitigate risks. The department shall also:

39 | (a) Designate a state chief information security officer
40 | who must have experience and expertise in security and risk
41 | management for communications and information technology
42 | resources.

43 | (b) Develop, and annually update by February 1, a
44 | statewide information technology security strategic plan that
45 | includes security goals and objectives for the strategic issues
46 | of information technology security policy, risk management,
47 | training, incident management, and disaster recovery planning.

48 | (c) Develop and publish for use by state agencies an
49 | information technology security framework that, at a minimum,
50 | includes guidelines and processes for:

51 1. Establishing asset management procedures to ensure that
52 an agency's information technology resources are identified and
53 managed consistent with their relative importance to the
54 agency's business objectives.

55 2. Using a standard risk assessment methodology that
56 includes the identification of an agency's priorities,
57 constraints, risk tolerances, and assumptions necessary to
58 support operational risk decisions.

59 3. Completing comprehensive risk assessments and
60 information technology security audits, which may be completed
61 by a private sector vendor, and submitting completed assessments
62 and audits to the department.

63 4. Identifying protection procedures to manage the
64 protection of an agency's information, data, and information
65 technology resources.

66 5. Establishing procedures for accessing information and
67 data to ensure the confidentiality, integrity, and availability
68 of such information and data.

69 6. Detecting threats through proactive monitoring of
70 events, continuous security monitoring, and defined detection
71 processes.

72 7. Establishing agency computer security incident response
73 teams and describing their responsibilities for responding to
74 information technology security incidents, including breaches of
75 personal information containing confidential or exempt data.

76 8. Recovering information and data in response to an
77 information technology security incident. The recovery may
78 include recommended improvements to the agency processes,
79 policies, or guidelines.

80 9. Establishing an information technology security
81 incident reporting process that includes procedures and tiered
82 reporting timeframes for notifying the department and the
83 Department of Law Enforcement of information technology security
84 incidents. The tiered reporting timeframes shall be based upon
85 the level of severity of the information technology security
86 incidents being reported.

87 10. Incorporating information obtained through detection
88 and response activities into the agency's information technology
89 security incident response plans.

90 11. Developing agency strategic and operational
91 information technology security plans required pursuant to this
92 section.

93 12. Establishing the managerial, operational, and
94 technical safeguards for protecting state government data and
95 information technology resources that align with the state
96 agency risk management strategy and that protect the
97 confidentiality, integrity, and availability of information and
98 data.

99 (d) Assist state agencies in complying with this section.

100 (e) In collaboration with the Cybercrime Office of the

101 Department of Law Enforcement, annually provide training for
102 state agency information security managers and computer security
103 incident response team members that contains training on
104 information technology security, including cybersecurity,
105 threats, trends, and best practices.

106 (f) Annually review the strategic and operational
107 information technology security plans of executive branch
108 agencies.

109 (4) Each state agency head shall, at a minimum:

110 (a) Designate an information security manager to
111 administer the information technology security program of the
112 state agency. This designation must be provided annually in
113 writing to the department by January 1. A state agency's
114 information security manager, for purposes of these information
115 security duties, shall report directly to the agency head.

116 (b) In consultation with the department and the Cybercrime
117 Office of the Department of Law Enforcement, establish an agency
118 computer security incident response team to respond to an
119 information technology security incident. The agency computer
120 security incident response team shall convene upon notification
121 of an information technology security incident and must comply
122 with all applicable guidelines and processes established
123 pursuant to paragraph (3) (c).

124 (c) Submit to the department annually by July 31, the
125 state agency's strategic and operational information technology

126 security plans developed pursuant to rules and guidelines
127 established by the department.

128 1. The state agency strategic information technology
129 security plan must cover a 3-year period and, at a minimum,
130 define security goals, intermediate objectives, and projected
131 agency costs for the strategic issues of agency information
132 security policy, risk management, security training, security
133 incident response, and disaster recovery. The plan must be based
134 on the statewide information technology security strategic plan
135 created by the department and include performance metrics that
136 can be objectively measured to reflect the status of the state
137 agency's progress in meeting security goals and objectives
138 identified in the agency's strategic information security plan.

139 2. The state agency operational information technology
140 security plan must include a progress report that objectively
141 measures progress made towards the prior operational information
142 technology security plan and a project plan that includes
143 activities, timelines, and deliverables for security objectives
144 that the state agency will implement during the current fiscal
145 year.

146 (d) Conduct, and update every 3 years, a comprehensive
147 risk assessment, which may be completed by a private sector
148 vendor, to determine the security threats to the data,
149 information, and information technology resources, including
150 mobile devices and print environments, of the agency. The risk

151 assessment must comply with the risk assessment methodology
152 developed by the department and is confidential and exempt from
153 s. 119.07(1), except that such information shall be available to
154 the Auditor General, the Division of State Technology within the
155 department, the Cybercrime Office of the Department of Law
156 Enforcement, and, for state agencies under the jurisdiction of
157 the Governor, the Chief Inspector General.

158 (e) Develop, and periodically update, written internal
159 policies and procedures, which include procedures for reporting
160 information technology security incidents and breaches to the
161 Cybercrime Office of the Department of Law Enforcement and the
162 Division of State Technology within the department. Such
163 policies and procedures must be consistent with the rules,
164 guidelines, and processes established by the department to
165 ensure the security of the data, information, and information
166 technology resources of the agency. The internal policies and
167 procedures that, if disclosed, could facilitate the unauthorized
168 modification, disclosure, or destruction of data or information
169 technology resources are confidential information and exempt
170 from s. 119.07(1), except that such information shall be
171 available to the Auditor General, the Cybercrime Office of the
172 Department of Law Enforcement, the Division of State Technology
173 within the department, and, for state agencies under the
174 jurisdiction of the Governor, the Chief Inspector General.

175 (f) Implement managerial, operational, and technical

176 safeguards and risk assessment remediation plans recommended by
177 the department to address identified risks to the data,
178 information, and information technology resources of the agency.

179 (g) Ensure that periodic internal audits and evaluations
180 of the agency's information technology security program for the
181 data, information, and information technology resources of the
182 agency are conducted. The results of such audits and evaluations
183 are confidential information and exempt from s. 119.07(1),
184 except that such information shall be available to the Auditor
185 General, the Cybercrime Office of the Department of Law
186 Enforcement, the Division of State Technology within the
187 department, and, for agencies under the jurisdiction of the
188 Governor, the Chief Inspector General.

189 (h) Ensure that the information technology security and
190 cybersecurity requirements in both the written specifications
191 for the solicitation and service-level agreement of information
192 technology and information technology resources and services
193 meet or exceed the applicable state and federal laws,
194 regulations, and standards for information technology security
195 and cybersecurity. Service-level agreements must identify
196 service provider and state agency responsibilities for privacy
197 and security, protection of government data, personnel
198 background screening, and security deliverables with associated
199 frequencies.

200 (i) Provide information technology security and

201 cybersecurity awareness training to all state agency employees
202 in the first 30 days after commencing employment concerning
203 information technology security risks and the responsibility of
204 employees to comply with policies, standards, guidelines, and
205 operating procedures adopted by the state agency to reduce those
206 risks. The training may be provided in collaboration with the
207 Cybercrime Office of the Department of Law Enforcement.

208 (j) Develop a process for detecting, reporting, and
209 responding to threats, breaches, or information technology
210 security incidents which is consistent with the security rules,
211 guidelines, and processes established by the Division of State
212 Technology within the department ~~Agency for State Technology~~.

213 1. All information technology security incidents and
214 breaches must be reported to the Division of State Technology
215 within the department and the Cybercrime Office of the
216 Department of Law Enforcement and must comply with the
217 notification procedures and reporting timeframes established
218 pursuant to paragraph (3) (c).

219 2. For information technology security breaches, state
220 agencies shall provide notice in accordance with s. 501.171.

221 ~~(5)3-~~ Portions of records held by a state agency which
222 contain network schematics, hardware and software
223 configurations, or encryption, or which identify detection,
224 investigation, or response practices for suspected or confirmed
225 information technology security incidents, including suspected

226 or confirmed breaches, are confidential and exempt from s.
 227 119.07(1) and s. 24(a), Art. I of the State Constitution, if the
 228 disclosure of such records would facilitate unauthorized access
 229 to or the unauthorized modification, disclosure, or destruction
 230 of:

- 231 (a)~~a.~~ Data or information, whether physical or virtual; or
- 232 (b)~~b.~~ Information technology resources, which includes:
 - 233 1.~~(I)~~ Information relating to the security of the agency's
 - 234 technologies, processes, and practices designed to protect
 - 235 networks, computers, data processing software, and data from
 - 236 attack, damage, or unauthorized access; or
 - 237 2.~~(II)~~ Security information, whether physical or virtual,
 - 238 which relates to the agency's existing or proposed information
 - 239 technology systems.

240

~~Such records shall be available to the Auditor General, the~~
 241 ~~Division of State Technology within the department, the~~
 242 ~~Cybercrime Office of the Department of Law Enforcement, and, for~~
 243 ~~state agencies under the jurisdiction of the Governor, the Chief~~
 244 ~~Inspector General. Such records may be made available to a local~~
 245 ~~government, another state agency, or a federal agency for~~
 246 ~~information technology security purposes or in furtherance of~~
 247 ~~the state agency's official duties. This exemption applies to~~
 248 ~~such records held by a state agency before, on, or after the~~
 249 ~~effective date of this exemption. This subparagraph is subject~~
 250

251 ~~to the Open Government Sunset Review Act in accordance with s.~~
252 ~~119.15 and shall stand repealed on October 2, 2021, unless~~
253 ~~reviewed and saved from repeal through reenactment by the~~
254 ~~Legislature.~~

255 (6)~~(5)~~ The portions of risk assessments, evaluations,
256 external audits, and other reports of a state agency's
257 information technology security program for the data,
258 information, and information technology resources of the state
259 agency which are held by a state agency are confidential and
260 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
261 Constitution if the disclosure of such portions of records would
262 facilitate unauthorized access to or the unauthorized
263 modification, disclosure, or destruction of:

264 (a) Data or information, whether physical or virtual; or

265 (b) Information technology resources, which include:

266 1. Information relating to the security of the agency's
267 technologies, processes, and practices designed to protect
268 networks, computers, data processing software, and data from
269 attack, damage, or unauthorized access; or

270 2. Security information, whether physical or virtual,
271 which relates to the agency's existing or proposed information
272 technology systems.

273
274 For purposes of this subsection, "external audit" means an audit
275 that is conducted by an entity other than the state agency that

276 is the subject of the audit.

277 (7) Those portions of a public meeting as specified in s.
278 286.011 which would reveal records which are confidential and
279 exempt under subsection (5) or subsection (6) are exempt from s.
280 286.011 and s. 24(b), Art. I of the State Constitution. No
281 exempt portion of an exempt meeting may be off the record. All
282 exempt portions of such meeting shall be recorded and
283 transcribed. Such recordings and transcripts are confidential
284 and exempt from disclosure under s. 119.07(1) and s. 24(a), Art.
285 I of the State Constitution unless a court of competent
286 jurisdiction, after an in camera review, determines that the
287 meeting was not restricted to the discussion of data and
288 information made confidential and exempt by this section. In the
289 event of such a judicial determination, only that portion of the
290 recording and transcript which reveals nonexempt data and
291 information may be disclosed to a third party.

292 (8) The ~~Such~~ portions of records made confidential and
293 exempt in subsections (5), (6), and (7) shall be available to
294 the Auditor General, the Cybercrime Office of the Department of
295 Law Enforcement, the Division of State Technology within the
296 department, and, for agencies under the jurisdiction of the
297 Governor, the Chief Inspector General. Such portions of records
298 may be made available to a local government, another state
299 agency, or a federal agency for information technology security
300 purposes or in furtherance of the state agency's official

301 duties. ~~For purposes of this subsection, "external audit" means~~
302 ~~an audit that is conducted by an entity other than the state~~
303 ~~agency that is the subject of the audit.~~

304 (9) The exemptions contained in subsections (5), (6), and
305 (7) apply ~~This exemption applies to such records held by a state~~
306 ~~agency before, on, or after the effective date of this~~
307 ~~exemption.~~

308 (10) Subsections (5), (6), and (7) are ~~This subsection is~~
309 ~~subject to the Open Government Sunset Review Act in accordance~~
310 ~~with s. 119.15 and shall stand repealed on October 2, 2025 ~~2021~~,~~
311 ~~unless reviewed and saved from repeal through reenactment by the~~
312 ~~Legislature.~~

313 (11) ~~(6)~~ The department shall adopt rules relating to
314 information technology security and to administer this section.

315 Section 2. (1) (a) The Legislature finds it is a public
316 necessity that the following data or information held by a state
317 agency be made confidential and exempt from s. 119.07(1),
318 Florida Statutes, and s. 24(a), Article I of the State
319 Constitution:

320 1. Portions of records held by a state agency which
321 contain network schematics, hardware and software
322 configurations, encryption, or which identify detection,
323 investigation, or response practices for suspected or confirmed
324 information technology security incidents, including suspected
325 or confirmed information technology security incidents,

326 including suspected or confirmed breaches, if the disclosure of
327 such records would facilitate unauthorized access to or the
328 unauthorized modification, disclosure, or destruction of:
329 a. Data or information, whether physical or virtual; or
330 b. Information technology resources, which includes:
331 (I) Information relating to the security of the agency's
332 technologies, processes, and practices designed to protect
333 networks, computers, data processing software, and data from
334 attack, damage, or unauthorized access; or
335 (II) Security information, whether physical or virtual,
336 which relates to the agency's existing or proposed information
337 technology systems.
338 2. Portions of risk assessments, evaluations, external
339 audits, and other reports of a state agency's information
340 technology security programs, if the disclosure of such portions
341 of records would facilitate unauthorized access to or the
342 unauthorized modification, disclosure, or destruction of:
343 a. Data or information, whether physical or virtual; or
344 b. Information technology resources, which include:
345 (I) Information relating to the security of the state
346 agency's technologies, processes, and practices designed to
347 protect networks, computers, data processing software, and data
348 from attack, damage, or unauthorized access; or
349 (II) Security information, whether physical or virtual,
350 which relates to the agency's existing or proposed information

351 technology systems.

352 (b) Such records must be made confidential and exempt from
353 public records requirements for the following reasons:

354 1. Portions of records held by a state agency which
355 contain network schematics, hardware and software
356 configurations, encryption, or which identify information
357 technology detection, investigation, or response practices for
358 suspected or confirmed information technology security incidents
359 or breaches are likely to be used in the investigations of the
360 incidents or breaches. The release of such information could
361 impede the investigation and impair the ability of reviewing
362 entities to effectively and efficiently execute their
363 investigative duties. In addition, the release of such
364 information before an active investigation is completed could
365 jeopardize the ongoing investigation.

366 2. An investigation of an information technology security
367 incident or breach is likely to result in the gathering of
368 sensitive personal information, including identification numbers
369 and personal financial and health information. Such information
370 could be used to commit identity theft or other crimes. In
371 addition, release of such information could subject possible
372 victims of the security incident or breach to further harm.

373 3. Disclosure of a record, including a computer forensic
374 analysis, or other information that would reveal weaknesses in a
375 state agency's data security could compromise that security in

376 the future if such information were available upon conclusion of
377 an investigation or once an investigation ceased to be active.

378 4. Such records are likely to contain proprietary
379 information about the security of the system at issue. The
380 disclosure of such information could result in the
381 identification of vulnerabilities and further breaches of that
382 system. In addition, the release of such information could give
383 business competitors an unfair advantage and weaken the security
384 technology supplier supplying the proprietary information in the
385 marketplace.

386 5. The disclosure of such records could potentially
387 compromise the confidentiality, integrity, and availability of
388 state agency data and information technology resources, which
389 would significantly impair the administration of vital state
390 programs. It is necessary that this information be made
391 confidential in order to protect the technology systems,
392 resources, and data of state agencies.

393 6. It is valuable, prudent, and critical to a state agency
394 to have an independent entity conduct a risk assessment, an
395 audit, or an evaluation or complete a report of the agency's
396 information technology program or related systems. Such
397 documents would likely include an analysis of the agency's
398 current information technology program or systems which could
399 clearly identify vulnerabilities or gaps in current systems or
400 processes and propose recommendations to remedy identified

401 vulnerabilities.

402 (2)(a)1. The Legislature also finds that it is a public
403 necessity that those portions of a public meeting which would
404 reveal data and information described in paragraph (1)(a) be
405 made exempt from s. 286.011, Florida Statutes, and s. 24(b),
406 Article I of the State Constitution.

407 2. Such meetings must be made exempt from open meetings
408 requirements in order to protect agency information technology
409 systems, resources, and data. This information would clearly
410 identify a state agency's information technology systems and its
411 vulnerabilities and disclosure of such information would
412 jeopardize the information technology security of the state
413 agency and compromise the integrity and availability of state
414 agency data and information technology resources. Such
415 disclosure would significantly impair the administration of
416 state programs.

417 (b)1. The Legislature further finds that it is a public
418 necessity that the recordings and transcripts of the portions of
419 meetings specified in subparagraph (a)1. be made confidential
420 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
421 Article I of the State Constitution.

422 2. It is necessary that the resulting recordings and
423 transcripts be made confidential and exempt from public record
424 requirements in order to protect state information technology
425 systems, resources, and data. The disclosure of such recordings

426 and transcripts would clearly identify a state agency's
427 information technology systems and its vulnerabilities. This
428 disclosure would jeopardize the information technology security
429 of the agency and compromise the integrity and availability of
430 state data and information technology resources, which would
431 significantly impair the administration of state programs.

432 (3) The Legislature further finds that these public
433 meeting and public records exemptions must be given retroactive
434 application because they are remedial in nature.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 821 (2020)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

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

3
4 **Amendment**

5 Remove lines 324-325 and insert:
6 information technology security incidents,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 915 Commercial Service Airports
SPONSOR(S): Transportation & Infrastructure Subcommittee, Avila
TIED BILLS: IDEN./SIM. **BILLS:** SB 1258

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N	Hicks	Davis
3) State Affairs Committee		Johnson	Williamson

SUMMARY ANALYSIS

Florida is home to 20 commercial service airports, four of which are considered large-hub airports. The state's commercial service airports serve as critical economic engines with an annual economic impact of \$144 billion. Florida's commercial service airports operate under either a government department model (where the airport operates as a department of county or municipal government) or an airport authority model (where an airport authority is created as either an independent or a dependent special district). Because airports are generally governed and subsumed as part of local governments, state law currently provides for limited oversight and accountability.

The bill includes a number of provisions to enhance transparency and accountability for commercial service airports, including large-hub commercial service airports. The bill requires the Auditor General, at least once every five years, to conduct operational and financial audits of the state's large-hub commercial service airports, and provides minimum requirements for each operational audit. The bill also requires the members of the governing bodies of large-hub commercial service airports to submit the more detailed financial disclosure (Form 6) to the Commission on Ethics.

The bill requires the governing body of each commercial service airport to establish and maintain a website containing specified information, including meeting notices, agendas, approved budgets, and certain documents submitted to the Federal Aviation Administration. The bill reiterates that members of the governing body and employees of commercial service airports are subject to the Code of Ethics for Public Officers and Employees, and requires annual ethics training for members of the governing body.

The bill requires commercial service airports to submit specified information to the Department of Transportation (DOT) and requires DOT to annually submit a report to the Governor and the Legislature.

Finally, the bill prohibits DOT from expending funds allocated to a commercial service airport, unless the funds are pledged for debt service, until a commercial service airport demonstrates compliance with the transparency and accountability provisions of the bill.

The bill may have an indeterminate negative fiscal impact on the state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida is home to 20 commercial service airports and 109 general aviation airports.¹ Additionally, there are hundreds of small private airports. Commercial service airports are publicly-owned airports that have at least 2,500 passenger boardings each year and receive scheduled passenger service. General aviation airports are airports that do not have scheduled service or have less than 2,500 passenger boardings each year.²

Florida's commercial service airports range in size from large-hub airports³ with over 20 million annual passenger boardings to small municipal airports with approximately 10,000 annual passenger boardings.⁴ Commercial service airports in Florida support approximately 1.1 million jobs, have a total annual payroll of approximately \$47.3 billion, and a total annual economic impact of approximately \$144 billion.⁵

Airport Oversight and Funding

The Federal Aviation Administration (FAA) is responsible for planning and developing a safe and efficient national airport system, including all programs related to airport safety and inspections and standards for airport design, construction, and operation. Federal law requires each commercial service airport to operate under a federal certificate and comply with federal aviation requirements. The FAA is responsible for national airport planning and environmental and social requirements and establishes policies related to airport rates and charges, compliance with grant assurances, and airport privatization.⁶

In Florida, the Department of Transportation (DOT) is responsible for planning airport systems and overseeing the public airport system.⁷ The owner or lessee of a proposed public airport⁸ must receive DOT approval before site acquisition, construction, or establishment of a public airport facility.⁹ DOT is also responsible for licensing public airport facilities prior to the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or license renewal.¹⁰ Current law authorizes local governments to establish and operate airports¹¹ and governs airport zoning and land use issues.¹²

Neither state law nor federal law establish requirements for airport governance or ownership. As such, Florida airports operate under either a government department model (where the airport operates as a department of the local government) or an airport authority model (where the airport authority is created

¹ Florida Department of Transportation, *Florida Aviation System Plan Introduction*. Available at: <https://www.fdot.gov/aviation/FASP2035> (Last visited Jan. 13, 2020).

² 49 U.S.C. § 47102.

³ A subset of commercial airports is large-hub airports. Large-hub airports are commercial service airports that have at least 1 percent of the passenger boardings in the United States.

⁴ FAA, Commercial Service Airports, Rank Order based on calendar year 2018, Oct. 9, 2019. (Copy on file with Transportation & Infrastructure Subcommittee).

⁵ Florida Department of Transportation, *Florida Statewide Aviation Economic Impact Study*, March 2019. Executive Summary. Available at: <https://www.fdot.gov/aviation/economicimpact.shtm> (Last visited Jan. 13, 2019).

⁶ Federal Aviation Administration website, Airports: Available at: https://www.faa.gov/about/office_org/headquarters_offices/arp/ (Last visited Jan. 13, 2020).

⁷ Section 332.001, F.S.

⁸ Section 330.27(6), F.S. For purposes of DOT approval and licensure, the term "public airport" means a publicly or privately owned airport for public use.

⁹ Section 330.30(1), F.S.

¹⁰ Section 330.30(2), F.S.

¹¹ See chapter 332, F.S.

¹² See chapter 333, F.S.

as either an independent or a dependent special district). Because airports are generally governed and subsumed as part of local governments, state law provides for very little oversight and accountability.

DOT's work program identifies aviation development projects and discretionary capacity improvement projects. To the maximum extent possible, DOT's work program must remain consistent with the Florida Aviation System Plan and any approved and applicable local government comprehensive plans. DOT's work program also includes any project with funds administered by DOT, but undertaken and implemented by the airport operator. DOT's aviation program provides assistance to airports in the areas of access, economic enhancement, development, improvement, and land acquisition in the way of matching funds. These matching funds assist local governments and airport authorities in planning, designing, purchasing, constructing, and maintaining public use aviation facilities.¹³

For commercial service airports, DOT may provide up to 50 percent of the non-federal share if federal funding is available and up to 50 percent of the total project costs if federal funding is not available.¹⁴ For Fiscal Year 2019-2020, DOT was appropriated \$266 million from the State Transportation Trust Fund for Aviation Development Grants,¹⁵ available to both commercial service airports and general aviation airports.¹⁶

Auditor General

Article III, s. 2 of the State Constitution establishes the position of the Auditor General. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Joint Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.¹⁷ The Auditor General must conduct audits, examinations, or reviews of government programs as well as audit the accounts of state agencies, state universities, state colleges, district school boards, and others as directed by the Joint Legislative Auditing Committee.¹⁸ The Auditor General conducts operational and performance audits on public records and information technology systems and reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.¹⁹

A financial audit is an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.²⁰ An operational audit is an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.²¹

In 2017, the Auditor General conducted an operational audit of Tampa International Airport's 2012 Master Plan Capital Project.²² More recently, at its meeting on December 12, 2019, the Joint Legislative Auditing Committee directed the Auditor General to perform a targeted operational audit of the Greater

¹³ Section 332.007(2), F.S.

¹⁴ DOT website, available at <https://www.fdot.gov/aviation/workProgram.shtm> (Last visited Jan. 13, 2020).

¹⁵ Chapter 2019-115, L.O.F., Specific Appropriation 1940.

¹⁶ Florida Department of Transportation, Fiscal Year 2020 Aviation Work Program, Available at: <https://fdotewp1.dot.state.fl.us/fmsupportapps/workprogram/Support/WPItemRept.ASPX?RF=WP&CT=I&FY=TRUE|FALSE|FALSE|FALSE|FALSE&RP=ITEM> (Last visited Jan. 13, 2020)

¹⁷ Section 11.42(2), F.S.

¹⁸ Section 11.45(2)(d)-(f), F.S.

¹⁹ Section 11.45(7)(b), F.S.

²⁰ Section 11.45(1)(d), F.S.

²¹ Section 11.45(1)(i), F.S.

²² Chapter 2017-70, L.O.F. This audit was provided for in proviso language to specific appropriation 1862 in the 2017 General Appropriations Act.

Orlando Aviation Authority.²³ However, the Auditor General has not conducted financial and operational audits of an entire airport's operation.²⁴

Financial Disclosures

Florida ethics laws provide for two tiers of financial disclosure for public officers, candidates for public office, and certain public employees: a full and public disclosure of financial interests (Form 6) and a statement of financial interests (Form 1).²⁵ The Florida Commission on Ethics oversees the financial disclosure filing process with the assistance of local qualifying officers.

Article 2, s. 8(a) of the State Constitution requires all elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees to file a Form 6. Additionally, members of certain expressway authorities, transportation authorities, bridge authorities, toll authorities, or expressway agencies are required to comply with these financial disclosure requirements.²⁶ Form 6 requires the filer to disclose his or her net worth and identify each asset and liability in excess of \$1,000 and its value together with either a copy of the person's most recent federal income tax return or a sworn statement identifying each separate source and amount of income exceeding \$1,000.

Form 1 requires less detail than Form 6 and is filed by certain state and local officers not subject to the full and public disclosure of financial interests, including local officers²⁷ and specified state employees. Form 1 requires filers to disclose their primary sources of income (other than from their public position), secondary sources of income (in certain circumstances), real property in Florida (other than a residence or vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.²⁸

Procurement

Chapter 287, F.S., provides statutory requirements for the procurement of goods and services by the state. The Legislature recognizes that fair and open competition is a basic tenet of public procurement. It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures utilized by state agencies in managing and procuring commodities and contractual services, that detailed justification of agency decisions in the procurement of commodities and contractual services be maintained, and that adherence by the agency and the vendor to specific ethical considerations be required.²⁹

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:³⁰

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and

²³ Joint Legislative Auditing Committee, Meeting Summary, Dec. 12, 2019. (Copy on file with the Transportation & Infrastructure Subcommittee).

²⁴ Email from Bruce Jeroslow, General Council, Florida Auditor General, FW: HB 915-Auditor General Impact, Jan. 6, 2020. (Copy on file with the Transportation & Infrastructure Subcommittee).

²⁵ Sections 112.3144 and 112.3145, F.S.

²⁶ Section 112.3144(1)(b), F.S.

²⁷ Section 112.3145(1)(a), F.S., defines the term "local officer" to include every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office and any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state.

²⁸ Section 112.3145(3), F.S.

²⁹ Section 287.001, F.S.

³⁰ *See ss.* 287.012(6) and 287.057, F.S.

- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services.

For contracts for commodities or services in excess of \$35,000 (CATEGORY TWO), agencies must utilize a competitive solicitation process;³¹ however, certain contractual services and commodities are exempt from this requirement.³²

Code of Ethics for Public Officers and Employees

Part III of chapter 112, F.S., contains the Code of Ethics for Public Officers and Employees. The intent of the code is to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law.³³ Included in the code are provisions relating to doing business with one's agency,³⁴ conflicting employment or contractual relationships,³⁵ post-employment restrictions,³⁶ and requirements for ethics training for specified constitutional officers and elected municipal officers and commissioners.³⁷

Effect of the Bill

The bill provides for additional transparency and accountability of commercial service airports, including large-hub commercial service airports. The bill defines the term "commercial service airport" as a publicly owned airport that has at least 2,500 passenger boardings each calendar year and receives scheduled passenger service as reported by the FAA. The bill defines the term "large-hub commercial service airport" as a publicly owned airport that has 1 percent or more of the annual passenger boardings in the United States as reported by the FAA. Based on these definitions, there are 20 commercial service airports in Florida, including four large-hub commercial service airports: Orlando, Miami, Fort Lauderdale, and Tampa International.

The bill requires the Auditor General, at least once every five years, to conduct an operational and financial audit of each large-hub commercial service airport. The operational audit must include, at a minimum, an assessment of compliance with the transparency and accountability provisions for commercial service airports, including compliance with chapter 287, F.S., relating to procurement of personal property and services, and compliance with public records and public meeting laws.

The bill requires each member of the governing body of a large-hub commercial service airport to comply with the full and public disclosure of their financial interests contained in s. 8, Art. II of the State Constitution (Form 6). Since the Miami and Fort Lauderdale airports are operated by Miami-Dade and Broward Counties, respectively, in which county commissioners are already subject to the constitutional financial disclosure requirements (Form 6), this provision only impacts the governing bodies of the Orlando and Tampa airports, which are governed as independent special districts.

The bill requires the governing body³⁸ of each commercial service airport to establish and maintain a website to post information relating to the operation of such airport, including:

- All published notices of meetings and published meeting agendas for the governing body.
- The official minutes of each meeting of the governing body, which must be posted within three business days after the date of the meeting in which the minutes are approved.

³¹ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid.

³² See s. 287.057(3), F.S.

³³ Florida Commission on Ethics, *Guide to the Sunshine Amendment and the Code of Ethics for Public Employees*. 2019, p.1. Available at: <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=20191213> (Last visited Jan. 13, 2020).

³⁴ Section 112.313(3), F.S.

³⁵ Section 112.313(7), F.S.

³⁶ Section 112.313(9), F.S.

³⁷ Section 112.3142, F.S.

³⁸ The bill defines the term "governing body" as the governing body of the municipality, county, or special district that operates a commercial service airport.

- The approved budget for the commercial service airport for the current fiscal year, which must be posted on the website no later than seven days after the date of adoption. Budgets must remain on the website for two years following the conclusion of the fiscal year.
- All commercial service airport planning documents submitted to the FAA, which must be posted upon submission to the FAA.
- All financial and statistical reports required to be submitted to the FAA, which must be posted upon submission to the FAA.
- Any contract and contract amendment executed by or on behalf of the commercial service airport in excess of \$35,000,³⁹ which must be posted on the website no later than seven days before the governing body votes to approve the contract or contract amendment.
- Position and rate information for each employee of the commercial service airport, including, at a minimum, the position title, position description, and annual salary or hourly salary rate of pay.

The bill provides that, notwithstanding any other provision of law to the contrary, commercial service airports are subject to the requirements of chapter 287, F.S., relating to the procurement of personal property and services.

All contracts executed by or on behalf of the commercial service airport in excess of \$65,000⁴⁰ must be approved by the governing body of a commercial service airport as a separate line item on the meeting agenda after a reasonable opportunity for public comment. Such contracts may not be approved as part of a consent agenda.

The bill reiterates that members of the governing body and employees of a commercial service airport are subject to the Code of Ethics for Public Officers and Employees.⁴¹

Beginning January 1, 2021, each member of the governing body of a commercial service airport must complete four hours of ethics training each calendar year, which addresses, at a minimum, s. 8, Art. II of the State Constitution, relating to ethics in government; the Code of Ethics for Public Officers and Employees; and the public records and public meetings laws. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject material is covered by the class.⁴²

Beginning November 1, 2021, and each November 1 thereafter, each commercial service airport must submit the following information to DOT:

- Its approved budget for the current fiscal year.
- Any financial reports submitted to the FAA during the previous calendar year.
- A link to the website for the commercial service airport.
- A statement that the commercial service airport has complied with chapter 112, F.S., relating to the Code of Ethics for Public Officers and Employees; chapter 287, F.S., relating to procurement; and the statutory provisions created in the bill. This statement must be verified as provided in s. 92.525, F.S.

DOT must review the information submitted by each commercial service airport and each airport's website to determine the accuracy of the information reported. Beginning January 15, 2022, and each January 15 thereafter, DOT must provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report summarizing commercial service airport compliance with these oversight provisions.

DOT may not spend any funds allocated to a commercial service airport as contained in its adopted work program, unless pledged for debt service, until the commercial service airport demonstrates its compliance with the requirements established in the bill.

³⁹ This is the CATEGORY TWO purchasing threshold in s. 287.017, F.S.

⁴⁰ This is the CATEGORY THREE purchasing threshold in s. 287.017, F.S.

⁴¹ Part III of Ch. 112, F.S.

⁴² This requirement is identical to the ethics training required for constitutional officers, elected municipal officers, and commissioners of community redevelopment agencies contained in s. 112.3142(2), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 11.45, F.S., relating to the duties of the Auditor General.

Section 2 amends s. 112.3144, F.S., relating to the full and public disclosure of financial interests.

Section 3 creates s. 332.0075, F.S., relating to commercial service airports.

Section 4 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to impact state revenues.

2. Expenditures:

The Auditor General will incur expenditures associated with operational and financial audits of large-hub commercial service airports; however, the Auditor General's office cannot determine with certainty the fiscal impact of this requirement.⁴³

DOT may incur expenditures associated with reviewing information submitted by commercial service airports and compiling that information into a report. The provisions of the bill will have an indeterminate impact on department workload and resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to impact local government revenues.

2. Expenditures:

Local government entities operating commercial service airports may incur expenditures associated with compliance with the provisions of the bill; however, these expenditures are expected to be insignificant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOT may not spend any funds allocated to a commercial service airport as contained in its adopted work program, unless pledged for debt service, until the commercial service airport demonstrates its compliance with the transparency and accountability requirements established in the bill. To the extent a commercial service airport does not comply with the requirements of this bill, the fiscal impact cannot be quantified at this time.

⁴³ Email from Bruce Jeroslow, General Council, Florida Auditor General, FW: HB 915-Auditor General Impact, Jan. 6, 2020. (Copy on file with the Transportation & Infrastructure Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires various transparency and accountability measures from commercial service airports; however, an exemption may apply since it is expected to be an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant 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 two amendments and reported the bill favorably as a committee substitute. The amendments provided additional specificity regarding the operational audits the Auditor General is required to conduct on large-hub commercial service airports and changed the effective date of the bill from July 1, 2020, to October 1, 2020.

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 commercial service airports;
3 amending s. 11.45, F.S.; directing the Auditor General
4 to conduct specified audits of certain airports;
5 defining the term "large-hub commercial service
6 airport"; amending s. 112.3144, F.S.; requiring
7 members of the governing body of a large-hub
8 commercial service airport to comply with certain
9 financial disclosure requirements; defining the term
10 "large-hub commercial service airport"; creating s.
11 332.0075, F.S.; providing definitions; requiring the
12 governing body of a municipality, county, or special
13 district that operates a commercial service airport to
14 establish and maintain a website; requiring the
15 governing body to post certain information on the
16 website; requiring commercial service airports to
17 comply with certain contracting requirements;
18 providing approval requirements for certain contracts;
19 requiring governing body members and employees of a
20 commercial service airport to comply with certain
21 ethics requirements; requiring governing body members
22 to complete annual ethics training; requiring
23 commercial service airports to submit certain
24 information annually to the Department of
25 Transportation; requiring the department to review

26 such information and submit an annual report to the
 27 Governor and Legislature; prohibiting the expenditure
 28 of certain funds unless specified conditions are met;
 29 providing an effective date.

30

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

32

33 Section 1. Paragraph (m) is added to subsection (2) of
 34 section 11.45, Florida Statutes, to read:

35 11.45 Definitions; duties; authorities; reports; rules.—

36 (2) DUTIES.—The Auditor General shall:

37 (m) At least once every 5 years, conduct an operational
 38 and financial audit of each large-hub commercial service
 39 airport. Each operational audit shall include, at a minimum, an
 40 assessment of compliance with s. 332.0075, including compliance
 41 with chapter 287, and compliance with the public records and
 42 public meetings laws of this state. For purposes of this
 43 paragraph, the term "large-hub commercial service airport" means
 44 a publicly owned airport that has at least 1 percent of the
 45 annual passenger boardings in the United States as reported by
 46 the Federal Aviation Administration.

47

48 The Auditor General shall perform his or her duties
 49 independently but under the general policies established by the
 50 Legislative Auditing Committee. This subsection does not limit

51 the Auditor General's discretionary authority to conduct other
 52 audits or engagements of governmental entities as authorized in
 53 subsection (3).

54 Section 2. Paragraph (c) is added to subsection (1) of
 55 section 112.3144, Florida Statutes, to read:

56 112.3144 Full and public disclosure of financial
 57 interests.—

58 (1)

59 (c) Each member of the governing body of a large-hub
 60 commercial service airport shall comply with the applicable
 61 financial disclosure requirements of s. 8, Art. II of the State
 62 Constitution. For purposes of this paragraph, the term "large-
 63 hub commercial service airport" means a publicly owned airport
 64 that has at least 1 percent of the annual passenger boardings in
 65 the United States as reported by the Federal Aviation
 66 Administration.

67 Section 3. Section 332.0075, Florida Statutes, is created
 68 to read:

69 332.0075 Commercial service airports; transparency and
 70 accountability; penalty.—

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

72 (a) "Commercial service airport" means a publicly owned
 73 airport that has at least 2,500 passenger boardings each
 74 calendar year and receives scheduled passenger service as
 75 reported by the Federal Aviation Administration.

76 (b) "Department" means the Department of Transportation.
 77 (c) "Governing body" means the governing body of the
 78 municipality, county, or special district that operates a
 79 commercial service airport.
 80 (2) Each governing body shall establish and maintain a
 81 website to post information relating to the operation of a
 82 commercial service airport, including:
 83 (a) All published notices of meetings and published
 84 meeting agendas of the governing body.
 85 (b) The official minutes of each meeting of the governing
 86 body, which shall be posted within 3 business days after the
 87 date of the meeting in which the minutes were approved.
 88 (c) The approved budget for the commercial service airport
 89 for the current fiscal year, which shall be posted within 7 days
 90 after the date of adoption. Budgets must remain on the website
 91 for 2 years after the conclusion of the fiscal year in which
 92 they were adopted.
 93 (d) All commercial service airport planning documents
 94 submitted to the Federal Aviation Administration, which shall be
 95 posted upon submission to the Federal Aviation Administration.
 96 (e) All financial and statistical reports required to be
 97 submitted to the Federal Aviation Administration, which shall be
 98 posted upon submission to the Federal Aviation Administration.
 99 (f) Any contract or contract amendment executed by or on
 100 behalf of the commercial service airport in excess of the

101 threshold amount provided for in s. 287.017 for CATEGORY TWO,
102 which shall be posted no later than 7 days before the governing
103 body votes to approve the contract or contract amendment.

104 (g) Position and rate information for each employee of the
105 commercial service airport, including, at a minimum, the
106 employee's position title, position description, and annual or
107 hourly salary.

108 (3) (a) Notwithstanding any other provision of law to the
109 contrary, commercial service airports are subject to the
110 requirements of chapter 287.

111 (b) A governing body must approve each contract executed
112 by or on behalf of a commercial service airport in excess of the
113 threshold amount provided for in s. 287.017 for CATEGORY THREE
114 as a separate line item on the agenda after providing a
115 reasonable opportunity for public comment. Such contracts may
116 not be approved as part of a consent agenda.

117 (4) (a) Members of a governing body and employees of a
118 commercial service airport are subject to part III of chapter
119 112.

120 (b) Beginning January 1, 2021, each member of a governing
121 body must complete 4 hours of ethics training each calendar year
122 which addresses, at a minimum, s. 8, Art. II of the State
123 Constitution, the Code of Ethics for Public Officers and
124 Employees, and the public records and public meetings laws of
125 this state. This requirement may be satisfied by completion of a

126 continuing legal education class or other continuing
127 professional education class, seminar, or presentation if the
128 required subject material is covered therein.

129 (5) (a) Beginning November 1, 2021, and each November 1
130 thereafter, each commercial service airport shall submit the
131 following information to the department:

132 1. Its approved budget for the current fiscal year.

133 2. Any financial reports submitted to the Federal Aviation
134 Administration during the previous calendar year.

135 3. A link to its website.

136 4. A statement, verified as provided in s. 92.525, that it
137 has complied with part III of chapter 112, chapter 287, and this
138 section.

139 (b) The department shall review the information submitted
140 by the commercial service airport and posted on the airport's
141 website to determine the accuracy of such information. Beginning
142 January 15, 2022, and each January 15 thereafter, the department
143 shall submit to the Governor, the President of the Senate, and
144 the Speaker of the House of Representatives a report summarizing
145 commercial service airport compliance with this section.

146 (6) The department may not expend any funds allocated to a
147 commercial service airport as contained in the adopted work
148 program, unless pledged for debt service, until the commercial
149 service airport demonstrates its compliance with this section.

150 Section 4. This act shall take effect October 1, 2020.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (m) is added to subsection (2) of
7 section 11.45, Florida Statutes, to read:

8 11.45 Definitions; duties; authorities; reports; rules.—

9 (2) DUTIES.—The Auditor General shall:

10 (m) At least once every 7 years, conduct an operational
11 and financial audit of each large-hub commercial service
12 airport. Each operational audit shall include, at a minimum, an
13 assessment of compliance with s. 332.0075, including compliance
14 with chapter 287, and compliance with the public records and
15 public meetings laws of this state. For purposes of this
16 paragraph, the term "large-hub commercial service airport" means

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17 a publicly owned airport that has at least 1 percent of the
18 annual passenger boardings in the United States as reported by
19 the Federal Aviation Administration.

20
21 The Auditor General shall perform his or her duties
22 independently but under the general policies established by the
23 Legislative Auditing Committee. This subsection does not limit
24 the Auditor General's discretionary authority to conduct other
25 audits or engagements of governmental entities as authorized in
26 subsection (3).

27 Section 2. Paragraph (c) is added to subsection (1) of
28 section 112.3144, Florida Statutes, to read:

29 112.3144 Full and public disclosure of financial
30 interests.-

31 (1)

32 (c) Each member of the governing body of a large-hub
33 commercial service airport shall comply with the applicable
34 financial disclosure requirements of s. 8, Art. II of the State
35 Constitution. Any person otherwise required under this
36 subsection to file a full and public financial disclosure, is
37 not required to separately file a full and public financial
38 disclosure under this paragraph. For purposes of this paragraph,
39 the term "large-hub commercial service airport" means a publicly
40 owned airport that has at least 1 percent of the annual
41 passenger boardings in the United States as reported by the

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42 Federal Aviation Administration.

43 Section 3. Section 332.0075, Florida Statutes, is created
44 to read:

45 332.0075 Commercial service airports; transparency and
46 accountability; penalty.—

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

48 (a) "Commercial service airport" means a primary airport,
49 as defined in 49 U.S.C. s. 47102, that is classified as a large,
50 medium, or small-hub airport by the Federal Aviation
51 Administration.

52 (b) "Department" means the Department of Transportation.

53 (c) "Governing body" means the governing body of the
54 county, municipality, or special district that operates a
55 commercial service airport.

56 (2) Each governing body shall establish and maintain a
57 website to post information relating to the operation of a
58 commercial service airport, including:

59 (a) All published notices of meetings and published
60 meeting agendas of the governing body.

61 (b) The official minutes of each meeting of the governing
62 body, which shall be posted within 7 business days after the
63 date of the meeting in which the minutes were approved.

64 (c) The approved budget for the commercial service airport
65 for the current fiscal year, which shall be posted within 7
66 business days after the date of adoption. Budgets must remain on

Amendment No.

67 the website for 2 years after the conclusion of the fiscal year
68 for which they were adopted.

69 (d) A link to the Airport Master Plan for the commercial
70 service airport on the Federal Aviation Administration's
71 website.

72 (e) A link to all financial and statistical reports for
73 the commercial service airport on the Federal Aviation
74 Administration's website.

75 (f) Any contract or contract amendment executed by or on
76 behalf of the commercial service airport in excess of the
77 threshold amount provided in s. 287.017 for CATEGORY THREE,
78 shall be posted no later than 7 business days after the
79 commercial service airport executes the contract or contract
80 amendment. However, a contract or contract amendment may not
81 reveal information made confidential or exempt by law. Each
82 commercial service airport must redact confidential or exempt
83 information from each contract or contract amendment before
84 posting a copy on its website.

85 (g) Position and rate information for each employee of the
86 commercial service airport, including, at a minimum, the
87 employee's position title, position description, and annual or
88 hourly salary.

89 (3) (a) Notwithstanding any other provision of law to the
90 contrary, commercial service airports are subject to the
91 requirements of chapter 287 for purchases of commodities or

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92 contractual services that exceed the threshold amount provided
93 in s. 287.017 for CATEGORY THREE. If the purchase of commodities
94 or contractual services exceeds the threshold amount provided in
95 s. 287.017 for CATEGORY THREE, purchase of commodities or
96 contractual services may not be made without receiving
97 competitive sealed bids, competitive sealed proposals, or
98 competitive sealed replies unless an exception applies as
99 provided in s. 287.057(3) or an immediate danger to the public
100 health, safety, or welfare, or other substantial loss to the
101 commercial service airport requires emergency action.

102 (b) A governing body must approve, award, or ratify all
103 contracts executed by or on behalf of a commercial service
104 airport in excess of the threshold amount provided in s. 287.017
105 for CATEGORY FIVE as a separate line item on the agenda and must
106 provide a reasonable opportunity for public comment. Such
107 contracts may not be approved, awarded, or ratified as part of a
108 consent agenda.

109 (4) (a) Members of a governing body and employees of a
110 commercial service airport are subject to part III of chapter
111 112. However, this paragraph does not prohibit the application
112 of more stringent ethical standards adopted by county or
113 municipal charter, ordinance, or resolution of the governing
114 body for its members and employees.

115 (b) Beginning January 1, 2021, each member of a governing
116 body must complete 4 hours of ethics training each calendar year

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117 which addresses, at a minimum, s. 8, Art. II of the State
118 Constitution, the Code of Ethics for Public Officers and
119 Employees, and the public records and public meetings laws of
120 this state. This requirement may be satisfied by completion of a
121 continuing legal education class or other continuing
122 professional education class, seminar, or presentation if the
123 required subject material is covered therein. Constitutional
124 officers and elected municipal officers who are members of the
125 governing body who complete the ethics training required in s.
126 112.3142 shall be considered in compliance with this paragraph.

127 (5) (a) Beginning November 1, 2021, and each November 1
128 thereafter, the governing body of each commercial service
129 airport shall submit the following information to the
130 department:

- 131 1. Its approved budget for the current fiscal year.
- 132 2. Any financial reports submitted to the Federal Aviation
133 Administration during the previous calendar year.
- 134 3. A link to its website.
- 135 4. A statement, verified as provided in s. 92.525, that it
136 has complied with part III of chapter 112, chapter 287, and this
137 section.

138 (b) The department shall review the information submitted
139 by the commercial service airport and posted on the airport's
140 website to determine the accuracy of such information. Beginning
141 January 15, 2022, and each January 15 thereafter, the department

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142 shall submit to the Governor, the President of the Senate, and
143 the Speaker of the House of Representatives a report summarizing
144 commercial service airport compliance with this section.

145 (6) The department may not expend any funds allocated to a
146 commercial service airport as contained in the adopted work
147 program, unless pledged for debt service, until the commercial
148 service airport demonstrates its compliance with this section.

149 Section 4. This act shall take effect October 1, 2020.
150
151

152 -----
153 **T I T L E A M E N D M E N T**

154 Remove everything before the enacting clause and insert:
155 An act relating to commercial service airports;
156 amending s. 11.45, F.S.; directing the Auditor General
157 to conduct specified audits of certain airports;
158 defining the term "large-hub commercial service
159 airport"; amending s. 112.3144, F.S.; requiring
160 members of the governing body of a large-hub
161 commercial service airport to comply with certain
162 financial disclosure requirements; providing that a
163 separate filing is not required under specified
164 circumstances; defining the term "large-hub commercial
165 service airport"; creating s. 332.0075, F.S.;
166 providing definitions; requiring the governing body of

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Amendment No.

167 a municipality, county, or special district that
168 operates a commercial service airport to establish and
169 maintain a website; requiring the governing body to
170 post or provide links to certain information on the
171 website; requiring the posting of specified contracts;
172 providing for the redaction of confidential and exempt
173 information; requiring commercial service airports to
174 comply with certain contracting requirements;
175 providing exceptions; requiring the governing body to
176 approve, award, or rarify certain contracts; requiring
177 members of the governing body of a commercial service
178 airport to comply with certain ethics requirements and
179 complete annual ethics training; requiring commercial
180 service airports to submit certain information
181 annually to the Department of Transportation;
182 requiring the department to review such information
183 and submit an annual report to the Governor and
184 Legislature; prohibiting the expenditure of certain
185 funds unless specified conditions are met; providing
186 an effective date.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 927 Lake County
SPONSOR(S): Local Administration Subcommittee, Sabatini
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	11 Y, 0 N, As CS	Moehrle	Miller
2) Civil Justice Subcommittee	11 Y, 0 N	Padgett	Luczynski
3) State Affairs Committee		Moehrle	Williamson

SUMMARY ANALYSIS

A cooperative is a form of real property ownership created pursuant to ch. 719, F.S. The real property is owned by the cooperative association and individual units are leased to the residents who own shares in the cooperative association. The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the respective laws regulating cooperatives and condominiums are nearly identical in many instances.

A cooperative association may not charge a potential buyer or renter costs or fees in connection with the sale, lease, or sublease, or other transfer of a unit unless:

- The fee is limited to \$100 or less;
- The fee is provided for in the association's governing documents; and
- The association approves the sale, lease, sublease, or transfer.

The bill amends ch. 2003-302, Laws of Fla., to allow mobile home cooperatives in Lake County having more than 1,100 units to assess a transfer fee of \$500 or less to any assignee, transferee, or purchaser of a unit located within the cooperative upon the affirmative vote of the majority of the members of the cooperative association. Upon the affirmative supermajority vote (two-thirds) of the members, the cooperative may assess a fee of greater than \$500 but no more than \$1,000. Of the 12 mobile home cooperatives in Lake County, only one currently meets this criterion, Hawthorne Residents Cooperative Association, Inc.

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

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Associations

The Department of Business and Professional Regulation (DBPR), Division of Condominiums, Timeshares and Mobile Homes (Division), provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure. The Division regulates:

- Condominium Associations;
- Cooperative Associations;¹
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (limited to arbitration of election and recall disputes).²

Cooperatives

A cooperative is a form of property ownership created pursuant to ch. 719, F.S. In a cooperative, the real property is owned by the corporation or other entity and individual units are leased to residents owning shares in the corporation.³ A cooperative is created by recording articles of incorporation in the county in which the real property is located.⁴ Upon creation of a cooperative,⁵ the association must file the recording information with the Division within 30 days.⁶ Cooperative members have exclusive possession of their unit and are entitled to use common areas for purposes for which they are intended.⁷ Tenants who lease from a unit owner have the same rights.⁸ The cooperative association⁹ is responsible for the operation of the cooperative and is governed by a board of administration, who are elected by resident shareholders. The board enacts bylaws, which govern the cooperative association. The lease payment amount is the pro-rata share of the cooperative's operational expenses.¹⁰

Condominiums

A condominium is a form of real property ownership created pursuant to ch. 718, F.S., comprised of units which may be owned by one or more persons along with an undivided right of access to common elements.¹¹ A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.¹² A declaration governs the relationships among condominium unit owners and the condominium association. Condominiums operate similarly to cooperatives and the laws regulating condominiums are in many instances nearly identical to those regulating cooperatives.

¹ Cooperative associations are not political subdivisions of the state. See s. 1.01(8), F.S. The words "public body," "body politic," or "political subdivision" include counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

² DBPR, *Division of Florida Condominiums, Timeshares & Mobile Homes*, available at myfloridalicense.com/DBPR/condo-timeshares-mobile-homes/#1510244746362-2dc21ff-1059 (last visited on Feb. 5, 2020).

³ S. 719.103(2)(26), F.S.

⁴ Ss. 719.1035(1) and 607.0203(1), F.S.

⁵ S. 719.1035(2), F.S. Cooperative documents are enforceable equitable servitudes running with the land and are effective until the cooperative is terminated.

⁶ S. 719.1035(1), F.S.

⁷ S. 719.105(2), F.S. Unit owners may not hinder or encroach upon the rights of other unit owners.

⁸ S. 719.105(3), F.S. When a unit is leased, the tenant has all use rights in the association property available for use by the unit owner and the unit owner does not have such rights except as a guest.

⁹ S. 719.103(2), F.S.

¹⁰ S. 719.106(1)(g), F.S.

¹¹ S. 718.103(11), F.S.

¹² S. 718.104(2), F.S.

Homeowners' Associations

A homeowners' association (HOA) is a residential property owners association in which voting membership is made up of parcel owners, membership is a mandatory condition of parcel ownership, and the HOA is authorized to impose assessments that, if unpaid, may become a lien on the parcel.¹³ Only HOAs for which the recorded covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S. Like a condominium or cooperative, an elected board of directors administers an HOA. The powers and duties of an HOA include those created by statute¹⁴ and those provided in the association's governing documents, including the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents. The statutes establish procedures and minimum requirements for HOA operation and create a mandatory binding arbitration program, administered by the Division for certain election and recall disputes, but no state agency has direct HOA oversight.¹⁵

Mobile Home Parks

A mobile home is a transportable structure built on an integral chassis and designed for use as a dwelling.¹⁶ The Florida Mobile Home Act (Act)¹⁷ provides for the regulation by the Division of mobile tenancies in which a mobile home is placed upon a rented or leased lot in a mobile home park in which 10 or more lots are offered for rent or lease. The Act was created to address the unique relationship between a mobile home owner and a mobile home park owner.¹⁸ Unlike a cooperative, in a mobile home park subject to the Act, a resident owns the mobile home but rents or leases the lot from a mobile home park.¹⁹

Cooperatives as Personal and Real Property Interest

A corporation, not the individual residents, owns the real property of a cooperative association. A person who purchases a cooperative unit does not receive title to the unit or any portion of the cooperative's real property. Instead, the purchaser receives shares of the cooperative association and leases a unit from the association. An ownership interest in a cooperative is an interest in personal property, not real property.²⁰

In contrast, the Condominium Act specifically provides that a condominium parcel is a separate parcel of real property.²¹ There is no corresponding statute in the Cooperative Act,²² and Florida courts recognize there is some confusion as to whether a cooperative ownership interest is an interest in real property or personal property.²³

Cooperative Transfer Costs

¹³ S. 720.301(9), F.S.

¹⁴ See ch. 720, F.S.

¹⁵ Ss. 720.306(9)(c) and 720.311(1), F.S.

¹⁶ S. 723.003(8), F.S., defines a mobile home as "a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein."

¹⁷ Ch. 723, F.S.

¹⁸ S. 723.004(1), F.S. The legislative findings state, in part, "once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship that distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights, which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected."

¹⁹ S. 723.002, F.S.

²⁰ *Downey v. Surf Club Apartments, Inc.*, 667 So.2d 414 (Fla. 1st DCA 1996).

²¹ S. 718.106(1), F.S.

²² S. 718.106(1), F.S.; See generally ch. 719, F.S.

²³ *Phillips*, 958 So.2d 425; *Levine v. Hirshon*, 980 So. 2d 1053 (Fla. 2008).

A cooperative association may not charge a potential buyer or renter costs or fees in connection with the sale, lease, or sublease, or other transfer of a unit unless:

- The fee is limited to \$100 or less;
- The fee is provided for in the association's governing documents; and
- The association approves the sale, lease, sublease, or transfer.²⁴

A cooperative association may require a potential tenant to provide the association a security deposit equivalent to one month of rent. Within 15 days after a tenant vacates the premises, the association must refund the full security deposit or give written notice to the tenant of any claim made against the security deposit.²⁵

Lake County Mobile Home Cooperative Associations

According to DBPR, there are 12 active mobile home cooperatives in Lake County.²⁶ These cooperatives range in size from 19 to 1,144 residential units.²⁷ Under a local law, mobile home cooperatives in Lake County with more than 1,100 units may alter, convert, lease, or modify the common areas of the cooperative by majority vote of the total voting interests in the cooperative.²⁸ Currently, one mobile home cooperative meets this criteria, Hawthorne Residents Cooperative Association, Inc. (Hawthorne at Leesburg), which has 1,195 units (1,114 of which are residential units).²⁹

Colonial Penn Insurance Company built Hawthorne at Leesburg in 1972. In 1982, residents bought the 300-acre community from Colonial Penn for \$9.3 million and established the mobile home cooperative in 1983.³⁰ Hawthorne at Leesburg currently is valued at approximately \$22 million, reports no debt, and reports "a substantial cash surplus."³¹ Membership in the cooperative is limited to purchasers of membership certificates. Transferees of a membership certificate automatically become members of the corporation if all requirements for membership have been met.³² Currently, the corporation allows the directors to impose a fee in connection with the approval of the assignment or sublease of units that may not exceed \$50.00.³³

Effect of Proposed Changes

The bill allows mobile home cooperatives in Lake County having more than 1,100 units to assess a transfer fee of no greater than \$500 to any assignee, transferee, or purchaser of a cooperative unit located within the mobile home cooperative upon the affirmative vote of the majority of the members of the cooperative association. Upon the affirmative supermajority (two-thirds) vote of the members, the cooperative association may assess a transfer fee of greater than \$500 but no more than \$1,000.

The bill prohibits the transfer fee from being used for operational expenses. Any closing financial document related to the sale of a cooperative unit must include, as a line item, the transfer fee chargeable to the purchaser of the cooperative unit. The bill provides that the transfer fee is not applicable to current members of a mobile home cooperative who transfer their existing cooperative unit into a revocable living trust for their direct and personal benefit. The transfer fee is applicable to all other trust or estate planning beneficiaries.

²⁴ S. 719.106(1)(i), F.S. The cooperative transfer statute is similar to that for condominium associations. See s. 718.112(2)(i), F.S.

²⁵ S. 719.106(1)(i), F.S.

²⁶ Florida Department of Business & Professional Regulation, *Search for a License*, myfloridalicense.com/wl11.asp?mode=3&search=City&SID=&brd=&typ= (last visited Feb. 5, 2020).

²⁷ *Id.*

²⁸ Ch. 2003-302, Laws of Fla.

²⁹ *Search for a License, supra.*

³⁰ Hawthorne at Leesburg, *History*, <http://www.hawthorneatleesburg.com/history/> (last visited Feb. 5, 2020).

³¹ *Id.*

³² Bylaws of Hawthorne Residents Cooperative Association, Inc., *Article II. Membership and Voting Rights*, hawthorneatleesburg.com/wp-content/uploads/2018/06/HRCA-By-Laws-revised-5-9-18.pdf (last visited Feb. 5, 2020).

³³ Bylaws of Hawthorne Residents Cooperative Association, Inc., *Article VIII. Corporate Funds- 8.13 Transfer and Fees*, hawthorneatleesburg.com/wp-content/uploads/2018/06/HRCA-By-Laws-revised-5-9-18.pdf (last visited Feb. 5, 2020). The bylaws state that no charge may be made in connection with an extension or renewal of a sublease.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2003-302, Laws of Fla., to allow a mobile home cooperative to assess a transfer fee of specified amounts under certain circumstances.

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? October 17, 2019.

WHERE? The Daily Commercial, a daily newspaper of general circulation published in Lake County.

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:

The Florida Constitution prohibits special laws granting a privilege to a private corporation.³⁴ The Florida Supreme Court held that the term “privilege” as used in the context of this constitutional prohibition encompasses more than a financial benefit and includes a right, benefit, or advantage granted to a private corporation.³⁵ The Court has held that the “grant of privilege to a private corporation” reasonably means providing a benefit to a private corporation that others do not receive.³⁶ A special law conforms to the Constitution if it does not provide a specific benefit or advantage to a private corporation that is not available to other citizens. Because other mobile home cooperatives within Lake County may grow in size and exceed the 1,100 unit threshold, the bill does not appear to conflict with the constitutional prohibition.

B. RULE-MAKING AUTHORITY:

The bill does not authorize nor require agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exception to General Law

The bill creates an exception to s. 719.106(1)(i), F.S., by authorizing a transfer fee of greater than \$100. Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

³⁴ Art. III, S. 11(a)(12), Fla. Const.

³⁵ *Lawnwood Medical Center v. Seeger*, 990 So. 2d 503 (Fla. 2008).

³⁶ *Venice HMA LLC v. Sarasota County*, 228 So. 3d 76 (Fla. 2017).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2020, the Local Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute revises the transfer fee amount the cooperative association may charge in the bill from \$1,000 to:

- Upon the affirmative majority vote of members, a transfer fee no greater than \$500; and
- Upon the affirmative supermajority vote of members, a transfer fee of greater than \$500 but no more than \$1,000.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

1 A bill to be entitled
 2 An act relating to Lake County; authorizing the mobile
 3 home owner's association to assess a capital
 4 contribution fee of specified amounts under certain
 5 circumstances; providing an exception to general law;
 6 requiring certain closing documents of a cooperative
 7 unit to include as a line item the capital
 8 contribution assessment; providing applicability;
 9 providing an effective date.

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

12
 13 Section 1. Subsections (3), (4), and (5) are added to
 14 section 1 of chapter 2003-302, Laws of Florida, to read:

15 Section 1. Residential mobile home cooperatives in Lake
 16 County.—Notwithstanding any other law, this act shall govern
 17 residential mobile home cooperatives having more than 1,100
 18 units and located within Lake County.

19 (3) Upon the affirmative vote of the members of the mobile
 20 home cooperative association specified in paragraph (a) or
 21 paragraph (b), voting in accordance with the established
 22 procedures of the association and notwithstanding any other
 23 provision of the association's governing documents or general
 24 law, the association may assess a capital contribution fee, also
 25 known as a transfer fee, in the amount specified in paragraph

26 | (a) or paragraph (b) to any assignee, transferee, or purchaser
27 | of a cooperative unit located within the mobile home
28 | cooperative. Such capital contribution fee may not be used for
29 | operational expenses.

30 | (a) Upon the affirmative vote of a majority of the
31 | members, the association may assess a capital contribution fee
32 | of no greater than \$500.

33 | (b) Upon the affirmative vote of two-thirds of the
34 | members, the association may assess a capital contribution fee
35 | of greater than \$500 but no greater than \$1,000.

36 | (4) Any closing financial document related to the
37 | assignment, transfer, or purchase of a cooperative unit shall
38 | include as a line item the capital contribution assessment to
39 | the assignee, transferee, or purchaser of the cooperative unit.

40 | (5) This act is not applicable to current members of a
41 | mobile home cooperative who transfer their existing cooperative
42 | unit into their revocable living trust for their direct and
43 | personal benefit. However, this act is applicable to any other
44 | trust or estate planning beneficiaries.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 931 Public Records
SPONSOR(S): Criminal Justice Subcommittee, Byrd
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Frost	Hall
2) State Affairs Committee		Toliver	Williamson
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida provides an exemption from public records for active criminal intelligence and investigative information. However, this exemption may not apply, in some circumstances, to the reinvestigation of a crime which resulted in a criminal conviction. The reinvestigation of a crime may involve gathering sensitive intelligence and investigative information, such as the identity or location of an alternate suspect, a witness, or other potential evidence needed to exonerate a wrongfully convicted person.

The bill creates a public records exemption for postconviction reinvestigative information (PRI). The bill defines PRI as information compiled by a state attorney, or other criminal justice agency at the request of the state attorney, for the purpose of making an evidence-based determination as to whether a convicted person is innocent of a crime for which he or she was convicted.

The bill provides that PRI is exempt only if it relates to an ongoing, good faith investigation of a claim of actual innocence, and that the exemption terminates when the claim is no longer capable of further reasonable investigation or the relief sought by the claim is granted.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a public necessity statement as required by the Florida Constitution.

The bill may have a minimal fiscal impact on agencies responsible for complying with public records requests and redacting confidential and exempt information prior to releasing a record.

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 creates 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

Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of art. I, s. 24(a) of the Florida Constitution.¹ The general law must state with specificity the public necessity justifying the exemption and must be no more broad than necessary to accomplish its purpose.²

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act (Act)³ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁴ In addition, the exemption may be no broader than is necessary to meet one of the following purposes:⁵

- 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; or
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.

Active Criminal Investigation Exemption

Section 119.071(2)(c), F.S., provides a public record exemption for "active criminal intelligence information" and "active criminal investigative information."

- "Criminal intelligence information" means information with respect to an identifiable person or group of persons that is collected by a criminal justice agency in an effort to anticipate, prevent, or monitor criminal activity.
- "Criminal investigative information" means information with respect to an identifiable person or group of persons that is compiled by a criminal justice agency in the course of conducting a criminal investigation, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or surveillance.⁶

¹ Art. I, s. 24(c), Fla. Const.

² *Id.*

³ S. 119.15, F.S.

⁴ S. 119.15(6)(b), F.S.

⁵ *Id.*

⁶ S. 119.011(3)(a)-(b), F.S.; see also s. 119.011(3)(c), F.S., specifying certain information excluded from the definitions of criminal intelligence and criminal investigative information.

Information is considered “active” when:

- For purposes of criminal intelligence, it relates to gathering intelligence with a reasonable, good faith belief that the intelligence will lead to detection of ongoing or reasonably anticipated criminal activities.
- For purposes of criminal investigation, it relates to an ongoing investigation which is continued with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.
- For both criminal intelligence and criminal investigative information, it directly relates to pending prosecutions or appeals.⁷

Conviction Integrity Review Units

A conviction integrity unit is a separate division within a prosecutorial office designated to work specifically to prevent, identify, and correct false convictions. In 2018, there were 44 conviction integrity units in the United States and 58 wrongfully convicted persons were exonerated.⁸ In Florida, a conviction integrity unit is referred to as a Conviction Integrity Review Unit (CIRU).

Four Florida state attorney’s offices currently have a CIRU:

- The Fourth Circuit – covering Duval, Clay, and Nassau Counties.⁹
- The Ninth Circuit – covering Orange and Osceola Counties.¹⁰
- The Thirteenth Circuit – covering Hillsborough County.¹¹
- The Seventeenth Circuit – covering Broward County.¹²

Each of the four CIRUs follow similar procedures, including requiring a convicted person to meet certain criteria to receive more than an initial screening of his or her case, such as presenting a plausible claim of innocence. Some units also rely on an independent review panel of legal experts who review and evaluate cases alongside the CIRU members.¹³ Prior to 2018, Florida had 64 exonerations, including eight wrongfully convicted persons who were sentenced to death.¹⁴

In 2019, the Fourth Circuit CIRU’s investigation of the 1976 murder of Jeanette Williams resulted in the exoneration of two men, Clifford Williams and Nathan Myers, who were sentenced to life in prison.¹⁵ The CIRU’s investigation confirmed multiple alibi witnesses for the two men at the time of the murder. The investigation also confirmed that another man admitted to committing the murder and that he was present when the murder occurred.¹⁶ By the time the Fourth Circuit Court vacated Mr. Williams’ and Mr. Myers’ convictions on March 28, 2019, the two men had served 42 years and 11 months in prison.¹⁷

While a CIRU’s reinvestigation of a crime may involve gathering criminal intelligence and investigative information, such as the identity or location of an alternate suspect, a witness, or other potential evidence needed to exonerate a wrongfully convicted person, this type of investigative information does not qualify as active. As such, a member of the public may access a CIRU’s reinvestigation information,

⁷ S. 119.011(3)(d). F.S.

⁸ The National Registry of Exonerations, *Exonerations in 2018*, Apr. 19, 2019

<https://www.law.umich.edu/special/exoneration/Documents/Exonerations%20in%202018.pdf> (last visited Feb. 9, 2020).

⁹ Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/> (last visited Feb. 9, 2020).

¹⁰ Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, <https://www.sao9.net/conviction-integrity.html> (last visited Feb. 9, 2020).

¹¹ Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, <https://www.sao13th.com/conviction-review-unit-cru/> (last visited Feb. 9, 2020).

¹² Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, <http://www.sao17.state.fl.us/conviction-review.html> (last visited Feb. 9, 2020).

¹³ See *supra*, notes 14–17.

¹⁴ The National Registry of Exonerations, *supra*, note 13, p. 19.

¹⁵ State Attorney’s Office of the Fourth Judicial Circuit of Florida, *Conviction Integrity Investigation, State of Florida v. Hubert Nathan Meyers, State of Florida v. Clifford Williams, Jr.*, (Mar. 28, 2019)

https://securereservercdn.net/198.71.233.254/9c2.a8b.myftpupload.com/wp-content/uploads/2019/03/CIR_Investigative_Report_FINAL_3.28.19_R.pdf (last visited Feb. 9, 2020).

¹⁶ *Id.*

¹⁷ *Id.*

which may discourage witnesses from coming forward with evidence of a crime, alert a potential alternate suspect, or otherwise compromise the reinvestigation of a wrongfully convicted person's case.

Effect of Proposed Changes

The bill creates a public records exemption for postconviction reinvestigative information (PRI). The bill defines PRI as information compiled by a state attorney, or other criminal justice agency at the request of the state attorney, for the purpose of making an evidence-based determination as to whether a convicted person is innocent of a crime for which he or she was convicted.

The bill provides that PRI is exempt¹⁸ from public record requirements if it relates to an ongoing, good faith investigation of a claim of actual innocence. The exemption terminates when the claim is no longer capable of further reasonable investigation or the relief sought by the claim is granted.

The bill provides a public necessity statement as required by the Florida Constitution. The public necessity statement provides that the release of sensitive information, such as the identity or location of an alternate suspect, a witness, or other evidence needed to exonerate a wrongfully convicted person, could compromise the reinvestigation.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

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

Section 2: Providing a public necessity statement.

Section 3: Providing an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a fiscal impact on agencies responsible for complying with public records requests and redacting exempt information prior to releasing a record.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹⁸ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. (1985).

2. Expenditures:

The bill may have a fiscal impact on agencies responsible for complying with public records requests and redacting exempt information prior to releasing a record.

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 take 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 creates 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 creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article 1, 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 creates a public record exemption for PRI. The information remains exempt only while related to an ongoing good faith investigation, until the claim is no longer capable of further reasonable investigation, or the relief sought is granted. The exemption does not appear to be broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Line 34 of the bill contains a coma that should be removed.

Other Comments

Public record exemptions apply prospectively,¹⁹ unless the Legislature provides clear intent that the exemption apply retroactively.²⁰ The bill does not specify that the public record exemption applies to records collected prior to the enactment of the legislation. As such, the public record exemption appears to apply prospectively.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Moved the provisions of the bill to a more appropriate statutory section.
- Created a public records exemption for PRI.
- Defined PRI.
- Provided that PRI is exempt only if it is related to an ongoing, good faith investigation of a claim of actual innocence.
- Provided that the PRI exemption terminates when the claim is no longer capable of further reasonable investigation or the relief sought by the claim is granted.
- Provided a public necessity statement.
- Provided for the repeal of the PRI exemption on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

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

¹⁹ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corp.*, 784 So. 2d 438, 440-441 (Fla. 2001).

²⁰ *Campus Communications, Inc. v. Earnhardt*, 821 So. 2d 388, 396 (Fla. 5th DCA 2002), *review denied*, 848 So. 2d 1153 (Fla. 2003).

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; defining the term "postconviction
 4 reinvestigative information"; providing an exemption
 5 from public records requirements for certain
 6 postconviction reinvestigative information; providing
 7 for future review and repeal of the exemption;
 8 providing a statement of public necessity; providing
 9 an effective date.

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

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

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

17 (2) AGENCY INVESTIGATIONS.—

18 (q)1. As used in this paragraph, the term "postconviction
 19 reinvestigative information" means information compiled by a
 20 state attorney, or other criminal justice agency at the request
 21 of the state attorney, for the purpose of making an evidence-
 22 based determination as to whether a person is innocent of a
 23 crime for which he or she was convicted.

24 2. Postconviction reinvestigative information is exempt
 25 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution

26 | if it is related to an ongoing, good faith investigation of a
27 | claim of actual innocence and remains exempt until the claim is
28 | no longer capable of further reasonable investigation or the
29 | relief sought is granted. This paragraph is subject to the Open
30 | Government Sunset Review Act in accordance with s. 119.15 and
31 | shall stand repealed on October 2, 2025, unless reviewed and
32 | saved from repeal through reenactment by the Legislature.

33 | Section 2. The Legislature finds that it is a public
34 | necessity that postconviction reinvestigative information, be
35 | made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
36 | Art. I of the State Constitution if it is related to an ongoing,
37 | good faith investigation of a claim of actual innocence and
38 | remains exempt until the claim is no longer capable of further
39 | reasonable investigation or the relief sought is granted. Public
40 | release of postconviction reinvestigative information could
41 | result in the disclosure of sensitive information, such as the
42 | identity or location of an alternate suspect, a witness, or
43 | other evidence needed to exonerate a wrongfully convicted
44 | person, which could compromise the reinvestigation of a
45 | wrongfully convicted person's case. The Legislature further
46 | finds that it is necessary to protect this information in order
47 | to encourage witnesses, who might otherwise be reluctant to come
48 | forward, to be forthcoming with evidence of a crime. It is in
49 | the interest of pursuing justice for persons who may have been
50 | wrongfully convicted that all postconviction reinvestigative

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51 information be protected until investigation of the claim of
52 actual innocence is concluded. The Legislature finds that the
53 harm that may result from the release of such information
54 outweighs any public benefit that may be derived from its
55 disclosure, and it is in the interest of the public to
56 safeguard, preserve, and protect information relating to a claim
57 of actual innocence by a person who may have been convicted of a
58 crime he or she did not commit.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1135 License Plates

SPONSOR(S): Grant, J.

TIED BILLS: CS/HB 387 **IDEN./SIM. BILLS:** CS/SB 412

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

SUMMARY ANALYSIS

There are over 120 specialty license plates available to any motor vehicle owner or lessee who is willing to pay the annual use fee for such plate. The Department of Highway Safety and Motor Vehicles (DHSMV) distributes the collected fees to statutorily designated organizations in support of a particular cause or charity. DHSMV must discontinue the issuance of an approved specialty license plate if it fails to meet certain statutory requirements.

The bill makes several changes related to specialty and special license plates. The bill:

- Establishes a cap of 125 specialty license plates and provides a process for the discontinuation of low performing specialty license plates and the addition of new specialty license plates.
- Authorizes DHSMV to issue specialty license plates for fleet and motor vehicle dealer vehicles.
- Creates 19 new specialty license plates and specifies the design of the plate and the distribution of the associated annual use fees.
- Revises provisions regarding existing specialty license plates and repeals specified discontinued specialty license plates.
- Creates two special use plates for recipients of the Purple Heart and Bronze Star.
- Repeals special license plates for former legislators and members of Congress.

The bill removes existing provisions from law that delineate the \$25 annual use fee for various specialty license plates. CS/HB 387 (2020), which is linked to this bill, establishes an annual use fee of \$25 for any specialty license plate unless the amount is otherwise specified in law.

According to DHSMV, the bill will have an indeterminate, negative fiscal impact on state government expenditures associated with the programming effort required for the specialty and special license plates provisions. See Fiscal Analysis section for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Specialty License Plates

Present Situation

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and 10 Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ Currently, there is no limit on the number of specialty license plates the Department of Highway Safety and Motor Vehicles (DHSMV) may issue nor the number of specialty license plates the Legislature may approve.

Requirements for Establishing Specialty License Plates

Section 320.08053, F.S., provides the statutory requirements to establish a specialty license plate. If a specialty license plate requested by an organization is approved by law, the organization submits its proposed art design to DHSMV as soon as practicable, but no later than 60 days after the act approving such plate becomes a law.²

Within 120 days following the specialty license plate becoming law, DHSMV must establish a method to issue a specialty license plate voucher allowing for the presale of such plate. The \$5 processing fee,³ the service charge and branch fee,⁴ and the annual use fee for the specialty license plate are charged for the voucher. All other applicable fees are charged at the time the license plate is issued.⁵

Within 24 months after establishing a presale specialty license plate voucher, the approved specialty license plate must record with DHSMV a minimum of 1,000 voucher sales before the license plate may be manufactured. If, at the conclusion of the 24-month presale period, the minimum sales requirement is not met, the specialty license plate is deauthorized and DHSMV discontinues the plate's development and the issuance of the presale vouchers. Upon deauthorization of the specialty license plate, a purchaser of the specialty license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply to DHSMV for a refund.⁶

Specialty License Plates, Generally

DHSMV is responsible for developing specialty license plates authorized in s. 320.08053, F.S.⁷ DHSMV must issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor, upon request and payment of the appropriate license tax and fees.⁸

Each request for a specialty license plate must annually be made to DHSMV or its authorized agent⁹ accompanied by the following tax and fees: the vehicle's required license tax,¹⁰ a processing fee of

¹ The annual use fees for specific specialty license plates are provided in s. 320.08056(4), F.S.

² Section 320.08053(1), F.S.

³ The processing fee is prescribed in s. 320.08056, F.S.

⁴ Service charges and branch fees are prescribed in s. 320.04, F.S.

⁵ Section 320.08053(2)(a), F.S.

⁶ Section 320.08053(2)(b), F.S.

⁷ Section 320.08056(1), F.S.

⁸ Section 320.08056(2), F.S.

⁹ DHSMV's authorized agents are the county tax collectors.

¹⁰ Motor vehicle license taxes are set forth in s. 320.08, F.S.

\$5,¹¹ a license plate fee,¹² and a license plate annual use fee as required for the specialty license plate.¹³

A request for a specialty license plate may be made any time during a vehicle's registration period. If a request is made for a specialty license plate to replace a current valid license plate, the specialty license plate must be issued with the appropriate decals attached with no license tax for the plate; however, all fees and service charges must be paid. If a request is made for a specialty license plate at the beginning of the registration period, the tax, together with all applicable fees and service charges, must be paid.

If a vehicle owner or lessee to whom DHSMV has issued a specialty license plate acquires a replacement vehicle within the owner's registration period, DHSMV authorizes a transfer of the specialty license plate to the replacement vehicle.¹⁴ The annual use fee or processing fee may not be refunded.¹⁵

Specialty license plates must bear the design required by law for the appropriate specialty license plate, and must conform to DHSMV's design specifications. All specialty license plates must be the same material and size as standard license plates issued for any registration period and may bear an appropriate slogan, emblem, or logo in a size and placement that conforms to DHSMV's design specifications.¹⁶

DHSMV must annually retain from the first proceeds derived from the annual use fees an amount sufficient to defray each specialty license plate's pro rata share of DHSMV's costs directly related to the specialty license plate program. Such costs include inventory costs, distribution costs, direct costs to DHSMV, costs associated with reviewing each organization's compliance with audit and attestation requirements,¹⁷ and any applicable increased costs of manufacturing the specialty license plate. The Department of Management Services must verify any cost increase to DHSMV related to the actual cost of the plate, including a reasonable vendor profit. The balance of the proceeds from the annual use fees collected for that specialty license plate are distributed as provided by law.¹⁸

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty license plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of registrations falls below 1,000 plates. This does not apply to collegiate license plates.^{19, 20}

DHSMV may discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services authorized to be funded from the annual use fee proceeds, if the organization does not meet the presale requirements,²¹ or pursuant to an organizational recipient's request. Organizations must notify DHSMV immediately to stop all warrants for plate sales if any of these conditions exist and must meet certain audit and attestation requirements for any period of operation during a fiscal year.²²

¹¹ The \$5 processing fee is deposited into the Highway Safety Operating Trust Fund.

¹² Section 320.06(1)(b), F.S., provides for a \$2.80 annual license plate replacement fee to defray the cost of replacing the license plate every 10 years.

¹³ Section 320.08056(3), F.S.

¹⁴ This is in accordance with s. 320.0609, F.S.

¹⁵ Section 320.08056(5), F.S.

¹⁶ Section 320.08056(6), F.S.

¹⁷ Specialty license plate audit and attestations requirements are in s. 320.08062, F.S.

¹⁸ Section 320.08056(7), F.S.

¹⁹ Collegiate license plates are established under s. 320.08058(3), F.S.

²⁰ Section 320.08056(8)(a), F.S.

²¹ Presale requirements are prescribed in s. 320.08053, F.S.

²² Section 320.08056(8)(b), F.S.

The organization that requested the specialty license plate may not redesign the specialty license plate unless the inventory of those plates has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at cost.²³

A specialty license plate annual use fee collected and distributed, or any interest earned from those fees, may not be used for commercial or for-profit activities or for general or administrative expenses (except as authorized by law), and may not be used to pay the cost of a required audit or report. The fees, and any interest earned, may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates.²⁴

The term “administrative expenses” means those expenditures considered direct operating costs of the organization, and include, but are not limited to:

- Administrative salaries of employees and officers of the organization who do not or cannot prove, via detailed daily time sheets that they actively participate in program activities.
- Bookkeeping and support services of the organization.
- Office supplies and equipment not directly utilized for the specified program.
- Travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose.
- Paper, printing, envelopes, and postage not directly associated with a specified program purpose.
- Miscellaneous expenses such as food, beverage, entertainment, and conventions.²⁵

The annual use fee from the sale of specialty license plates, the interest earned from those fees, or any fees received by an agency as a result of the sale of specialty license plates may not be used for the purpose of marketing to or lobbying, entertaining, or rewarding an employee of a governmental agency responsible for the sale and distribution of specialty license plates, or an elected member or employee of the Legislature.²⁶

The application form for a specialty license plate must provide the applicant the option to instruct DHSMV to provide his or her name, address, and renewal date to the sponsoring organization.²⁷

Audits and Attestations

All organizations receiving annual use fee proceeds from DHSMV are responsible for ensuring that proceeds are used in accordance with state law.²⁸ Any organization not subject to audit pursuant to the Florida Single Audit Act²⁹ must annually attest, under penalties of perjury, that such proceeds were used in compliance with applicable state laws.³⁰

Any organization subject to audit pursuant to the Florida Single Audit Act must submit an audit report in accordance with the Auditor General’s rules. The annual attestation must be submitted to DHSMV for review within nine months after the end of the organization’s fiscal year.³¹

Within 120 days after receiving an organization’s audit or attestation, DHSMV must determine which recipients of revenues from specialty license plate annual use fees have not complied with the appropriate statutory provisions. In determining compliance, DHSMV may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.³²

²³ Section 320.08056(9), F.S.

²⁴ Section 320.08056(10)(a), F.S.

²⁵ Section 320.08056(10)(b), F.S.

²⁶ Section 320.08056(11), F.S.

²⁷ Section 320.08056(12), F.S.

²⁸ Section 320.08062(1)(a), F.S.

²⁹ Section 215.97, F.S.

³⁰ Section 320.08062(1)(b), F.S.

³¹ Section 320.08062(1)(c), F.S.

³² Section 320.08062(2)(a), F.S.

DHSMV must discontinue the distribution of revenues to any organization failing to submit the required documentation, but may resume distribution of the revenues upon receipt of the required information.³³

If DHSMV or its designee determines that an organization has not complied with or has failed to use the revenues in accordance with applicable law, DHSMV must discontinue the distribution of the revenues to the organization. DHSMV must notify the organization of its findings and direct the organization to make the changes necessary in order to comply. If the officers of the organization sign an affidavit under penalties of perjury stating they acknowledge the findings of DHSMV and attest they have taken corrective action and that the organization will submit to a follow-up review by DHSMV, then DHSMV may resume the distribution of revenues.³⁴

If an organization fails to comply with DHSMV's recommendations and corrective actions, the revenue distributions must be discontinued until completion of the next regular session of the Legislature. DHSMV must notify the President of the Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld. If the Legislature does not provide direction to the organization and DHSMV regarding the status of the undistributed revenues, DHSMV must deauthorize the plate and the undistributed revenues are immediately deposited into the Highway Safety Operating Trust Fund.³⁵

DHSMV or its designee has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.³⁶

Fleet/Dealer Specialty License Plates

Section 320.06, F.S., provides requirements for the design of various license plates and requires dealer license plates to be imprinted with "Florida" at the top and "Dealer" at the bottom.

Current law provides for permanent registration for fleet license plates.³⁷ The term "fleet" means nonapportioned motor vehicles owned or leased by a company and used for business purposes.³⁸ According to DHSMV, in order to participate in the fleet vehicle program, a company must have a minimum of 200 vehicles or a minimum of 25 trailers or semitrailers used exclusively to haul agricultural products.³⁹

The owner or lessee of a fleet of motor vehicles must, upon application in the manner and at the time prescribed, and upon DHSMV approval and payment of the appropriate license tax, be issued permanent fleet license plates. All vehicles with a fleet license plate must have the company's name or logo and unit number displayed so that they are readily identifiable.⁴⁰

Fleet license plates must have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top. The plates must conform in all respects to ch. 320, F.S., except as specified.⁴¹

Effect of Proposed Changes

The bill increases the required number of voucher sales needed before DHSMV will manufacture a specialty license plate, increasing the number from 1,000 to 3,000. The bill requires an out-of-state college or university license plate to meet a minimum sale of 4,000 vouchers.

³³ Section 320.08062(2)(b), F.S.

³⁴ Section 320.08062(2)(c), F.S.

³⁵ Section 320.08062(2)(d), F.S.

³⁶ Section 320.08062(3), F.S.

³⁷ Section 320.0657, F.S.

³⁸ Section 320.0657(1), F.S.

³⁹ Email from Kevin Jacobs, Deputy Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: HB 1135-Specialty License Plates, Jan. 9, 2020. (Copy on file with Transportation & Infrastructure Subcommittee).

⁴⁰ Section 320.0657(2)(a), F.S.

⁴¹ Section 320.0657(2)(b), F.S.

The bill provides that new specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08056(4), F.S.,⁴² provided all requirements, including the presale requirement, have been met. If the next awaiting specialty license plate has not met the presale requirement, DHSMV must proceed in the order provided in law to identify the next qualified specialty license plate that has met the presale requirement. DHSMV must cycle through the list in statutory order.

If the Legislature has approved 125 or more specialty license plates, DHSMV may not make any new specialty license plates available for design or issuance until a sufficient number of plates are discontinued⁴³ so that the number of plates being issued is reduced to fewer than 125. The 125-license plate limit applies to all specialty license plates, including those above the minimum sales threshold and those exempt from the threshold.

The bill removes existing \$25 annual use fees for various specialty license plates because CS/HB 387 (2020), which is linked to this bill, establishes an annual use fee of \$25 for all specialty license plates, unless the amount is otherwise specified in law.

The bill allows a vehicle owner or lessee issued a specialty license plate that has been discontinued by DHSMV to keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period⁴⁴ and requires the owner or lessee to pay all other applicable registration fees. However, the owner or lessee is exempt from paying the applicable specialty license plate fee for the remainder of the 10-year license plate replacement period.

If DHSMV discontinues issuance of a specialty license plate, all annual use fees held or collected by the department must be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, DHSMV must retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuing the plate. The remaining funds are distributed to the appropriate organization or organizations.⁴⁵ If an organization no longer exists, DHSMV must deposit any undistributed funds into the Highway Safety Operating Trust Fund.

The bill requires DHSMV to discontinue the specialty license plate with the fewest number of plates in circulation, including license plates exempt from a statutory sales requirement on January 1 of each year. For the specialty license plates in the bottom 10 percent of sales, the bill requires DHSMV to mail a warning letter to the sponsoring organizations.

Effective July 1, 2023, the bill requires DHSMV to discontinue the issuance of approved specialty license plates if the number of valid registrations falls below 3,000 plates for 12 consecutive months. The threshold for out-of-state college or university license plates is 4,000. In addition to the existing exemption from the 3,000 plate sales requirement for in-state collegiate license plates, the bill provides exceptions from the discontinuance requirement for license plates:

- For institutions in and entities of the State University System;
- With statutory eligibility limitations for purchase;
- For which the annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention; and
- Florida Professional Sports Team license plates.⁴⁶

The bill authorizes out-of-state college or university license plates and provides that the recipient organization must have established an endowment based in Florida for the purpose of providing scholarships to Florida residents meeting the statutory requirements, and provide documentation to DHSMV that the organization obtained the college's or university's consent to use an appropriate image on a license plate.

⁴² Section 320.08056(4), F.S., lists specific specialty license plates and their annual use fees.

⁴³ Specialty license plates will be discontinued pursuant to s. 320.08056(8), F.S.

⁴⁴ License plates are issued for a 10-year period pursuant to s. 320.06(1)(b)1., F.S.

⁴⁵ Distributions to recipient organizations are pursuant to s. 320.08058, F.S.

⁴⁶ Florida Professional Sports Team license plates are established in s. 320.08058(9), F.S.

The bill prohibits any entity from using specialty license plate revenue for lobbying. The current prohibition is limited to agencies.

The bill requires DHSMV to audit any specialty license plate revenue recipient every three years if the organization is not subject to the Florida Single Audit Act. The purpose of this audit is to ensure that specialty license plate proceeds have been used in compliance with Florida Statutes.

The bill authorizes “Dealer” and “Fleet” specialty license plates. It provides that a dealer specialty license plate is not required to say “dealer” at the bottom of the license plate. The bill provides that for the additional annual use fee, fleet companies may purchase specialty license plates in lieu of the standard fleet license plates. Fleet companies are responsible for all costs associated with the specialty license plates, including all annual use fees, processing fees, fees associated with switching license plate types, and other applicable fees. The bill establishes similar requirements for dealer specialty license plates. A dealer or fleet specialty license plate must include the letters “DLR” or “FLT” on the right side of the license plate. Dealer and fleet specialty license plates must be ordered directly through DHSMV.

The bill removes the American Red Cross plate, Donate Organs Pass It On plate, St. Johns River plate, and Hispanic Achievers plate from law as these plates have been discontinued.

Special Olympics Florida License Plate

Present Situation

Section 320.08058(7), F.S., creates the Special Olympics Florida license plate with an annual use fee of \$15. The license plate contains the official Special Olympics Florida logo with “Florida” centered at the bottom of the plate and “Everyone Wins” centered at the top of the plate.

Effect of Proposed Changes

The bill redesigns the Special Olympics Florida license plate with “Florida” centered at the top of the plate and “Be a Fan” centered at the bottom of the plate.

Florida Golf License Plate

Present Situation

Section 320.08058(35), F.S., creates the Florida Golf license plate with an annual use fee of \$25. DHSMV distributes the license plate’s annual use fee to the Dade Amateur Golf Association annually as follows:

- Up to 15 percent of the proceeds may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program.
- The Dade Amateur Golf Association must receive the first \$80,000 in proceeds for the operation of youth golf programs in Miami-Dade County. Thereafter, 15 percent of the proceeds must be provided to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County.
- The remaining proceeds must be made available for grants to nonprofit organizations to operate youth golf programs and for marketing the Florida Golf license plate.

Effect of Proposed Changes

The bill provides that 30 percent of the proceeds, instead of the current 15 percent, is allocated to the Dade Amateur Golf Association for operating youth golf programs in Miami-Dade County and authorizes the use of these proceeds for expenditures necessary to comply with the Americans with Disabilities Act.

Live the Dream License Plate

Present Situation

Section 320.08058(48), F.S., creates the Live the Dream license plate with an annual use fee of \$25. Proceeds from the Live the Dream specialty license plate are distributed to the Dream Foundation, Inc., which retained the first \$60,000 in proceeds from the annual use fees as reimbursement for administrative costs, startup costs, and costs incurred in the license plate approval process. After those costs are reimbursed, up to 25 percent of the proceeds must be used for continuing promotion and marketing of the license plate and concept. The remaining funds must be distributed as follows:

- 25 percent equally among the sickle cell organizations that are Florida members of the Sickle Cell Disease Association of America, Inc., for programs providing research, care, and treatment for sickle cell disease.
- 25 percent to the Florida chapter of the March of Dimes for programs and services improving the health of babies through preventing birth defects and infant mortality.
- 10 percent to the Florida Association of Healthy Start Coalitions to decrease racial disparity in infant mortality and to increase healthy birth outcomes. Funding will be used by local Healthy Start Coalitions to provide services and increase screening rates for high-risk pregnant women, children under four years of age, and women of childbearing age.
- 10 percent to the Community Partnership for Homeless, Inc., for programs that provide relief from poverty, hunger, and homelessness.
- 5 percent to the Dream Foundation, Inc., for administrative costs directly associated with operations relating to the management and distribution of the proceeds.

Effect of Proposed Changes

The bill revises the distribution of funds for the Live the Dream license plate. The bill provides that the proceeds from the annual use fees are distributed to the Dream Foundation, Inc., to be used as follows:

- Up to 5 percent may be used to administer, promote, and market the license plate.
- At least 60 percent must be distributed equally among the sickle cell organizations that are Florida members of the Sickle Cell Disease Association of America, Inc.
- At least 30 percent must be distributed to Chapman Partnership, Inc.⁴⁷
- Up to 5 percent may be distributed by DHSMV on behalf of The Dream Foundation, Inc. to the Martin Luther King, Jr. Center for Nonviolent Social Change, Inc., as a royalty for the use of the image of Dr. Martin Luther King, Jr.

In God We Trust License Plate

Present Situation

Section 320.08058(66), F.S., creates the In God We Trust license plate with an annual use fee of \$25. The annual use fees are distributed to the In God We Trust Foundation, Inc., to fund educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. In addition, funds must be distributed to other non-profit organizations that may apply for grants and scholarships and to provide educational grants to public and private schools to promote the historical and religious significance of American and Florida history. The In God We Trust Foundation, Inc., must distribute the license plate annual use fees in the following manner:

- The In God We Trust Foundation, Inc., retains all revenues from the sale of the license plates until all startup costs for developing and establishing the license plate have been recovered.
- 10 percent of the funds received by the In God We Trust Foundation, Inc., must be spent on administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.
- All remaining funds must be expended by the In God We Trust Foundation, Inc., for programs.

Effect of Proposed Changes

The bill revises the distribution of the annual use fees to allow the foundation to use up to 10 percent of the proceeds to offset marketing, administration, and promotion, and the remainder of the proceeds to address the needs of the military community and the public safety community; provide educational grants and scholarships to foster self-reliance and stability in Florida's children; and provide education

⁴⁷ In 2011, Community Partnership for the Homeless changed its name to Chapman Partnership.

in public and private schools regarding the historical significance of religion in American and Florida history.

Fallen Law Enforcement Officer License Plate

Present Situation

Section 320.08058(80), F.S., creates the Fallen Law Enforcement Officers license plate with an annual use fee of \$25. The annual use fees are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate. The remainder of the proceeds must be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings must be used for the operation of the Police and Kids Foundation, Inc.

Effect of Proposed Changes

The bill maintains the 10 percent cap on the use of the proceeds for marketing the license plate, and requires that all remaining proceeds be used for the operations, activities, programs, and projects of the Police and Kids Foundation, Inc.

Beat Childhood Cancer License Plate

Present Situation

Neuroblastoma (Nb) is a cancer that affects children. It is among the most common childhood tumors, and typically affects children under five years old. The majority of childhood Nb cases are aggressive, showing survival rates of less than 60 percent with standard chemotherapy, and a 50 percent relapse rate. Once relapsed, there is currently no curative treatment, and for those under five years old, the survival rate is less than 10 percent.⁴⁸ Beat Nb's mission is to support Nb cancer research and to raise awareness of the disease.⁴⁹

The Ryan Callahan Foundation's goal is to give the families of children battling cancer an exciting escape, far from their daily hardships.⁵⁰

Effect of Proposed Changes

The bill creates the Beat Childhood Cancer license plate, bearing DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Beat Childhood Cancer" appears at the bottom of the plate. The annual use fees from the Beat Childhood Cancer license plate must be distributed as follows:

- 75 percent of the proceeds are distributed to Beat Nb, Inc., which may use up to 10 percent of its proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. All remaining proceeds must be used by Beat Nb, Inc., to fund pediatric cancer treatment and research.
- 25 percent of the proceeds are distributed to the Ryan Callahan Foundation, Inc., to be used by the corporation to fund pediatric cancer treatment and research.

Auburn University License Plate

Present Situation

The Tampa Bay Auburn Club is an officially chartered group of Auburn University Alumni and Friends. Its stated mission is to encourage more top Tampa Bay area students to attend Auburn University and to foster the spirit of Auburn University throughout the Tampa Bay Area.⁵¹ The Tampa Bay Auburn Club currently administers an endowed scholarship.⁵²

Effect of Proposed Changes

⁴⁸ Beat Nb, Inc. *Neuroblastoma*, <https://beatnb.org/neuroblastoma/> (Last visited Jan. 8, 2020).

⁴⁹ Beat Nb, Inc. *Our Mission and Vision*, <https://beatnb.org/about-us/> (Last visited Jan. 8, 2020).

⁵⁰ Ryan Callahan Foundation, <https://ryancallahanfoundation.org/> (Last visited Jan. 8, 2020).

⁵¹ Tampa Bay Auburn Club, Inc., *Tampa Bay Auburn Club*, <http://tampabayauburnclub.com/> (Last visited Jan. 8, 2020).

⁵² Tampa Bay Auburn Club, *Scholarships*, <http://tampabayauburnclub.com/scholarships/> (Last visited Jan. 8, 2020).

The bill creates the Auburn University license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “War Eagle” appears at the bottom of the plate. The bill distributes the annual use fees from the Auburn University specialty license plates to the Tampa Bay Auburn Club for awarding scholarships to Florida residents attending Auburn University. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program⁵³ and must use the scholarship funds for tuition and other expenses related to attending Auburn University.

Ducks Unlimited License Plate

Present Situation

Ducks Unlimited is a waterfowl and wetlands conservation organization founded in 1937. The mission of Ducks Unlimited is habitat conservation.⁵⁴ Since 1985, Ducks Unlimited has worked to conserve more than 29,000 acres of Florida wetlands.⁵⁵

Effect of Proposed Changes

The bill creates a Ducks Unlimited license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Conserving Florida Wetlands” appears at the bottom of the plate. The annual use fee is distributed to Ducks Unlimited, Inc., to be used as follows:

- Up to 5 percent of the proceeds may be used for administrative costs and marketing of the plate.
- At least 95 percent of the proceeds must be used in Florida to support Ducks Unlimited’s mission and efforts to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

Donate Life Florida License Plate

Present Situation

Donate Life Florida is a non-profit organization contracted by the Agency for Health Care Administration to create the state’s organ, tissue, and eye donor registry.⁵⁶

Effect of Proposed Changes

The bill creates the Donate Life Florida license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate, and “Donors Save Lives” appears at the bottom of the plate. The annual use fees from the Donate Life Florida license plate are distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. All remaining proceeds must be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry, which is Florida’s official donor registry.

Florida State Beekeepers Association License Plate

Present Situation

The Florida State Beekeepers Association is dedicated to keeping Florida apiculture strong and healthy and is the major voice for the state's beekeeping industry. Its mission is to:

- Provide resources for the improvement of beekeeping by using proven techniques and procedures in the management of honeybees and share this knowledge with everyone interested in the art of beekeeping.
- Promote the development of practical beekeeping methods in the state of Florida.
- Act in the interest of Florida beekeepers in advocating for and carrying on statewide beekeeping affairs.

⁵³ The Florida Bright Futures Scholarship Program is created pursuant to s. 1009.531, F.S.

⁵⁴ Ducks Unlimited, *About Ducks Unlimited*, <https://www.ducks.org/About-DU?po=footer-m> (last visited Jan. 8, 2020).

⁵⁵ Ducks Unlimited, *Florida Conservation Projects*, <http://www.ducks.org/florida/florida-conservation-projects> (Last visited Jan. 8, 2020).

⁵⁶ Donate Life Florida, *About the Joshua Abbott Organ and Tissue Donor Registry*, <https://www.donatelifeflorida.org/about/> (Last visited Jan. 8, 2020).

- Act as a medium for and to aid in cooperative and mutual beekeeping methods.
- Act as the representative of the Florida beekeepers in state and national beekeeping affairs.⁵⁷

Effect of Proposed Changes

The bill creates the Florida State Beekeepers Association license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Save the Bees” appears at the bottom of the plate. The annual use fees from the sale of the Florida State Beekeepers license plate are distributed to the Florida States Beekeepers Association. The association may use up to 10 percent of the proceeds for administrative, promotional, and marketing costs of the plate and all remaining proceeds must be used to fund outreach and education to raise awareness of the importance of beekeeping to Florida agriculture, and to fund honeybee research and husbandry. The association’s board of managers must approve and is accountable for all such expenditures.

Rotary License Plate

Present Situation

Rotary is a global network of 1.2 million neighbors, friends, leaders, and problem-solvers who come together to make positive, lasting change in communities at home and abroad.⁵⁸ Founded in 1990, the Community Foundation of Tampa Bay is dedicated to helping individuals in Hillsborough, Pinellas, Pasco, and Hernando counties. The Foundation functions as a partnership between donors, nonprofits, community and business leaders, professional advisors, volunteers, and the residents of its four-county region.⁵⁹

Effect of Proposed Changes

The bill creates the Rotary license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Rotary” appears at the bottom of the plate. The license plate will also bear the Rotary International wheel emblem.

The annual use fees from the sale of the Rotary license plate are distributed to the Community Foundation of Tampa Bay, Inc., to be distributed as follows:

- Up to 10 percent of the proceeds for administrative costs and for marketing the plate;
- 10 percent of the proceeds are distributed to Rotary’s Camp Florida for direct support to all programs and services provided to special needs children who attend the camp; and
- All remaining proceeds are distributed, proportionally based on sales, to each Rotary district in the state to support Rotary youth programs in Florida.

Florida Bay Forever License Plate

Present Situation

The Florida National Parks Association, Inc., (FNPA) is the official not for profit entity of Everglades National Park, Biscayne National Park, Dry Tortugas National Park, and Big Cypress National Preserve. The purpose of the FNPA is to generate additional revenues to help supplement the park service’s budget as well as support educational, interpretive, and historical and scientific research. The FNPA also operates bookstores within the parks to help generate revenues as well as providing a visitor information services function on behalf of the National Park Service.⁶⁰

Effect of Proposed Changes

The bill creates the Florida Bay Forever license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Florida Bay Forever” appears at the bottom of the plate. The annual use fees from the sale of the Florida Bay Forever license plate are distributed to the FNPA. FNPA may use up to 10 percent of the proceeds for administrative costs and marketing the plate and all remaining proceeds must be used to supplement the Everglades National Park budget

⁵⁷ Florida State Beekeepers Association, <https://flstatebeekeepers.com/> (Last visited Jan. 8, 2020).

⁵⁸ Rotary, *Who We Are*, <https://www.rotary.org/en/about-rotary> (Last visited Jan. 8, 2020).

⁵⁹ Community Foundation of Tampa Bay, *What We Do*, <https://www.cftampabay.org/what-we-do/> (Last visited Jan. 8, 2020).

⁶⁰ Florida National Parks Association Website, <https://floridanationalparksassociation.com/> (Last visited Jan. 8, 2020).

and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

Bonefish and Tarpon Trust License Plate

Present Situation

The Bonefish and Tarpon Trust's mission is to conserve and restore bonefish and tarpon fisheries and habitats through research, stewardship, education, and advocacy.⁶¹

Effect of Proposed Changes

The bill creates a Bonefish and Tarpon Trust license plate, bearing DHSMV-approved colors and designs. The word "Florida" appears at the top of the plate and "Bonefish and Tarpon Trust" appears at the bottom of the plate. The annual use fees from the sale of the Bonefish and Tarpon Trust license plate are distributed to the Bonefish and Tarpon Trust. The trust may use up to 10 percent of the proceeds to promote and market the license plate and all remaining proceeds must be used to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

Medical Professionals Who Care License Plate

Present Situation

Based in Gainesville, Florida Benevolent Group, Inc., assists students in obtaining a medical education through a college or certificate program. The organization's desire is to offer assistance to individuals struggling to make it into school or to stay in school.⁶²

Effect of Proposed Changes

The bill creates a Medical Professionals Who Care license plate, bearing DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "Medical Professionals Who Care" appears at the bottom of the plate. The annual use fees from the sale of the Medical Professionals Who Care license plate are distributed to Florida Benevolent Group, Inc. Up to 10 percent of the proceeds may be used for administrative costs, marketing, and promoting the plate and all remaining proceeds must be used to assist low-income individuals in obtaining a medical education and career through scholarships, support, and guidance.

University of Georgia License Plate

Present Situation

Founded in 1946 as the Georgia Alumni Association of Jacksonville, the Georgia Bulldog Club of Jacksonville is America's largest bulldog club.⁶³ In 1988, the club established the Vince Dooley Scholarship Fund to award scholarships to attend the University of Georgia to students from Duval, Nassau, St. Johns, Clay, or Baker counties based on academic and economic need.⁶⁴

Effect of Proposed Changes

The bill creates a University of Georgia license plate, bearing DHSMV-approved colors and design. The word "Florida" appears at the top of the plate and "University of Georgia" appears at the bottom of the plate. The annual use fees from the University of Georgia specialty license plate are distributed to the Georgia Bulldog Club of Jacksonville. The club must distribute the proceeds received for awarding scholarships to Florida residents attending the University of Georgia. Students receiving the scholarship must be eligible for the Florida Bright Futures Scholarship Program and use the scholarship funds for tuition and other expenses related to attending the University of Georgia.

Highwaymen License Plate

⁶¹ Bonefish and Tarpon Trust, *BTT Mission*, <https://www.bonefishtarpontrust.org/btt-mission> (Last visited Jan. 8, 2020).

⁶² Florida Benevolent Group, *About*, <https://www.floridabenevolentgroup.org/> (Last visited Jan. 8, 2020).

⁶³ Georgia Bulldog Club of Jacksonville, *Welcome to the Home of the Georgia Bulldog Club of Jacksonville*, <https://jaxbulldogs.com/> (Last visited Jan. 8, 2020).

⁶⁴ Georgia Bulldog Club of Jacksonville, *Scholarship*, <https://jaxbulldogs.com/scholarship-fund/> (Last visited Jan. 8, 2020).

Present Situation

From the early 1950s through the 1980s, a group of 26 African-American artists, known as the “Florida Highwaymen,” used vivid and bright colors to display the beautiful untouched Florida landscape. They painted from their garages and backyards on inexpensive Upson board and, on the weekends, traveled and sold their paintings to hotels, offices, businesses, and individuals for approximately \$25 apiece. Currently, the market for an original work of art by a Florida Highwayman can bring \$5,000 or more. Some of the Highwaymen who are still living have resumed painting to meet the continuing demand for their work.⁶⁵

In 1984, the Florida Legislature authorized school districts to create local education foundations to raise private funds for programs to support students, teachers, and public schools in their respective districts. In 1990, the St. Lucie County Education Foundation was organized as a direct-support organization of the St. Lucie County School Board. The St. Lucie County Education Foundation is a non-profit organization that advances K-12 public education in St. Lucie County by increasing the capacity and resources of the district in partnership with key stakeholders.⁶⁶

Effect of Proposed Changes

The bill creates a Highwaymen license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Highwaymen” appears at the bottom of the plate. The annual use fees from the Highwaymen specialty license plate are distributed to the City of Fort Pierce, subject to a city resolution designating the city as the license plate’s fiscal agent. The city may use up to 10 percent of the fees for administrative costs and marketing the license plate and must use the remainder of the fees as follows:

- Before completion of the construction of the Highwaymen Museum and African-American Cultural Center, the city must distribute at least 15 percent of the proceeds to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County. All remaining proceeds must be used by the city to fund the construction of the Highwaymen Museum and African-American Cultural Center.
- Upon completion of construction of the Highwaymen Museum and African American Cultural Center, the city must distribute at least 10 percent to the St. Lucie Education Foundation, Inc., to fund area education and art projects within St. Lucie County. All remaining proceeds must be used by the city to fund the day-to-day operations of the Highwaymen Museum and African-American Cultural Center.

Dan Marino Campus License Plate

Present Situation

Based in Fort Lauderdale, the Dan Marino Foundation, Inc., is a nonprofit organization dedicated to improving the lives of persons with autism or other developmental disabilities.⁶⁷

Effect of Proposed Changes

The bill creates a Dan Marino Campus license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Marino Campus” appears at the bottom of the plate. The annual use fees from the sale of the Dan Marino Campus license plate are distributed to the Dan Marino Foundation, Inc. Up to 10 percent of the proceeds may be used for administrative costs and marketing the plate and all remaining proceeds must be used to assist Floridians with developmental disabilities in becoming employed, independent, and productive; to promote awareness of such services; and to promote and fund education scholarships related to such services.

Orlando City Soccer License Plate

⁶⁵ Florida Highwaymen, available at <http://www.floridahighwaymenpaintings.com/> (last visited Jan. 8, 2020).

⁶⁶ Education Foundation, *About Us*, available at <https://www.educationfoundationstlucie.org/p/3/about-us#.WjFxDGhSyUk> (Last visited Jan. 8, 2020).

⁶⁷ Dan Marino Foundation Website. <https://danmarinofoundation.org/> (Last visited Jan. 8, 2020).

Present Situation

Section 320.08058(9), F.S., provides that Florida Professional Sports Team license plates must bear DHSMV-approved colors and design and must include the official league or team logo or both, as appropriate, for each team. The word “Florida” must appear at the top of the plate. The annual use fee is distributed as follows:

- 55 percent of the proceeds must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity (DEO), to be used solely to attract and support major sports events in this state.
- The remaining proceeds must be allocated to Enterprise Florida, Inc., and must be deposited into the Professional Sports Development Trust Fund within DEO. These funds must be used by Enterprise Florida, Inc., to:
 - Promote the economic development of the sports industry;
 - Distribute licensing and royalty fees to participating professional sports teams;
 - Promote education programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards;
 - Partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement;
 - Institute a grant program for communities bidding on minor sporting events that create an economic impact for the state;
 - Distribute funds to Florida-based charities designated by Enterprise Florida, Inc., and the participating professional sports teams; and
 - Fulfill the sports promotion responsibilities of DEO.

The proceeds from the Professional Sports Development Trust Fund may be used for operational expenses of Enterprise Florida, Inc., and financial support of the Sunshine State Games.

There are nine Florida Professional Sports Team specialty license plates available for purchase: Florida Panthers, Miami Heat, Tampa Bay Buccaneers, Jacksonville Jaguars, Miami Marlins, Tampa Bay Lightning, Miami Dolphins, Orlando Magic, and Tampa Bay Rays.⁶⁸

Orlando City Soccer Club was formed in 2010 and was awarded a Major League Soccer franchise in November 2013.⁶⁹

Effect of Proposed Changes

The bill creates an Orlando City Soccer Club license plate, bearing DHSMV-approved colors and design. The new license plates will display the word “Florida” at the top of the plate and must include the official league or team logo, or both. The annual use fee from the Orlando City Soccer license plate is distributed pursuant to the distribution of Florida Professional Sports Team license plates provided in current law.

Coastal Conservation Association License Plate

Present Situation

Coastal Conservation Association Florida (CCAF) is a statewide, non-profit marine organization working in an advocacy role to protect the state’s marine resources and the interests of saltwater anglers. It is comprised of 30 local chapters from Key West to Pensacola and it supports resource-based law enforcement, access to recreational fishing, and fishery regulations to protect state and federal fish stocks. CCAF is one of the 17 state chapters of the Coastal Conservation Association.⁷⁰

Effect of Proposed Changes

⁶⁸ Department of Highway Safety and Motor Vehicles, *Specialty License Plates*, available at: <https://www.flhsmv.gov/motor-vehicles-tags-titles/personalized-specialty-license-plates/specialty-license-plates/> (Last visited Jan. 14, 2019).

⁶⁹ Orlando City Soccer Club Website, *History*, <https://www.orlandocitysc.com/club/history> (Last visited Jan. 8, 2020).

⁷⁰ Coastal Conservation Association Florida, <https://www.ccaflorida.org/> (Last visited Jan. 8, 2020).

The bill creates the Coastal Conservation Association license plate. The license plate must bear DHSMV-approved colors and design. The new license plates will display the word “Florida” at the top of the plate and “Conserve Florida’s Fisheries” at the bottom of the plate. The annual use fee is distributed to CCAF to support the mission and efforts of CCAF for habitat enhancement and restoration, saltwater fisheries conservation, and education; to advise the public on the conservation of marine resources; and to promote and enhance the present and future availability of those coastal resources for the benefit and enjoyment of the public. CCAF may use up to 10 percent of the proceeds for administrative costs and up to 10 percent of the proceeds to promote and market the plate.

Daughters of the American Revolution License Plate

Present Situation

The National Society Daughters of the American Revolution (DAR) was founded October 11, 1890, by a group of women in Washington, D.C., after being excluded from the men’s organizations to celebrate the women’s ancestors who fought during the Revolutionary War. The objectives of the DAR are to continue the memory and spirit of men and women who achieved America’s independence, to educate the public, and to foster patriotism and love of country. Since its founding in 1890, DAR has admitted more than 950,000 members.⁷¹

Effect of Proposed Changes

The bill creates the Daughters of the American Revolution license plate. The license plate must bear the DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “Daughters of the American Revolution” appears at the bottom of the plate. The annual use fees are distributed to the Daughters of the American Revolution. Up to 10 percent of the proceeds may be used for promoting and marketing the plate. The remainder of the proceeds must be used by the organization to promote patriotism, preserve American history, and secure America’s future through educational programs for local public and private K-12 students and scholarships and other educational funding for underprivileged children.

Gadsden Flag License Plate

Present Situation

During the American Revolution, Colonel Christopher Gadsden of South Carolina had seen and liked a bright yellow banner with a hissing, coiled rattlesnake rising up in the center, and beneath the serpent the same words that appeared on the Striped Rattlesnake Flag – Don’t Tread On Me. Colonel Gadsden made a copy of this flag and submitted the design to the Provincial Congress in South Carolina.⁷²

The Florida Veterans Foundation is the direct-support organization of the Florida Department of Veterans’ Affairs. The Foundation’s mission is to provide educational and outreach programs that will seek out and help veterans with suicide prevention and veterans with an opioid addiction recovery, provide a statewide veterans charity registry, and register veterans for U.S. Department of Veterans Affairs benefits.⁷³

Effect of Proposed Changes

The bill creates the Gadsden Flag license plate, which must replicate the color, layout, and design of the Gadsden Flag. The word “Florida” must appear at the top of the plate, and the words “Don’t Tread on Me” must appear at the bottom of the plate. The annual use fees are distributed to the Florida Veterans Foundation, Inc., and must be used to benefit veterans. Up to 10 percent of the proceeds may be used for continuing promotion and marketing of the license plate.

America the Beautiful License Plate

Present Situation

⁷¹ Daughters of the American Revolution, *DAR History*, <https://www.dar.org/national-society/about-dar/dar-history> (last visited January 8, 2020).

⁷² <http://www.usflag.org/history/gadsden.html> (Last visited Jan. 8, 2020).

⁷³ Florida Veterans Foundation, *About Florida Veterans Foundation*, <https://helpflvets.org/about/> (Last visited Jan. 14, 2020).

The America the Beautiful Fund is the fictitious name of Live Laugh Love Give, Inc.⁷⁴ Based in Tampa, this organization is a registered Florida nonprofit corporation.⁷⁵

Effect of Proposed Changes

The bill creates the America the Beautiful license plate, bearing DHSMV-approved design and colors. The word “Florida” appears at the top of the plate and “America the Beautiful” appears at the bottom of the plate. The annual use fees are distributed to the America the Beautiful Fund to be used as follows:

- 10 percent to offset administrative, marketing, and promotion costs.
- 90 percent for projects and programs teaching character, leadership, and service to Florida youth; the provision of support services and assistance to the military community; outdoor education advancing self-sufficiency; wildlife conservation; the maintenance of historic or culturally important sites, buildings, structures, or objects; and the development and modification of playgrounds, recreational areas, or other outdoor amenities, including disability access.

Tread Lightly Off Road Florida License Plate

Present Situation

The purpose of the Florida Off Road Foundation, Inc., is to provide and distribute funds from the foundation from the sale of the Florida Off Road license plates to help preserve and protect Florida’s off road natural habitat, environment, and other programs.⁷⁶

Effect of Proposed Changes

The bill creates the Tread Lightly Off Road Florida license plate, bearing DHSMV-approved colors and design. The word “Florida” must appear at the top of the plate and “Tread Lightly” must appear at the bottom of the plate. The annual use fees are distributed to the Florida Off Road Foundation, Inc. Up to 10 percent of the funds may be used for marketing of the plate, administrative costs directly associated with the creation of the plate, and administrative costs related to the distribution of proceeds, including annual audit services and compliance affidavit costs. The remainder of the funds must be used by the Florida Off Road Foundation, Inc., to fund qualified non-profit organizations that protect and preserve Florida’s natural off-road habitat, educate Floridians about responsible use of the off-road environment; support civilian volunteer programs to promote the use of off-road vehicles to assist law enforcement in situations such as search and rescue; support organized cleanups, trail maintenance, and restoration; or preserve Florida’s off-road culture.

University of Alabama License Plate

Present Situation

The Pensacola Bama Club is a non-profit, fan-based organization representing the University of Alabama National Alumni Association in Pensacola, Florida. The Bama Club is open to alumni, friends, and fans of the University of Alabama. One of the organization’s primary missions is to provide scholarships to deserving local high school students.⁷⁷

Effect of Proposed Changes

The bill creates a University of Alabama license plate, bearing DHSMV-approved colors and design. The word “Florida” appears at the top of the plate and “University of Alabama” appears at the bottom of the plate. The annual use fees from the University of Alabama specialty license plate are distributed to the Pensacola Bama Club, which uses the proceeds for awarding scholarships to Florida residents attending the University of Alabama. The proceeds must be deposited in the statutorily required endowment.⁷⁸ Students receiving the scholarship must be eligible for the Florida Bright Futures

⁷⁴ Department of State, Sunbiz.org, *Fictitious Name Detail, America the Beautiful Fund*, Registration No. G15000109272.

⁷⁵ Department of State, Sunbiz.org, *Detail by Entity Name, Live Laugh Love Give, Inc.*, Document No. N15000007314.

⁷⁶ Florida Off Road Foundation, Inc., Articles of Incorporation, Available at:

<http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2019%5C0214%5C40153624.tif&documentNumber=N19000001532> (Last visited Jan. 20, 2020).

⁷⁷ Pensacola Bama Club, *About*, <https://www.pensacolabamaclub.org/about> (Last visited Jan. 14, 2020).

⁷⁸ The endowment is required by s. 320.08056(12), F.S.

Scholarship Program and use the scholarship funds for tuition and other expenses related to attending the University of Alabama.

Preserve Vision

Present Situation

Preserve Vision Florida, formerly Prevent Blindness Florida, is a non-profit organization offering vision education and services to Florida's children and adults. Its focus is promoting a lifetime of healthy vision care through advocacy, education, screening, and research. Its mission is to promote healthy vision through vision awareness and education, vision screening, assistance to receive medical eye care, and advocacy for vision and medical eye care health service.⁷⁹ Prevent Blindness Florida changed its name to Preserve Vision Florida in May 2016.⁸⁰

Section 320.08068, F.S., creates a motorcycle specialty license plate with an annual use fee of \$20. The annual use fee is distributed to The Able Trust as its custodial agent. After paying administrative costs, The Able Trust distributes 20 percent of the proceeds to Prevent Blindness Florida.⁸¹

Effect of Proposed Changes

The bill updates the reference from "Prevent Blindness Florida" to "Preserve Vision Florida" to reflect the change in the organization's name.

Special License Plates for Former Federal and State Legislators

Present Situation

Section 320.0807, F.S., provides for special license plates for the Governor and federal and state legislators. Section 320.0807(5), F.S., provides that upon application by any current or former President of the Senate or current or former Speaker of the House of Representatives, and payment of the appropriate fees,⁸² DHSMV may issue a license plate stamped "Senate President" or "House Speaker" followed by the number assigned by DHSMV or chosen by the applicant if it is not already in use.

Upon application by any former member of Congress or former member of the state Legislature and payment of the appropriate registration fees, plus a one-time fee of \$500, DHSMV may issue a former member of Congress, State Senator, or State Representative a license plate stamped "Retired Congress," "Retired Senate," or "Retired House," as appropriate, for a vehicle owned by the former member. To qualify for a Retired Congress, Retired Senate, or Retired House prestige license plate, a former member must have served at least four years as a member of Congress, State Senator, or State Representative. \$450 of the one-time \$500 fee collected for the license plate is distributed to the Florida Historic Capitol's direct-support organization⁸³ to benefit the Florida Historic Capitol Museum, and the remaining \$50 is deposited into the Highway Safety Operating Trust Fund.

Effect of Proposed Changes

The bill repeals the authorization for the "Senate President" or "House Speaker" special license plate and special license plates for former members of Congress, former State Senators, and former State Representatives. Current members of Congress and legislators would still be authorized to receive special license plates indicating he or she is a member of Congress, State Senator, or State Representative.

⁷⁹ Preserve Vision Florida Website, <http://pvfla.org/about-us/> (Last visited Jan. 8, 2020).

⁸⁰ Department of State, Division of Corporations – Sunbiz.org, *Preserve Vision Florida, Inc.* (May 4, 2016), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0509%5C84865905.Tif&documentNumber=706503> (last visited Jan. 8, 2020).

⁸¹ Section 320.08068(4), F.S.

⁸² The fees are prescribed in s. 320.0805, F.S.

⁸³ The Florida Historic Capitol direct-support organization is established pursuant to s. 272.136, F.S.

Military Special License Plates

Present Situation

There are currently 21 special use license plates for motor vehicles authorized in s. 320.089, F.S. These special license plates are available to military service members or veterans for various types of service. Examples of military service special license plates include Veteran of the U.S. Armed Forces, World War II Veteran, and Woman Veteran. While anyone who pays the appropriate fees may purchase most specialty license plates, an applicant must provide proof of eligibility to obtain a special license plate.

Special license plates are each stamped with words consistent with the type of special license plate issued. A likeness of the related campaign medal or badge appears on the plate followed by the license plate serial number.

Applicants for special license plates are required to pay the annual license tax⁸⁴ with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.⁸⁵ The first \$100,000 in general revenue annually generated from the issuance of special use plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act.⁸⁶ Any additional general revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.⁸⁷

There are currently no special license plates authorized for motorcycles.

Purple Heart

The Purple Heart is awarded to members of the U.S. Armed Forces who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.⁸⁸

Bronze Star

The Bronze Star Medal is awarded to any person who, after December 6, 1941, while serving in any capacity with the U.S. Armed Forces, distinguishes himself or herself by heroic or meritorious achievement or service not involving participation in aerial flight.⁸⁹

Effect of Proposed Changes

The bill creates the Purple Heart motorcycle special license plate. Upon application to DHSMV and payment of the motorcycle license tax,⁹⁰ a resident who owns or leases a motorcycle that is not used for-hire or commercial use must be issued a Purple Heart motorcycle license plate if he or she provides documentation acceptable to DHSMV that he or she is a recipient of the Purple Heart medal. The Purple Heart motorcycle special license plate will be stamped with the term "Combat-wounded Veteran." The license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart Medal stamped on the license plate.

The bill creates the Bronze Star automobile special use license plate for recipients of the Bronze Star medal who provide proof of their qualification. The license plate will be stamped with the term "Bronze Star" and a likeness of the related campaign medal. Revenue generated from the sale of the Bronze Star special use license plate will be administered the same as the existing special use license plates, and deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund to support the State Veterans Homes Program.

⁸⁴ The annual license tax is provided in s. 320.08, F.S.

⁸⁵ Section 320.089(2)(a), F.S.

⁸⁶ Section 320.089(1)(b), F.S.

⁸⁷ *Id.*

⁸⁸ <http://www.purpleheart.org/HistoryOrder.aspx> (Last visited Jan. 8, 2020).

⁸⁹ Bronze Star Metal, <https://www.thebalance.com/bronze-star-medal-3344939> (Last visited Jan. 8, 2020).

⁹⁰ The license tax is provided in s. 320.08, F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 2 amends s. 320.0657, F.S., relating to permanent registration for fleet license plates.

Section 3 amends s. 320.08, F.S., relating to license taxes.

Section 4 amends s. 320.08053, F.S., relating to the establishment of specialty license plates.

Section 5 amends s. 320.08056, F.S., relating to specialty license plates.

Section 6 amends s. 320.08056, F.S., relating to specialty license plates, effective July 1, 2023.

Section 7 amends s. 320.08058, F.S., relating to specialty license plates.

Section 8 amends s. 320.08062, F.S., relating to audits and attestations required; annual use fees of specialty license plates.

Section 9 amends s. 320.08068, F.S., relating to motorcycle specialty license plates.

Section 10 amends s. 320.0807, F.S., relating to special license plates for Governor and federal and state legislators.

Section 11 creates s. 320.0875, F.S., relating to the Purple Heart special motorcycle license plate.

Section 12 amends s. 320.089, F.S., relating to certain special license plates.

Section 13 provides that except as otherwise expressly provided in this act, the act takes effect October 1, 2020, but only if HB 387 or similar legislation takes effect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Proceeds from the sale of the Orlando City Soccer Club specialty license plate will be deposited into the Professional Sports Development Trust Fund within DEO. To the extent that individuals choose to purchase this specialty license plate, there may be a positive, but indeterminate impact to the Professional Sports Development Trust Fund.

Revenue collected from the sale of the Purple Heart Motorcycle plate and the Bronze Star plate will be deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund within the Department of Veterans' Affairs. To the extent eligible individuals choose to purchase these specialty license plates, there may be an indeterminate, positive fiscal impact on these trust funds.

The Florida Historic Capitol Trust Fund and the Highway Safety Operating Trust Fund may experience a reduction in revenues due to the repeal of the authorization for "Senate President" or "House Speaker" special license plates and special license plates for former members of Congress, former State Senators, and former State Representatives. However, the amount of revenue is likely insignificant.

2. Expenditures:

According to DHSMV, creation or modification of specialty and special license plates require system programming to implement. Depending on the number of distributions tied to the plate, the amount

of programming may vary as will the resources needed to complete the changes. The average specialty/special license plate with a single distribution requires approximately 200-250 hours of programming, at a rate of \$35 to \$40 per hour.⁹¹ Additional distributions generally require an additional five to 10 hours per distribution.

There are currently over 120 specialty license plates and the bill establishes a cap of 125 for specialty license plates, creates 21 new license plates, and removes from law four plates that have been discontinued. Because the bill effectively creates a waiting list of authorized specialty plates, not all new license plates will be created at the same time. Therefore, the negative fiscal impact associated with programming efforts is indeterminate; however, DHSMV expects these costs will be absorbed within existing resources over time.

DHSMV states the cost to perform an audit every three years of each specialty license plate may result in a workload impact that can also be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Organizations receiving specialty license plate revenue may experience additional revenues associated with the sale of the organization's specialty license plates.

D. FISCAL COMMENTS:

Current law prohibits the redesign of a specialty license plate unless the inventory of the license plate has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at the department's cost.⁹² Special Olympics Florida may be required to purchase the remaining inventory of its specialty license plate at DHSMV's cost prior to the authorized redesign of its license plates.

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:

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

⁹¹ Email from Kevin Jacobs, Deputy Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles., RE., HBs 273/275 and 199/201, (January 24, 2019). Follow-up e-mail from Kevin Jacobs, Deputy Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE. Specialty License Plate Fiscal. (August 12, 2019). On file with the Transportation & Infrastructure Subcommittee.

⁹² Section 320.08056(9), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 162 through 172 of the bill require new specialty license plates awaiting issuance to be issued in the order they appear in s. 320.08056(4), F.S., which establishes the annual use fee for each specialty license plate. However, lines 205 through 297 of the bill strikes-through some of the license plate annual use fees. Therefore, it may be more appropriate to reference the order specialty license plates are listed in s. 320.08058, F.S.

Line 305 refers to the annual use fee in s. 320.08056(4), F.S.; however, CS/HB 387, which is linked to this bill, establishes annual use fees in 320.03086(3)(d) and (4). Therefore, it may be appropriate to correct this reference.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to license plates; amending s. 320.06,
3 F.S.; providing an exception to the design of dealer
4 license plates; amending s. 320.0657, F.S.; providing
5 an exception to the design of fleet license plates;
6 authorizing fleet companies to purchase specialty
7 license plates in lieu of standard fleet license
8 plates; requiring fleet companies to be responsible
9 for certain costs; amending s. 320.08, F.S.;
10 authorizing dealers to purchase specialty license
11 plates in lieu of standard graphic dealer license
12 plates; requiring dealers to be responsible for
13 certain costs; amending s. 320.08053, F.S.; revising
14 presale requirements for issuance of a specialty
15 license plate; amending s. 320.08056, F.S.; allowing
16 the Department of Highway Safety and Motor Vehicles to
17 authorize dealer and fleet specialty license plates;
18 providing requirements for such plates; deleting
19 provisions relating to annual use fees for certain
20 specialty license plates; revising provisions for
21 discontinuing issuance of a specialty license plate;
22 revising provisions relating to expenditure of annual
23 use fees and interest earned therefrom; prohibiting
24 annual use fees received by any entity from being used
25 for certain purposes; requiring certain organizations

26 | to establish endowments based in this state for
27 | providing scholarships to Florida residents and to
28 | provide documentation of consent to use certain
29 | images; amending s. 320.08058, F.S.; revising the
30 | design of the Special Olympics Florida specialty
31 | license plate; deleting certain specialty license
32 | plates; revising the distribution of annual use fees
33 | for certain specialty license plates; directing the
34 | department to develop certain specialty license
35 | plates; providing for distribution and use of fees
36 | collected from the sale of the plates; amending s.
37 | 320.08062, F.S.; directing the department to audit
38 | certain organizations that receive funds from the sale
39 | of specialty license plates; amending s. 320.08068,
40 | F.S.; requiring distribution of a specified percentage
41 | of motorcycle specialty license plate annual use fees
42 | to Preserve Vision Florida; amending s. 320.0807,
43 | F.S.; deleting provisions relating to special license
44 | plates for certain federal and state legislators;
45 | creating s. 320.0875, F.S.; providing for a special
46 | motorcycle license plate to be issued to a recipient
47 | of the Purple Heart; providing requirements for the
48 | plate; amending s. 320.089, F.S.; providing for a
49 | special license plate to be issued to a recipient of
50 | the Bronze Star; providing contingent effective dates.

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

Section 1. Paragraph (a) of subsection (3) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(3) (a) Registration license plates must be made of metal specially treated with a retroreflection material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Apportioned license plates must have the word "Apportioned" at the bottom and license plates issued for vehicles taxed under s.

76 | 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), or (14) must have
 77 | the word "Restricted" at the bottom. License plates issued for
 78 | vehicles taxed under s. 320.08(12) must be imprinted with the
 79 | word "Florida" at the top and the word "Dealer" at the bottom
 80 | unless the license plate is a specialty license plate as
 81 | authorized in s. 320.08056. Manufacturer license plates issued
 82 | for vehicles taxed under s. 320.08(12) must be imprinted with
 83 | the word "Florida" at the top and the word "Manufacturer" at the
 84 | bottom. License plates issued for vehicles taxed under s.
 85 | 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at
 86 | the bottom. Any county may, upon majority vote of the county
 87 | commission, elect to have the county name removed from the
 88 | license plates sold in that county. The state motto or the words
 89 | "Sunshine State" shall be printed in lieu thereof. A license
 90 | plate issued for a vehicle taxed under s. 320.08(6) may not be
 91 | assigned a registration license number, or be issued with any
 92 | other distinctive character or designation, that distinguishes
 93 | the motor vehicle as a for-hire motor vehicle.

94 | Section 2. Paragraph (b) of subsection (2) of section
 95 | 320.0657, Florida Statutes, is amended to read:

96 | 320.0657 Permanent registration; fleet license plates.—

97 | (2)

98 | (b) The plates, which shall be of a distinctive color,
 99 | shall have the word "Fleet" appearing at the bottom and the word
 100 | "Florida" appearing at the top unless the license plate is a

101 specialty license plate as authorized in s. 320.08056. The
 102 plates shall conform in all respects to the provisions of this
 103 chapter, except as specified herein. For additional fees as set
 104 forth in s. 320.08056, fleet companies may purchase specialty
 105 license plates in lieu of the standard fleet license plates.
 106 Fleet companies shall be responsible for all costs associated
 107 with the specialty license plate, including all annual use fees,
 108 processing fees, fees associated with switching license plate
 109 types, and any other applicable fees.

110 Section 3. Subsection (12) of section 320.08, Florida
 111 Statutes, is amended to read:

112 320.08 License taxes.—Except as otherwise provided herein,
 113 there are hereby levied and imposed annual license taxes for the
 114 operation of motor vehicles, mopeds, motorized bicycles as
 115 defined in s. 316.003(4), tri-vehicles as defined in s. 316.003,
 116 and mobile homes as defined in s. 320.01, which shall be paid to
 117 and collected by the department or its agent upon the
 118 registration or renewal of registration of the following:

119 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
 120 motor vehicle dealer, independent motor vehicle dealer, marine
 121 boat trailer dealer, or mobile home dealer and manufacturer
 122 license plate: \$17 flat. For additional fees as set forth in s.
 123 320.08056, dealers may purchase specialty license plates in lieu
 124 of the standard graphic dealer license plates. Dealers shall be
 125 responsible for all costs associated with the specialty license

126 plate, including all annual use fees, processing fees, fees
127 associated with switching license plate types, and any other
128 applicable fees.

129 Section 4. Section 320.08053, Florida Statutes, is amended
130 to read:

131 320.08053 Establishment of ~~Requirements for requests to~~
132 ~~establish~~ specialty license plates.—

133 (1) If a specialty license plate requested by an
134 organization is approved by law, the organization must submit
135 the proposed art design for the specialty license plate to the
136 department, in a medium prescribed by the department, as soon as
137 practicable, but no later than 60 days after the act approving
138 the specialty license plate becomes a law.

139 (2) (a) Within 120 days after ~~following~~ the specialty
140 license plate becomes ~~becoming~~ law, the department shall
141 establish a method to issue a specialty license plate voucher to
142 allow for the presale of the specialty license plate. The
143 processing fee as prescribed in s. 320.08056, the service charge
144 and branch fee as prescribed in s. 320.04, and the annual use
145 fee as prescribed in s. 320.08056 shall be charged for the
146 voucher. All other applicable fees shall be charged at the time
147 of issuance of the license plates.

148 (b) Within 24 months after the presale specialty license
149 plate voucher is established, the approved specialty license
150 plate organization must record with the department a minimum of

151 3,000 ~~1,000~~ voucher sales, or in the case of an out-of-state
152 college or university license plate, 4,000 voucher sales, before
153 manufacture of the license plate may commence. If, at the
154 conclusion of the 24-month presale period, the minimum sales
155 requirement has ~~requirements have~~ not been met, the specialty
156 plate is deauthorized and the department shall discontinue
157 development of the plate and discontinue issuance of the presale
158 vouchers. Upon deauthorization of the license plate, a purchaser
159 of the license plate voucher may use the annual use fee
160 collected as a credit towards any other specialty license plate
161 or apply for a refund on a form prescribed by the department.

162 (3) (a) New specialty license plates that have been
163 approved by law but are awaiting issuance under paragraph (b)
164 shall be issued in the order they appear in s. 320.08056(4)
165 provided that they have met the presale requirement. All other
166 provisions of this section must also be met before a specialty
167 license plate may be issued. If the next awaiting specialty
168 license plate has not met the presale requirement, the
169 department shall proceed in the order provided in s.
170 320.08056(4) to identify the next qualified specialty license
171 plate that has met the presale requirement. The department shall
172 cycle through the list in statutory order.

173 (b) If the Legislature has approved 125 or more specialty
174 license plates, the department may not make any new specialty
175 license plates available for design or issuance until a

176 sufficient number of plates are discontinued pursuant to s.
 177 320.08056(8) such that the number of plates being issued does
 178 not exceed 125. Notwithstanding s. 320.08056(8) (a), the 125-
 179 license-plate limit includes license plates above the minimum
 180 sales threshold and those exempt from that threshold.

181 Section 5. Subsection (12) of section 320.08056, Florida
 182 Statutes, is renumbered as subsection (13), subsections (2) and
 183 (4), paragraph (a) of subsection (10), and subsection (11) are
 184 amended, paragraphs (c) through (f) are added to subsection (8),
 185 and a new subsection (12) is added to that section, to read:

186 320.08056 Specialty license plates.—

187 (2) (a) The department shall issue a specialty license
 188 plate to the owner or lessee of any motor vehicle, except a
 189 vehicle registered under the International Registration Plan, a
 190 commercial truck required to display two license plates pursuant
 191 to s. 320.0706, or a truck tractor, upon request and payment of
 192 the appropriate license tax and fees.

193 (b) The department may authorize dealer and fleet
 194 specialty license plates. With the permission of the sponsoring
 195 specialty license plate organization, a dealer or fleet company
 196 may purchase specialty license plates to be used on dealer and
 197 fleet vehicles.

198 (c) Notwithstanding s. 320.08058, a dealer or fleet
 199 specialty license plate must include the letters "DLR" or "FLT"
 200 on the right side of the license plate. Dealer and fleet

201 specialty license plates must be ordered directly from the
 202 department.

203 (4) The following license plate annual use fees shall be
 204 collected for the appropriate specialty license plates:

205 ~~(a) Manatee license plate, \$25.~~

206 (a) ~~(b)~~ Challenger/Columbia license plate, \$25, except that
 207 a person who ~~that~~ purchases 1,000 or more of such license plates
 208 shall pay an annual use fee of \$15 per plate.

209 ~~(c) Collegiate license plate, \$25.~~

210 (b) ~~(d)~~ Florida Salutes Veterans license plate, \$15.

211 ~~(e) Florida panther license plate, \$25.~~

212 (c) ~~(f)~~ Florida United States Olympic Committee license
 213 plate, \$15.

214 (d) ~~(g)~~ Florida Special Olympics license plate, \$15.

215 (e) ~~(h)~~ Florida educational license plate, \$20.

216 ~~(i) Florida Professional Sports Team license plate, \$25.~~

217 (f) ~~(j)~~ Florida Indian River Lagoon license plate, \$15.

218 (g) ~~(k)~~ Invest in Children license plate, \$20.

219 (h) ~~(l)~~ Florida arts license plate, \$20.

220 ~~(m) Bethune-Cookman University license plate, \$25.~~

221 (i) ~~(n)~~ Florida Agricultural license plate, \$20.

222 (j) ~~(o)~~ Police Athletic League license plate, \$20.

223 (k) ~~(p)~~ Boy Scouts of America license plate, \$20.

224 ~~(q) Largemouth Bass license plate, \$25.~~

225 (l) ~~(r)~~ Sea Turtle license plate, \$23.

- 226 (m)~~(s)~~ Protect Wild Dolphins license plate, \$20.
- 227 ~~(t) Barry University license plate, \$25.~~
- 228 (n)~~(u)~~ Everglades River of Grass license plate, \$20.
- 229 ~~(v) Keep Kids Drug-Free license plate, \$25.~~
- 230 ~~(w) Florida Sheriffs Youth Ranches license plate, \$25.~~
- 231 ~~(x) Conserve Wildlife license plate, \$25.~~
- 232 ~~(y) Florida Memorial University license plate, \$25.~~
- 233 (o)~~(z)~~ Tampa Bay Estuary license plate, \$15.
- 234 (p)~~(aa)~~ Florida Wildflower license plate, \$15.
- 235 (q)~~(bb)~~ United States Marine Corps license plate, \$15.
- 236 (r)~~(ee)~~ Choose Life license plate, \$20.
- 237 (s)~~(dd)~~ Share the Road license plate, \$15.
- 238 ~~(ee) American Red Cross license plate, \$25.~~
- 239 ~~(ff) United We Stand license plate, \$25.~~
- 240 ~~(gg) Breast Cancer Research license plate, \$25.~~
- 241 ~~(hh) Protect Florida Whales license plate, \$25.~~
- 242 ~~(ii) Florida Golf license plate, \$25.~~
- 243 (t)~~(jj)~~ Florida Firefighters license plate, \$20.
- 244 (u)~~(kk)~~ Police Benevolent Association license plate, \$20.
- 245 (v)~~(ll)~~ Military Services license plate, \$15.
- 246 ~~(mm) Protect Our Reefs license plate, \$25.~~
- 247 (w)~~(nn)~~ Fish Florida license plate, \$22.
- 248 ~~(oo) Child Abuse Prevention and Intervention license~~
- 249 ~~plate, \$25.~~
- 250 ~~(pp) Hospice license plate, \$25.~~

251 ~~(qq) Stop Heart Disease license plate, \$25.~~

252 (x)~~(rr)~~ Save Our Seas license plate, \$25, except that for

253 an owner purchasing the specialty license plate for more than 10

254 vehicles registered to that owner, the annual use fee shall be

255 \$10 per plate.

256 (y)~~(ss)~~ Aquaculture license plate, \$25, except that for an

257 owner purchasing the specialty license plate for more than 10

258 vehicles registered to that owner, the annual use fee shall be

259 \$10 per plate.

260 ~~(tt) Family First license plate, \$25.~~

261 ~~(uu) Wildlife Foundation of Florida license plate, \$25.~~

262 ~~(vv) Live the Dream license plate, \$25.~~

263 ~~(ww) Florida Food Banks license plate, \$25.~~

264 ~~(xx) Discover Florida's Oceans license plate, \$25.~~

265 ~~(yy) Family Values license plate, \$25.~~

266 ~~(zz) Parents Make A Difference license plate, \$25.~~

267 ~~(aaa) Support Soccer license plate, \$25.~~

268 ~~(bbb) Kids Deserve Justice license plate, \$25.~~

269 ~~(ccc) Animal Friend license plate, \$25.~~

270 ~~(ddd) Future Farmers of America license plate, \$25.~~

271 ~~(eee) Donate Organs Pass It On license plate, \$25.~~

272 ~~(fff) A State of Vision license plate, \$25.~~

273 ~~(ggg) Homeownership For All license plate, \$25.~~

274 ~~(hhh) Florida NASCAR license plate, \$25.~~

275 ~~(iii) Protect Florida Springs license plate, \$25.~~

276 ~~(jjj) Trees Are Cool license plate, \$25.~~

277 ~~(kkk) Support Our Troops license plate, \$25.~~

278 ~~(lll) Florida Tennis license plate, \$25.~~

279 ~~(mmm) Lighthouse Association license plate, \$25.~~

280 ~~(nnn) In God We Trust license plate, \$25.~~

281 ~~(ooo) Horse Country license plate, \$25.~~

282 ~~(ppp) Autism license plate, \$25.~~

283 ~~(qqq) St. Johns River license plate, \$25.~~

284 ~~(rrr) Hispanic Achievers license plate, \$25.~~

285 ~~(sss) Endless Summer license plate, \$25.~~

286 ~~(ttt) Fraternal Order of Police license plate, \$25.~~

287 ~~(uuu) Protect Our Oceans license plate, \$25.~~

288 ~~(vvv) Florida Horse Park license plate, \$25.~~

289 ~~(www) Florida Biodiversity Foundation license plate, \$25.~~

290 ~~(xxx) Freemasonry license plate, \$25.~~

291 ~~(yyy) American Legion license plate, \$25.~~

292 ~~(zzz) Lauren's Kids license plate, \$25.~~

293 ~~(aaaa) Big Brothers Big Sisters license plate, \$25.~~

294 ~~(bbbb) Fallen Law Enforcement Officers license plate, \$25.~~

295 ~~(cccc) Florida Sheriffs Association license plate, \$25.~~

296 ~~(dddd) Keiser University license plate, \$25.~~

297 ~~(eeee) Moffitt Cancer Center license plate, \$25.~~

298 (8)

299 (c) A vehicle owner or lessee issued a specialty license

300 plate that has been discontinued by the department may keep the

301 discontinued specialty license plate for the remainder of the
302 10-year license plate replacement period and must pay all other
303 applicable registration fees. However, such owner or lessee is
304 exempt from paying the applicable specialty license plate annual
305 use fee under subsection (4) for the remainder of the 10-year
306 license plate replacement period.

307 (d) If the department discontinues issuance of a specialty
308 license plate, all annual use fees held or collected by the
309 department shall be distributed within 180 days after the date
310 the specialty license plate is discontinued. Of those fees, the
311 department shall retain an amount sufficient to defray the
312 applicable administrative and inventory closeout costs
313 associated with discontinuance of the plate. All remaining
314 proceeds shall be distributed to the appropriate organization or
315 organizations pursuant to s. 320.08058.

316 (e) If an organization that is the intended recipient of
317 the funds pursuant to s. 320.08058 no longer exists, the
318 department shall deposit any undisbursed proceeds into the
319 Highway Safety Operating Trust Fund.

320 (f) Notwithstanding paragraph (a), on January 1 of each
321 year, the department shall discontinue the specialty license
322 plate with the fewest number of plates in circulation, including
323 license plates exempt from a statutory sales requirement. The
324 department shall mail a warning letter to the sponsoring
325 organizations of the 10 percent of specialty license plates with

326 | the lowest number of valid, active registrations as of December
 327 | 1 of each year.

328 | (10) (a) A specialty license plate annual use fee collected
 329 | and distributed under this chapter, or any interest earned from
 330 | those fees, may not be used for commercial or for-profit
 331 | activities nor for general or administrative expenses, except as
 332 | authorized by s. 320.08058 or to pay the cost of the audit or
 333 | report required by s. 320.08062(1). The fees and any interest
 334 | earned from the fees may be expended only for use in this state
 335 | unless the annual use fee is derived from the sale of United
 336 | States Armed Forces and veterans-related specialty license
 337 | plates pursuant to paragraph (3) (d) for the Support Our Troops
 338 | and American Legion license plates; paragraphs (4) (b), (q), and
 339 | (v) for the Florida Salutes Veterans, United States Marine
 340 | Corps, and Military Services license plates, respectively;
 341 | paragraphs (4) (z), (aa), and (bb) for out-of-state college or
 342 | university license plates; ~~paragraphs (4) (d), (bb), (ll), (kkk),~~
 343 | and ~~(yyy)~~ and s. 320.0891 for the U.S. Paratrooper license
 344 | plate.

345 | (11) The annual use fee from the sale of specialty license
 346 | plates, the interest earned from those fees, or any fees
 347 | received by any entity ~~an agency~~ as a result of the sale of
 348 | specialty license plates may not be used for the purpose of
 349 | marketing to, or lobbying, entertaining, or rewarding, an
 350 | employee of a governmental agency that is responsible for the

351 sale and distribution of specialty license plates, or an elected
 352 member or employee of the Legislature.

353 (12) For out-of-state college or university license plates
 354 created pursuant to this section, the recipient organization
 355 shall:

356 (a) Have established an endowment, based in this state,
 357 for the purpose of providing scholarships to Florida residents
 358 meeting the statutory requirements for that license plate.

359 (b) Provide documentation acceptable to the department
 360 that the organization and the department have the college's or
 361 university's consent to use an appropriate image on a license
 362 plate.

363 Section 6. Effective July 1, 2023, paragraph (a) of
 364 subsection (8) of section 320.08056, Florida Statutes, is
 365 amended to read:

366 320.08056 Specialty license plates.—

367 (8) (a) The department must discontinue the issuance of an
 368 approved specialty license plate if the number of valid
 369 specialty plate registrations falls below 3,000, or in the case
 370 of an out-of-state college or university license plate, 4,000,
 371 1,000 plates for at least 12 consecutive months. The department
 372 shall mail a warning letter ~~shall be mailed~~ to the sponsoring
 373 organization following the first month in which the total number
 374 of valid specialty plate registrations is below 3,000, or in the
 375 case of an out-of-state college or university license plate,

376 4,000, ~~1,000~~ plates. This paragraph does not apply to in-state
377 collegiate license plates established under s. 320.08058(3),
378 license plates of institutions in and entities of the State
379 University System, specialty license plates that have statutory
380 eligibility limitations for purchase, specialty license plates
381 for which annual use fees are distributed by a foundation for
382 student and teacher leadership programs and teacher recruitment
383 and retention, or Florida Professional Sports Team license
384 plates established under s. 320.08058(9).

385 Section 7. Subsections (32) through (56), (58) through
386 (68), and (71) through (84) of section 320.08058, Florida
387 Statutes, are renumbered as subsections (31) through (55), (56)
388 through (66), and (67) through (80), respectively, paragraph (a)
389 of subsection (7), present subsection (31), paragraph (b) of
390 present subsection (35), present subsections (48), (57), (66),
391 (69), and (70), and paragraph (b) of present subsection (80) are
392 amended, and new subsections (81) through (99) are added to that
393 section, to read:

394 320.08058 Specialty license plates.—

395 (7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

396 (a) Special Olympics Florida license plates must contain
397 the official Special Olympics Florida logo and must bear the
398 colors and a design ~~and colors that are~~ approved by the
399 department. The word "Florida" must be centered at the top
400 ~~bottom~~ of the plate, and the words "Be a Fan" ~~"Everyone Wins"~~

401 must be centered at the bottom ~~top~~ of the plate.

402 ~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

403 ~~(a) Notwithstanding the provisions of s. 320.08053, the~~
404 ~~department shall develop an American Red Cross license plate as~~
405 ~~provided in this section. The word "Florida" must appear at the~~
406 ~~top of the plate, and the words "American Red Cross" must appear~~
407 ~~at the bottom of the plate.~~

408 ~~(b) The department shall retain all revenues from the sale~~
409 ~~of such plates until all startup costs for developing and~~
410 ~~issuing the plates have been recovered. Thereafter, 50 percent~~
411 ~~of the annual use fees shall be distributed to the American Red~~
412 ~~Cross Chapter of Central Florida, with statistics on sales of~~
413 ~~license plates, which are tabulated by county. The American Red~~
414 ~~Cross Chapter of Central Florida must distribute to each of the~~
415 ~~chapters in this state the moneys received from sales in the~~
416 ~~counties covered by the respective chapters, which moneys must~~
417 ~~be used for education and disaster relief in Florida. Fifty~~
418 ~~percent of the annual use fees shall be distributed~~
419 ~~proportionately to the three statewide approved poison control~~
420 ~~centers for purposes of combating bioterrorism and other poison-~~
421 ~~related purposes.~~

422 (34) ~~(35)~~ FLORIDA GOLF LICENSE PLATES.—

423 (b) The department shall distribute the Florida Golf
424 license plate annual use fee to the Dade Amateur Golf
425 Association, a nonprofit organization under s. 501(c)(3) of the

426 Internal Revenue Code. The license plate annual use fees are to
 427 be annually allocated as follows:

428 1. Up to 15 percent of the proceeds from the annual use
 429 fees may be used by the Dade Amateur Golf Association for the
 430 administration of the Florida Junior Golf Program.

431 2. The Dade Amateur Golf Association shall receive the
 432 first \$80,000 in proceeds from the annual use fees for the
 433 operation of youth golf programs in Miami-Dade County.
 434 Thereafter, 30 ~~15~~ percent of the proceeds from the annual use
 435 fees shall be provided to the Dade Amateur Golf Association for
 436 the operation of youth golf programs in Miami-Dade County,
 437 including expenditures necessary to comply with the Americans
 438 with Disabilities Act.

439 3. The remaining proceeds from the annual use fees shall
 440 be available for grants to nonprofit organizations to operate
 441 youth golf programs and for marketing the Florida Golf license
 442 plates. All grant recipients shall be required to provide to the
 443 Dade Amateur Golf Association an annual program and financial
 444 report regarding the use of grant funds. Such reports shall be
 445 made available to the public.

446 ~~(47)-(48)~~ LIVE THE DREAM LICENSE PLATES.—

447 (a) The department shall develop a Live the Dream license
 448 plate as provided in this section. Live the Dream license plates
 449 must bear the colors and design approved by the department. The
 450 word "Florida" must appear at the top of the plate, and the

451 words "Live the Dream" must appear at the bottom of the plate.

452 (b) The proceeds of the annual use fee shall be
453 distributed to the Dream Foundation, Inc., to ~~The Dream~~
454 ~~Foundation, Inc., shall retain the first \$60,000 in proceeds~~
455 ~~from the annual use fees as reimbursement for administrative~~
456 ~~costs, startup costs, and costs incurred in the approval~~
457 ~~process. Thereafter, up to 25 percent shall be used for~~
458 ~~continuing promotion and marketing of the license plate and~~
459 ~~concept. The remaining funds shall be used in the following~~
460 manner:

461 1. Up to 5 percent may be used to administer, promote, and
462 market the license plate.

463 ~~2.1. At least 60~~ Twenty-five percent shall be distributed
464 equally among the sickle cell organizations that are Florida
465 members of the Sickle Cell Disease Association of America, Inc.,
466 for programs that provide research, care, and treatment for
467 sickle cell disease.

468 ~~2. Twenty-five percent shall be distributed to the Florida~~
469 ~~chapter of the March of Dimes for programs and services that~~
470 ~~improve the health of babies through the prevention of birth~~
471 ~~defects and infant mortality.~~

472 ~~3. Ten percent shall be distributed to the Florida~~
473 ~~Association of Healthy Start Coalitions to decrease racial~~
474 ~~disparity in infant mortality and to increase healthy birth~~
475 ~~outcomes. Funding will be used by local Healthy Start Coalitions~~

476 ~~to provide services and increase screening rates for high-risk~~
477 ~~pregnant women, children under 4 years of age, and women of~~
478 ~~childbearing age.~~

479 3.4. At least 30 ~~Ten~~ percent shall be distributed to
480 Chapman the Community Partnership for Homeless, Inc., for
481 programs that provide relief from poverty, hunger, and
482 homelessness.

483 4. Up to 5 percent may be distributed by the department on
484 behalf of The Dream Foundation, Inc., to The Martin Luther King,
485 Jr. Center for Nonviolent Social Change, Inc., as a royalty for
486 the use of the image of Dr. Martin Luther King, Jr.

487 ~~5. Five percent of the proceeds shall be used by the~~
488 ~~foundation for administrative costs directly associated with~~
489 ~~operations as they relate to the management and distribution of~~
490 ~~the proceeds.~~

491 ~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.~~

492 ~~(a) The department shall develop a Donate Organs-Pass It~~
493 ~~On license plate as provided in this section. The word "Florida"~~
494 ~~must appear at the top of the plate, and the words "Donate~~
495 ~~Organs-Pass It On" must appear at the bottom of the plate.~~

496 ~~(b) The annual use fees shall be distributed to Transplant~~
497 ~~Foundation, Inc., and shall use up to 10 percent of the proceeds~~
498 ~~from the annual use fee for marketing and administrative costs~~
499 ~~that are directly associated with the management and~~
500 ~~distribution of the proceeds. The remaining proceeds shall be~~

501 ~~used to provide statewide grants for patient services, including~~
502 ~~preoperative, rehabilitative, and housing assistance; organ~~
503 ~~donor education and awareness programs; and statewide medical~~
504 ~~research.~~

505 (64)~~(66)~~ IN GOD WE TRUST LICENSE PLATES.—

506 (a) The department shall develop an In God We Trust
507 license plate as provided in this section. However, the
508 requirements of s. 320.08053 must be met before the plates are
509 issued. In God We Trust license plates must bear the colors and
510 design approved by the department. The word "Florida" must
511 appear at the top of the plate, and the words "In God We Trust"
512 must appear in the body of the plate.

513 (b) The license plate annual use fees shall be distributed
514 to the In God We Trust Foundation, Inc., which may use up to 10
515 percent of the proceeds to offset marketing, administration, and
516 promotion, and the remainder of the proceeds to address the
517 needs of the military community and the public safety community;
518 provide educational grants and scholarships to foster self-
519 reliance and stability in Florida's children; and provide
520 education in ~~to fund educational scholarships for the children~~
521 ~~of Florida residents who are members of the United States Armed~~
522 ~~Forces, the National Guard, and the United States Armed Forces~~
523 ~~Reserve and for the children of public safety employees who have~~
524 ~~died in the line of duty who are not covered by existing state~~
525 ~~law. Funds shall also be distributed to other s. 501(c)(3)~~

526 ~~organizations that may apply for grants and scholarships and to~~
527 ~~provide educational grants to public and private schools~~
528 regarding ~~to promote~~ the historical and religious significance
529 of religion in American and Florida history. ~~The In God We Trust~~
530 ~~Foundation, Inc., shall distribute the license plate annual use~~
531 ~~fees in the following manner:~~

532 1. ~~The In God We Trust Foundation, Inc., shall retain all~~
533 ~~revenues from the sale of such plates until all startup costs~~
534 ~~for developing and establishing the plate have been recovered.~~

535 2. ~~Ten percent of the funds received by the In God We~~
536 ~~Trust Foundation, Inc., shall be expended for administrative~~
537 ~~costs, promotion, and marketing of the license plate directly~~
538 ~~associated with the operations of the In God We Trust~~
539 ~~Foundation, Inc.~~

540 3. ~~All remaining funds shall be expended by the In God We~~
541 ~~Trust Foundation, Inc., for programs.~~

542 ~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~

543 ~~(a) The department shall develop a St. Johns River license~~
544 ~~plate as provided in this section. The St. Johns River license~~
545 ~~plates must bear the colors and design approved by the~~
546 ~~department. The word "Florida" must appear at the top of the~~
547 ~~plate, and the words "St. Johns River" must appear at the bottom~~
548 ~~of the plate.~~

549 ~~(b) The requirements of s. 320.08053 must be met prior to~~
550 ~~the issuance of the plate. Thereafter, the license plate annual~~

551 ~~use fees shall be distributed to the St. Johns River Alliance,~~
552 ~~Inc., a s. 501(c)(3) nonprofit organization, which shall~~
553 ~~administer the fees as follows:~~

554 ~~1. The St. Johns River Alliance, Inc., shall retain the~~
555 ~~first \$60,000 of the annual use fees as direct reimbursement for~~
556 ~~administrative costs, startup costs, and costs incurred in the~~
557 ~~development and approval process. Thereafter, up to 10 percent~~
558 ~~of the annual use fee revenue may be used for administrative~~
559 ~~costs directly associated with education programs, conservation,~~
560 ~~research, and grant administration of the organization, and up~~
561 ~~to 10 percent may be used for promotion and marketing of the~~
562 ~~specialty license plate.~~

563 ~~2. At least 30 percent of the fees shall be available for~~
564 ~~competitive grants for targeted community-based or county-based~~
565 ~~research or projects for which state funding is limited or not~~
566 ~~currently available. The remaining 50 percent shall be directed~~
567 ~~toward community outreach and access programs. The competitive~~
568 ~~grants shall be administered and approved by the board of~~
569 ~~directors of the St. Johns River Alliance, Inc. A grant advisory~~
570 ~~committee shall be composed of six members chosen by the St.~~
571 ~~Johns River Alliance board members.~~

572 ~~3. Any remaining funds shall be distributed with the~~
573 ~~approval of and accountability to the board of directors of the~~
574 ~~St. Johns River Alliance, Inc., and shall be used to support~~
575 ~~activities contributing to education, outreach, and springs~~

576 | ~~conservation.~~

577 | ~~(70) HISPANIC ACHIEVERS LICENSE PLATES.~~

578 | ~~(a) Notwithstanding the requirements of s. 320.08053, the~~
579 | ~~department shall develop a Hispanic Achievers license plate as~~
580 | ~~provided in this section. The plate must bear the colors and~~
581 | ~~design approved by the department. The word "Florida" must~~
582 | ~~appear at the top of the plate, and the words "Hispanic~~
583 | ~~Achievers" must appear at the bottom of the plate.~~

584 | ~~(b) The proceeds from the license plate annual use fee~~
585 | ~~shall be distributed to National Hispanic Corporate Achievers,~~
586 | ~~Inc., a nonprofit corporation under s. 501(c)(3) of the Internal~~
587 | ~~Revenue Code, to fund grants to nonprofit organizations to~~
588 | ~~operate programs and provide scholarships and for marketing the~~
589 | ~~Hispanic Achievers license plate. National Hispanic Corporate~~
590 | ~~Achievers, Inc., shall establish a Hispanic Achievers Grant~~
591 | ~~Council that shall provide recommendations for statewide grants~~
592 | ~~from available Hispanic Achievers license plate proceeds to~~
593 | ~~nonprofit organizations for programs and scholarships for~~
594 | ~~Hispanic and minority Floridians. National Hispanic Corporate~~
595 | ~~Achievers, Inc., shall also establish a Hispanic Achievers~~
596 | ~~License Plate Fund. Moneys in the fund shall be used by the~~
597 | ~~grant council as provided in this paragraph. All funds received~~
598 | ~~under this subsection must be used in this state.~~

599 | ~~(c) National Hispanic Corporate Achievers, Inc., may~~
600 | ~~retain all proceeds from the annual use fee until documented~~

601 ~~startup costs for developing and establishing the plate have~~
602 ~~been recovered. Thereafter, the proceeds from the annual use fee~~
603 ~~shall be used as follows:~~

604 ~~1. Up to 5 percent of the proceeds may be used for the~~
605 ~~cost of administration of the Hispanic Achievers License Plate~~
606 ~~Fund, the Hispanic Achievers Grant Council, and related matters.~~

607 ~~2. Funds may be used as necessary for annual audit or~~
608 ~~compliance affidavit costs.~~

609 ~~3. Up to 20 percent of the proceeds may be used to market~~
610 ~~and promote the Hispanic Achievers license plate.~~

611 ~~4. Twenty five percent of the proceeds shall be used by~~
612 ~~the Hispanic Corporate Achievers, Inc., located in Seminole~~
613 ~~County, for grants.~~

614 ~~5. The remaining proceeds shall be available to the~~
615 ~~Hispanic Achievers Grant Council to award grants for services,~~
616 ~~programs, or scholarships for Hispanic and minority individuals~~
617 ~~and organizations throughout Florida. All grant recipients must~~
618 ~~provide to the Hispanic Achievers Grant Council an annual~~
619 ~~program and financial report regarding the use of grant funds.~~
620 ~~Such reports must be available to the public.~~

621 ~~(d) Effective July 1, 2014, the Hispanic Achievers license~~
622 ~~plate will shift into the presale voucher phase, as provided in~~
623 ~~s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc.,~~
624 ~~shall have 24 months to record a minimum of 1,000 sales. Sales~~
625 ~~include existing active plates and vouchers sold subsequent to~~

626 ~~July 1, 2014. During the voucher period, new plates may not be~~
627 ~~issued, but existing plates may be renewed. If, at the~~
628 ~~conclusion of the 24-month presale period, the requirement of a~~
629 ~~minimum of 1,000 sales has been met, the department shall resume~~
630 ~~normal distribution of the Hispanic Achievers license plate. If,~~
631 ~~after 24 months, the minimum of 1,000 sales has not been met,~~
632 ~~the department shall discontinue the Hispanic Achievers license~~
633 ~~plate. This subsection is repealed June 30, 2016.~~

634 ~~(76)-(80)~~ FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-

635 (b) The annual use fees shall be distributed to the Police
636 and Kids Foundation, Inc., which may use up to a maximum of 10
637 percent of the proceeds for marketing to promote and market the
638 plate. All remaining ~~The remainder of the~~ proceeds shall be
639 distributed to and used by the Police and Kids Foundation, Inc.,
640 for its operations, activities, programs, and projects to invest
641 and reinvest, and the interest earnings shall be used for the
642 operation of the Police and Kids Foundation, Inc.

643 (81) BEAT CHILDHOOD CANCER LICENSE PLATES.-

644 (a) The department shall develop a Beat Childhood Cancer
645 license plate as provided in this section and s. 320.08053. The
646 plate must bear the colors and design approved by the
647 department. The word "Florida" must appear at the top of the
648 plate, and the words "Beat Childhood Cancer" must appear at the
649 bottom of the plate.

650 (b) The annual use fees from the sale of the plate shall

651 be distributed as follows:

652 1. Seventy-five percent of the proceeds shall be
653 distributed to Beat Nb, Inc., which may use up to 10 percent of
654 its proceeds for administrative costs directly associated with
655 the operation of the corporation and for marketing and promoting
656 the plate. All remaining proceeds shall be used by the
657 corporation to fund pediatric cancer treatment and research.

658 2. Twenty-five percent of the proceeds shall be
659 distributed to the Ryan Callahan Foundation, Inc., a nonprofit
660 corporation under s. 501(c)(3) of the Internal Revenue Code. Its
661 proceeds shall be used by the corporation to fund pediatric
662 cancer treatment and research.

663 (82) AUBURN UNIVERSITY LICENSE PLATES.—

664 (a) The department shall develop an Auburn University
665 license plate as provided in this section and s. 320.08053. The
666 plate must bear the colors and design approved by the
667 department. The word "Florida" must appear at the top of the
668 plate, and the words "War Eagle" must appear at the bottom of
669 the plate.

670 (b) The annual use fees from the sale of the plate shall
671 be distributed to the Tampa Bay Auburn Club, which must use the
672 proceeds for the purpose of awarding scholarships to Florida
673 residents attending Auburn University. Students receiving these
674 scholarships must be eligible for the Florida Bright Futures
675 Scholarship Program pursuant to s. 1009.531 and shall use the

676 scholarship funds for tuition and other expenses related to
677 attending Auburn University.

678 (83) DUCKS UNLIMITED LICENSE PLATES.-

679 (a) The department shall develop a Ducks Unlimited license
680 plate as provided in this section and s. 320.08053. The plate
681 must bear the colors and design approved by the department. The
682 word "Florida" must appear at the top of the plate, and the
683 words "Conserving Florida Wetlands" must appear at the bottom of
684 the plate.

685 (b) The annual use fees from the sale of the plate shall
686 be distributed to Ducks Unlimited, Inc., a nonprofit corporation
687 under s. 501(c)(3) of the Internal Revenue Code, to be used as
688 follows:

689 1. Up to 5 percent of the proceeds may be used for
690 administrative costs and marketing of the plate.

691 2. At least 95 percent of the proceeds shall be used in
692 this state to support the mission and efforts of Ducks
693 Unlimited, Inc., to conserve, restore, and manage Florida
694 wetlands and associated habitats for the benefit of waterfowl,
695 other wildlife, and people.

696 (84) DONATE LIFE FLORIDA LICENSE PLATES.-

697 (a) The department shall develop a Donate Life Florida
698 license plate as provided in this section and s. 320.08053. The
699 plate must bear the colors and design approved by the
700 department. The word "Florida" must appear at the top of the

701 plate, and the words "Donors Save Lives" must appear at the
702 bottom of the plate.

703 (b) The annual use fees from the sale of the plate shall
704 be distributed to Donate Life Florida, which may use up to 10
705 percent of the proceeds for marketing and administrative costs.
706 All remaining proceeds from the annual use fees shall be used by
707 Donate Life Florida to educate Florida residents on the
708 importance of organ, tissue, and eye donation and for the
709 continued maintenance of the Joshua Abbott Organ and Tissue
710 Donor Registry.

711 (85) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

712 (a) The department shall develop a Florida State
713 Beekeepers Association license plate as provided in this section
714 and s. 320.08053. The plate must bear the colors and design
715 approved by the department. The word "Florida" must appear at
716 the top of the plate, and the words "Save the Bees" must appear
717 at the bottom of the plate.

718 (b) The annual use fees shall be distributed to the
719 Florida State Beekeepers Association, a Florida nonprofit
720 corporation. The Florida State Beekeepers Association may use up
721 to 10 percent of the proceeds for administrative, promotional,
722 and marketing costs of the license plate.

723 (c) All remaining proceeds shall be distributed to the
724 Florida State Beekeepers Association and shall be used to raise
725 awareness of the importance of beekeeping to Florida agriculture

726 by funding honeybee research, education, outreach, and
 727 husbandry. The Florida State Beekeepers Association board of
 728 managers must approve and is accountable for all such
 729 expenditures.

730 (86) ROTARY LICENSE PLATES.—

731 (a) The department shall develop a Rotary license plate as
 732 provided in this section and s. 320.08053. The plate must bear
 733 the colors and design approved by the department. The word
 734 "Florida" must appear at the top of the plate, and the word
 735 "Rotary" must appear on the bottom of the plate. The license
 736 plate must bear the Rotary International wheel emblem.

737 (b) The annual use fees shall be distributed to the
 738 Community Foundation of Tampa Bay, Inc., to be used as follows:

739 1. Up to 10 percent of the proceeds may be used for
 740 administrative costs and for marketing of the plate.

741 2. Ten percent of the proceeds shall be distributed to
 742 Rotary's Camp Florida for direct support to all programs and
 743 services provided to children with special needs who attend the
 744 camp.

745 3. All remaining proceeds shall be distributed,
 746 proportionally based on sales, to each Rotary district in the
 747 state in support of Rotary youth programs in Florida.

748 (87) FLORIDA BAY FOREVER LICENSE PLATES.—

749 (a) The department shall develop a Florida Bay Forever
 750 license plate as provided in this section and s. 320.08053. The

751 plate must bear the colors and design approved by the
752 department. The word "Florida" must appear at the top of the
753 plate, and the words "Florida Bay Forever" must appear at the
754 bottom of the plate.

755 (b) The annual use fees from the sale of the plate shall
756 be distributed to the Florida National Park Association, Inc.,
757 which may use up to 10 percent of the proceeds for
758 administrative costs and marketing of the plate. All remaining
759 proceeds shall be used to supplement the Everglades National
760 Park's budgets and to support educational, interpretive,
761 historical, and scientific research relating to the Everglades
762 National Park.

763 (88) BONEFISH AND TARPON TRUST LICENSE PLATES.-

764 (a) The department shall develop a Bonefish and Tarpon
765 Trust license plate as provided in this section and s.
766 320.08053. The plate must bear the colors and design approved by
767 the department. The word "Florida" must appear at the top of the
768 plate, and the words "Bonefish and Tarpon Trust" must appear at
769 the bottom of the plate.

770 (b) The annual use fees from the sale of the plate shall
771 be distributed to the Bonefish and Tarpon Trust, which may use
772 up to 10 percent of the proceeds to promote and market the
773 license plate. All remaining proceeds shall be used to conserve
774 and enhance Florida bonefish and tarpon fisheries and their
775 respective environments through stewardship, research,

776 education, and advocacy.

777 (89) MEDICAL PROFESSIONALS WHO CARE LICENSE PLATES.—

778 (a) The department shall develop a Medical Professionals
779 Who Care license plate as provided in this section and s.
780 320.08053. The plate must bear the colors and design approved by
781 the department. The word "Florida" must appear at the top of the
782 plate, and the words "Medical Professionals Who Care" must
783 appear at the bottom of the plate.

784 (b) The annual use fees from the sale of the plate shall
785 be distributed to Florida Benevolent Group, Inc., a Florida
786 nonprofit corporation, which may use up to 10 percent of the
787 proceeds for administrative costs, marketing, and promotion of
788 the plate. All remaining proceeds shall be used by Florida
789 Benevolent Group, Inc., to assist low-income individuals in
790 obtaining a medical education and career through scholarships,
791 support, and guidance.

792 (90) UNIVERSITY OF GEORGIA LICENSE PLATES.—

793 (a) The department shall develop a University of Georgia
794 license plate as provided in this section and s. 320.08053. The
795 plate must bear the colors and design approved by the
796 department. The word "Florida" must appear at the top of the
797 plate, and the words "The University of Georgia" must appear at
798 the bottom of the plate.

799 (b) The annual use fees from the sale of the plate shall
800 be distributed to the Georgia Bulldog Club of Jacksonville,

801 which must use the proceeds for the purpose of awarding
802 scholarships to Florida residents attending the University of
803 Georgia. Students receiving these scholarships must be eligible
804 for the Florida Bright Futures Scholarship Program pursuant to
805 s. 1009.531 and shall use the scholarship funds for tuition and
806 other expenses related to attending the University of Georgia.

807 (91) HIGHWAYMEN LICENSE PLATES.—

808 (a) The department shall develop a Highwaymen license
809 plate as provided in this section and s. 320.08053. The plate
810 must bear the colors and design approved by the department. The
811 word "Florida" must appear at the top of the plate, and the word
812 "Highwaymen" must appear at the bottom of the plate.

813 (b) The annual use fees shall be distributed to the City
814 of Fort Pierce, subject to a city resolution designating the
815 city as the fiscal agent of the license plate. The city may use
816 up to 10 percent of the proceeds for administrative costs and
817 marketing of the plate and shall use the remainder of the
818 proceeds as follows:

819 1. Before completion of construction of the Highwaymen
820 Museum and African-American Cultural Center, the city shall
821 distribute at least 15 percent of the proceeds to the St. Lucie
822 Education Foundation, Inc., to fund art education and art
823 projects in public schools within St. Lucie County. All
824 remaining proceeds shall be used by the city to fund the
825 construction of the Highwaymen Museum and African-American

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826 Cultural Center.

827 2. Upon completion of construction of the Highwaymen
828 Museum and African-American Cultural Center, the city shall
829 distribute at least 10 percent of the proceeds to the St. Lucie
830 Education Foundation, Inc., to fund art education and art
831 projects in public schools within St. Lucie County. All
832 remaining proceeds shall be used by the city to fund the day-to-
833 day operations of the Highwaymen Museum and African-American
834 Cultural Center.

835 (92) DAN MARINO CAMPUS LICENSE PLATES.—

836 (a) The department shall develop a Dan Marino Campus
837 license plate as provided in this section and s. 320.08053. The
838 plate must bear the colors and design approved by the
839 department. The word "Florida" must appear at the top of the
840 plate, and the words "Marino Campus" must appear at the bottom
841 of the plate.

842 (b) The annual use fees from the sale of the plate shall
843 be distributed to the Dan Marino Foundation, a Florida nonprofit
844 corporation, which may use up to 10 percent of the proceeds for
845 administrative costs and marketing of the plate. All remaining
846 proceeds shall be used by the Dan Marino Foundation to assist
847 Floridians with developmental disabilities in becoming employed,
848 independent, and productive and to promote and fund education
849 scholarships and awareness of these services.

850 (93) ORLANDO CITY SOCCER CLUB LICENSE PLATES.—

851 (a) The department shall develop an Orlando City Soccer
 852 Club license plate as provided in paragraph (9) (a).

853 (b) The annual use fees from the sale of the plate shall
 854 be distributed and used as provided in paragraph (9) (b).

855 (94) COASTAL CONSERVATION ASSOCIATION LICENSE PLATES.—

856 (a) The department shall develop a Coastal Conservation
 857 Association license plate as provided in this section and s.
 858 320.08053. The plate must bear the colors and design approved by
 859 the department. The word "Florida" must appear at the top of the
 860 plate, and the words "Conserve Florida's Fisheries" must appear
 861 at the bottom of the plate.

862 (b) The annual use fees from the sale of the plate shall
 863 be distributed to Coastal Conservation Association Florida, a
 864 nonprofit corporation under s. 501(c) (3) of the Internal Revenue
 865 Code, to be used as follows:

866 1. Up to 10 percent of the proceeds may be used for
 867 administrative costs.

868 2. Up to 10 percent of the proceeds may be used to promote
 869 and market the plate.

870 3. All remaining proceeds shall be used to support the
 871 mission and efforts of Coastal Conservation Association Florida
 872 for habitat enhancement and restoration, saltwater fisheries
 873 conservation, and education; to advise the public on the
 874 conservation of marine resources; and to promote and enhance the
 875 present and future availability of those coastal resources for

876 | the benefit and enjoyment of the general public.

877 | (95) DAUGHTERS OF THE AMERICAN REVOLUTION LICENSE PLATES.—

878 | (a) The department shall develop a Daughters of the
 879 | American Revolution license plate as provided in this section
 880 | and s. 320.08053. The plate must bear the colors and design
 881 | approved by the department. The word "Florida" must appear at
 882 | the top of the plate, and the words "Daughters of the American
 883 | Revolution" must appear at the bottom of the plate.

884 | (b) The annual use fees from the sale of the plate shall
 885 | be distributed to the Daughters of the American Revolution, a
 886 | nonprofit organization under s. 501(c)(3) of the Internal
 887 | Revenue Code. Up to 10 percent of the proceeds may be used for
 888 | the promotion and marketing of the plate. The remainder of the
 889 | proceeds shall be used within this state by the Daughters of the
 890 | American Revolution, a nonpolitical volunteer women's service
 891 | organization, to promote patriotism, preserve American history,
 892 | and secure America's future through educational programs for
 893 | local public and private K-12 students and scholarships and
 894 | other educational funding for underprivileged children.

895 | (96) GADSDEN FLAG LICENSE PLATES.—

896 | (a) The department shall develop a Gadsden Flag license
 897 | plate as provided in this section and s. 320.08053. The design
 898 | of the license plate must replicate the color, layout, and
 899 | design of the Gadsden Flag. The word "Florida" must appear at
 900 | the top of the plate, and the words "Don't Tread on Me" must

901 appear at the bottom of the plate.

902 (b) The annual use fees shall be distributed to the
903 Florida Veterans Foundation, a direct-support organization of
904 the Department of Veterans' Affairs, and must be used to benefit
905 veterans. Up to 10 percent of the proceeds may be used for
906 continuing promotion and marketing of the license plate.

907 (97) AMERICA THE BEAUTIFUL LICENSE PLATES.—

908 (a) The department shall develop an America the Beautiful
909 license plate as provided in this section and s. 320.08053. The
910 plate must bear the colors and design approved by the
911 department. The word "Florida" must appear at the top of the
912 plate, and the words "America the Beautiful" must appear at the
913 bottom of the plate.

914 (b) The annual use fees from the plate must be distributed
915 to the America the Beautiful Fund as follows: 10 percent to
916 offset administrative costs, marketing, and promotion of the
917 plate and 90 percent for projects and programs teaching
918 character, leadership, and service to Florida youth; the
919 provision of supportive services and assistance to members of
920 the military community; outdoor education advancing the ideal of
921 self-sufficiency; wildlife conservation, including imperiled and
922 managed species; the maintenance of historic or culturally
923 important sites, buildings, structures, or objects; and the
924 development and modification of playgrounds, recreational areas,
925 or other outdoor amenities, including disability access.

926 (98) TREAD LIGHTLY OFF ROAD FLORIDA LICENSE PLATES.—

927 (a) The department shall develop a Tread Lightly Off Road
 928 Florida license plate as provided in this section and s.
 929 320.08053. The plate must bear the colors and design approved by
 930 the department. The word "Florida" must appear at the top of the
 931 plate, and the words "Tread Lightly" must appear at the bottom
 932 of the plate.

933 (b) The annual use fees from the sale of the plate shall
 934 be distributed to the Florida Off Road Foundation, Inc., a
 935 nonprofit corporation under s. 501(c)(3) of the Internal Revenue
 936 Code. Up to 10 percent of the funds may be used for marketing of
 937 the plate, costs directly associated with creation of the plate,
 938 and administrative costs related to distribution of proceeds,
 939 including annual audit services and compliance affidavit costs.
 940 The remainder of the funds shall be used by the Florida Off Road
 941 Foundation, Inc., to fund qualified nonprofit organizations that
 942 protect and preserve Florida's natural off-road habitat; educate
 943 Floridians about responsible use of the off-road environment;
 944 support civilian volunteer programs to promote the use of off-
 945 road vehicles to assist law enforcement in situations such as
 946 search and rescue; support organized cleanups, trail
 947 maintenance, and restoration; or preserve Florida's off-road
 948 culture.

949 (99) UNIVERSITY OF ALABAMA LICENSE PLATES.—

950 (a) The department shall develop a University of Alabama

951 license plate as provided in this section and s. 320.08053. The
952 plate must bear the colors and design approved by the
953 department. The word "Florida" must appear at the top of the
954 plate, and the words "Roll Tide" must appear at the bottom of
955 the plate.

956 (b) The annual use fees from the sale of the plate shall
957 be distributed to the Pensacola Bama Club, which must use the
958 proceeds for the purpose of awarding scholarships to Florida
959 residents attending the University of Alabama. The proceeds must
960 be deposited in the endowment required in s. 320.08056(12).
961 Students receiving these scholarships must be eligible for the
962 Florida Bright Futures Scholarship Program pursuant to s.
963 1009.531 and shall use the scholarship funds for tuition and
964 other expenses related to attending the University of Alabama.

965 Section 8. Section 320.08062, Florida Statutes, is amended
966 to read:

967 320.08062 Audits and attestations required; annual use
968 fees of specialty license plates.—

969 (1) (a) All organizations that receive annual use fee
970 proceeds from the department are responsible for ensuring that
971 proceeds are used in accordance with ss. 320.08056 and
972 320.08058.

973 (b) Any organization not subject to audit pursuant to s.
974 215.97 shall annually attest, under penalties of perjury, that
975 such proceeds were used in compliance with ss. 320.08056 and

976 320.08058. The attestation shall be made annually in a form and
977 format determined by the department. In addition, the department
978 shall audit any such organization every 3 years to ensure
979 proceeds have been used in compliance with ss. 320.08056 and
980 320.08058.

981 (c) Any organization subject to audit pursuant to s.
982 215.97 shall submit an audit report in accordance with rules
983 promulgated by the Auditor General. The annual attestation shall
984 be submitted to the department for review within 9 months after
985 the end of the organization's fiscal year.

986 (2) (a) Within 120 days after receiving an organization's
987 audit or attestation, the department shall determine which
988 recipients of revenues from specialty license plate annual use
989 fees have not complied with subsection (1). In determining
990 compliance, the department may commission an independent
991 actuarial consultant, or an independent certified public
992 accountant, who has expertise in nonprofit and charitable
993 organizations.

994 (b) The department must discontinue the distribution of
995 revenues to any organization failing to submit the required
996 documentation as required in subsection (1), but may resume
997 distribution of the revenues upon receipt of the required
998 information.

999 (c) If the department or its designee determines that an
1000 organization has not complied or has failed to use the revenues

1001 in accordance with ss. 320.08056 and 320.08058, the department
1002 must discontinue the distribution of the revenues to the
1003 organization. The department shall notify the organization of
1004 its findings and direct the organization to make the changes
1005 necessary in order to comply with this chapter. If the officers
1006 of the organization sign an affidavit under penalties of perjury
1007 stating that they acknowledge the findings of the department and
1008 attest that they have taken corrective action and that the
1009 organization will submit to a followup review by the department,
1010 the department may resume the distribution of revenues.

1011 (d) If an organization fails to comply with the
1012 department's recommendations and corrective actions as outlined
1013 in paragraph (c), the revenue distributions shall be
1014 discontinued until completion of the next regular session of the
1015 Legislature. The department shall notify the President of the
1016 Senate and the Speaker of the House of Representatives by the
1017 first day of the next regular session of any organization whose
1018 revenues have been withheld as a result of this paragraph. If
1019 the Legislature does not provide direction to the organization
1020 and the department regarding the status of the undistributed
1021 revenues, the department shall deauthorize the plate and the
1022 undistributed revenues shall be immediately deposited into the
1023 Highway Safety Operating Trust Fund.

1024 (3) The department or its designee has the authority to
1025 examine all records pertaining to the use of funds from the sale

1026 of specialty license plates.

1027 Section 9. Paragraph (b) of subsection (4) of section
1028 320.08068, Florida Statutes, is amended to read:

1029 320.08068 Motorcycle specialty license plates.—

1030 (4) A license plate annual use fee of \$20 shall be
1031 collected for each motorcycle specialty license plate. Annual
1032 use fees shall be distributed as follows:

1033 (b) Twenty percent to Preserve Vision ~~Prevent Blindness~~
1034 Florida.

1035 Section 10. Subsection (8) of section 320.0807, Florida
1036 Statutes, is renumbered as subsection (6), and present
1037 subsections (5), (6), and (7) of that section are amended to
1038 read:

1039 320.0807 Special license plates for Governor and federal
1040 and state legislators.—

1041 ~~(5) Upon application by any current or former President of~~
1042 ~~the Senate and payment of the fees prescribed by s. 320.0805,~~
1043 ~~the department may issue a license plate stamped "Senate~~
1044 ~~President" followed by the number assigned by the department or~~
1045 ~~chosen by the applicant if it is not already in use. Upon~~
1046 ~~application by any current or former Speaker of the House of~~
1047 ~~Representatives and payment of the fees prescribed by s.~~
1048 ~~320.0805, the department may issue a license plate stamped~~
1049 ~~"House Speaker" followed by the number assigned by the~~
1050 ~~department or chosen by the applicant if it is not already in~~

1051 use.

1052 ~~(6)(a) Upon application by any former member of Congress~~
 1053 ~~or former member of the state Legislature, payment of the fees~~
 1054 ~~prescribed by s. 320.0805, and payment of a one-time fee of~~
 1055 ~~\$500, the department may issue a former member of Congress,~~
 1056 ~~state senator, or state representative a license plate stamped~~
 1057 ~~"Retired Congress," "Retired Senate," or "Retired House," as~~
 1058 ~~appropriate, for a vehicle owned by the former member.~~

1059 ~~(b) To qualify for a Retired Congress, Retired Senate, or~~
 1060 ~~Retired House prestige license plate, a former member must have~~
 1061 ~~served at least 4 years as a member of Congress, state senator,~~
 1062 ~~or state representative, respectively.~~

1063 ~~(c) Four hundred fifty dollars of the one-time fee~~
 1064 ~~collected under paragraph (a) shall be distributed to the~~
 1065 ~~account of the direct support organization established pursuant~~
 1066 ~~to s. 272.136 and used for the benefit of the Florida Historic~~
 1067 ~~Capitol Museum, and the remaining \$50 shall be deposited into~~
 1068 ~~the Highway Safety Operating Trust Fund.~~

1069 (5)~~(7)~~ The department may create a unique plate design for
 1070 plates to be used by members ~~or former members~~ of the
 1071 Legislature ~~or Congress~~ as provided in subsection ~~subsections~~
 1072 ~~(2), (5), and (6).~~

1073 Section 11. Section 320.0875, Florida Statutes, is created
 1074 to read:

1075 320.0875 Purple Heart special motorcycle license plate.-

1076 (1) Upon application to the department and payment of the
1077 license tax for the motorcycle as provided in s. 320.08, a
1078 resident of the state who owns or leases a motorcycle that is
1079 not used for hire or commercial use shall be issued a Purple
1080 Heart special motorcycle license plate if he or she provides
1081 documentation acceptable to the department that he or she is a
1082 recipient of the Purple Heart medal.

1083 (2) The Purple Heart special motorcycle license plate
1084 shall be stamped with the term "Combat-wounded Veteran" followed
1085 by the serial number of the license plate. The Purple Heart
1086 special motorcycle license plate may have the term "Purple
1087 Heart" stamped on the plate and the likeness of the Purple Heart
1088 medal appearing on the plate.

1089 Section 12. Paragraph (a) of subsection (1) of section
1090 320.089, Florida Statutes, is amended to read:

1091 320.089 Veterans of the United States Armed Forces;
1092 members of National Guard; survivors of Pearl Harbor; Purple
1093 Heart medal recipients; Bronze Star recipients; active or
1094 retired United States Armed Forces reservists; Combat Infantry
1095 Badge, Combat Medical Badge, or Combat Action Badge recipients;
1096 Combat Action Ribbon recipients; Air Force Combat Action Medal
1097 recipients; Distinguished Flying Cross recipients; former
1098 prisoners of war; Korean War Veterans; Vietnam War Veterans;
1099 Operation Desert Shield Veterans; Operation Desert Storm
1100 Veterans; Operation Enduring Freedom Veterans; Operation Iraqi

1101 Freedom Veterans; Women Veterans; World War II Veterans; and
 1102 Navy Submariners; special license plates; fee.—
 1103 (1) (a) Each owner or lessee of an automobile or truck for
 1104 private use or recreational vehicle as specified in s.
 1105 320.08(9)(c) or (d), which is not used for hire or commercial
 1106 use, who is a resident of the state and a veteran of the United
 1107 States Armed Forces, a Woman Veteran, a World War II Veteran, a
 1108 Navy Submariner, an active or retired member of the Florida
 1109 National Guard, a survivor of the attack on Pearl Harbor, a
 1110 recipient of the Purple Heart medal, a recipient of the Bronze
 1111 Star, an active or retired member of any branch of the United
 1112 States Armed Forces Reserve, or a recipient of the Combat
 1113 Infantry Badge, Combat Medical Badge, Combat Action Badge,
 1114 Combat Action Ribbon, Air Force Combat Action Medal, or
 1115 Distinguished Flying Cross, upon application to the department,
 1116 accompanied by proof of release or discharge from any branch of
 1117 the United States Armed Forces, proof of active membership or
 1118 retired status in the Florida National Guard, proof of
 1119 membership in the Pearl Harbor Survivors Association or proof of
 1120 active military duty in Pearl Harbor on December 7, 1941, proof
 1121 of being a Purple Heart medal recipient, proof of being a Bronze
 1122 Star recipient, proof of active or retired membership in any
 1123 branch of the United States Armed Forces Reserve, or proof of
 1124 membership in the Combat Infantrymen's Association, Inc., proof
 1125 of being a recipient of the Combat Infantry Badge, Combat

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1126 Medical Badge, Combat Action Badge, Combat Action Ribbon, Air
1127 Force Combat Action Medal, or Distinguished Flying Cross, and
1128 upon payment of the license tax for the vehicle as provided in
1129 s. 320.08, shall be issued a license plate as provided by s.
1130 320.06 which, in lieu of the serial numbers prescribed by s.
1131 320.06, is stamped with the words "Veteran," "Woman Veteran,"
1132 "WWII Veteran," "Navy Submariner," "National Guard," "Pearl
1133 Harbor Survivor," "Combat-wounded veteran," "Bronze Star," "U.S.
1134 Reserve," "Combat Infantry Badge," "Combat Medical Badge,"
1135 "Combat Action Badge," "Combat Action Ribbon," "Air Force Combat
1136 Action Medal," or "Distinguished Flying Cross," as appropriate,
1137 and a likeness of the related campaign medal or badge, followed
1138 by the serial number of the license plate. Additionally, the
1139 Purple Heart plate may have the words "Purple Heart" stamped on
1140 the plate and the likeness of the Purple Heart medal appearing
1141 on the plate.

1142 Section 13. Except as otherwise expressly provided in this
1143 act, this act shall take effect October 1, 2020, but only if HB
1144 387 or similar legislation takes effect, if such legislation is
1145 adopted in the same legislative session or an extension thereof
1146 and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1149 Local Government Fiscal Transparency

SPONSOR(S): DiCeglie and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1702

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	11 Y, 3 N	Darden	Miller
2) Ways & Means Committee	11 Y, 4 N	Aldridge	Langston
3) State Affairs Committee		Darden	Williamson

SUMMARY ANALYSIS

The bill creates the Local Government Fiscal Transparency Act (Act), providing for increased fiscal transparency for local governments by requiring:

- Easy public access to voting records of local governing body members related to tax increases and the issuance of tax-supported debt;
- Easy online access to truth-in-millage notices and a four-year history of property tax rates and total revenue generated by each local government;
- Additional public meetings and expanded public notice requirements for local option tax increases and the issuance of new long-term, tax-supported debt;
- Local governments to conduct a debt affordability analysis prior to issuance of new long-term, tax-supported debt;
- The chair of the local governing body to sign an affidavit of compliance with the Act; and
- The Auditor General to request evidence of corrective action from local governments found not to be in compliance with the Act and to report those who fail to do so to the Legislative Auditing Committee.

The bill revises reporting requirements for local government economic development incentives. The bill requires each county and municipality to report to the Office of Economic and Demographic Research on economic incentives provided directly to an individual business or by another entity on behalf of the local government, as well as the source of all funds obligated for the incentive.

The bill provides a statement that the Legislature finds that this act fills an important state interest.

The provisions of the bill are expected to require expenditures by local governments, the amount of which is unknown.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General Provisions

The bill creates Part VIII of Chapter 218, F.S., titled the Local Government Fiscal Transparency Act (Act). The bill provides a statement of purpose to:

promote the fiscal transparency of local governments when using public funds by requiring additional public noticing of proposed local government actions that increase taxes, enact new taxes, extend expiring taxes, or issue tax-supported debt and requiring voting records of local governing bodies related to such actions to be easily and readily accessible by the public.

The bill provides definitions for the following terms used in the Act:

- “Debt” is defined as bonds, loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, regardless of whether they are debt for legal purposes, or for financing or refinancing the acquisition, construction, improvement, or purchase of capital outlay projects.
- “Local government” is defined as any county, municipality, school district, municipal service taxing unit, or special district, but does not include special districts established to provide hospital services (if the district does not levy, assess, or collect ad valorem taxes).
- “Tax increase” is defined as any increase in a local government’s millage rate above the rolled-back rate as described in s. 200.065(1), F.S., (for ad valorem taxes) or a tax enactment, extension, or an increase in the tax rate (for all other taxes).
- “Tax-supported debt” is defined as debt with a term of more than five years that is secured in whole or in part by state or local tax levies, regardless of whether such security is direct or indirect, explicit or implicit, including debt for which annual appropriations pledged for payment are from government fund types receiving tax revenues or shared revenues from state tax sources. The term does not include debt that is secured solely by the revenues generated by the project that is financed with the debt.

Local Government Voting History: Property Tax, Local Option Taxes, New Debt Issuance

Current Situation

While the voting records of local government governing boards are public records¹ subject to public disclosure, there is no current requirement under Florida law for local governments to make available, on their website, the voting records of their governing boards on votes taken related to tax increases or the new issuance of tax-supported debt.

Under current law, there are different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur.²

Effect of Proposed Changes

The bill requires each local government to post on its website, in a manner that is easily accessible to the public, the voting records on any action taken by the governing board of the local government during the preceding four years related to tax increases and new tax-supported debt issuance,

¹ See Ch. 119, F.S., generally, and s. 119.01, F.S.

² See ss. 125.66 and 166.041, F.S.

excluding refinancing or refunding of debt that does not extend the term or increase the outstanding principal amount of the original debt. The bill allows these provisions to be phased in over four years. Further, the bill provides that the website must provide links to allow users to navigate to related sites if supporting details or documentation are available and the websites and information on those websites must be compliant with the Americans with Disabilities Act.

In any public notice of a tax increase or new tax-supported debt issuance, each local government must include with the notice, the website address at which the voting records can be accessed on its website.

Property Taxes: Tax History

Current Situation

Chapter 200, F.S., “Determination of Millage,” generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority. As part of this process, each property appraiser must provide each taxpayer listed on the current year’s assessment roll a notice of proposed property taxes and non-ad valorem assessments by first-class mail.³ This notice, more commonly known as a truth-in-millage, or TRIM, notice, is sent on behalf of all taxing authorities levying ad valorem taxes and non-ad valorem assessments on each parcel listed on the current year’s assessment roll.⁴

The first page of the TRIM notice states that the notice is a “notice of proposed property taxes” and that the notice is not a bill.⁵ The notice must inform the taxpayer that the taxing authorities that levy taxes on the property will soon hold public hearings to adopt budgets and tax rates for the following year. The notice must include a brief legal description of the property, the name and mailing address of the owner of record, and the tax information applicable to the specific parcel in question.⁶ The notice must include seven columns labeled:⁷

- “Taxing Authority;”
- “Your Property Taxes Last Year;”
- “Last Year’s Adjusted Tax Rate (Millage);”⁸
- “Your Taxes This Year IF NO Budget Change Is Adopted;”
- “Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage);”
- “Your Taxes This Year IF PROPOSED Budget Change Is Adopted;” and
- “A Public Hearing on the Proposed Taxes and Budget Will Be Held.”

The tax history of individual parcels of real property are commonly available on the websites of the tax collector and property appraiser of each county.⁹

Effect of Proposed Changes

The bill requires each county property appraiser to maintain a website that includes for each parcel of property, in a manner easily accessible by the public, the TRIM notice and a minimum of four years of history of the millage rate and the amount of tax levied by each taxing authority on each parcel. The bill phases-in the requirement for property appraisers to provide links that provide access on their website

³ S. 200.069, F.S.

⁴ See *Your TRIM Notice Explained*, Marion County, available at <https://www.marioncountyfl.org/home/showdocument?id=7990> (last visited Jan. 14, 2020).

⁵ S. 200.069(1), F.S.

⁶ S. 200.069(2)(a), F.S.

⁷ *Id.*

⁸ “Last years’ adjusted tax rate” is the rolled-back rate. S. 200.069(2)(b), F.S. For voted levies for debt service, “last years’ adjusted tax rate” is the rate authorized by referendum. S. 200.069(4)(c), F.S.

⁹ See, e.g., *Search by Property Address*, Leon County Property Appraiser, available at

<https://www.leonpa.org/pt/search/commonsearch.aspx?mode=address> (last visited Jan. 14, 2020) (providing tax history of each parcel in the county in search results).

to four years of history of the millage rate and the amount of tax levied by each taxing authority for each parcel by requiring:

- By October 1, 2020, two years of history;
- By October 1, 2021, three years of history;
- By October 1, 2022, and thereafter, four years of history.

The bill further requires each local government to post prominently on its website, in a manner that is easily accessible to the public, a minimum of four years of history of its annual millage rate(s), and the total annual amount of property tax revenue generated by each of these levies. The bill allows these provisions to be phased in over three years.

Public Notice for Local Option Tax Increases and New Debt Issuance

Current Situation

Under current law, there are different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur.¹⁰ School districts are required to hold elections prior to the issuance of certain bonds.¹¹ These elections require publication of notice at least once a week for two consecutive weeks in a newspaper published in the district.¹²

Chapter 200, F.S., generally governs the process, procedures, and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority. The chapter specifies the steps required to establish a millage rate for a given taxing authority. Included in these required steps are various noticing requirements. For example, in addition to the preparation and distribution of the TRIM notice as described above, each local government must hold at least two public hearings to first adopt a tentative budget and then to adopt a final budget.¹³ The public meeting held to adopt the final budget requires publication of notice, in a newspaper of general circulation in the county, of the governing board's intent to adopt a final millage rate and budget.¹⁴ The form of the notice is prescribed in statute.¹⁵

Effect of Proposed Changes

The bill requires an additional public meeting of the local governing board prior to the board taking final action on a tax increase, except for ad valorem taxes, or final action on new tax-supported debt issuance. Tax-supported debt does not include debt approved by referendum and secured by ad valorem taxes. At least 14 days prior to the governing body meeting to take a final vote to approve a tax increase or to approve the issuance of any new tax-supported debt, the governing body must hold an advertised public hearing to solicit public input on the proposed tax increase or the issuance of new tax-supported debt. The public is specifically allowed to speak and ask questions relevant to the proposed tax increase or issuance of new tax-supported debt.

The bill also requires each local government, at least 10 days prior to any final action scheduled to be taken by the governing board of the local government, to give public notice related to a tax increase, except for ad valorem taxes, or final action on any issuance of tax-supported debt. The notice must be in an advertisement in a newspaper of general circulation in the county or counties where the local government is located. In lieu of publishing in a newspaper, the local government may mail a copy of the notice to each elector residing within the jurisdiction of the local government. The notice must also

¹⁰ See ss. 125.66 and 166.041, F.S.

¹¹ S. 1010.41, F.S.

¹² S. 1010.43, F.S.

¹³ S. 200.065, F.S.

¹⁴ S. 200.065(2)(d), F.S.

¹⁵ S. 200.065(3), F.S.

be prominently posted on the local government's website in a manner that is easily accessible to the public.

Current noticing and meeting requirements regarding ad valorem taxes are unchanged.

For proposed tax increases, the notice must include, at a minimum:

- A statement prominently posted that the local government intends to vote on a proposed new tax enactment, tax extension or tax rate increase;
- The time and place of the public meeting;
- The amount of the tax increase, including both the rate and total amount of annual revenue expected to be generated and the annual revenue expected as a percentage of the local government's general revenue fund;
- A detailed explanation of the intended uses of the levy; and
- A statement indicating whether the governing board expects to use the tax proceeds to secure debt.

For the new issuance of tax-supported debt, such notice must include at a minimum:

- A statement prominently posted that the local government intends to vote on a proposed new issuance of tax-supported debt;
- The time and place of the public meeting;
- A truth in bonding statement that includes the amount of the debt, the period of time over which the debt is expected to be repaid, a forecasted interest rate for the debt, the total amount of interest expected to be paid over the term of the debt issuance, the source of repayment or security for the debt and a statement that the authorization of the debt will result in a specific amount of money being unavailable to finance the other services of the local government for each year of the term of the debt; and
- A description of the debt affordability ratios required to be calculated (see Debt Affordability Measures below).

Debt Affordability Measures for New Debt Issuance

Current Situation

The Division of Bond Finance is required to prepare a debt affordability report for the state on an annual basis.¹⁶ The report is required to include, at a minimum:

- A listing of state debt outstanding, other debt secured by state revenues, and other contingent debt;
- An estimate of revenues available for the next 10 fiscal years to pay debt service, including general revenues plus any revenues specifically pledged to pay debt service;
- An estimate of additional debt issuance for the next 10 fiscal years for the state's existing borrowing programs;
- A schedule of the annual debt service requirements, including principal and interest allocation, on the outstanding state debt and an estimate of the annual debt service requirements on the debt for each of the next 10 fiscal years;
- An overview of the state's general obligation credit rating;
- Identification and calculation of pertinent debt ratios, including, but not limited to, debt service to revenues available to pay debt service, debt to personal income, and debt per capita for the state's net tax-supported debt;
- The estimated debt capacity available over the next 10 fiscal years without the benchmark debt ratio of debt service to revenue exceeding 6 percent; and
- A comparison of the debt ratios prepared for the report with the comparable debt ratios for the 10 most populous states.

A legislative statement of determination (commonly referred to as a “budget statement”) in the legislative authorization of new tax-supported debt if the additional borrowing would exceed certain benchmark debt ratios.¹⁷ If the ratio of debt service to revenue available to pay debt service on tax-supported debt would exceed 6 percent as a result of the borrowing, the required statement of determination must state the authorization and issuance is in the best interest of the state and should be implemented. If the same ratio would exceed 7 percent as a result of the borrowing, the required statement must state that such additional debt is necessary to address a critical state emergency.

No similar requirements exist for local governments.

Effect of Proposed Changes

The bill requires local governments to conduct and consider a debt affordability analysis prior to approving the issuance of new, long-term tax-supported debt. The analysis would consist, at a minimum, of calculating a debt affordability ratio for the most recent five years and at least two projected years to gauge the effects of the proposed new debt issuance on the government’s debt service to revenue profile. The debt affordability ratio is the annual debt service for outstanding tax-supported debt divided by total annual revenues available to pay debt service on outstanding debt. This ratio must be calculated both with and without the new debt issuance.

Consequences for Non-Compliance

Current Situation

Each subject local governmental entity, district school board, charter school, or charter technical career center must have an annual financial audit, conducted by an independent certified public accountant, of its accounts and records completed within nine months of the end of its fiscal year, unless the entity is informed before the start of the fiscal year that the Auditor General intends to conduct an audit of the entity for that year.¹⁸ This provision applies to:¹⁹

- Each county;
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000, as reported on the fund financial statements;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000, as reported on the fund financial statements;
- Each district school board;
- Each charter school established under s. 1002.33, F.S; and
- Each charter technical center established under s. 1002.34, F.S.

Additionally, each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$ 250,000, and each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000, must conduct a financial audit if the entity has not been subject to a financial audit in the two preceding fiscal years.²⁰

At the conclusion of the audit, the auditor must discuss with the statutorily designated person for each entity all of the auditor’s comments that will be included in the audit report.²¹ If the designated person is not available to discuss the auditor’s comments, their discussion is presumed when the comments are delivered in writing to his or her office. The auditor is required to prepare an audit report in accordance with the rules of the Auditor General.²² The audit report must be filed with the Auditor General within 45 days after delivery of the audit report to the governing body of the audited entity, but no later than nine months after the end of the audited entity’s fiscal year. The audit report must include a written

¹⁷ S. 215.98(1), F.S.

¹⁸ S. 218.39, F.S.

¹⁹ S. 218.39(1)(a)-(f), F.S.

²⁰ S. 218.39(1)(g)-(h), F.S.

²¹ S. 218.39(5), F.S.

²² S. 218.39(7), F.S.

statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.

The Auditor General is required to notify the Legislative Auditing Committee of any audit report prepared pursuant to this section, which indicates that an audited entity has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.²³ The Legislative Auditing Committee may direct the governing body of the audited entity to provide a written statement to the committee explaining why full corrective action has not been taken or, if the governing body intends to take full corrective action, describing the corrective action to be taken and when it will occur.²⁴ If the Legislative Auditing Committee determines that the written statement is not sufficient, it may require the chair of the governing body of the local governmental entity or the chair's designee, the elected official of each county agency or the elected official's designee, the chair of the district school board or the chair's designee, the chair of the board of the charter school or the chair's designee, or the chair of the board of the charter technical career center or the chair's designee, as appropriate, to appear before the committee.²⁵ If the Legislative Auditing Committee determines that an audited entity has failed to take full corrective action for which there is no justifiable reason for not taking such action, or has failed to comply with committee requests made pursuant to this section, the committee may proceed in accordance with s. 11.40(2), F.S.²⁶

Section 11.40, F.S., governs the Legislative Auditing Committee, including the scope of its authority and actions it may take in specified circumstances. In the case of a local governmental entity or district school board, these actions include, but are not limited to, directing the Department of Revenue (DOR) and the Department of Financial Services (DFS) to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law.²⁷

Effect of Proposed Changes

The bill requires the annual audit reports described above to include an affidavit signed by the chair of the governing board of the local government stating the local government has complied with the requirements of the newly created Part VIII of ch. 218, F.S., as contemplated by the bill. This affidavit must be contained in a separate document. If the local government has not complied, the affidavit must include a description of the noncompliance and corrective action taken by the local government to correct the noncompliance and to prevent such noncompliance in the future. The bill requires the Auditor General to request evidence of corrective action from each local government not in compliance with Part VIII of ch. 218, F.S., and for such local government to provide evidence of the initiation of corrective action within 45 days and evidence of completion of corrective action within 180 days after the date it is requested by the Auditor General. The Auditor General must notify the Legislative Auditing Committee if the local government does not take corrective action within the specified timeframe or fails to comply with the Auditor General's request.

Failure to comply with Part VIII, ch. 218, F.S., could therefore ultimately result in the Legislative Auditing Committee directing DOR and DFS to withhold any funds not pledged for bond debt service satisfaction which are payable to such local government entity until the entity complies with the law.²⁸ This would include revenue sharing monies that the state distributes to local governments. Generally, state-shared revenue programs allocate all or some portion of a state-collected fee or tax to specified local governments based on eligibility requirements. In some cases, a formula has been developed for the allocation of funds between units of local government. While general law restricts the use of several shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.

²³ S. 218.39(8), F.S.

²⁴ S. 218.39(8)(a), F.S.

²⁵ S. 218.39(8)(b), F.S.

²⁶ S. 218.39(8)(c), F.S.

²⁷ S. 11.40(2)(a), F.S.

²⁸ S. 11.45(2), F.S.

Administrative Changes

The bill creates requirements as described above for various types of information to be prominently placed on local government websites. The bill provides that if a local government is required to post information to its website, but does not operate a website, that it must inform the county or counties within which the local government is located of any information required to be posted to a website under this part, and such county must post the required information from such local government on the county's website.

Economic Development Incentive Reporting

Current Situation

Counties and municipalities are required to provide the Office of Economic and Demographic Research (EDR) with details regarding their economic development incentives in excess of \$25,000 granted during the previous fiscal year.²⁹ EDR annually collects this data from local governments through an online survey, coupled with follow-up communications as necessary.³⁰ The survey questions are guided by four categories of incentives: direct financial incentives of monetary assistance, indirect incentives in the forms of grants and loans, fee-based or tax-based incentives, and below-market rate leases or deeds for real property.³¹ EDR compiles the economic development incentives provided by the local governments in a manner that shows the total of each class of incentives into a report and provides the report to the President of the Senate, Speaker of the House of Representatives, and the Department of Economic Opportunity.³²

Effect of Proposed Changes

The bill revises the local government reporting requirements for economic development incentives. Specifically, the bill requires each county and municipality to report whether the incentive was provided directly to an individual business or by another entity on behalf of the local government and the source of local dollars, and any state or federal dollars obligated for the incentive.

The bill also revises the classes of economic development incentives. It requires reporting on financial incentives; general assistance, services, and support; and business recruitment, retention, or expansion efforts.

The bill requires EDR to compare the results of the economic development incentives provided by all local governments with the results of state incentives provided within similar classes to the extent that such a comparison is possible.

Other Provisions

The bill contains a legislative finding that the act fulfills an important state interest.

B. SECTION DIRECTORY:

Section 1: Amends s. 11.40(2), F.S., making a conforming change.

Section 2: Amends s. 11.45, F.S., redesignating paragraphs (d)-(j) as (e)-(k) and adding a new paragraph (d) requiring the Auditor General report certain noncompliance with new Part

²⁹ Ss. 125.045(5)(a) and 166.021(8)(e), F.S. The municipal reporting requirement only applies to municipalities with annual revenues or expenditures greater than \$250,000.

³⁰ Office of Economic and Demographic Research, Florida County & Municipal Economic Development Incentives: Local Fiscal Year 2015-16 Report Based on 2017 Survey Responses 6, *available at* <http://edr.state.fl.us/Content/local-government/reports/econincentives16.pdf> (last visited Jan. 14, 2020).

³¹ *Id.* at 2.

³² Ss. 125.045(5)(a) and 166.021(8)(e), F.S.

VIII of ch. 218, F.S., to the Legislative Auditing Committee under specified circumstances.

- Section 3: Amends s. 125.045, F.S., revising reporting requirements for economic development incentives for counties.
- Section 4: Amends s. 166.021, F.S., revising reporting requirements for economic development incentives for municipalities.
- Section 5: Transfers and renumbers s. 218.80, F.S., to s. 218.795, F.S.
- Section 6: Creates Part VIII of ch. 218, F.S., consisting of ss. 218.801, 218.803, 218.805, 218.81, 218.82, 218.83, 218.84, 218.88, and 218.89, F.S., as the “Local Government Fiscal Transparency Act.”
- Section 7: Amends s. 215.97, F.S., making a conforming change.
- Section 8: Amends s. 218.32, F.S., making a conforming change.
- Section 9: Provides that the act fulfils an important state interest.
- Section 10: 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:

The provisions of the bill are expected to require an indeterminate amount of local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Households and businesses will have improved access to forthcoming local government decisions regarding tax increases and new debt issuance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill could require expenditures related to the inclusion of additional data on local government websites, additional noticing requirements and public meetings, and additional required analysis of debt affordability. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

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

None.

1 A bill to be entitled
2 An act relating to local government fiscal
3 transparency; amending s. 11.40, F.S.; expanding the
4 scope of the Legislative Auditing Committee review to
5 include compliance with local government fiscal
6 transparency requirements; amending s. 11.45, F.S.;
7 providing procedures for the Auditor General and local
8 governments to comply with the local government fiscal
9 transparency requirements; amending ss. 125.045 and
10 166.021, F.S.; revising reporting requirements for
11 certain local government economic development
12 incentives; transferring and renumbering s. 218.80,
13 F.S., relating to the Public Bid Disclosure Act;
14 creating part VIII of ch. 218, F.S., consisting of ss.
15 218.801, 218.803, 218.805, 218.81, 218.82, 218.83,
16 218.84, 218.88, and 218.89, F.S.; providing a short
17 title, purpose, and definitions; requiring local
18 governments to post certain voting record information
19 on their websites; requiring such websites to provide
20 links to related websites; requiring such websites and
21 the information on such websites to comply with
22 certain federal laws; requiring property appraisers
23 and local governments to post certain property tax
24 information and history on their websites; requiring
25 local governments to post certain property tax

26 information and history on their websites; requiring
27 public notices for public hearings and meetings before
28 certain tax increases or the issuance of new tax-
29 supported debt; specifying noticing and advertising
30 requirements for such public hearings and meetings;
31 requiring local governments to conduct certain debt
32 affordability analyses under specified conditions;
33 requiring audits of local governments to include
34 affidavits signed by the chair of the local government
35 governing board; requiring specified information to
36 accompany audits of local governments and to be filed
37 with the Auditor General; providing a method for local
38 governments that do not operate a website to post
39 certain required information; amending ss. 215.97 and
40 218.32, F.S.; conforming cross-references; declaring
41 that the act fulfills an important state interest;
42 providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Subsection (2) of section 11.40, Florida
47 Statutes, is amended to read:

48 11.40 Legislative Auditing Committee.—

49 (2) Following notification by the Auditor General, the
50 Department of Financial Services, the Division of Bond Finance

51 of the State Board of Administration, the Governor or his or her
52 designee, or the Commissioner of Education or his or her
53 designee of the failure of a local governmental entity, district
54 school board, charter school, or charter technical career center
55 to comply with the applicable provisions within s. 11.45(5)-(7),
56 s. 218.32(1), s. 218.38, ~~or~~ s. 218.503(3), or part VIII of
57 chapter 218, the Legislative Auditing Committee may schedule a
58 hearing to determine if the entity should be subject to further
59 state action. If the committee determines that the entity should
60 be subject to further state action, the committee shall:

61 (a) In the case of a local governmental entity or district
62 school board, direct the Department of Revenue and the
63 Department of Financial Services to withhold any funds not
64 pledged for bond debt service satisfaction which are payable to
65 such entity until the entity complies with the law. The
66 committee shall specify the date that such action must begin,
67 and the directive must be received by the Department of Revenue
68 and the Department of Financial Services 30 days before the date
69 of the distribution mandated by law. The Department of Revenue
70 and the Department of Financial Services may implement this
71 paragraph.

72 (b) In the case of a special district created by:

73 1. A special act, notify the President of the Senate, the
74 Speaker of the House of Representatives, the standing committees
75 of the Senate and the House of Representatives charged with

76 special district oversight as determined by the presiding
77 officers of each respective chamber, the legislators who
78 represent a portion of the geographical jurisdiction of the
79 special district, and the Department of Economic Opportunity
80 that the special district has failed to comply with the law.
81 Upon receipt of notification, the Department of Economic
82 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
83 If the special district remains in noncompliance after the
84 process set forth in s. 189.0651, or if a public hearing is not
85 held, the Legislative Auditing Committee may request the
86 department to proceed pursuant to s. 189.067(3).

87 2. A local ordinance, notify the chair or equivalent of
88 the local general-purpose government pursuant to s. 189.0652 and
89 the Department of Economic Opportunity that the special district
90 has failed to comply with the law. Upon receipt of notification,
91 the department shall proceed pursuant to s. 189.062 or s.
92 189.067. If the special district remains in noncompliance after
93 the process set forth in s. 189.0652, or if a public hearing is
94 not held, the Legislative Auditing Committee may request the
95 department to proceed pursuant to s. 189.067(3).

96 3. Any manner other than a special act or local ordinance,
97 notify the Department of Economic Opportunity that the special
98 district has failed to comply with the law. Upon receipt of
99 notification, the department shall proceed pursuant to s.
100 189.062 or s. 189.067(3).

101 (c) In the case of a charter school or charter technical
 102 career center, notify the appropriate sponsoring entity, which
 103 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

104 Section 2. Paragraphs (d) through (j) of subsection (7) of
 105 section 11.45, Florida Statutes, are redesignated as paragraphs
 106 (e) through (k), respectively, and a new paragraph (d) is added
 107 to that subsection to read:

108 11.45 Definitions; duties; authorities; reports; rules.—

109 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

110 (d) During the Auditor General's review of audit reports,
 111 the Auditor General shall contact each local government, as
 112 defined in s. 218.805(2), that is not in compliance with part
 113 VIII of chapter 218 and request evidence of corrective action.
 114 The local government shall provide the Auditor General with
 115 evidence of the initiation of corrective action within 45 days
 116 after the date it is requested by the Auditor General and
 117 evidence of completion of corrective action within 180 days
 118 after the date it is requested by the Auditor General. If the
 119 local government fails to comply with the Auditor General's
 120 request or is unable to take corrective action within the
 121 required timeframe, the Auditor General shall notify the
 122 Legislative Auditing Committee.

123 Section 3. Subsection (5) of section 125.045, Florida
 124 Statutes, is amended to read:

125 125.045 County economic development powers.—

126 (5) (a) By January 15 of each year ~~By January 15, 2011, and~~
 127 ~~annually thereafter~~, each county shall report to the Office of
 128 Economic and Demographic Research ~~the~~ economic development
 129 incentives in excess of \$25,000 given to each business ~~any~~
 130 ~~business~~ during the county's previous fiscal year. The Office of
 131 Economic and Demographic Research shall compile the information
 132 from the counties into a report and provide the report to the
 133 President of the Senate, the Speaker of the House of
 134 Representatives, and the Department of Economic Opportunity.
 135 Each county must identify whether the economic development
 136 incentives were provided directly by the county or by another
 137 entity on behalf of the county, as well as the source of local
 138 dollars and any state or federal dollars obligated for the
 139 incentive. Economic development incentives are classified as
 140 follows ~~include:~~

141 1. Class I: Direct ~~Financial~~ incentives ~~of monetary~~
 142 ~~assistance~~ provided to an individual ~~a business from the county~~
 143 ~~or through an organization authorized by the county~~. Such
 144 incentives include: ~~, but are not limited to, grants, loans,~~
 145 ~~equity investments, loan insurance and guarantees, and training~~
 146 ~~subsidies.~~

- 147 a. Grants.
- 148 b. Tax-based credits, refunds, or exemptions.
- 149 c. Fee-based credits, refunds, or exemptions.
- 150 d. Loans, loan insurance, or loan guarantees.

151 e. Below-market rate leases or deeds for real property.

152 f. Job training or recruitment.

153 g. Subsidized or discounted government services.

154 h. Infrastructure improvements.

155 2. Class II: General assistance, services, and support
156 provided collectively to businesses with a common interest or
157 purpose. Such incentives include:

158 a. Technical assistance and training.

159 b. Business incubators and accelerators.

160 c. Infrastructure improvements ~~Indirect incentives in the~~
161 ~~form of grants and loans provided to businesses and community~~
162 ~~organizations that provide support to businesses or promote~~
163 ~~business investment or development.~~

164 3. Class III: Business recruitment, retention, or
165 expansion efforts provided to benefit an individual business or
166 class of businesses. Such incentives include:

167 a. Marketing and market research.

168 b. Trade missions and trade shows.

169 c. Site selection.

170 d. Targeted assistance with the permitting and licensing
171 process.

172 e. Business plan or project development ~~Fee-based or tax-~~
173 ~~based incentives, including, but not limited to, credits,~~
174 ~~refunds, exemptions, and property tax abatement or assessment~~
175 ~~reductions.~~

176 ~~4. Below-market rate leases or deeds for real property.~~

177 (b) A county shall report its economic development
 178 incentives in the format specified by the Office of Economic and
 179 Demographic Research.

180 (c) The Office of Economic and Demographic Research shall
 181 compile the economic development incentives provided by each
 182 county in a manner that shows the total of each class of
 183 economic development incentives provided by each county and all
 184 counties. To the extent possible, the office shall compare the
 185 results of the economic development incentives provided by all
 186 counties to the results of state incentives provided within
 187 similar classes.

188 Section 4. Paragraph (e) of subsection (8) of section
 189 166.021, Florida Statutes, is amended to read:

190 166.021 Powers.—

191 (8)

192 (e)1. By January 15 of each year ~~By January 15, 2011, and~~
 193 ~~annually thereafter,~~ each municipality having annual revenues or
 194 expenditures greater than \$250,000 shall report to the Office of
 195 Economic and Demographic Research ~~the~~ economic development
 196 incentives in excess of \$25,000 given to each business ~~any~~
 197 ~~business~~ during the municipality's previous fiscal year. The
 198 Office of Economic and Demographic Research shall compile the
 199 information from the municipalities into a report and provide
 200 the report to the President of the Senate, the Speaker of the

201 House of Representatives, and the Department of Economic
 202 Opportunity. Each municipality must identify whether the
 203 economic development incentives were provided directly by the
 204 municipality or by another entity on behalf of the municipality,
 205 as well as the source of local dollars and any state or federal
 206 dollars obligated for the incentive. Economic development
 207 incentives are classified as follows include:

208 a. Class I: Direct Financial incentives of monetary
 209 assistance provided to an individual a business from the
 210 municipality or through an organization authorized by the
 211 municipality. Such incentives include: ~~, but are not limited to,~~
 212 ~~grants, loans, equity investments, loan insurance and~~
 213 ~~guarantees, and training subsidies.~~

- 214 (I) Grants.
- 215 (II) Tax-based credits, refunds, or exemptions.
- 216 (III) Fee-based credits, refunds, or exemptions.
- 217 (IV) Loans, loan insurance, or loan guarantees.
- 218 (V) Below-market rate leases or deeds for real property.
- 219 (VI) Job training or recruitment.
- 220 (VII) Subsidized or discounted government services.
- 221 (VIII) Infrastructure improvements.

222 b. Class II: General assistance, services, and support
 223 provided collectively to businesses with a common interest or
 224 purpose. Such incentives include:

- 225 (I) Technical assistance and training.

226 (II) Business incubators and accelerators.

227 (III) Infrastructure improvements ~~Indirect incentives in~~
 228 ~~the form of grants and loans provided to businesses and~~
 229 ~~community organizations that provide support to businesses or~~
 230 ~~promote business investment or development.~~

231 c. Class III: Business recruitment, retention, or
 232 expansion efforts provided to benefit an individual business or
 233 class of businesses. Such incentives include:

234 (I) Marketing and market research.

235 (II) Trade missions and trade shows.

236 (III) Site selection.

237 (IV) Targeted assistance with the permitting and licensing
 238 process.

239 (V) Business plan or project development ~~Fee-based or tax-~~
 240 ~~based incentives, including, but not limited to, credits,~~
 241 ~~refunds, exemptions, and property tax abatement or assessment~~
 242 ~~reductions.~~

243 ~~d. Below market rate leases or deeds for real property.~~

244 2. A municipality shall report its economic development
 245 incentives in the format specified by the Office of Economic and
 246 Demographic Research.

247 3. The Office of Economic and Demographic Research shall
 248 compile the economic development incentives provided by each
 249 municipality in a manner that shows the total of each class of
 250 economic development incentives provided by each municipality

251 and all municipalities. To the extent possible, the office shall
 252 compare the results of the economic development incentives
 253 provided by all municipalities to the results of state
 254 incentives provided in similar classes.

255 Section 5. Section 218.80, Florida Statutes, is
 256 transferred and renumbered as section 218.795, Florida Statutes.

257 Section 6. Part VIII of chapter 218, Florida Statutes,
 258 consisting of sections 218.801, 218.803, 218.805, 218.81,
 259 218.82, 218.83, 218.84, 218.88, and 218.89, is created to read:

260 PART VIII

261 LOCAL GOVERNMENT FISCAL TRANSPARENCY ACT

262 218.801 Short title.—This part may be cited as the "Local
 263 Government Fiscal Transparency Act."

264 218.803 Purpose.—The purpose of this part is to promote
 265 the fiscal transparency of local governments when using public
 266 funds by requiring additional public noticing of proposed local
 267 government actions that increase taxes, enact new taxes, extend
 268 expiring taxes, or issue tax-supported debt and requiring voting
 269 records of local governing bodies related to such actions to be
 270 easily and readily accessible by the public.

271 218.805 Definitions.—As used in this part, the term:

272 (1) "Debt" means bonds, loans, promissory notes, lease-
 273 purchase agreements, certificates of participation, installment
 274 sales, leases, or any other financing mechanisms or financial
 275 arrangements, regardless of whether they are debt for legal

276 purposes or for financing or refinancing the acquisition,
277 construction, improvement, or purchase of capital outlay
278 projects.

279 (2) "Local government" means any county, municipality,
280 school district, dependent special district, municipal service
281 taxing unit, or independent special district, but does not
282 include special dependent or independent districts established
283 to provide hospital services, provided such special districts do
284 not levy, assess, or collect ad valorem taxes.

285 (3) "Tax increase" means:

286 (a) For ad valorem taxes, any increase in a local
287 government's millage rate above the rolled-back rate as
288 described in s. 200.065(1).

289 (b) For all other taxes, an increase in the tax rate, the
290 enactment of a new tax, or an extension of a tax.

291 (4) "Tax-supported debt" means debt with a duration of
292 more than 5 years secured in whole or in part by state or local
293 tax levies, regardless of whether such security is direct or
294 indirect or explicit or implicit, and includes debt for which
295 annual appropriations pledged for payment are from government
296 fund types receiving tax revenues or shared revenues from state
297 tax sources. The term does not include debt secured solely by
298 revenues generated by the project that is financed with the
299 debt.

300 218.81 Voting record access.—

301 (1) Each local government shall post on its website, in a
302 manner that is easily accessible to the public, a history of the
303 voting record of each action taken by the local governing board
304 that addressed a tax increase or new tax-supported debt
305 issuance, except debt that was refinanced or refunded and that
306 did not extend the term or increase the outstanding principal
307 amount of the original debt, as follows:

308 (a) By October 1, 2020, the voting record history from the
309 preceding year.

310 (b) By October 1, 2021, the voting record history from the
311 preceding 2 years.

312 (c) By October 1, 2022, the voting record history from the
313 preceding 3 years.

314 (d) By October 1, 2023, and each October 1 thereafter, the
315 voting record history from the preceding 4 years.

316 (2) The website must provide links to allow users to
317 navigate to related websites if supporting details or
318 documentation are available, and the websites and the
319 information on those websites must comply with the Americans
320 with Disabilities Act.

321 (3) In each public notice of a tax increase or the
322 issuance of new tax-supported debt, each local government shall
323 include with the public notice the website address at which the
324 voting records can be accessed.

325 218.82 Property tax information and history.—

326 (1) Each county property appraiser, as defined in s.
327 192.001, shall maintain a website that includes, in a manner
328 easily accessible to the public, links that provide access to:

329 (a) The notice of proposed property taxes and non-ad
330 valorem assessments required under s. 200.069 for each parcel of
331 property in the county.

332 (b) A history of the millage rate and the amount of tax
333 levied by each taxing authority on each parcel in the county as
334 follows:

335 1. By October 1, 2020, the history from the preceding 2
336 years.

337 2. By October 1, 2021, the history from the preceding 3
338 years.

339 3. By October 1, 2022, and each October 1 thereafter, the
340 history from the preceding 4 years.

341
342 This subsection does not apply to information that is otherwise
343 exempt from public disclosure.

344 (2) Each local government shall post on its website, in a
345 manner that is easily accessible to the public, links that
346 provide access to a history of each of its millage rates and the
347 total annual amount of revenue generated by each of these
348 levies, as follows:

349 (a) By October 1, 2020, the history from the preceding 2
350 years.

351 (b) By October 1, 2021, the history from the preceding 3
 352 years.

353 (c) By October 1, 2022, and each October 1 thereafter, the
 354 history from the preceding 4 years.

355 218.83 Expanded public noticing of tax increases and
 356 issuance of new tax-supported debt.-

357 (1) For purposes of this section, the term "tax increase"
 358 does not include an ad valorem tax increase and the term "tax-
 359 supported debt" does not include debt approved by referendum and
 360 secured by ad valorem taxes.

361 (2) A local government that intends to vote on a proposed
 362 tax increase or the issuance of new tax-supported debt shall
 363 advertise a public hearing to solicit public input concerning
 364 the proposed tax increase or the issuance of new tax-supported
 365 debt. This public hearing must occur at least 14 days before the
 366 scheduled date of the local governing board meeting to take a
 367 final vote on the proposed tax increase or the issuance of new
 368 tax-supported debt. Any hearing required under this subsection
 369 shall be held after 5 p.m. if scheduled on a day other than
 370 Saturday. A hearing may not be held on a Sunday. The general
 371 public must be allowed to speak and to ask questions relevant to
 372 the proposed tax increase or the issuance of new tax-supported
 373 debt. The local government shall provide public notice as
 374 provided in subsection (4).

375 (3) (a) If, following the public hearing, the local

376 government intends to proceed with a vote to approve a tax
377 increase or the issuance of tax-supported debt, the local
378 government shall provide public notice in the manner set forth
379 in subsection (4) at least 10 days before the scheduled public
380 meeting date.

381 (b) For a proposed tax increase, the notice shall also
382 include, at a minimum:

383 1. A statement prominently posted that the local
384 government intends to vote on a proposed tax, tax extension, or
385 tax increase.

386 2. The time and place of the public meeting.

387 3. The amount of the tax increase, including both the rate
388 and the total amount of annual revenue expected to be generated
389 and the expected annual revenue expressed as a percentage of the
390 government's general fund revenue.

391 4. A detailed explanation of the intended uses of the
392 levy.

393 5. A statement indicating whether the local government
394 expects to use the proceeds to secure debt.

395 (c) For new tax-supported debt issuance, the notice shall
396 also include, at a minimum:

397 1. A statement prominently posted that the local
398 government intends to vote on a proposed new issuance of tax-
399 supported debt.

400 2. The time and place of the public meeting.

401 3. A truth-in-bonding statement in substantially the
402 following form:

403 "The ...(insert local government name)... is proposing to
404 issue \$...(insert principal)... of debt or obligation for the
405 purpose of ...(insert purpose).... This debt or obligation is
406 expected to be repaid over a period of ...(insert term of
407 issue)... years. At a forecasted interest rate of ...(insert
408 rate of interest)..., total interest paid over the life of the
409 debt or obligation will be \$...(insert sum of interest
410 payments).... The source of repayment or security for this
411 proposal is the ...(insert the local government name)...
412 existing ...(insert fund).... Authorizing this debt or
413 obligation will result in \$...(insert the annual amount)... of
414 ...(insert local government name)... ...(insert fund)... moneys
415 not being available to finance the other services of the
416 ...(insert local government name)... each year for ...(insert
417 the length of the debt or obligation)...."

418 4. A description of the debt affordability ratios
419 calculated pursuant to s. 218.84 in substantially the following
420 form:

421 "The following ratios measure the affordability of
422 outstanding and proposed new long-term, tax-supported debt
423 issued by...(insert local government name)... The ratios show
424 debt service as a percentage of the revenues available to
425 support the debt, including the new debt being proposed

426 ...(insert 5-year history and 2-year projection of debt
427 affordability ratio)."

428 (4) The notice provided by a local government announcing a
429 public hearing to take public input as provided in subsection
430 (2) or the public meeting to take a final vote as provided in
431 subsection (3) must meet the following requirements:

432 (a) The local government must advertise notice in a
433 newspaper of general circulation in the county or counties in
434 which the local government exists. A local government may
435 advertise in a geographically limited insert of a newspaper of
436 general circulation if the region encompassed by the insert
437 contains the jurisdictional boundaries of the local government.
438 The newspaper must be of general interest to readership in the
439 community and not one of limited subject matter pursuant to
440 chapter 50. The notice:

441 1. Must be at least one-quarter page in size in a
442 newspaper of standard size or one-half page in size in a
443 newspaper of tabloid size and the headline of the notice must be
444 in at least 18-point font.

445 2. May not be placed in that portion of the newspaper in
446 which legal notices and classified advertisements appear.

447 3. Must appear in a newspaper that is published at least 5
448 days a week unless the only newspaper in the county is published
449 fewer than 5 days a week. If the notice appears in a
450 geographically limited insert of a newspaper of general

451 circulation, the insert must be one that is published at least
452 twice a week throughout the local government's jurisdiction.

453
454 In lieu of publishing the notice, the local government may mail
455 a copy of the notice to each elector residing within the
456 jurisdiction of the local government.

457 (b) The local government must post on its website in a
458 manner that is easily accessible to the public the information
459 required under subsections (2) and (3), as applicable.

460 (5) This section does not apply to the refinancing or
461 refunding of debt that does not extend the term or increase the
462 outstanding principal amount of the original debt.

463 218.84 Local government debt fiscal responsibility.-

464 (1) It is the public policy of this state to encourage
465 local governments to exercise prudence in authorizing and
466 issuing debt. Before a local government authorizes debt, it must
467 consider its ability to meet its total debt service obligations
468 in light of other demands on the local government's fiscal
469 resources. Each local government shall perform a debt
470 affordability analysis as set forth in subsection (2), and the
471 governing board shall consider the analysis before approving the
472 issuance of new tax-supported debt.

473 (2) The debt affordability analysis shall, at a minimum,
474 consist of the calculation of the local government's actual debt
475 affordability ratio for the 5 fiscal years before the year the

476 debt is expected to be issued and a projection of the ratio for
477 at least the first 2 fiscal years in which the debt is expected
478 to be issued. The analysis shall include a comparison of the
479 debt affordability ratio with and without the new debt issuance.

480 (3) The debt affordability ratio for a given fiscal year
481 shall be a ratio:

482 (a) The numerator of which is the total annual debt
483 service for outstanding tax-supported debt of the local
484 government.

485 (b) The denominator of which is the total annual revenues
486 available to pay debt service on outstanding tax-supported debt
487 of the local government.

488 218.88 Audits.—Audits of financial statements of local
489 governments that are performed by a certified public accountant
490 pursuant to s. 218.39 and submitted to the Auditor General must
491 be accompanied by an affidavit executed by the chair of the
492 governing board of the local government, as a separate document,
493 stating that the local government has complied with this part
494 and must be filed with the Auditor General or, if the local
495 government has not complied with this part, the affidavit shall
496 include a description of the noncompliance and corrective action
497 taken by the local government to correct the noncompliance and
498 to prevent such noncompliance in the future.

499 218.89 Local government websites.—If a local government is
500 required under this part to post information on its website but

501 does not operate an official website, the local government must
 502 provide the county or counties in which the local government is
 503 located the information required to be posted, and each such
 504 county shall post the required information on its website.

505 Section 7. Paragraph (a) of subsection (2) of section
 506 215.97, Florida Statutes, is amended to read:

507 215.97 Florida Single Audit Act.—

508 (2) As used in this section, the term:

509 (a) "Audit threshold" means the threshold amount used to
 510 determine when a state single audit or project-specific audit of
 511 a nonstate entity shall be conducted in accordance with this
 512 section. Each nonstate entity that expends a total amount of
 513 state financial assistance equal to or in excess of \$750,000 in
 514 any fiscal year of such nonstate entity shall be required to
 515 have a state single audit or a project-specific audit for such
 516 fiscal year in accordance with the requirements of this section.
 517 After consulting with the Executive Office of the Governor, the
 518 Department of Financial Services, and all state awarding
 519 agencies, the Auditor General shall periodically review the
 520 threshold amount for requiring audits under this section and may
 521 recommend any appropriate statutory change to revise the
 522 threshold amount in the annual report submitted to the
 523 Legislature pursuant to s. 11.45(7)(i) ~~s. 11.45(7)(h)~~.

524 Section 8. Paragraph (e) of subsection (1) of section
 525 218.32, Florida Statutes, is amended to read:

526 218.32 Annual financial reports; local governmental
527 entities.—

528 (1)

529 (e) Each local governmental entity that is not required to
530 provide for an audit under s. 218.39 must submit the annual
531 financial report to the department no later than 9 months after
532 the end of the fiscal year. The department shall consult with
533 the Auditor General in the development of the format of annual
534 financial reports submitted pursuant to this paragraph. The
535 format must include balance sheet information used by the
536 Auditor General pursuant to s. 11.45(7)(g) ~~s. 11.45(7)(f)~~. The
537 department must forward the financial information contained
538 within the annual financial reports to the Auditor General in
539 electronic form. This paragraph does not apply to housing
540 authorities created under chapter 421.

541 Section 9. The Legislature finds that this act fulfills an
542 important state interest.

543 Section 10. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1185 Ethics Reform
SPONSOR(S): Public Integrity & Ethics Committee, Brannan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Ethics Committee	17 Y, 0 N, As CS	Kiner	Rubottom
2) State Affairs Committee		Etheridge	Williamson

SUMMARY ANALYSIS

The bill addresses public officer, public employee, and third party conduct regarding solicitation and negotiation of conflicting and potentially conflicting income producing relationships, addresses post-service lobbying restrictions for certain officers, and revises executive branch lobbyist registration requirements in addition to other reforms. Specifically, the bill:

- Removes restrictions on state employees lobbying the Legislature;
- Prohibits public officers and employees from soliciting an employment or contractual relationship from entities with whom they are prohibited from entering into conflicting employment and contractual relationships;
- Requires public officers and employees to report or disclose particular solicitations and offers of employment or contractual relationships;
- Imposes certain restrictions on statewide elected officers and legislators related to employment and investment advice;
- Restricts certain unelected state officers and employees regarding soliciting and negotiating an employment or contractual relationship with certain employers;
- Authorizes the Commission on Ethics to investigate disclosures of certain prohibited solicitations in the same manner as a complaint; and
- Revises executive branch lobbying registration requirements to mandate electronic registration, clarify provisions, and add the Board of Governors of the State University System and the State Board of Education to the list of entities to which the requirements apply.

The bill has an indeterminate fiscal impact on the state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State Employee Lobbyists

Current Situation

State law regulates aspects of legislative lobbying by state employees.¹ Employees of non-public entities are only required to register as lobbyists if they are employed and receive payment for the purpose of lobbying or are principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.² However, any state, state university, or community college employee who seeks to encourage the passage, defeat, or modification of any legislation by personal appearance or attendance before the Legislature must register as a lobbyist with the Office of Legislative Services (OLS).³ In addition, each state, state university, or community college employee is required to record his or her attendance before any legislative committee during the established business hours of the employee's agency and record with OLS any attendance in the legislative chambers, committee rooms, legislative offices, and other areas, unless the agency designates the individual's position as being used for lobbying.⁴ The law requires deduction from the employee's paycheck for all business hours spent lobbying in violation of these requirements.⁵ Other than the registration requirement, these regulations are antiquated and do not appear to have been enforced in recent years.

Effect of Proposed Changes

The bill repeals an antiquated and unenforced provision of law requiring certain state, university, and community college employees who lobby on behalf of their state government employer to record their attendance before any legislative committee or legislative office. Registration will still be required under the Joint Rules of the Florida Legislature.

Public Service Announcements

Current Situation

Chapter 106, F.S., governs campaign financing for candidates for public office and contains many provisions relating to political organizations, campaign contributions, use of campaign funds, and campaign advertising. The provisions related to campaign advertising set forth the requirements applicable to the contents of political advertisements⁶ as well as the use and removal of such advertisements.⁷ In addition, s. 106.113, F.S., prohibits a local government⁸ or a person acting on

¹ S. 11.061, F.S.

² S. 11.045(1)(g), F.S.

³ S. 11.061(1), F.S.

⁴ S. 11.061(2), F.S.

⁵ S. 11.061(3), F.S.

⁶ S. 106.011(15), F.S., defines the term "political advertisement" as a paid expression in a specified communications medium, whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. The term does not include:

- A statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization; or
- Editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium.

⁷ Ss. 106.143 and 106.1435, F.S.

⁸ S. 106.113(1)(a), F.S., defines the term "local government" as a county, municipality, school district, or other political subdivision in this state; and any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of this state.

behalf of a local government from expending or authorizing the expenditure of public funds for a political advertisement concerning an issue, referendum, or amendment that is subject to a vote of the electors.

In Florida, the general election date for federal, state, county, and district office is the first Tuesday after the first Monday in November of each even-numbered year.⁹ In each year in which a general election is held, the primary election is held on the Tuesday 11 weeks prior to the general election.¹⁰ The election date for municipal office may be set by municipal ordinance.¹¹ For these offices, current law provides for the following qualifying dates:¹²

- Candidates for federal office must qualify any time after noon on the 120th day before the primary election but no later than noon on the 116th day before the primary election.
- Candidates for the office of the state attorney or the public defender must qualify any time after noon on the 120th day before the primary election but no later than noon on the 116th day before the primary election.
- Candidates for state office must qualify any time after noon on the 71st day before the primary election but no later than noon on the 67th day before the primary election.
- Candidates for county office must qualify any time after noon on the 71st day before the primary election but no later than noon on the 67th day before the primary election.

Florida Election Dates					
	Federal Office	Office of the State Attorney or Public Defender	State Office	County Office	Municipal Office
Qualifying Period	Any time after noon on the 120 th day before the primary election but no later than noon on the 116 th day before the primary election	Any time after noon on the 120 th day before the primary election but no later than noon on the 116 th day before the primary election	Any time after noon on the 71 st day before the primary election but no later than noon on the 67 th day before the primary election	Any time after noon on the 71 st day before the primary election but no later than noon on the 67 th day before the primary election	A municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality
Primary Election	The Tuesday 11 weeks prior to the general election	The Tuesday 11 weeks prior to the general election	The Tuesday 11 weeks prior to the general election	The Tuesday 11 weeks prior to the general election	A municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality
General Election	The first Tuesday after the first Monday in November of each even-numbered year	The first Tuesday after the first Monday in November of each even-numbered year	The first Tuesday after the first Monday in November of each even-numbered year	The first Tuesday after the first Monday in November of each even-numbered year	A municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality

Effect of Proposed Changes

The bill defines the term “governmental entity” as any executive, judicial, or quasi-judicial department; state university; community college; water management district; or political subdivision. In addition, the term “public service announcement” is defined as any message communicated by radio, television, billboard, or electronic means that promotes or announces an issue of public importance, concern, or welfare. The term does not include an official communication on a governmental entity’s or an elected official’s official website or social media account used exclusively for official business.

⁹ Art. VI, s. 5, Fla. Const.; s. 100.031, F.S.

¹⁰ S. 100.061, F.S.

¹¹ Art. VI, s. 6, Fla. Const.; s. 100.3605, F.S.

¹² S. 99.061(1), F.S.

The bill prohibits a governmental entity, a person acting on behalf of a governmental entity, or an elected official from using or authorizing the use of an elected official's name, image, likeness, official uniform, badge, or other symbol of office in a public service announcement from the date the public official qualifies as a candidate for reelection or election to public office to the day after the election for which the elected official qualified as a candidate, if such announcement is paid with public funds or if the time or space for the announcement was donated by the media. The prohibition does not apply to charitable events held by an entity with 501(c)(3) tax-exempt status or bona fide news events, such as press conferences or public debates broadcast by a licensed broadcaster. The provision does not restrict the usage of funds from a campaign or political committee account.

Conflicting Employment

Current Situation

Current law prohibits a public officer or employee from entering into an employment or contractual relationship with any entity, including public agencies, over which the officer's or employee's agency exercises regulatory power or with whom the officer's or employee's agency does business.¹³ There are a number of exceptions relating to certain objectively fair or *de minimis* procurements, certain disclosed relationships, and other comparable exceptions.¹⁴ "Regulatory power" under this law does not include power exercised by a legislative body over another agency or legislative authority exercised by passage of laws or ordinances.¹⁵

The Code of Ethics for Public Officers and Employees (Code of Ethics)¹⁶ imposes on many public officers and state employees a two-year ban on lobbying their own agency after vacation of public office or employment.¹⁷ Affected employees are generally those with policymaking or significant purchasing authority. Affected legislative employees, including committee staff directors, deputy staff directors, certain attorneys, certain analysts, and others, are barred by this statute from lobbying either house or any office of the Legislature. Affected state agency personnel are only barred from lobbying their own former agency. Thus, a former Secretary of Health may lobby the Executive Office of the Governor or any agency under the Governor except the Department of Health. For both legislative and executive employees, however, there is an exception to the ban for those subsequently employed by other state agencies.¹⁸ Thus, a former agency secretary or legislative staff director may lobby their former employer on behalf of another state agency by whom they are employed during the first two years after leaving the position to which the ban relates.

The Code of Ethics imposes additional post-service restrictions on certain state employees.¹⁹ There is a concurrent employment prohibition²⁰ and a post-employment restriction²¹ on employment by agency contractors over which the employee has exercised certain procurement influence or authority during public service. After retirement or termination, the former employee may not be employed "in connection with any contract" over which the employee had influence with respect to the procurement.²² The restriction lasts for the duration of such contract.²³ There is an exception when the employee's position is contracted out to the contractor, the influence was merely advisory, or the agency head determines the best interests of the state will be served by the employee having an employment or contractual relationship with the contractor.²⁴

¹³ S. 112.313(7)(a), F.S.

¹⁴ S. 112.313(12), F.S.

¹⁵ S. 112.313(7)(a)(2), F.S.

¹⁶ Ss. 112.311–112.3261, F.S.

¹⁷ S. 112.313(9), F.S.

¹⁸ S. 112.313(9)(a)(4), F.S.

¹⁹ S. 112.3185, F.S.

²⁰ S. 112.3185(2), F.S.

²¹ S. 112.3185(3), F.S.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

A related restriction prohibits a former state agency employee, within two years after retirement or termination, from having or holding any employment or contractual relationship with any business entity in connection with any contract for contractual services that was “within [the] responsibility” of the former employee.²⁵ An exception exists when the agency head determines the former employee’s employment with the contractor is in the best interests of the state.²⁶

In addition, there is a post-service compensation limitation applicable to an agency employee who becomes a contractor providing services to his or her former agency.²⁷ During the first year after leaving his or her position with the agency, the former employee may not be paid more than the annual salary he or she was receiving upon leaving the agency for contractual services provided to the agency.²⁸ This limitation also has an exception when the agency head grants a waiver for a particular contract after determining it will result in significant time or cost savings to the state.²⁹

The Code of Ethics also prohibits a public officer or employee or a candidate for public office from soliciting or accepting anything of value based upon an understanding that the vote, official action, or judgment of the officer, employee, or candidate would be influenced thereby.³⁰ This includes gifts,³¹ employment, and valuable investment advice. In addition, even without such a quid pro quo understanding, the law prohibits certain public officers and employees from soliciting any gift or honorarium from certain entities – primarily vendors, political committees, lobbyists, and principals.³² Nonetheless, a public officer or employee may solicit employment from entities from which they are prohibited from seeking a gift and may solicit future employment from entities from which they are prohibited from accepting present employment, so long as there is no understanding that influence is offered in the exchange.

The term “solicit” appears in over 240 statutes in a variety of forms. The term is only defined for a few specific purposes, such as regulating the solicitation of charitable contributions.³³ The word is used five times in the Code of Ethics with no statutory definition.³⁴

Effect of Proposed Changes

The bill prohibits a public officer or employee of an agency from soliciting an employment or contractual relationship from an entity regulated by his or her agency or doing business with his or her agency, except for solicitation of future employment as expressly permitted in s. 112.3185, F.S. To enforce this prohibition, the bill requires such entities to disclose to the head of the employing agency any solicitation prohibited by the law. If the solicitor is the agency head or a member of a body that is the agency head, the disclosure must be made to the Commission on Ethics (Commission).

The bill prohibits a statewide elected officer or member of the Legislature from soliciting an employment offer or investment advice arising out of official or political activities engaged in while he or she is an officer or legislator or a candidate for such office, except in the following circumstances:

²⁵ S. 112.3185(4), F.S.

²⁶ *Id.*

²⁷ S. 112.3185(5), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ S. 112.313(2), F.S.

³¹ S. 112.312(12)(a), F.S.

³² Ss. 112.3148(3) and 112.3149(2), F.S. (Only unsolicited gifts, \$100 and under, may be accepted; and only *expenses* such as travel and lodging related to an honorarium event may be accepted).

³³ S. 496.404(24), F.S., defining the term “solicitation.”

³⁴ Black’s Law Dictionary (6th ed.) defines the term “solicit” as follows (citations omitted): to appeal for something; to apply to for obtaining something; to ask earnestly; to ask for the purpose of receiving; to endeavor to obtain by asking or pleading; to entreat, implore, or importune; to make petition to; to plead for; to try to obtain; and the term implies personal petition and importunity addressed to a particular individual to do some particular thing.

- The officer or legislator may solicit or accept future employment in the last 180 days of his or her term of office if he or she is ineligible to run for reelection or has publicly announced that he or she is not and does not intend to become a candidate for reelection.
- The officer or legislator may solicit or accept employment from any prospective employer in a profession or occupation in which he or she has formerly engaged, has been formally educated or trained, or is licensed unless such employment is prohibited by other general law.

The bill also prohibits certain unelected state officers and state agency employees, those required to file financial disclosures under the Code of Ethics, from soliciting an employment or contractual relationship from an entity that does business with or is regulated by the employing agency or from any person from whom they may not solicit gifts, including lobbyists and principals. Further, such state officers and state agency employees may not negotiate an offer of future employment with such entities without the permission of their agency head or an authorized designee. Permission may only be withheld if the agency head or designee determines such negotiation conflicts with the interests of the state. However, these officers and employees may solicit or negotiate such employment during the 90 days prior to termination of employment if the individual has given notice of termination or is ending a fixed term of office and will not be reappointed. In addition, if the agency has notified the individual that he or she will be discharged from employment or office, solicitation and negotiation is permitted during the 180 days prior to such discharge.

The bill requires a prohibited solicitation to be reported by the restricted employers to the agency head or to the Commission if the solicitor is the agency head. Officers and employees must disclose to their agency head, inspector general, general counsel, or a designee of the agency head any offer of employment or contractual relationship from entities from whom they may not solicit such relationships.

The bill provides that the conflicting employment provisions do not apply to an elected public officer who begins his or her term of office on or after October 1, 2020.

Solicitation of Investment Advice and Business Deals with Lobbyists and Principals

Current Situation

The Code of Ethics prohibits a current or former public officer or employee from disclosing or using non-public information gained by reason of public position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.³⁵ In addition, the 2018-2020 Rules of the Florida House of Representatives (House Rules) prohibit a House member from soliciting or accepting investment advice arising out of legislative or political activities engaged in while he or she is a member of, or candidate for, the House.³⁶ The House Rules also prohibit a member from entering into any investment, joint venture, or other profitmaking relationship with or advised by a lobbyist or principal.³⁷

Effect of Proposed Changes

The bill prohibits statewide elected officers and members of the Legislature from soliciting or accepting investment advice from lobbyists and principals, with limited exception for investment advice from a compensated licensed investment professional.

The bill also prohibits such officers and legislators from entering into an investment, joint venture, or other profitmaking relationship with a lobbyist or principal. However, this prohibition does not apply to an employment relationship to engage the personal services³⁸ of the elected official.

³⁵ S. 112.313(8), F.S.

³⁶ R. 15.5, Fla. House of Representatives.

³⁷ *Id.*

³⁸ The IRS describes personal service activity as follows: "A personal service activity is an activity that involves performing personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, or any other trade or business in which capital is not a material income-producing factor." *2018 Instructions for Schedule C (Form 1040)*, p.C-5, <https://www.irs.gov/pub/irs-pdf/i1040sc.pdf> (last visited Feb. 3, 2020).

Disclosure of Employment by Elected Officers

Current Situation

The financial disclosure laws require elected constitutional officers to file a full and complete disclosure of assets, liabilities, and income annually, and require candidates for such offices to file the disclosure when qualifying for office.³⁹ These disclosures are due on July 1 each year for the period covering the previous calendar year.⁴⁰ Thus, employer and income information is not reportable for six to 18 months after it is earned. There are no requirements for immediate disclosure of changes in income or employment.

The Code of Ethics prohibits a public officer from accepting public employment if the officer knows or should know that the employment is being offered to gain influence or other advantage based on the public officer's office or candidacy.⁴¹ Any public employment accepted by a public officer must meet all of the following conditions:

- The position was already in existence or was created by the employer without the knowledge or anticipation of the public officer's interest in such position;
- The position was publicly advertised;
- The public officer was subject to the same application and hiring processes as other candidates for the position; and
- The public officer meets or exceeds the required qualifications for the position.⁴²

A person who was employed by the state or any of its political subdivisions before qualifying as a public officer may continue his or her employment.⁴³ However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows or should know is provided as a result of his or her election or position.⁴⁴

The House Rules require House members to disclose to the Public Integrity & Ethics Committee any new employment with an entity that receives state funds directly by appropriation or from any public employer.⁴⁵ The disclosure must be filed prior to the effective date of the change or within 30 days after acceptance of the employment and must include the employer, position, and salary.⁴⁶

Effect of Proposed Changes

The bill requires statewide elected officials and members of the Legislature to disclose information relating to new employment or increased compensation under certain circumstances. Such officers and legislators must file a written statement with the Commission prior to the effective date of the change or within 30 days of acceptance of any new employment or increased compensation if the employer is:

- An entity that receives state funds directly by appropriation;
- An agency;⁴⁷ or
- A lobbying firm, a lobbyist, or a lobbyist's principal.

³⁹ Art. II, s. 8(a), Fla. Const.; see also s. 112.3144, F.S.

⁴⁰ S. 112.3144(2), F.S.

⁴¹ S. 112.3125(2), F.S.

⁴² S. 112.3125(3), F.S.

⁴³ S. 112.3125, F.S.

⁴⁴ *Id.*

⁴⁵ R. 15.4(d), Fla. House of Representatives.

⁴⁶ *Id.*

⁴⁷ S. 112.312(2), F.S., defines the term "agency" as any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district.

In addition, new employment must be disclosed if the offer of employment arose out of official or political activities engaged in while the officer or legislator was in office or was a candidate for such office. The Commission must publish the disclosures online with the official's full financial disclosure.

Lobbyist Registration and Compensation Reporting

Current Situation

Lobbyists must register to lobby the executive branch and the legislative branch in Florida. Executive branch lobbying is regulated by the Code of Ethics and administered by the Commission.⁴⁸ Legislative branch lobbying is regulated primarily by Joint Rule and administered by the Office of Legislative Services.⁴⁹ Both registration systems require lobbyists to register annually for each principal represented and to indicate the entities to be lobbied. In addition, lobbying firms must file quarterly compensation reports. Both the Commission and the Legislature have instituted electronic registration and compensation reporting. Executive branch lobbyists, however, must supply a written oath to complete each registration.⁵⁰

All state agency and legislative officers and employees acting in the normal course of their duties are exempt from executive branch lobbying registration.⁵¹ However, local government officers and employees must register to lobby the state executive branch.

Compensation reporting is subject to random audits, and findings of non-compliance are reported to the Commission (in the case of executive branch lobbying firms) for investigation.⁵² Some cases involve mere mistakes in reporting or calculation.

Effect of Proposed Changes

The bill updates the executive branch lobbying registration law by requiring registrations to include e-mail addresses of lobbyists, principals, and lobbying firms. The bill also requires the lobbyist registrant to include his or her lobbying firm's name, business address, and telephone number, if any, on the registration. The bill requires registration to be electronic and removes the written oath requirement. The bill also revises definitions to more closely conform with the legislative branch lobbying registration rule.

The bill adds the Board of Governors of the State University System and the State Board of Education to the list of entities for which executive branch lobbyist registration and compensation reporting is required.

The bill exempts officers and employees of political subdivisions from the requirement to register as executive branch lobbyists.

Code of Ethics Enforcement

Current Situation

The Commission is the independent body responsible for investigating and reporting on complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the Judicial Qualifications Commission.⁵³ The commission's jurisdiction extends to alleged violations of the Code of Ethics.⁵⁴ For most violations, the Commission may not investigate except upon receipt of a

⁴⁸ S. 112.3215, F.S.

⁴⁹ S. 11.045, F.S. and Joint Rule 1.

⁵⁰ S. 112.3215(3), F.S.

⁵¹ S. 112.3215(1)(h)(2), F.S.

⁵² S. 112.3215(8), F.S.

⁵³ Art. II, ss. 8(f) and 8(i)(3), Fla Const.

⁵⁴ See ss. 112.322(1) and 112.324, F.S.

complaint or referral from particular state officers responsible for enforcing the laws or from a United States Attorney.⁵⁵

The power to impose civil penalties for violations is vested in the Governor and other public officers, depending on the status of the violator. Only the House of Representatives or Senate may impose penalties on Members of the House or Senators, respectively.⁵⁶ If the Commission finds grounds for impeachment of an impeachable officer, findings are submitted to the Speaker of the House of Representatives and the President of the Senate.⁵⁷ In addition, the Governor is authorized to impose penalties on other officers subject to impeachment, and the Attorney General has such power to impose penalties on the Governor.⁵⁸ The presiding officers of the Legislature are empowered to impose penalties on certain legislative employees.⁵⁹

The Commission investigates complaints, determines probable cause, and, after any public administrative hearing, makes findings of violations and recommendations on punishment. If the Commission does not find probable cause, the complaint is dismissed.⁶⁰ A hearing must be requested within 14 days following mailing of the probable cause notification.⁶¹ In addition, the Commission may require a public hearing on its own motion.⁶² The Commission may not enter into stipulation or settlement imposing penalties, but all penalties must be imposed by the appropriate disciplinary authority.⁶³ The Commission may dismiss any complaint or referral at any stage of disposition if it determines the violation that is alleged or has occurred is a *de minimis* violation.⁶⁴

Executive branch lobbyist registration enforcement is governed by distinct enforcement provisions.⁶⁵ The Commission reports probable cause findings to the Governor and Cabinet for appropriate action, which can include a fine up to \$5,000 and prohibition from lobbying for up to two years.⁶⁶ A person accused of violating the lobbyist registration law may also request a hearing within 14 days of the mailing of the probable cause notification.⁶⁷ Such complaints, however, are not subject to dismissal based on the *de minimis* nature of a violation.⁶⁸

Effect of Proposed Changes

The bill authorizes the Commission to investigate certain mandatory disclosures of prohibited solicitations by certain public officers and employees in the same manner as the Commission investigates complaints. Specifically, the bill prohibits public officers and employees from soliciting conflicting employment and contractual relationships. This provision of the bill requires the solicited entity to disclose the solicitation to the Commission and authorizes the Commission to investigate the disclosure as if it were a complaint.

The bill also authorizes the Commission to dismiss executive branch lobbyist registration complaints and referrals based on lobbying firm compensation audits if the Commission determines that the public interest is not served by proceeding further. In such cases, the Commission must issue a public report stating with particularity its reasons for the dismissal. This will allow dismissal of cases involving *de minimis* violations or unintentional mistakes in compensation reports.

⁵⁵ S. 112.324(1), F.S.

⁵⁶ S. 112.324(4), F.S.

⁵⁷ *Id.*

⁵⁸ S. 112.324(6)–(7), F.S.

⁵⁹ S. 112.324(8), F.S.

⁶⁰ S. 112.324(3), F.S.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ S. 112.324(11), F.S.

⁶⁵ S. 112.3215(8)–(9), F.S.

⁶⁶ S. 112.3215(10), F.S.

⁶⁷ S. 112.3215(9), F.S.

⁶⁸ S. 112.3215(8) and (9), F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 11.061, F.S., relating to state, state university, and community college employee lobbyists; registration; recording attendance; penalty; exemptions.

Section 2. Creates s. 106.114, F.S., defining the terms “governmental entity” and “public service announcement” and prohibiting certain public service announcements by specified governmental entities or persons.

Section 3. Amends s. 112.313, F.S., prohibiting certain public officers and employees from soliciting employment or contractual relationships.

Section 4. Creates s. 112.3181, F.S., prohibiting solicitation and acceptance of employment and investment advice or business deals and requiring certain employment and compensation disclosures.

Section 5. Amends s. 112.3185, F.S., prohibiting certain state-appointed officers and employees from soliciting an employment or contractual relationship from certain employers.

Section 6. Amends s. 112.3215, F.S., relating to the executive branch lobbyist registration provisions.

Section 7. Amends s. 420.5061, F.S., conforming a cross-reference to changes made by the act.

Section 8. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The changes related to streamlining the executive branch lobbyist registration process are expected to yield an indeterminate reduction in the Commission’s overall cost of administering that law. However, the savings may be offset by an increase in costs associated with other provisions of the bill potentially resulting in the need to conduct additional investigations. The Commission anticipates an increase in its workload with opinions, phone calls, complaints, and investigations, but will attempt to manage the increase with existing staff.⁶⁹ However, if the workload is insurmountable with its current staff, the Commission will seek additional funding to add staff.⁷⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may result in a slight reduction in costs to local governments by exempting local officers and employees from executive branch lobbying registration.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁶⁹ Commission on Ethics, Agency Analysis of 2020 House Bill 1185, p. 5 (Jan. 1, 2020).

⁷⁰ *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 affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The revisions to the executive branch lobbying registration law and other changes to the Code of Ethics are proper subjects of the rulemaking powers of the Commission.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Thursday, January 23, 2020, the Public Integrity & Ethics Committee adopted four amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Provides the exception to the prohibition on the use of an elected official's name, image, likeness, etc., during campaign season including a communication on a governmental entity's official website or social media account used exclusively for official business;
- Corrects a drafting error related to conflicting employment or contractual relationships that was identified in the Public Integrity & Ethics Committee pre-meeting bill analysis;
- Prohibits statewide elected officers, legislators, and candidates for such offices from soliciting investment advice arising out of official or political activities; and
- Adds information about the lobbyist registrant's lobbying firm, if applicable, that must be captured at registration.

The 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 ethics reform; repealing s. 11.061,
3 F.S., relating to state, state university, and
4 community college employee lobbyists; creating s.
5 106.114, F.S.; providing definitions; prohibiting
6 certain public service announcements by specified
7 entities or persons; providing applicability; amending
8 s. 112.313, F.S.; revising applicability of certain
9 provisions relating to contractual relationships;
10 prohibiting public officers or employees of an agency
11 from soliciting specified employment or contractual
12 relationships; providing an exception; requiring
13 certain offers and solicitations of employment or
14 contractual relationships to be disclosed to certain
15 persons; requiring such solicitations to be disclosed
16 to the Commission on Ethics in certain circumstances;
17 authorizing the commission to investigate such
18 disclosures; prohibiting specified persons from
19 certain compensated representation for a specified
20 period following vacation of office; deleting a
21 provision prohibiting former legislators from acting
22 as lobbyists before certain entities and persons for a
23 specified period following vacation of office;
24 providing applicability; creating s. 112.3181, F.S.;
25 prohibiting statewide elected officers and legislators

26 | from soliciting employment offers or investment advice
27 | arising out of official or political activities;
28 | providing exceptions; prohibiting such officers or
29 | legislators from soliciting or accepting investment
30 | advice from or soliciting or entering into certain
31 | profitmaking relationships with lobbyists or
32 | principals; providing definitions; requiring lobbyists
33 | and principals to disclose certain prohibited
34 | solicitations to the commission; authorizing the
35 | commission to investigate such disclosures; providing
36 | disclosure requirements; requiring the commission to
37 | publish disclosures on its website; authorizing the
38 | commission to adopt rules; amending s. 112.3185, F.S.;
39 | revising and providing definitions; prohibiting
40 | certain officers and employees from soliciting
41 | employment or contractual relationships from or
42 | negotiating employment or contractual relationships
43 | with certain employers; providing exceptions;
44 | requiring disclosure of certain offers of employment
45 | or contractual relationships; amending s. 112.3215,
46 | F.S.; revising definitions; defining the term
47 | "principally employed for governmental affairs";
48 | requiring lobbyists to electronically register with
49 | the commission; revising lobbyist registration,
50 | compensation report, principal designation

51 cancellation, and investigation requirements;
52 authorizing the commission to dismiss certain
53 complaints and investigations; amending s. 420.5061,
54 F.S.; conforming a cross-reference to changes made by
55 the act; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:

58
59 Section 1. Section 11.061, Florida Statutes, is repealed.

60 Section 2. Section 106.114, Florida Statutes, is created
61 to read:

62 106.114 Elected official advertising.—

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

64 (a) "Governmental entity" means any executive, judicial,
65 or quasi-judicial department; state university; community
66 college; water management district; or political subdivision.

67 (b) "Public service announcement" means any message
68 communicated by radio, television, billboard, or electronic
69 means that promotes or announces an issue of public importance,
70 concern, or welfare. The term does not include an official
71 communication on a governmental entity's or elected official's
72 website or social media account used exclusively for official
73 business.

74 (2) A governmental entity, a person acting on behalf of a
75 governmental entity, or an elected official may not use or

76 | authorize the use of an elected official's name, image,
 77 | likeness, official uniform, badge, or other symbol of office in
 78 | a public service announcement beginning on the date that the
 79 | elected official qualifies as a candidate under s. 99.061, or
 80 | other applicable law, for reelection or election to another
 81 | public office and ending on the day after the election for which
 82 | the elected official qualified as a candidate, if such
 83 | announcement is paid for with public funds, as defined in s.
 84 | 106.113, or if the time or space for such announcement is
 85 | donated by the communications media. This subsection does not
 86 | apply to charitable events held by a tax-exempt organization
 87 | under s. 501(c)(3) of the Internal Revenue Code or bona fide
 88 | news events such as press conferences or public debates
 89 | broadcast by a broadcaster licensed by the Federal
 90 | Communications Commission.

91 | Section 3. Subsection (7), paragraph (a) of subsection
 92 | (9), and subsection (15) of section 112.313, Florida Statutes,
 93 | are amended to read:

94 | 112.313 Standards of conduct for public officers,
 95 | employees of agencies, and local government attorneys.—

96 | (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

97 | (a) A ~~No~~ public officer or employee of an agency may not
 98 | ~~shall~~ have or hold any employment or contractual relationship
 99 | with any business entity or any agency that ~~which~~ is subject to
 100 | the regulation of, or is doing business with, an agency of which

101 he or she is an officer or employee, excluding those
 102 organizations and their officers who, when acting in their
 103 official capacity, enter into or negotiate a collective
 104 bargaining contract with the state or any municipality, county,
 105 or other political subdivision of the state. Such; ~~nor shall an~~
 106 officer or employee also may not ~~of an agency~~ have or hold any
 107 employment or contractual relationship that will create a
 108 continuing or frequently recurring conflict between his or her
 109 private interests and the performance of his or her public
 110 duties or that would impede the full and faithful discharge of
 111 his or her public duties.

112 1. When the agency referred to is a ~~that certain kind of~~
 113 special tax district created by general or special law and is
 114 limited specifically to constructing, maintaining, managing, and
 115 financing improvements in the land area over which the agency
 116 has jurisdiction, or when the agency has been organized pursuant
 117 to chapter 298, ~~then~~ employment with, or entering into a
 118 contractual relationship with, such a business entity by a
 119 public officer or employee of such an agency is ~~shall~~ not be
 120 prohibited by this subsection or ~~be~~ deemed a conflict ~~per se~~.
 121 However, conduct by such officer or employee that is prohibited
 122 by, or otherwise frustrates the intent of, this section is ~~shall~~
 123 ~~be deemed~~ a conflict of interest in violation of the standards
 124 of conduct set forth by this section.

125 2. When the agency referred to is a legislative body and

126 | the regulatory power over the business entity resides in another
 127 | agency, or when the regulatory power that ~~which~~ the legislative
 128 | body exercises over the business entity or agency is strictly
 129 | through the enactment of laws or ordinances, ~~then~~ employment
 130 | with, or entering into a contractual relationship with, such a
 131 | business entity by a public officer or employee of such a
 132 | legislative body is ~~shall~~ not ~~be~~ prohibited by this subsection
 133 | or ~~be~~ deemed a conflict based on the regulatory power of the
 134 | legislative body, unless prohibited or deemed a conflict by
 135 | another law.

136 | (b) This subsection does ~~shall~~ not prohibit a public
 137 | officer or employee from practicing in a particular profession
 138 | or occupation when such practice by persons holding such public
 139 | office or employment is required or permitted by law or
 140 | ordinance.

141 | (c)1. A public officer or employee of an agency may not
 142 | solicit any employment or contractual relationship prohibited by
 143 | this subsection, except as expressly permitted in s. 112.3185.

144 | 2. If a public officer or employee of an agency, or a
 145 | person acting on his or her behalf, violates subparagraph 1.,
 146 | the solicited business entity or agency must disclose such
 147 | solicitation to the head of the officer's or employee's agency.
 148 | If such solicitation is by or on behalf of the head of the
 149 | agency or a member of a body that is the head of the agency, the
 150 | solicited business entity or agency must disclose such

151 solicitation to the commission. The commission may investigate
152 such disclosure as if it were a valid complaint under this part.

153 (d) A public officer or employee of an agency must
154 disclose to the head of his or her agency, the general counsel
155 or inspector general of his or her agency, or any other officer
156 or attorney designated by the head of his or her agency any
157 offer of employment or contractual relationship that is
158 prohibited by this subsection.

159 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
160 LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

161 (a)1. It is the intent of the Legislature to implement by
162 statute the provisions of s. 8(e), Art. II of the State
163 Constitution relating to legislators, statewide elected
164 officers, appointed state officers, and designated public
165 employees.

166 2. As used in this paragraph:

167 a. "Employee" means:

168 (I) Any person employed in the executive or legislative
169 branch of government holding a position in the Senior Management
170 Service as defined in s. 110.402 or any person holding a
171 position in the Selected Exempt Service as defined in s. 110.602
172 or any person having authority over policy or procurement
173 employed by the Department of the Lottery.

174 (II) The Auditor General, the director of the Office of
175 Program Policy Analysis and Government Accountability, the

176 Sergeant at Arms and Secretary of the Senate, and the Sergeant
 177 at Arms and Clerk of the House of Representatives.

178 (III) The executive director and deputy executive director
 179 of the Commission on Ethics.

180 (IV) An executive director, staff director, or deputy
 181 staff director of each joint committee, standing committee, or
 182 select committee of the Legislature; an executive director,
 183 staff director, executive assistant, analyst, or attorney of the
 184 Office of the President of the Senate, the Office of the Speaker
 185 of the House of Representatives, the Senate Majority Party
 186 Office, Senate Minority Party Office, House Majority Party
 187 Office, or House Minority Party Office; or any person, hired on
 188 a contractual basis, having the power normally conferred upon
 189 such persons, by whatever title.

190 (V) The Chancellor and Vice Chancellors of the State
 191 University System; the general counsel to the Board of Governors
 192 of the State University System; and the president, provost, vice
 193 presidents, and deans of each state university.

194 (VI) Any person, including an other-personal-services
 195 employee, having the power normally conferred upon the positions
 196 referenced in this sub-subparagraph.

197 b. "Appointed state officer" means any member of an
 198 appointive board, commission, committee, council, or authority
 199 of the executive or legislative branch of state government whose
 200 powers, jurisdiction, and authority are not solely advisory and

201 include the final determination or adjudication of any personal
202 or property rights, duties, or obligations, other than those
203 relative to its internal operations.

204 c. "State agency" means an entity of the legislative,
205 executive, or judicial branch of state government over which the
206 Legislature exercises plenary budgetary and statutory control.

207 3.a. A ~~No~~ member of the Legislature, appointed state
208 officer, or statewide elected officer may not ~~shall~~ personally
209 represent another person or entity for compensation before the
210 government body or agency of which the individual was an officer
211 or member for a period of 2 years following vacation of office.

212 A ~~No~~ member of the Legislature may not ~~shall~~ personally
213 represent another person or entity for compensation during his
214 or her term of office before any state agency other than
215 judicial tribunals or in settlement negotiations after the
216 filing of a lawsuit.

217 b. For a period of 2 years following vacation of office, a
218 former member of the Legislature may not act as a lobbyist for
219 compensation before an executive branch agency, agency official,
220 or employee. The terms used in this sub-subparagraph have the
221 same meanings as provided in s. 112.3215.

222 4. An agency employee, including an agency employee who
223 was employed on July 1, 2001, in a Career Service System
224 position that was transferred to the Selected Exempt Service
225 System under chapter 2001-43, Laws of Florida, may not

226 | personally represent another person or entity for compensation
 227 | before the agency with which he or she was employed for a period
 228 | of 2 years following vacation of position, unless employed by
 229 | and representing another state agency ~~of state government~~.

230 | 5. Any person violating this paragraph is ~~shall be~~ subject
 231 | to the penalties provided in s. 112.317 and a civil penalty of
 232 | an amount equal to the compensation which the person receives
 233 | for the prohibited conduct.

234 | ~~6. This paragraph is not applicable to:~~

235 | ~~a. A person employed by the Legislature or other agency~~
 236 | ~~prior to July 1, 1989;~~

237 | ~~b. A person who was employed by the Legislature or other~~
 238 | ~~agency on July 1, 1989, whether or not the person was a defined~~
 239 | ~~employee on July 1, 1989;~~

240 | ~~c. A person who was a defined employee of the State~~
 241 | ~~University System or the Public Service Commission who held such~~
 242 | ~~employment on December 31, 1994;~~

243 | ~~d. A person who has reached normal retirement age as~~
 244 | ~~defined in s. 121.021(29), and who has retired under the~~
 245 | ~~provisions of chapter 121 by July 1, 1991; or~~

246 | ~~e. Any appointed state officer whose term of office began~~
 247 | ~~before January 1, 1995, unless reappointed to that office on or~~
 248 | ~~after January 1, 1995.~~

249 | (15) (a) ADDITIONAL EXEMPTION.—~~An~~ ~~Ne~~ elected public officer
 250 | may not ~~shall~~ be held in violation of subsection (7) if the

251 officer maintains an employment relationship with an entity
252 which is currently a tax-exempt organization under s. 501(c) of
253 the Internal Revenue Code and which contracts with or otherwise
254 enters into a business relationship with the officer's agency
255 and:

256 1.(a) The officer's employment is not directly or
257 indirectly compensated as a result of such contract or business
258 relationship;

259 2.(b) The officer has in no way participated in the
260 agency's decision to contract or to enter into the business
261 relationship with his or her employer, whether by participating
262 in discussion at the meeting, by communicating with officers or
263 employees of the agency, or otherwise; and

264 3.(e) The officer abstains from voting on any matter which
265 may come before the agency involving the officer's employer,
266 publicly states to the assembly the nature of the officer's
267 interest in the matter from which he or she is abstaining, and
268 files a written memorandum as provided in s. 112.3143.

269 (b) This subsection does not apply to an elected public
270 officer who begins his or her term of office on or after October
271 1, 2020.

272 Section 4. Section 112.3181, Florida Statutes, is created
273 to read:

274 112.3181 Additional standards for statewide elected
275 officers and legislators.—

276 (1) A statewide elected officer or member of the
277 Legislature may not solicit an employment offer or investment
278 advice arising out of official or political activities engaged
279 in while he or she is an officer or legislator, or a candidate
280 for such office, except in the following circumstances:

281 (a) The officer or legislator may solicit or accept future
282 employment, including professional partnerships, in the last 180
283 days of his or her term of office if he or she is ineligible to
284 run for reelection or has publicly announced, and filed a letter
285 or other written notice with the qualifying officer with whom
286 reelection qualification papers are filed, that he or she is not
287 and does not intend to become a candidate for reelection.

288 (b) The officer or legislator may solicit or accept
289 employment from any prospective employer in a profession or
290 occupation in which he or she has formerly engaged, has been
291 formally educated or trained, or is licensed unless such
292 employment is prohibited by other general law.

293 (2) A statewide elected officer or member of the
294 Legislature may not solicit or accept investment advice from or
295 solicit or enter into an investment, joint venture, or other
296 profitmaking relationship with a lobbyist or principal, as those
297 terms are defined in s. 11.045 or s. 112.3215. However, the
298 officer or legislator may buy or sell listed, publicly traded
299 securities of a principal without the advice of a lobbyist or
300 principal unless such action violates s. 112.313. For purposes

301 of this section, the phrase "investment, joint venture, or other
302 profitmaking relationship" does not include an employment
303 relationship or any enterprise organized to employ or engage the
304 personal services of individuals, including the officer or
305 legislator. For purposes of this section, the terms "investment
306 advice" and "profitmaking relationship" do not include a client
307 relationship with a licensed investment broker, licensed
308 investment advisor, or similarly licensed professional to whom
309 the officer or legislator pays ordinary and reasonable fees for
310 services, regardless of such broker's, advisor's, or
311 professional's status as a principal of a lobbyist or a
312 nonlobbyist employee of such principal.

313 (3) A lobbyist or principal who receives a solicitation
314 prohibited by this section, by or on behalf of a statewide
315 elected officer or member of the Legislature, must disclose such
316 solicitation to the commission. Any other person who receives
317 such solicitation may disclose such solicitation to the
318 commission. The commission may investigate any disclosure under
319 this subsection as if it were a valid complaint under this part.

320 (4) (a) A statewide elected officer or member of the
321 Legislature must file a written disclosure with the commission
322 upon acceptance of the following:

- 323 1. New employment with or increased compensation from an
324 entity that receives state funds directly by appropriation;
325 2. New employment with or increased compensation from an

326 agency;

327 3. New employment with or increased compensation from a
328 lobbyist, principal of a lobbyist, or lobbying firm; or

329 4. New employment, the offer of which arose out of
330 official or political activities engaged in while he or she was
331 a statewide elected officer, member of the Legislature, or
332 candidate for such office.

333 (b) The disclosure must identify the applicable
334 subparagraph of paragraph (a) and the employer, position, salary
335 or other compensation, and effective date of employment or
336 increased compensation. Such disclosure must be filed within 30
337 days after he or she accepts the employment or increased
338 compensation or before the effective date of employment or
339 increased compensation, whichever date is earliest. With respect
340 to employment or increased compensation accepted or effective
341 between December 31, 2019, and July 1, 2020, the officer or
342 legislator must file such disclosure within 30 days after July
343 1, 2020. The commission shall publish such disclosures with the
344 officer's or legislator's full and public disclosure of
345 financial interests on its website. The commission may adopt
346 forms for disclosure and may adopt rules requiring electronic
347 submission of the disclosure required by this subsection.

348 Section 5. Subsection (7) of section 112.3185, Florida
349 Statutes, is renumbered as subsection (8), subsection (1) and
350 present subsection (8) are amended, and a new subsection (7) is

351 added to that section, to read:

352 112.3185 Additional standards for state officers and
353 agency employees.—

354 (1) For the purposes of this section:

355 (a) "Contractual services" shall be defined as set forth
356 in chapter 287.

357 (b) "Agency" means any state officer, department, board,
358 commission, or council of the executive, legislative, or
359 judicial branch of state government and includes the Public
360 Service Commission.

361 (c) "Covered officer" means a state officer who is serving
362 in a position that is not an elective position. The term does
363 not include a person who is appointed to fill an unexpired term
364 of an elective office.

365 (d) "Negotiate" or "negotiation" means a response to an
366 offer or solicitation of offers of an employment or contractual
367 relationship, including the submission of a resume, an
368 application, or any other information demonstrating interest on
369 the part of a prospective employee and interviewing or engaging
370 in other communication intended to lead to an offer or
371 acceptance of an employment or contractual relationship.

372 (e) "Reporting employee" means any agency employee who is
373 a reporting individual or procurement employee, as those terms
374 are defined in s. 112.3148.

375 (f) "Restricted employer," with respect to any state

376 officer or agency employee, means any entity that does business
377 with or is subject to regulation by an agency employing the
378 covered officer or reporting employee and any person or entity
379 from whom the covered officer or reporting employee may not
380 solicit a gift under s. 112.3148(3).

381 (g) "Subject to regulation by an agency" means subject to
382 regulation by agency action, as defined in s. 120.52(2) or its
383 substantial equivalent. The term does not include regulatory
384 power exercised strictly through the enactment of general laws.

385 (7) A covered officer or reporting employee who is
386 employed in such position on or after July 1, 2020, may not
387 solicit an employment or contractual relationship from or
388 negotiate an employment or contractual relationship with a
389 restricted employer except as provided in this section.

390 (a) A covered officer or reporting employee may solicit a
391 future employment or contractual relationship from or negotiate
392 a future employment or contractual relationship with a
393 restricted employer within 90 days before the expiration of the
394 officer's term of office, if the officer does not seek
395 reappointment, or within 90 days before the officer's or
396 employee's termination or retirement date, if he or she provides
397 notice of termination or retirement to the head of his or her
398 agency, the general counsel or inspector general of his or her
399 agency, or any other officer or attorney designated by the head
400 of his or her agency.

401 (b) If a covered officer or reporting employee has been
402 notified by his or her appointing authority or employing agency
403 that he or she will be discharged from office or dismissed or
404 terminated from employment, he or she may solicit a future
405 employment or contractual relationship from or negotiate a
406 future employment or contractual relationship with a restricted
407 employer at any time after such notice but not sooner than 180
408 days before his or her employment is scheduled to end.

409 (c) A covered officer or reporting employee must disclose
410 to the head of his or her agency, the general counsel or
411 inspector general of his or her agency, or any other officer or
412 attorney designated by the head of his or her agency any offer
413 of an employment or contractual relationship from a restricted
414 employer. After such disclosure, a covered officer or reporting
415 employee may negotiate an employment or contractual relationship
416 with the restricted employer if expressly authorized by the head
417 of his or her agency or the agency head's authorized designee.
418 Permission may be withheld only if the agency head or his or her
419 authorized designee determines such negotiation poses an actual
420 or potential conflict with the interests of the state or the
421 agency.

422 (d) This subsection does not authorize any employment or
423 contractual relationship solicitation otherwise prohibited by
424 general law.

425 (9)(8) Subsections (1)-(6) of this section do not apply ~~is~~

426 ~~not applicable~~ to any employee of the Public Service Commission
 427 who was so employed on or before December 31, 1994, unless so
 428 employed on or after July 1, 2020.

429 Section 6. Paragraphs (a), (f), and (h) of subsection (1),
 430 subsection (3), paragraph (a) of subsection (5), and subsections
 431 (7) and (8) of section 112.3215, Florida Statutes, are amended,
 432 and subsection (15) of that section is reenacted, to read:

433 112.3215 Lobbying before the executive branch or the
 434 Constitution Revision Commission; registration and reporting;
 435 investigation by commission.—

436 (1) For the purposes of this section:

437 (a) "Agency" means the Governor; the Governor and
 438 Cabinet; ~~or~~ any department, division, bureau, board,
 439 commission, or authority of the executive branch; the State
 440 Board of Education; the Board of Governors of the State
 441 University System; or. ~~In addition, "agency" shall mean the~~
 442 Constitution Revision Commission as provided by s. 2, Art. XI of
 443 the State Constitution.

444 (f) "Lobbying" ~~"Lobbies"~~ means seeking, on behalf of
 445 another person, to influence an agency with respect to a
 446 decision of the agency in the area of policy or procurement or
 447 an attempt to obtain the goodwill of an agency official or
 448 employee. "Lobbying" ~~"Lobbies"~~ also means influencing or
 449 attempting to influence, on behalf of another, the Constitution
 450 Revision Commission's action or nonaction through oral or

451 written communication or an attempt to obtain the goodwill of a
452 member or employee of the Constitution Revision Commission.

453 (h) "Lobbyist" means a person who is employed and receives
454 payment, or who contracts for economic consideration, for the
455 purpose of lobbying, or a person who is principally employed for
456 governmental affairs by another person or governmental entity to
457 lobby on behalf of that other person or governmental entity. The
458 term "principally employed for governmental affairs" means that
459 one of the principal or most significant responsibilities of the
460 employee to the employer is overseeing the employer's various
461 relationships with government or representing the employer in
462 its contacts with government. "Lobbyist" does not include a
463 person who is:

464 1. An attorney, or any person, who represents a client in
465 a judicial proceeding or in a formal administrative proceeding
466 conducted pursuant to chapter 120 or any other formal hearing
467 before an agency, board, commission, or authority of this state.

468 2. An officer or employee of an agency, ~~or~~ of a
469 legislative or judicial branch entity, or a political
470 subdivision of this state acting in the normal course of his or
471 her office or duties.

472 3. A confidential informant who is providing, or wishes to
473 provide, confidential information to be used for law enforcement
474 purposes.

475 4. A person who seeks ~~lobbies~~ to procure a contract

476 | pursuant to chapter 287 which contract is less than the
 477 | threshold for CATEGORY ONE as provided in s. 287.017.

478 | (3) A person may not lobby an agency until such person has
 479 | electronically registered as a lobbyist with the commission.
 480 | Such registration shall be due upon initially being retained to
 481 | lobby and is renewable on a calendar year basis thereafter. The
 482 | commission shall request authorization from the principal with
 483 | the principal's name, business address, e-mail address, and
 484 | telephone number to confirm that the registrant is authorized to
 485 | represent the principal. ~~Upon registration the person shall~~
 486 | ~~provide a statement signed by the principal or principal's~~
 487 | ~~representative that the registrant is authorized to represent~~
 488 | ~~the principal.~~ The principal or principal's representative shall
 489 | also identify and designate its main business pursuant to the
 490 | North American Industry Classification System six-digit
 491 | numerical code that most accurately describes the principal's
 492 | main business. Registration is not complete until the commission
 493 | receives the principal's authorization and the registration fee
 494 | ~~on the statement authorizing that lobbyist pursuant to a~~
 495 | ~~classification system approved by the commission.~~ The
 496 | registration shall require each lobbyist to attest to disclose,
 497 | ~~under oath,~~ the following information:

498 | (a) The full legal name, e-mail address, telephone number,
 499 | ~~Name~~ and business address;

500 | (b) The name, business address, and telephone number of

501 the lobbying firm on behalf of which the registrant is
 502 representing the principal, if any;

503 ~~(c)-(b)~~ The full name, e-mail address, telephone number,
 504 and business address of each principal represented;

505 ~~(c) His or her area of interest;~~

506 (d) The agencies before which he or she will appear; and

507 (e) The existence of any direct or indirect business
 508 association, partnership, or financial relationship with any
 509 employee of an agency with which he or she lobbies, or intends
 510 to lobby, as disclosed in the registration.

511 (5) (a) 1. Each lobbying firm shall file a compensation
 512 report with the commission for each calendar quarter during any
 513 portion of which one or more of the firm's lobbyists were
 514 registered to represent a principal. The report shall include
 515 the:

516 a. Full name, e-mail address, business address, and
 517 telephone number of the lobbying firm;

518 b. Name of each of the firm's lobbyists; and

519 c. Total compensation provided or owed to the lobbying
 520 firm from all principals for the reporting period, reported in
 521 one of the following categories: \$0; \$1 to \$49,999; \$50,000 to
 522 \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to
 523 \$999,999; \$1 million or more.

524 2. For each principal represented by one or more of the
 525 firm's lobbyists, the lobbying firm's compensation report shall

526 | also include the:

527 | a. Full name, e-mail address, business address, and
528 | telephone number of the principal; and

529 | b. Total compensation provided or owed to the lobbying
530 | firm for the reporting period, reported in one of the following
531 | categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to
532 | \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or
533 | more. If the category "\$50,000 or more" is selected, the
534 | specific dollar amount of compensation must be reported, rounded
535 | up or down to the nearest \$1,000.

536 | 3. If the lobbying firm subcontracts work from another
537 | lobbying firm and not from the original principal:

538 | a. The lobbying firm providing the work to be
539 | subcontracted shall be treated as the reporting lobbying firm's
540 | principal for reporting purposes under this paragraph; and

541 | b. The reporting lobbying firm shall, for each lobbying
542 | firm identified under subparagraph 2., identify the name and
543 | address of the principal originating the lobbying work.

544 | 4. The senior partner, officer, or owner of the lobbying
545 | firm shall certify to the veracity and completeness of the
546 | information submitted pursuant to this paragraph.

547 | (7) A lobbyist shall promptly send a written statement to
548 | the commission canceling the designation of ~~registration for~~ a
549 | principal in his or her registration upon termination of such
550 | ~~the lobbyist's representation of that principal.~~ The commission

551 may cancel a lobbyist's designation of a principal upon the
552 principal's notification that the lobbyist is no longer
553 authorized to represent the principal ~~Notwithstanding this~~
554 ~~requirement, the commission may remove the name of a lobbyist~~
555 ~~from the list of registered lobbyists if the principal notifies~~
556 ~~the office that a person is no longer authorized to represent~~
557 ~~that principal.~~

558 (8) (a) The commission shall investigate every sworn
559 complaint that is filed with it alleging that a person covered
560 by this section has failed to register, has failed to submit a
561 compensation report, has made a prohibited expenditure, or has
562 knowingly submitted false information in any report or
563 registration required in this section.

564 (b) All proceedings, the complaint, and other records
565 relating to the investigation are confidential and exempt from
566 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
567 Constitution, and any meetings held pursuant to an investigation
568 are exempt from the provisions of s. 286.011(1) and s. 24(b),
569 Art. I of the State Constitution either until the alleged
570 violator requests in writing that such investigation and
571 associated records and meetings be made public or until the
572 commission determines, based on the investigation, whether
573 probable cause exists to believe that a violation has occurred.

574 (c) The commission shall investigate any lobbying firm,
575 lobbyist, principal, agency, officer, or employee upon receipt

576 of information from a sworn complaint or from a random audit of
577 lobbying reports indicating that the individual or entity has
578 intentionally failed to disclose any material fact or has
579 knowingly submitted false information in any report required by
580 this section or by rules adopted pursuant to this section ~~a~~
581 ~~possible violation other than a late-filed report.~~

582 (d) Notwithstanding paragraphs (a)-(c), the commission may
583 dismiss any complaint or investigation resulting from a random
584 audit of lobbying reports, at any state of disposition, if it
585 determines that the public interest is not served by proceeding
586 further, in which case the commission shall issue a public
587 report stating with particularity its reasons for the dismissal.

588 (e) ~~(d)~~1. Records relating to an audit conducted pursuant
589 to this section or an investigation conducted pursuant to this
590 section or s. 112.32155 are confidential and exempt from s.
591 119.07(1) and s. 24(a), Art. I of the State Constitution.

592 2. Any portion of a meeting wherein such investigation or
593 audit is discussed is exempt from s. 286.011 and s. 24(b), Art.
594 I of the State Constitution.

595 3. The exemptions no longer apply if the lobbying firm
596 requests in writing that such investigation and associated
597 records and meetings be made public or the commission determines
598 there is probable cause that the audit reflects a violation of
599 the reporting laws.

600 (15) The commission shall adopt rules to administer this

601 section, which shall prescribe forms for registration and
602 compensation reports, procedures for registration, and
603 procedures that will prevent disclosure of information that is
604 confidential as provided in this section.

605 Section 7. Section 420.5061, Florida Statutes, is amended
606 to read:

607 420.5061 Transfer of agency assets and liabilities.—The
608 corporation is the legal successor in all respects to the
609 agency, is obligated to the same extent as the agency under any
610 agreements existing on December 31, 1997, and is entitled to any
611 rights and remedies previously afforded the agency by law or
612 contract, including specifically the rights of the agency under
613 chapter 201 and part VI of chapter 159. Effective January 1,
614 1998, all references under Florida law to the agency are deemed
615 to mean the corporation. The corporation shall transfer to the
616 General Revenue Fund an amount which otherwise would have been
617 deducted as a service charge pursuant to s. 215.20(1) if the
618 Florida Housing Finance Corporation Fund established by s.
619 420.508(5), the State Apartment Incentive Loan Fund established
620 by s. 420.5087(7), the Florida Homeownership Assistance Fund
621 established by s. 420.5088(4), the HOME Investment Partnership
622 Fund established by s. 420.5089(1), and the Housing
623 Predevelopment Loan Fund established by s. 420.525(1) were each
624 trust funds. For purposes of s. 112.313, the corporation is
625 deemed to be a continuation of the agency, and the provisions

626 | thereof are deemed to apply as if the same entity remained in
627 | place. ~~Any employees of the agency and agency board members~~
628 | ~~covered by s. 112.313(9)(a)6. shall continue to be entitled to~~
629 | ~~the exemption in that subparagraph, notwithstanding being hired~~
630 | ~~by the corporation or appointed as board members of the~~
631 | ~~corporation.~~

632 | Section 8. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1303 Brevard and Volusia Counties

SPONSOR(S): Plasencia

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	9 Y, 0 N	Moehrle	Miller
2) Ways & Means Committee	15 Y, 0 N	Berg	Langston
3) State Affairs Committee		Moehrle	Williamson

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographical boundary. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

The bill creates the Deering Park Stewardship District (District) in Brevard and Volusia Counties and the City of Edgewater. The District's purpose is to install, operate, and maintain community infrastructure.

The Economic Impact Statement projects expenditures of \$0 in Fiscal Year (FY) 2020-21 and \$0 in FY 2021-22. The District is authorized to levy special assessments, fees, and non-ad valorem assessments and is authorized to levy ad valorem taxes upon approval at referendum after the entire board is elected by qualified electors of the District. The amount of revenues that would be generated by these assessments, fees, and taxes is indeterminate. The District is authorized to perform numerous functions and undertake a wide range of projects within the District; therefore, expenditures are expected but the amount of expenditures is indeterminate.

The bill takes effects upon becoming a law, except that provisions authorizing the levy of ad valorem taxes take effect only upon approval by a majority vote of qualified electors in a referendum to be held after such time when all members of the board are qualified electors of the District.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,¹ special act,² local ordinance,³ or rule of the Governor and Cabinet.⁴ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of the governing body of a single county or municipality.⁶ An “independent special district” is any district that is not a dependent special district.⁷

Formation and Charter of an Independent Special District

With the exception of community development districts (CDDs),⁸ the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.⁹ Any special laws or general laws of local application relating to any special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;¹⁰
- Exempt district elections from the requirements of s. 189.04, F.S.;¹¹
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;¹²
- Exempt a district from certain requirements relating to¹³ issuing bonds if no referendum is required,¹⁴ requiring special district reports on public facilities,¹⁵ notice and reports of special district public meetings,¹⁶ or required reports, budgets, and audits;¹⁷ or
- Create a district for which a statement documenting specific required matters is not submitted to the Legislature. The statement must include:
 - The purpose of the proposed district;

¹ S. 189.031(3), F.S.

² *Id.*

³ S. 189.02(1), F.S.

⁴ S. 190.005(1), F.S. *See*, generally, s. 189.012(6), F.S.

⁵ 2018 – 2020 *Local Gov’t Formation Manual* at p. 64, available at

<https://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3074> (last visited Jan. 2, 2020).

⁶ S. 189.012(2), F.S.

⁷ S. 189.012(3), F.S.

⁸ S. 189.0311, F.S. *See* s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent CDDs).

⁹ S. 189.031(1) and (3), F.S.

¹⁰ S. 189.031(2)(a), F.S.

¹¹ S. 189.031(2)(b), F.S.

¹² S. 189.031(2)(c), F.S.

¹³ S. 189.031(2)(d), F.S.

¹⁴ S. 189.051, F.S.

¹⁵ S. 189.08, F.S.

¹⁶ S. 189.015, F.S.

¹⁷ S. 189.016, F.S.

- The authority of the proposed district;
- An explanation of why the district is the best alternative; and
- A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

These prohibitions were passed by a three-fifths majority in the House and Senate when ch. 189, F.S., originally was adopted.¹⁹ They may be amended or repealed only “by like vote.”²⁰

The charter of a newly created district must state whether it is dependent or independent.²¹ Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.²²

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.²³

Election of Special District Boards

Members of a special district board are generally elected by the qualified electors of the district.²⁴ Some district boards, however, are elected according to a one-acre/one-vote methodology.²⁵

Section 189.041, F.S., provides a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.²⁶ A petition signed by 10 percent of the qualified electors must be filed with the governing body of the district requesting a referendum.²⁷ Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.²⁸

If the qualified electors approve the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization of the district urban area map.²⁹ If the qualified electors do not approve the transition, a new referendum may not be held for at least two years.³⁰

Within 30 days after the transition referendum, the governing body of the district must direct the district’s staff to prepare and present maps describing all urban areas contained in the district.³¹ For the purposes of this determination, an “urban area” is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

¹⁸ S. 189.031(2)(e), F.S.

¹⁹ Ch. 89-169, s. 67, Laws of Fla.

²⁰ Art. III, s. 11(a)(21), Fla. Const.

²¹ S. 189.031(5), F.S.

²² S. 189.031(3), F.S.

²³ Art. VII, s. 9(a), Fla. Const.

²⁴ See e.g. ch. 2015-202, s. 4(4)(2)(a), Laws of Fla. (election provisions for Lehigh Acres Municipal Services Improvement District).

²⁵ See s. 189.04(4), F.S. (providing an exception for special district governing board elected on a one-acre/one-vote basis); also see e.g. ch. 2007-306, s. 5, Laws of Fla. (election provisions for the Babcock Ranch Community Independent Special District).

²⁶ S. 189.041(2)(a)1.a., F.S.

²⁷ S. 189.041(2)(a)1.b., F.S.

²⁸ S. 189.041(2)(a)2., F.S.

²⁹ S. 189.041(2)(a)3., F.S.

³⁰ S. 189.041(2)(a)4., F.S.

³¹ S. 189.041(2)(b)1., F.S.

- 1.5 persons per acre, as defined by the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or
- 1 single-family home per 5 acres within a recorded plat subdivision.³²

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.³³ The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.³⁴ If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.³⁵ After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.³⁶ A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.³⁷

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board.³⁸ The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.³⁹

The composition of the board is determined by the percentage of the district that is an urban area, as follows:⁴⁰

Urban Area as Percentage of District	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

³² S. 189.041(1)(b), F.S.

³³ S. 189.041(2)(b)2., F.S.

³⁴ S. 189.041(1)(b) and (2)(b)3., F.S.

³⁵ S. 189.041(2)(b)3., F.S.

³⁶ S. 189.041(2)(b)4., F.S.

³⁷ S. 189.041(2)(b)5., F.S.

³⁸ S. 189.041(2)(b)6., F.S.

³⁹ S. 189.041(2)(b)8., F.S.

⁴⁰ S. 189.041(3)(a), F.S.

Governing board members elected by qualified electors serve four-year terms, except for those elected at the first election and the first landowner meeting following the referendum, who serve the following terms:⁴¹

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1-, 2- 3-, and 4-year term	1 member serving a 4- year term
26%-50%	1 member serving each a 1-, 2- and 3-year term	2 member serving a 4- year term
51%-70%	1 member serving each a 1- and 2-year term	2 members serving a 4- year term 1-member serving a 2-year term
70%-90%	1 member serving a 1-year term	2 members serving a 4-year term 2 members serving a 2-year term
More than 91%	n/a	3 members serving a 4- year term 2 members serving a 2-year term

Annual landowners meetings continue as long as at least one member of the board is elected on a one-acre/one-vote basis.⁴² There is no requirement for a majority of the acreage of the district to be represented by either an owner or an owner’s proxy at the landowners meeting.⁴³ Landowner meetings must be held in the month preceding the month of the election of governing body members by electors.⁴⁴

Community Development Districts

Chapter 190, F.S., the “Uniform Community Development District Act of 1980,”⁴⁵ sets forth the exclusive and uniform procedures for establishing and operating a CDD.⁴⁶ This type of independent special district is an alternative method to manage and finance basic services for community development.⁴⁷ There are currently 622 active CDDs in Florida.⁴⁸

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.⁴⁹ CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act,⁵⁰ maintain an office, lease property, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.⁵¹

CDDs may also exercise additional special powers to provide, construct, and maintain public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental

⁴¹ S. 189.041(3)(b), F.S.

⁴² S. 189.041(3)(c)1., F.S.

⁴³ S. 189.041(3)(c)2., F.S.

⁴⁴ S. 189.041(3)(c)3., F.S.

⁴⁵ S. 190.001, F.S.

⁴⁶ Ss. 190.004 and 190.005, F.S.

⁴⁷ S. 190.003(6), F.S.

⁴⁸ Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx/> (last visited Jan. 2, 2020).

⁴⁹ S. 190.004(3), F.S.

⁵⁰ Ch. 120, F.S.

⁵¹ S. 190.011, F.S.

contamination, conservation areas, mitigation areas, and wildlife habitat.⁵² With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and recreational areas, fire prevention and control, school buildings and related structures, security, control and elimination of mosquitoes and other arthropods of public health importance, and waste collection and disposal.⁵³

The method for establishing a CDD depends upon its size. CDDs of more than 2,500 acres are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)⁵⁴ to adopt an administrative rule creating the district, while CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located.⁵⁵

Effect of Proposed Changes

The bill creates the Deering Park Steward District (District), an independent special district in Brevard and Volusia Counties and the City of Edgewater, and provides a charter for the District. The District's purpose is to install, operate, and maintain community infrastructure in Brevard and Volusia Counties and the City of Edgewater. Section 1 of the bill provides the short title for the act.

Legislative Findings, Legislative Intent and Policy (Charter Section 2)

The bill provides legislative findings and intent, providing that the District will facilitate a comprehensive community development approach that integrates regional transportation, land use, and urban design elements to provide for a mix of housing, employment, and economic development opportunities.

The bill states that a CDD created under ch. 190, F.S., would not serve the public interest due to the size of the proposed District, that the creation of multiple CDDs would result in inefficient and duplicative layers of local special-purpose government, and a separate independent special district is better able to integrate the management of state resources and allow for coordinated stewardship of natural resources.

The bill states that the District does not have the power to engage in comprehensive planning, zoning, or development permitting and that the creation of the District is consistent with the Brevard County, Volusia County, and City of Edgewater comprehensive plans. The bill creation of the District will not affect any existing conservation easements that have been recorded on portions of the property. The intent and purpose of the District is that no debt or obligation be placed on Brevard County, Volusia County, or the City of Edgewater without the consent of the counties or the City.

The bill requires the District to receive approval by resolution or official statement from the respective Boards of County Commissioners for Brevard County and Volusia County and the City of Edgewater City Council before requesting any amendment to its charter, in a similar manner as is required for the creation of a special district pursuant to s. 189.031(2)(e)4., F.S.

Charter Requirements, Creation, Establishment, Jurisdiction, and Charter (Charter Section 3)

The bill provides a list of sections of the bill that fulfill the requirements for the creation of a special district under s. 189.031(3), F.S.

⁵² S. 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. S. 190.005(1)(f) and (2)(d), F.S.

⁵³ S. 190.012(2), F.S.

⁵⁴ Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.

⁵⁵ S. 190.005(1) and (2), F.S.

The bill states the District is a “public body corporate and politic,” an independent special district, and any additional power granted to a CDD under ch. 190, F.S., after January 1, 2020, also constitutes a power of the District to the extent such changes are not inconsistent with the provisions of the bill. The bill provides that the District may exercise its power within the boundaries of the District, or extraterritorially with the consent of Brevard County, Volusia County, and the City of Edgewater as evidenced by an interlocal agreement or a development order.

District Boundaries (Charter Section 4)

The bill provides the legal description of the boundaries of the District.

Membership, Powers, and Duties of the Board of Supervisors (Charter Section 5)

The bill provides for a five-member board (Board), with each member serving a four-year term. Members of the Board must be both Florida residents and United States citizens.

A meeting of the landowners of the District must be held within 90 days after the effective date of the act. Notice of the meeting must be provided once a week for two consecutive weeks in a newspaper of general circulation in the area of the District. The landowners present at the meeting must elect a chair from among attendees to conduct the meeting. The chair may nominate candidates and make motions if that person is a landowner or holds the proxy of a landowner. The landowners present constitute a quorum, even if they represent less than 50 percent of the total acreage of the District, and such landowners may elect members of the governing board. The three candidates for the Board receiving the first, second, and third highest number of votes are elected to terms expiring November 17, 2024, while the two candidates receiving the fourth and fifth highest number of votes are elected to terms expiring November 20, 2022.

Each landowner is entitled to one vote for each acre owned. Any fractional acre is treated as one acre for the purposes of the landowner vote. Landowners who are unable to attend may cast their votes by proxy. Subsequent landowners elections must be announced at a public meeting at least 90 days before the landowners meeting and noticed in the same manner as the initial landowners meeting. Subsequent elections to the Board occur on the first Tuesday after the first Monday of November every two years.

The bill provides for a transition of the Board from being elected by landowners to the qualified electors residing in the District on the following schedule:

Number of Qualified Electors	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
0-15,021	5	0
15,022-30,043	4	1
30,044-45,065	3	2
45,066-60,087	2	3
60,088-75,109	1	4
75,110 or more	0	5

The transition to a Board seat elected by the qualified electors of the District does not require an election to occur prior to the expiration of the existing Board member’s term.

On or before June 1 of each election year, the Board must determine the number of qualified electors in the District as of April 15 of that year. The Board must consult the records of the Brevard and Volusia County Supervisor of Elections, Property Appraiser, and Tax Collector when making this determination.

Members of the Board elected by qualified electors are selected at-large in non-partisan elections and must be qualified electors of the District. In addition, Board members must abide by provisions of the Florida Election Code.

The bill provides that the Governor may remove a Board member for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by the act. In the event of a vacancy, the remaining members of the Board may appoint someone to serve the remainder of the unexpired term, unless the vacancy was created by the Governor removing the Board member, in which case the Governor makes an appointment to fill the vacancy.

The Board must elect a chair and a secretary, as well as other officers the Board deems necessary. The secretary does not have to be a member of the Board.

The Board must keep a record of its proceedings containing all meeting, resolutions, bonds, and any corporate acts. The record book and other District records must be open to inspection by the public as required by ch. 119, F.S.

Board Members may receive compensation up to the amount authorized for the supervisors of a CDD and are entitled to travel and per diem expenses as provided in s. 112.061, F.S.⁵⁶

In addition, Board members must meet ethics and conflict of interest provisions under general law for local public officials.⁵⁷

The bill prohibits the District from levying ad valorem taxes until all members of the Board are elected by qualified electors of the District.⁵⁸

General Duties of the Board (Charter Section 6)

District Manager and Treasurer

The Board is required to employ a district manager to oversee any improvements or facilities constructed by the District. The bill specifies that employing a Board member, district manager, or other employee of a landowner as the district manager for the District does not constitute a conflict of interest under ch. 112, F.S. The district manager is permitted to hire additional employees as necessary and authorized by the Board.

The Board is also required to hire a treasurer, who must be a resident of the state. The treasurer manages the finances of the District and may be granted other powers as the Board finds appropriate. The Board sets the compensation of the treasurer and may require the treasurer to post a surety bond. The bill requires the financial records of the Board be audited by an independent certified public accountant in accordance with general law requirements.⁵⁹ The Board, in conjunction with the treasurer, must select a qualified public depository for the funds of the District.

Budget and Reporting

The district manager is required to prepare a proposed budget on or before July 15 of each year for consideration by the Board. The budget must contain all expenditures of the District and estimates of projected revenues. The Board may make amendments to the proposed budget before approval. The Board is required to provide adequate notice of the budget hearing. The Board must adopt a final budget before October 1, the beginning of its fiscal year, and the Board must submit a copy of its budget to the respective Boards of County Commissioners for Brevard County and Volusia County and the City of Edgewater City Council for informational purposes at least 60 days prior to its adoption.

⁵⁶ S. 190.006(8), F.S., provides that supervisors of a CCD may receive compensation of no greater than \$200 per meeting and no more than \$4,800 per year, unless electors approve a higher amount in a referendum.

⁵⁷ See ch. 112, Part III, F.S. (code of ethics for public officers and employees),

⁵⁸ The Board must receive voter approval before levying ad valorem taxes. See art. VII, s. 9, Fla. Const. (special districts may levy ad valorem taxes at a “millage authorized by law approved by vote of the electors.”)

⁵⁹ As an independent special district, the District must maintain a public website on which it must post its annual budget and any amendments, all required financial reports and audits of the District’s finances, and a link to the Department of Financial Services’ website. Ss. 189.016 and 189.069, F.S. The District must file a separate annual financial statement with the Department of Financial Services, under s. 218.32, F.S., and periodic audited financial statements with the Florida Auditor General, under s. 218.39, F.S.

The Board must provide both the respective Boards of County Commissioners for Brevard County and Volusia County and the City of Edgewater City Council with a copy of the District's public facilities report as required by s. 189.08, F.S.

The District will provide full disclosure of its public financing and maintenance of improvements to real property to all existing and prospective residents of the District. The District must provide each developer of a residential development within the district with sufficient copies of the information to provide to each prospective purchaser. The District must also file the disclosure documents in the property records of the county.

The bill provides that the District must maintain an official website by the end of its first full fiscal year, as required by s. 189.069, F.S.

General Powers

The bill grants the District the following general powers to:

- Conduct business on behalf of the District, including suing or being sued, adopting a seal, and acquiring and disposing of property;
- Apply for Florida Retirement System coverage for its employees;
- Contract for professional services;
- Conduct financial transactions for District purposes;
- Adopt and enforce rules;
- Maintain an office;
- Hold, control, purchase, or dispose of public easements;
- Lease as lessor or lessee any type of project the District is authorized to undertake;
- Borrow money and issue bonds as authorized in the act and to levy taxes and assessments;
- Charge user fees as necessary to conduct District activities;
- Exercise eminent domain;⁶⁰
- Cooperate with other government entities;
- Assess and impose ad valorem taxes, as provided in the act;
- Levy and impose maintenance taxes, if authorized by general law;
- Levy and impose special assessments;
- Exercise special powers; and
- Exercise powers necessary and proper for fulfilling the special and limited purpose of the District as authorized by this act.

Special Powers

The bill also grants the District special powers to implement its lawful and special purpose and to provide the following systems and infrastructure for those special and limited purposes:

- Water management and control, including irrigation systems and facilities, for the lands within the District and to connect some or any of such facilities with roads and bridges;
- Water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse, provided it does not impair or alter the City of Edgewater's utility service areas;
- Bridges, culverts, wildlife corridors, or road crossings that may be needed across any drain, ditch, canal, floodway, holding basin, or other body of water;
- District roads equal to or exceeding specifications of the county in which the roads are located, and street lighting;

⁶⁰ The Board may exercise eminent domain within the boundaries of the District without additional approval. The Board may only exercise eminent domain outside the boundaries of the District with approval from a general purpose local government (the municipality, for lands in an incorporated area; the county, for lands in unincorporated areas).

- Buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage;
- Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District;
- Observation, mitigation, wetland creation, and wildlife habitat areas;
- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- School buildings and related structures, which may be leased, sold, or donated to the school district;
- Security;⁶¹
- Control and elimination of mosquitoes and other arthropods of public health importance;
- Enter into impact fee, mobility fee, or other similar credit agreements with Brevard County, Volusia County, City of Edgewater, other governmental bodies, or a landowner developer and to see or assign such credits, on terms the District deems appropriate;
- Buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or other authorized projects;
- Governmental departments of the Board, which must be established and created at noticed meetings;
- Sustainable or green infrastructure improvements, facilities, and services;⁶²
- Any facilities or improvements that may otherwise be provided by a county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees;
- Waste collection and disposal, provided that it does not impair or alter the City of Edgewater's provision of solid waste management services within the city limits;
- Construction and operation of communications systems and related infrastructure;⁶³
- Health care facilities, including the ability to enter public-private partnerships and agreements as necessary to accomplish this task; and
- Any other project within or without the boundaries of the District when the project is subject to an agreement between the District and the Brevard and Volusia County Boards of County Commissioners or with any other applicable public or private entity, and is not inconsistent with effective local comprehensive plans or the general or special powers contained in the bill.

The bill also grants the District the power to enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education.

Financing and Bonds

The Board has the power to issue bond anticipation notes that will bear interest not to exceed the maximum rate allowed by law and that will mature no later than five years from issuance. The Board may also obtain loans and issue negotiable notes, warrants, or other evidence of debt, payable at such times and bearing such interest as the Board determines, but not to exceed the maximum rate allowed by general law and to be sold or discounted at such price or prices not less than 95 percent of par value. Bonds may be sold in blocks or installment at different times, at public or private sale after advertisement, at not less than 90 percent of the par value, together with accrued interest. The Board also has the authority to issue refunding bonds, revenue bonds, and general obligation bonds.⁶⁴

The bill authorizes the Board to levy ad valorem taxes on all taxable property in the District, but only after the Board is elected by and consists of qualified electors of the District and the levy has been

⁶¹ The District may contract with the appropriate local general purpose government agencies for an increased level of services within the District boundaries.

⁶² The bill provides that this provision does not authorize the District to provide electric services or otherwise impair electric utility franchise agreements.

⁶³ The bill provides that this provision does not authorize the District to provide communication services to retail customers or otherwise impair existing service provider franchise agreement.

⁶⁴ The charter specifies that a default on a bond or obligation of the District does not constitute a debt or obligation on behalf of the state or any general-purpose local government.

approved at a referendum as required by Art. VII, s. 9 of the Florida Constitution. This levy may not exceed 3.0 mills.

The Board annually must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments are collected annually in the same manner as county taxes. The Board may determine a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment of all future annual installments of the benefit special assessment.

The Board is authorized to levy a non-ad valorem maintenance tax, if such tax is ever authorized by general law, to maintain and preserve physical facilities and services in the District and to defray current expenses. Upon the completion of the facilities and services, the District would be able to levy annually a non-ad valorem and non-millage tax upon each tract or parcel of land within the District, based on the net assessment of benefits accruing from the original construction of the improvements. This tax would be paid and enforceable in the same manner as county ad valorem taxes.

The Board may levy a maintenance special assessment to preserve the facilities and projects of the District. The amount of the assessment is determined by the Board upon a report of the District's engineer and assessed by the Board upon the land within the District benefited by the maintenance, or apportioned between the benefited lands in proportion to the benefits received by each tract of land. The assessment is a lien on the assessed property until paid and enforceable in the same manner as county taxes. However, this does not prohibit the District from using the method prescribed in ss. 197.363, 197.3631, or 197.3632, F.S., for enforcing and collecting these assessments.

The District may establish and collect rates, fees, rentals, or other charges, referred to as "revenues," for the system and facilities furnished by the District such as recreational facilities, water management and control facilities, and water, sewer, and reuse systems. The District must hold a public hearing concerning the proposed rates, fees, rentals, or other charges, which may not apply to District leases, prior to adoption under the administrative rulemaking authority of the District.

Any rates, fees, rentals, charges, or delinquent penalties not paid within 60 days will be in default and the unpaid balance, together with reasonable attorney fees and costs, may be recovered by the District in a civil action. In the event fees, rentals, or other charges for water and sewer, or either of them, are not paid when due, the District may, under rules and regulations of the Board, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and restoration of service are fully paid.

Enforcement of Taxes and Assessments

The collection and enforcement of all taxes levied by the District operates in the same manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes pertain to the collection of such taxes. Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632, F.S. Maintenance taxes are non-ad valorem taxes and not special assessments.

Any property of a governmental entity subject to a ground lease as described in s. 190.003(13), F.S., is not subject to lien or encumbrance on the underlying fee interest for a levy of ad valorem taxes or non-ad valorem assessments under this bill.

Competitive Bidding and Public Notice Regarding District Purchases

Any contract for goods, supplies, or materials that exceeds \$195,000⁶⁵ is subject to competitive bidding through a notice of bids published once in a newspaper of general circulation in Brevard and Volusia Counties. In addition, if the Board seeks to construct or improve a public building, structure, or other public works, it must comply with the bidding procedures in s. 255.20, F.S., and any other applicable

⁶⁵ See s. 287.017(1)(d), F.S. (creating purchasing categories for procurement of personal property and services).

general law. The Board must accept the bid of the lowest responsive and responsible bidder unless all bids have been rejected. The provisions of the Consultants Competitive Negotiation Act⁶⁶ apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services.

Contracts for maintenance services that exceed \$195,000⁶⁷ are subject to competitive bidding. Any contracts for other services are not subject to competitive bidding unless the District adopts a rule, policy, or procedure to apply competitive bidding procedures to those contracts. The Board may require bidders to supply a bond.

Waiver of Sovereign Immunity

Any suits against the District for damages arising out of tort are subject to the limitations provided in s. 768.28, F.S.

Termination, Contraction, or Expansion of the District

The bill requires the Board to obtain a resolution or official statement of support from both the respective Boards of County Commissioners for Brevard County and Volusia County and the City of Edgewater City Council before asking the Legislature to expand or contract the District. The bill states the District exists until dissolved by the Legislature or declared inactive by the Department of Economic Opportunity.⁶⁸

Notice to Purchasers of Property

After creation of the District, each contract for initial sale of a residential unit within the District must include a disclosure statement informing the purchaser of the existence of the District and that the purchaser will be liable for taxes, assessments, and fees imposed by the District.

Public Access

Any facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax exempt bonding issued by the District, is public. The District may establish rules regulating the use of the property and imposing reasonable charges or fees for such use.

Merger with Community Development Districts

The bill provides that the District may merge with one or more CDDs situated wholly within its boundaries. Any CDD within the boundaries of the District may initiate the merger process by filing a written request for merger with the District, Brevard and Volusia Counties, and the City of Edgewater.

The District, with Board approval, may enter into a merger agreement with the CDD to provide for the allocation and retirement of debt, transition of the CDD board, and the transfer of all financial obligations and operating and maintenance responsibilities to the District. The bill provides that execution of the merger agreement between the District and the CDD constitutes consent by the landowners within each district.

The District and each CDD requesting merger is required to hold a public hearing within their respective boundaries to provide information and take public comment. The hearing must be held within 45 days after the execution of the merger agreement and must be noticed in a newspaper of general circulation in Brevard County and Volusia County at least 14 days before the hearing. At the conclusion of the hearing, the respective districts are required to adopt a resolution approving or disapproving the merger. If the merger is approved, the resolutions and merger agreement must be filed with Brevard County, Volusia County and the City of Edgewater. Upon receipt of the resolutions and merger

⁶⁶ S. 287.055, F.S.

⁶⁷ *Id.*

⁶⁸ S. 189.062, F.S.

agreement, the county or city which originally established the CCD must adopt an ordinance dissolving each CDD pursuant to s. 190.046(10), F.S.

Economic Impact

The Economic Impact Statement projects expenditures of \$0 in Fiscal Year (FY) 2020-21 and \$0 in FY 2021-22.

B. SECTION DIRECTORY:

- Section 1: Provides short title.
- Section 2: Provides legislative findings and intent; definitions.
- Section 3: Creates the Deering Park Stewardship District and provides a charter for the District
- Section 4: Provides the legal description of the District.
- Section 5: Provides membership, meetings, and organization of Board of Supervisors; provides powers, duties, terms of office of Board.
- Section 6: Provides general duties of Board.
- Section 7: Provides for severability of the act.
- Section 8: Provides that the bill is effective upon becoming a law, except that the provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of qualified voters in a referendum held after such time when all members of the Board are qualified electors of the District.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 26 and 27, 2019.

WHERE? The News-Journal, a daily newspaper of general circulation in Volusia County (Nov. 26, 2019), and Florida Today, a daily newspaper of general circulation in Brevard County (Nov. 27, 2019).

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? A referendum must be held when all members of the Board are qualified electors, elected by qualified electors, if the Board seeks to levy ad valorem taxes.

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 requires rules and orders adopted by the District pertaining to the powers, duties, and functions of the officers of the District, the conduct of the business of the District, the maintenance of records, the

form of certificates evidencing tax liens and all other documents and records of the District, and the operation of guardhouses by the District or any other unit of local government to serve security purposes, be adopted and enforced pursuant to ch. 120, F.S., the Administrative Procedure Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions to General Law

Sections 5(2) and 5(3) of Section 5 of the bill provide for the composition of the Board, including the process for transitioning from a Board elected on a one-acre/one-vote basis to an election by the qualified electors of the District. The transition process provided by the bill is in lieu of the process provided in s. 189.041, F.S.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

Powers of Community Development Districts

Although the District is created pursuant to ch. 189, F.S., the bill proposes to give the District future powers that may be included in ch. 190, F.S., relating to CDDs as follows:

Any amendments to chapter 190, Florida Statutes, after January 1, 2020, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter contained in ss. 190.006-190.041, Florida Statutes, which are not inconsistent with this act, shall constitute a general power, special power, authority, or function of the District.

Therefore, if the Legislature amends ch. 190, F.S., to grant CDDs additional authority at any time in the future, the bill provides that such additional authority will be granted to the District without further Legislative review or enactment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

26 assessments; providing for authority to borrow money;
 27 providing for tax liens; providing for competitive
 28 procurement; providing for fees and charges; providing
 29 for amendment to the charter; providing for required
 30 notices to purchasers of units within the District;
 31 defining District public property; providing for
 32 construction; providing severability; providing for a
 33 referendum; providing effective dates.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

37 Section 1. This act may be cited as the "Deering Park
 38 Stewardship District Act."

39 Section 2. Legislative findings and intent; definitions;
 40 policy.-

41 (1) LEGISLATIVE INTENT AND PURPOSE OF THE DISTRICT.-

42 (a) The extensive lands located wholly within Brevard and
 43 Volusia Counties and the City of Edgewater and covered by this
 44 act contain many opportunities for thoughtful, comprehensive,
 45 responsible, and consistent development over a long period.

46 (b) There is a need to use a special and limited purpose
 47 independent special district unit of local government for the
 48 Deering Park Stewardship District (District) lands located
 49 within Brevard and Volusia Counties and the City of Edgewater
 50 and covered by this act to provide for a more comprehensive

51 conservation and community development approach, which will
52 facilitate an integral relationship between conservation,
53 regional transportation, land use, and urban design to provide
54 for a diverse mix of housing and regional employment and
55 economic development opportunities, rather than fragmented
56 development with underutilized infrastructure generally
57 associated with urban sprawl.

58 (c) There is a considerably long period of time during
59 which there is a significant burden to provide various systems,
60 facilities, and services on the initial landowners of the
61 District lands, such that there is a need for flexible
62 management, sequencing, timing, and financing of the various
63 systems, facilities, and services to be provided to these lands,
64 taking into consideration absorption rates, commercial
65 viability, and related factors.

66 (d) While chapter 190, Florida Statutes, provides an
67 opportunity for previous community development services and
68 facilities to be provided by the continued use of community
69 development districts in a manner that furthers the public
70 interest, given the size of District lands and the duration of
71 development, continuing to utilize multiple community
72 development districts over these lands would result in an
73 inefficient, duplicative, and needless proliferation of local
74 special purpose governments, contrary to the public interest and
75 the Legislature's findings in chapter 190, Florida Statutes.

76 Instead, it is in the public interest that the long-range
77 provision for, and management, financing, and long-term
78 maintenance, upkeep, and operation of, services and facilities
79 to be provided for ultimate development and conservation of the
80 lands covered by this act be under one coordinated entity. The
81 creation of a single District will assist in integrating the
82 management of state resources and allow for greater and more
83 coordinated stewardship of natural resources.

84 (e) Longer involvement of the initial landowner with
85 regard to the provision of systems, facilities, and services for
86 the District lands, coupled with the special and limited purpose
87 of the District, is in the public interest.

88 (f) The existence and use of such a special and limited
89 purpose local government for the District lands, subject to
90 Brevard County, Volusia County, and the City of Edgewater
91 comprehensive plans, will provide for a comprehensive and
92 complete community development approach to promote a sustainable
93 and efficient land use pattern for the District lands with long-
94 term planning for green infrastructure and conservation areas
95 which require perpetual protection and stewardship as well as
96 sustainably planned development; provide opportunities for the
97 mitigation of impacts and development of infrastructure in an
98 orderly and timely manner; prevent the overburdening of the
99 general-purpose local government and the taxpayers; and provide
100 an enhanced tax base and regional employment and economic

101 development opportunities.

102 (g) The creation and establishment of the District will
103 encourage local government financial self-sufficiency in
104 providing public facilities and in identifying and implementing
105 fiscally sound, innovative, and cost-effective techniques to
106 provide and finance public facilities while encouraging
107 sustainable development, use, and coordination of capital
108 improvement plans by all levels of government, in accordance
109 with the goals of chapter 187, Florida Statutes.

110 (h) The creation and establishment of the District is a
111 legitimate supplemental and alternative method available to
112 manage, own, operate, construct, and finance both green and
113 capital infrastructure systems, facilities, and services.

114 (i) In order to be responsive to the critical timing
115 required through the exercise of its special management
116 functions, the District requires financing of those functions,
117 including bondable, lienable, and nonlienable revenue, with full
118 and continuing public disclosure and accountability, funded by
119 landowners, both present and future, and funded also by users of
120 the systems, facilities, and services provided to the land area
121 by the District, without unduly burdening the taxpayers,
122 citizens, and ratepayers of the state or Brevard County, Volusia
123 County, or the City of Edgewater.

124 (j) The District created and established by this act shall
125 not have or exercise any comprehensive planning, zoning, or

126 development permitting power; the establishment of the District
127 shall not be considered a development order within the meaning
128 of chapter 380, Florida Statutes; and all applicable planning
129 and permitting laws, rules, regulations, and policies of Brevard
130 and Volusia Counties and the City of Edgewater continue to
131 control the conservation and development of the land to be
132 serviced by the District.

133 (k) The creation by this act of the District is not
134 inconsistent with Brevard County, Volusia County, or the City of
135 Edgewater comprehensive plans.

136 (l) The creation by this act of the District does not
137 affect any of the existing conservation easements that have been
138 recorded on portions of the property.

139 (m) It is the legislative intent and purpose that no debt
140 or obligation of the District constitute a burden on Brevard
141 County, Volusia County, or the City of Edgewater.

142 (2) DEFINITIONS.—As used in this act:

143 (a) "Ad valorem bonds" means bonds that are payable from
144 the proceeds of ad valorem taxes levied on real and tangible
145 personal property and that are generally referred to as general
146 obligation bonds.

147 (b) "Assessable improvements" means, without limitation,
148 any and all public improvements and community facilities that
149 the District is empowered to provide in accordance with this act
150 that provide a special benefit to property within the District.

151 (c) "Assessment bonds" means special obligations of the
152 District which are payable solely from proceeds of the special
153 assessments or benefit special assessments levied for assessable
154 improvements, provided that, in lieu of issuing assessment bonds
155 to fund the costs of assessable improvements, the District may
156 issue revenue bonds for such purposes payable from assessments.

157 (d) "Assessments" means those nonmillage District
158 assessments which include special assessments, benefit special
159 assessments, and maintenance special assessments and a
160 nonmillage, non-ad valorem maintenance tax if authorized by
161 general law.

162 (e) "Benefit special assessments" means District
163 assessments imposed, levied, and collected pursuant to the
164 provisions of paragraph (12) (b) of section 6.

165 (f) "Board of supervisors" or "board" means the governing
166 body of the District or, if such board has been abolished, the
167 board, body, or commission assuming the principal functions
168 thereof or to whom the powers given to the board by this act
169 have been given by law.

170 (g) "Bond" includes "certificate," and the provisions that
171 are applicable to bonds are equally applicable to certificates.
172 The term also includes any general obligation bond, assessment
173 bond, refunding bond, revenue bond, bond anticipation note, and
174 other such obligation in the nature of a bond as is provided for
175 in this act.

- 176 (h) "Cost" or "costs," when used in reference to any
177 project, includes, but is not limited to:
- 178 1. The expenses of determining the feasibility or
179 practicability of acquisition, construction, or reconstruction.
 - 180 2. The cost of surveys, estimates, plans, and
181 specifications.
 - 182 3. The cost of improvements.
 - 183 4. Engineering, architectural, fiscal, and legal expenses
184 and charges.
 - 185 5. The cost of all labor, materials, machinery, and
186 equipment.
 - 187 6. The cost of all lands, properties, rights, easements,
188 and franchises acquired.
 - 189 7. Financing charges.
 - 190 8. The creation of initial reserve and debt service funds.
 - 191 9. Working capital.
 - 192 10. Interest charges incurred or estimated to be incurred
193 on money borrowed prior to and during construction and
194 acquisition and for such reasonable period of time after
195 completion of construction or acquisition as the board may
196 determine.
 - 197 11. The cost of issuance of bonds pursuant to this act,
198 including advertisements and printing.
 - 199 12. The cost of any bond or tax referendum held pursuant
200 to this act and all other expenses of issuance of bonds.

201 13. The discount, if any, on the sale or exchange of
202 bonds.

203 14. Administrative expenses.

204 15. Such other expenses as may be necessary or incidental
205 to the acquisition, construction, or reconstruction of any
206 project, or to the financing thereof, or to the development of
207 any lands within the District.

208 16. Payments, contributions, dedications, and any other
209 exactions required as a condition of receiving any governmental
210 approval or permit necessary to accomplish any District purpose.

211 17. Any other expense or payment permitted by this act or
212 allowable by law.

213 (i) "Deering Park Stewardship District" means the unit of
214 special and limited purpose local government and political
215 subdivision created and chartered by this act, and limited to
216 the performance of those general and special powers authorized
217 by its charter under this act, the boundaries of which are set
218 forth by the act, the governing board of which is created and
219 authorized to operate with legal existence by this act, and the
220 purpose of which is as set forth in this act.

221 (j) "District" means the Deering Park Stewardship
222 District.

223 (k) "District manager" means the manager of the District.

224 (l) "District roads" means highways, streets, roads,
225 alleys, intersection improvements, sidewalks, crossings,

226 landscaping, irrigation, signage, signalization, storm drains,
227 bridges, multi-use trails, lighting, and thoroughfares of all
228 kinds.

229 (m) "General obligation bonds" means bonds which are
230 secured by, or provide for their payment by, the pledge of the
231 full faith and credit and taxing power of the District.

232 (n) "Governing board member" means any member of the board
233 of supervisors.

234 (o) "Land development regulations" means those regulations
235 of the general-purpose local government, adopted under the
236 Community Planning Act, codified as part II of chapter 163,
237 Florida Statutes, to which the District is subject and as to
238 which the District may not do anything that is inconsistent
239 therewith. Land development regulations shall not mean specific
240 management, engineering, operations, or capital improvement
241 planning, needed in the daily management, implementation, and
242 supplying by the District of systems, facilities, services,
243 works, improvements, projects, or infrastructure, so long as
244 they remain subject to and are not inconsistent with the
245 applicable county or city codes.

246 (p) "Landowner" means the owner of a freehold estate as it
247 appears on the deed record, including a trustee, a private
248 corporation, and an owner of a condominium unit. "Landowner"
249 does not include a reversioner, remainderman, mortgagee, or any
250 governmental entity which shall not be counted and need not be

251 notified of proceedings under this act. "Landowner" also means
252 the owner of a ground lease from a governmental entity, which
253 leasehold interest has a remaining term, excluding all renewal
254 options, in excess of 50 years.

255 (q) "General-purpose local government" means a county,
256 municipality, or consolidated city-county government.

257 (r) "Maintenance special assessments" are assessments
258 imposed, levied, and collected pursuant to the provisions of
259 paragraph (12) (d) of section 6.

260 (s) "Non-ad valorem assessment" means only those
261 assessments which are not based upon millage and which can
262 become a lien against a homestead as permitted in s. 4, Art. X
263 of the State Constitution.

264 (t) "Powers" means powers used and exercised by the board
265 of supervisors to accomplish the special and limited purpose of
266 the District, including:

267 1. "General powers," which means those organizational and
268 administrative powers of the District as provided in its charter
269 in order to carry out its special and limited purpose as a local
270 government public body corporate and politic.

271 2. "Special powers," which means those powers enumerated
272 by the District charter to implement its specialized systems,
273 facilities, services, projects, improvements, and infrastructure
274 and related functions in order to carry out its special and
275 limited purposes.

276 3. Any other powers, authority, or functions set forth in
277 this act.

278 (u) "Project" means any development, improvement,
279 property, power, utility, facility, enterprise, service, system,
280 works, or infrastructure now existing or hereafter undertaken or
281 established under the provisions of this act.

282 (v) "Qualified elector" means any person at least 18 years
283 of age who is a citizen of the United States and a legal
284 resident of the state and of the District and who registers to
285 vote with either of the Supervisors of Elections in Brevard
286 County or Volusia County and resides in Brevard County or
287 Volusia County.

288 (w) "Reclaimed water" means water, including from wells or
289 stormwater management facilities, that has received at least
290 secondary treatment and basic disinfection and is reused after
291 flowing out of a domestic wastewater treatment facility, or
292 otherwise as an approved use of surface water or groundwater by
293 the water management district.

294 (x) "Reclaimed water system" means any plant, well,
295 system, facility, or property, and any addition, extension, or
296 improvement thereto at any future time constructed or acquired
297 as part thereof, useful, necessary, or having the present
298 capacity for future use in connection with the development of
299 sources, treatment, purification, or distribution of reclaimed
300 water. The term includes franchises of any nature relating to

301 any such system and necessary or convenient for the operation
302 thereof including for the District's own use or resale.

303 (y) "Refunding bonds" means bonds issued to refinance
304 outstanding bonds of any type and the interest and redemption
305 premium thereon. Refunding bonds may be issuable and payable in
306 the same manner as refinanced bonds, except that no approval by
307 the electorate shall be required unless required by the State
308 Constitution.

309 (z) "Revenue bonds" means obligations of the District that
310 are payable from revenues, including, but not limited to,
311 special assessments and benefit special assessments, derived
312 from sources other than ad valorem taxes on real or tangible
313 personal property and that do not pledge the property, credit,
314 or general tax revenue of the District.

315 (aa) "Sewer system" means any plant, system, facility, or
316 property, and additions, extensions, and improvements thereto at
317 any future time constructed or acquired as part thereof, useful
318 or necessary or having the present capacity for future use in
319 connection with the collection, treatment, purification, or
320 disposal of sewage, including, but not limited to, industrial
321 wastes resulting from any process of industry, manufacture,
322 trade, or business or from the development of any natural
323 resource. The term also includes treatment plants, pumping
324 stations, lift stations, valves, force mains, intercepting
325 sewers, laterals, pressure lines, mains, and all necessary

326 appurtenances and equipment; all sewer mains, laterals, and
327 other devices for the reception and collection of sewage from
328 premises connected therewith; and all real and personal property
329 and any interest therein, and rights, easements, and franchises
330 of any nature relating to any such system and necessary or
331 convenient for operation thereof.

332 (bb) "Special assessments" means assessments as imposed,
333 levied, and collected by the District for the costs of
334 assessable improvements pursuant to the provisions of this act,
335 chapter 170, Florida Statutes, and the additional authority
336 under s. 197.3631, Florida Statutes, or other provisions of
337 general law, now or hereinafter enacted, which provide or
338 authorize a supplemental means to impose, levy, or collect
339 special assessments.

340 (cc) "Taxes" or "tax" means those levies and impositions
341 of the board of supervisors that support and pay for government
342 and the administration of law and that may be:

343 1. Ad valorem or property taxes based upon both the
344 appraised value of property and millage, at a rate uniform
345 within the jurisdiction; or

346 2. If and when authorized by general law, non-ad valorem
347 maintenance taxes not based on millage that are used to maintain
348 District systems, facilities, and services.

349 (dd) "Water system" means any plant, system, facility, or
350 property, and any addition, extension, or improvement thereto at

351 any future time constructed or acquired as a part thereof,
352 useful, necessary, or having the present capacity for future use
353 in connection with the development of sources, treatment,
354 purification, or distribution of water. The term also includes
355 dams, reservoirs, treatment systems, storage tanks, mains,
356 lines, valves, pumping stations, laterals, and pipes for the
357 purpose of carrying water to the premises connected with such
358 system, and all rights, easements, and franchises of any nature
359 relating to any such system and necessary or convenient for the
360 operation thereof.

361 (3) POLICY.—Based upon its findings, ascertainments,
362 determinations, intent, purpose, and definitions, the
363 Legislature states its policy expressly:

364 (a) The District and the District charter, with its
365 general and special powers, as created in this act, are
366 essential and the best alternative for the residential,
367 commercial, office, hotel, healthcare, and other similar
368 community uses, projects, or functions in the included portion
369 of property consistent with the effective local comprehensive
370 plans, and designed to serve a lawful public purpose.

371 (b) The District, which is a local government and a
372 statutory political subdivision, is limited to its special
373 purpose as expressed in this act, with the power to provide,
374 plan, implement, construct, maintain, and finance as a local
375 government management entity systems, facilities, services,

376 improvements, infrastructure, and projects, and possessing
377 financing powers to fund its management power over the long term
378 and with sustained levels of high quality.

379 (c) The creation of the District by and pursuant to this
380 act, and its exercise of its management and related financing
381 powers to implement its limited, single, and special purpose, is
382 not a development order and does not trigger or invoke any
383 provision within the meaning of chapter 380, Florida Statutes,
384 and all applicable governmental planning, environmental, and
385 land development laws, regulations, rules, policies, and
386 ordinances apply to all development of the land within the
387 jurisdiction of the District as created by this act.

388 (d) The District shall operate and function subject to,
389 and not inconsistent with, the applicable comprehensive plan of
390 Brevard and Volusia Counties and the City of Edgewater and any
391 applicable development orders, zoning regulations, and other
392 land development regulations.

393 (e) The special and single purpose District shall not have
394 the power of a general-purpose local government to adopt a
395 comprehensive plan or related land development regulation as
396 those terms are defined in the Community Planning Act.

397 (f) This act may be amended, in whole or in part, only by
398 special act of the Legislature. The board of supervisors of the
399 District shall not ask the Legislature to amend this act without
400 first obtaining a resolution or official statement from the

401 District and Brevard and Volusia Counties and the City of
402 Edgewater as required by s. 189.031(2)(e)4., Florida Statutes,
403 for creation of an independent special district.

404 Section 3. Minimum charter requirements; creation and
405 establishment; jurisdiction; construction; charter.-

406 (1) Pursuant to s. 189.031(3), Florida Statutes, the
407 Legislature sets forth that the minimum requirements in
408 paragraphs (a) through (o) have been met in the identified
409 provisions of this act as follows:

410 (a) The purpose of the District is set forth in sections 2
411 and 3 of this act.

412 (b) The powers, functions, and duties of the District
413 regarding ad valorem taxation, bond issuance, other revenue-
414 raising capabilities, budget preparation and approval, liens and
415 foreclosure of liens, use of tax deeds and tax certificates as
416 appropriate for non-ad valorem assessments, and contractual
417 agreements are in section 6.

418 (c) The methods for establishing the District are in this
419 section.

420 (d) The methods for amending the charter of the District
421 are in section 2.

422 (e) The membership and organization of the governing body
423 and the establishment of a quorum are in section 5.

424 (f) The maximum compensation of each board member is in
425 section 5.

426 (g) The administrative duties of the governing body are in
427 sections 5 and 6.

428 (h) The financial disclosure, noticing, and reporting
429 requirements are in sections 5 and 6.

430 (i) The procedures and requirements for issuing bonds are
431 in section 6.

432 (j) The procedures and requirements for elections and
433 referenda and the qualifications of an elector of the District
434 are in sections 2 and 5.

435 (k) The methods for financing the District are in section
436 6.

437 (l) Other than taxes levied for the payment of bonds and
438 taxes levied for periods not longer than 2 years when authorized
439 by a vote of the electors of the District, the authority to levy
440 ad valorem taxes and the authorized millage rate are in section
441 6.

442 (m) The methods of collecting non-ad valorem assessments,
443 fees, or service charges are in section 6.

444 (n) The planning requirements are in this section and
445 section 6.

446 (o) The geographic boundary limitations of the District
447 are in sections 4 and 6.

448 (2) The District is created and incorporated as a public
449 body corporate and politic, an independent special and limited
450 purpose local government, an independent special district, under

451 s. 189.031, Florida Statutes, as amended from time to time, and
452 as defined in this act and in s. 189.012(3), Florida Statutes,
453 as amended from time to time, in and for portions of Brevard and
454 Volusia Counties and the City of Edgewater. Any amendments to
455 chapter 190, Florida Statutes, after January 1, 2020, granting
456 additional general powers, special powers, authorities, or
457 projects to a community development district by amendment to its
458 uniform charter, ss. 190.006-190.041, Florida Statutes, which
459 are not inconsistent with the provisions of this act, shall
460 constitute a general power, special power, authority, or
461 function of the District. All notices for the enactment by the
462 Legislature of this special act have been provided pursuant to
463 the State Constitution, the Laws of Florida, and the Rules of
464 the Florida House of Representatives and of the Florida Senate.
465 No referendum subsequent to the effective date of this act is
466 required as a condition of establishing the District. Therefore,
467 the District, as created by this act, is established on the
468 property described in this act.

469 (3) The territorial boundary of the District shall embrace
470 and include all of that certain real property described in
471 section 4.

472 (4) The jurisdiction of the District, in the exercise of
473 its general and special powers, and in the carrying out of its
474 special and limited purposes, is both within the external
475 boundaries of the legal description of the District and

476 extraterritorially when limited to, and as authorized expressly
477 elsewhere in, the charter of the District as created in this act
478 or applicable general law. This special and limited purpose
479 District is created as a public body corporate and politic, and
480 local government authority and power is limited by its charter,
481 this act, and subject to the provisions of other general laws,
482 including chapter 189, Florida Statutes, except that an
483 inconsistent provision in this act shall control and the
484 District has jurisdiction to perform such acts and exercise such
485 authorities, functions, and powers as shall be necessary,
486 convenient, incidental, proper, or reasonable for the
487 implementation of its special and limited purpose regarding the
488 sound planning, provision, acquisition, development, operation,
489 maintenance, and related financing of those public systems,
490 facilities, services, improvements, projects, and infrastructure
491 works as authorized herein, including those necessary and
492 incidental thereto. The District shall only exercise any of its
493 powers extraterritorially within Brevard and Volusia Counties
494 and the City of Edgewater after execution of an interlocal
495 agreement between the District and Brevard and Volusia Counties
496 and the City of Edgewater consenting to the District's exercise
497 of any of such powers within Brevard or Volusia Counties or the
498 City of Edgewater as applicable or an applicable development
499 order or as part of other land development regulations issued by
500 Brevard County, Volusia County, or the City of Edgewater.

501 (5) The exclusive charter of the District is this act and,
 502 except as otherwise provided in subsection (2), may be amended
 503 only by special act of the Legislature.

504 (6) The District shall not avail itself of any provision
 505 in general law that would allow for municipal conversion of any
 506 area within the District boundary that is not currently within a
 507 municipal boundary.

508 Section 4. Legal description of the District.—The metes
 509 and bounds legal description of the District, within which there
 510 are no parcels of property owned by those who do not wish their
 511 property to be included within the District, is as follows:

512
 513 LAND IN VOLUSIA COUNTY, FLORIDA
 514 A PART OF SECTIONS 32, 33, 34 AND 35, TOWNSHIP 17
 515 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA.
 516 TOGETHER WITH
 517 SECTIONS 1, 2, A PART OF SECTION 3, SECTIONS 10, 11,
 518 12, 13, 14, A PART OF SECTION 15, A PART OF SECTION
 519 22, SECTIONS 23, 24, 25, 26, 27, 28, A PART OF SECTION
 520 31, SECTIONS 32, 33, 34, 35 AND 36, TOWNSHIP 18 SOUTH,
 521 RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA.
 522 TOGETHER WITH
 523 A PART OF SECTION 6, A PART OF SECTION 7, A PART OF
 524 SECTION 8, A PART OF SECTION 17, SECTIONS 18, 19, A
 525 PART OF SECTION 20, SECTIONS 29, 30, 31 AND 32,

526 TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY,
 527 FLORIDA.
 528 TOGETHER WITH
 529 PART OF LOTS 13B, 14B, 15B, 15D, 62 AND 167,
 530 ASSESSOR'S SUBDIVISION OF THE CHARLES SIBBALD GRANT,
 531 AS RECORDED IN MAP BOOK 3, PAGE 151 OF THE PUBLIC
 532 RECORDS OF VOLUSIA COUNTY, FLORIDA.
 533 TOGETHER WITH
 534 SECTIONS 1, 2, 3, 4, 5, A PART OF SECTION 6, A PART OF
 535 SECTION 7, A PART OF SECTION 8, SECTIONS 9, 10, 11,
 536 12, 13, 14, 15, A PART OF SECTION 16, SECTION 17, A
 537 PART OF SECTION 18, A PART OF SECTION 19, SECTION 20,
 538 A PART OF SECTION 21, SECTION 22, A PART OF SECTION
 539 23, SECTION 24, SECTIONS 25, 26, 27, 28, A PART OF
 540 SECTIONS 29, 32, 33, 34, 35, AND SECTION 36, TOWNSHIP
 541 19 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA.
 542 TOGETHER WITH
 543 SECTIONS 5, 6, 7, 8, 17, 18, 19, 20, 21, 28, 29, PART
 544 OF SECTION 30, SECTIONS 31, 32 AND 33, TOWNSHIP 19
 545 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA.
 546 TOGETHER WITH
 547 SECTIONS 1, 12, 13 AND 24, TOWNSHIP 20 SOUTH, RANGE 33
 548 EAST, VOLUSIA COUNTY, FLORIDA.
 549 TOGETHER WITH
 550 SECTION 37, TOWNSHIP 21 SOUTH, RANGE 33 EAST, VOLUSIA

551 COUNTY, FLORIDA.
 552 MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 553 FROM THE NORTHWEST CORNER OF SAID SECTION 10, TOWNSHIP
 554 18 SOUTH, RANGE 33 EAST, AS THE POINT OF BEGINNING,
 555 RUN N.00°24'00"W. ALONG THE WEST LINE OF SAID SECTION
 556 3, TOWNSHIP 18 SOUTH, RANGE 33 EAST, A DISTANCE OF
 557 9268.10 FEET; THENCE S.88°53'11"W., ALONG THE SOUTH
 558 LINE OF SAID SECTION 32, TOWNSHIP 17 SOUTH, RANGE 33
 559 EAST, A DISTANCE OF 1121.77 FEET; THENCE
 560 N.01°45'19"W., ALONG THE WEST LINE OF SAID SECTION 32,
 561 A DISTANCE OF 1317.75 FEET; THENCE DEPARTING SAID WEST
 562 LINE, RUN ALONG THE NORTH BOUNDARY OF THE CITY OF
 563 EDGEWATER, FLORIDA THE FOLLOWING COURSES AND
 564 DISTANCES: N.88°48'33"E., A DISTANCE OF 5316.14 FEET;
 565 THENCE N.88°44'53"E., A DISTANCE OF 3973.41 FEET;
 566 THENCE N.01°45'48"W., A DISTANCE OF 663.33 FEET;
 567 THENCE N.88°44'07"E., A DISTANCE OF 661.32 FEET;
 568 THENCE N.01°50'32"W., A DISTANCE OF 1990.46 FEET;
 569 THENCE N.88°41'49"E., A DISTANCE OF 658.58 FEET;
 570 THENCE N.88°35'30"E., A DISTANCE OF 5293.35 FEET;
 571 THENCE N.88°07'12"E., A DISTANCE OF 884.36 FEET TO THE
 572 WEST RIGHT OF WAY LINE OF INTERSTATE NO. 95 (STATE
 573 ROAD NO. 9), A 350 FOOT RIGHT OF WAY; THENCE RUN ALONG
 574 SAID WEST RIGHT OF WAY LINE THE FOLLOWING COURSES AND
 575 DISTANCES; S.29°53'30"E., A DISTANCE OF 452.54 FEET;

576 THENCE S.29°52'50"E., A DISTANCE OF 1053.25 FEET;
 577 THENCE S.29°53'21"E., A DISTANCE OF 1127.04 FEET;
 578 THENCE S.29°53'17"E., A DISTANCE OF 1141.37 FEET;
 579 THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN
 580 S.02°12'11"E., A DISTANCE OF 700.28 FEET; THENCE
 581 N.88°44'42"E., ALONG THE SOUTH LINE OF SAID SECTION
 582 35, TOWNSHIP 17 SOUTH, RANGE 33 EAST, A DISTANCE OF
 583 370.66 FEET TO THE WEST RIGHT OF WAY LINE OF SAID
 584 INTERSTATE NO. 95; THENCE RUN ALONG SAID WEST RIGHT OF
 585 WAY LINE THE FOLLOWING COURSES AND DISTANCES:
 586 S.29°52'48"E., A DISTANCE OF 1270.66 FEET; THENCE
 587 S.29°53'49"E., A DISTANCE OF 1005.54 FEET; THENCE
 588 S.29°52'11"E., A DISTANCE OF 825.17 FEET TO A POINT ON
 589 THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF
 590 8419.42 FEET, A CENTRAL ANGLE OF 06°23'25", A CHORD
 591 BEARING OF S.26°40'28"E., AND A CHORD DISTANCE OF
 592 938.54 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF
 593 SAID CURVE A DISTANCE OF 939.03 FEET; THENCE DEPARTING
 594 SAID WEST RIGHT OF WAY LINE, RUN S.00°15'18"W., A
 595 DISTANCE OF 5705.31 FEET TO THE NORTH RIGHT OF WAY
 596 LINE OF OPOSSUM CAMP ROAD, AS DESCRIBED IN OFFICIAL
 597 RECORDS BOOK 7406, PAGE 1820, OFFICIAL RECORDS BOOK
 598 7183, PAGE 1323 AND OFFICIAL RECORDS BOOK 7423, PAGE
 599 614 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA;
 600 THENCE RUN ALONG SAID NORTH RIGHT OF WAY LINE THE

601 FOLLOWING COURSES AND DISTANCES: S.89°44'56"E., A
 602 DISTANCE OF 581.57 FEET; THENCE S.84°27'37"E., A
 603 DISTANCE OF 969.80 FEET; THENCE N.89°39'54"E., A
 604 DISTANCE OF 333.04 FEET; THENCE N.77°47'22"E., A
 605 DISTANCE OF 102.66 FEET; THENCE DEPARTING SAID NORTH
 606 RIGHT OF WAY LINE, RUN ALONG THE WEST RIGHT OF WAY
 607 LINE OF SAID INTERSTATE NO. 95 THE FOLLOWING COURSES
 608 AND DISTANCES; S.00°18'05"E., A DISTANCE OF 247.60
 609 FEET; THENCE S.76°02'36"E., A DISTANCE OF 163.17 FEET;
 610 THENCE S.62°03'45"E., A DISTANCE OF 149.14 FEET;
 611 THENCE S.31°55'20"E., A DISTANCE OF 1420.66 FEET;
 612 THENCE S.22°11'56"E., A DISTANCE OF 5150.31 FEET;
 613 THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN
 614 S.79°26'18"W, A DISTANCE OF 2782.81 FEET; THENCE
 615 S.00°19'17"W., ALONG THE EAST LINE OF SAID SECTION 18,
 616 TOWNSHIP 18 SOUTH, RANGE 34 EAST, A DISTANCE OF
 617 1245.74 FEET; THENCE S.00°54'04"E., ALONG SAID EAST
 618 LINE, A DISTANCE OF 2650.17 FEET; THENCE
 619 S.00°17'16"E., ALONG THE EAST LINE OF SAID SECTION 19,
 620 TOWNSHIP 18 SOUTH, RANGE 34 EAST, A DISTANCE OF
 621 3067.20 FEET; THENCE DEPARTING SAID EAST LINE, RUN
 622 N.89°29'08"E., A DISTANCE OF 3245.10 FEET; THENCE
 623 N.79°00'40"E., ALONG THE NORTH LINE OF SAID LOT 62 OF
 624 THE ASSESSOR'S SUBDIVISION OF THE CHARLES SIBBALD
 625 GRANT, A DISTANCE OF 1808.41 FEET TO THE WEST RIGHT OF

626 WAY LINE OF SAID INTERSTATE NO 95; THENCE RUN ALONG
 627 SAID WEST RIGHT OF WAY LINE THE FOLLOWING COURSES AND
 628 DISTANCES: S.15°00'53"E., A DISTANCE OF 3903.63 FEET
 629 TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT,
 630 HAVING A RADIUS OF 17353.97 FEET, A CENTRAL ANGLE OF
 631 04°06'04", A CHORD BEARING OF S.17°03'55"E., AND A
 632 CHORD DISTANCE OF 1241.90 FEET; THENCE RUN SOUTHERLY
 633 ALONG THE ARC OF SAID CURVE A DISTANCE OF 1242.16
 634 FEET; THENCE S.19°06'57"E., A DISTANCE OF 3763.61 FEET
 635 TO THE BOUNDARY OF A FLORIDA DEPARTMENT OF
 636 TRANSPORTATION BORROW PIT, AS DESCRIBED IN OFFICIAL
 637 RECORDS BOOK 1790, PAGE 1340, OF THE PUBLIC RECORDS OF
 638 VOLUSIA COUNTY, FLORIDA; THENCE RUN ALONG SAID
 639 BOUNDARY THE FOLLOWING COURSES AND DISTANCES:
 640 S.70°53'03"W., A DISTANCE OF 300.00 FEET; THENCE
 641 N.19°06'57"W., A DISTANCE OF 650.00 FEET; THENCE
 642 S.70°53'03"W., A DISTANCE OF 600.00 FEET; THENCE
 643 S.19°06'57"E., A DISTANCE OF 700.00 FEET; THENCE
 644 N.70°53'03"E., A DISTANCE OF 900.00 FEET TO THE WEST
 645 RIGHT OF WAY LINE OF SAID INTERSTATE NO. 95; THENCE
 646 S.19°06'57"E., ALONG SAID WEST RIGHT OF WAY LINE, A
 647 DISTANCE OF 618.71 FEET; THENCE S.19°07'16"E., ALONG
 648 SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 900.08
 649 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE,
 650 RUN S.78°29'44"W., ALONG THE SOUTH LINE OF SAID LOT

651 13B OF THE ASSESSOR'S SUBDIVISION OF THE CHARLES
 652 SIBBALD GRANT, A DISTANCE OF 2859.22 FEET; THENCE
 653 S.78°16'18"W., ALONG THE NORTH LINE OF THE JOHN LOW
 654 GRANT, SECTION 47, TOWNSHIP 18 SOUTH, RANGE 34 EAST,
 655 VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 4177.75 FEET;
 656 THENCE S.12°08'20"E., ALONG THE WEST LINE OF SAID JOHN
 657 LOW GRANT, A DISTANCE OF 1797.26 FEET; THENCE
 658 S.11°41'37"E., ALONG THE WEST LINE OF THE JOHN LOW
 659 GRANT, SECTION 39, TOWNSHIP 19 SOUTH, RANGE 34 EAST,
 660 VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 18905.04 FEET;
 661 THENCE N.77°58'53"E., ALONG THE SOUTH LINE OF SAID
 662 JOHN LOW GRANT, A DISTANCE OF 1740.16 FEET; THENCE
 663 S.11°14'40"E., ALONG THE WEST LINE OF THE JOHN
 664 MCINTOSH GRANT, SECTION 44, TOWNSHIP 19 SOUTH, RANGE
 665 34 EAST, VOLUSIA COUNTY, FLORIDA, A DISTANCE OF
 666 8790.60 FEET; THENCE S.78°26'58"W., ALONG THE NORTH
 667 LINE OF THE HEIRS OF JOSEPH DELESPINE GRANT, SECTION
 668 45, TOWNSHIP 19 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY,
 669 FLORIDA, A DISTANCE OF 817.69 FEET; THENCE
 670 S.11°14'16"E., ALONG THE WEST LINE OF SAID HEIRS OF
 671 JOSEPH DELESPINE GRANT, A DISTANCE OF 4842.20 FEET;
 672 THENCE S.89°03'20"W., ALONG THE SOUTH LINE OF SAID
 673 SECTION 33, TOWNSHIP 19 SOUTH, RANGE 34 EAST, A
 674 DISTANCE OF 3099.33 FEET; THENCE S.89°03'20"W., ALONG
 675 THE SOUTH LINE OF SAID SECTION 32, TOWNSHIP 19 SOUTH,

676 RANGE 34 EAST, A DISTANCE OF 5412.49 FEET; THENCE
 677 S.89°01'51"W., ALONG THE SOUTH LINE OF SAID SECTION
 678 31, TOWNSHIP 19 SOUTH, RANGE 34 EAST, A DISTANCE OF
 679 5623.75 FEET; THENCE S.00°47'08"E., ALONG THE EAST
 680 LINE OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 33 EAST, A
 681 DISTANCE OF 5460.91 FEET; THENCE S.01°03'19"E., ALONG
 682 THE EAST LINE OF SAID SECTION 12, TOWNSHIP 20 SOUTH,
 683 RANGE 33 EAST, A DISTANCE OF 5293.89 FEET; THENCE
 684 S.01°16'36"E., ALONG THE EAST LINE OF SAID SECTION 13,
 685 TOWNSHIP 20 SOUTH, RANGE 33 EAST, A DISTANCE OF
 686 5294.30 FEET; THENCE S.01°13'54"E., ALONG THE EAST
 687 LINE OF SAID SECTION 24, TOWNSHIP 20 SOUTH, RANGE 33
 688 EAST, A DISTANCE OF 2646.95 FEET; THENCE
 689 S.00°53'46"E., ALONG SAID EAST LINE, A DISTANCE OF
 690 239.56 FEET; THENCE S.78°21'43"W., ALONG THE SOUTH
 691 LINE OF SAID SECTION 24, A DISTANCE OF 5363.68 FEET;
 692 THENCE N.01°25'09"W., ALONG THE WEST LINE OF SAID
 693 SECTION 24, A DISTANCE OF 3855.27 FEET; THENCE
 694 N.01°24'38"W., ALONG THE WEST LINE OF SAID SECTION 13,
 695 A DISTANCE OF 2677.98 FEET; THENCE N.01°24'50"W.,
 696 ALONG THE WEST LINE OF SAID SECTION 13, A DISTANCE OF
 697 2678.13 FEET; THENCE N.01°19'06"W., A DISTANCE OF
 698 5291.20 FEET; THENCE N.00°16'57"E., ALONG THE WEST
 699 LINE OF SAID SECTION 1, A DISTANCE OF 5428.92 FEET;
 700 THENCE S.89°02'45"W., ALONG THE SOUTH LINE OF SAID

701 SECTION 36, TOWNSHIP 19 SOUTH, RANGE 33 EAST, A
 702 DISTANCE OF 66.00 FEET; THENCE N.01°41'37"W., ALONG
 703 THE WEST LINE OF SAID SECTION 36, A DISTANCE OF
 704 4329.42 FEET; THENCE S.61°42'29"W., ALONG THE NORTH
 705 LINE OF THE ABANDONED FLORIDA EAST COAST RAILROAD,
 706 OKEECHOBEE BRANCH, A DISTANCE OF 1028.89 FEET TO THE
 707 POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A
 708 RADIUS OF 2815.48 FEET; A CENTRAL ANGLE OF 24°56'00",
 709 A CHORD BEARING OF S.74°10'29"W., AND A CHORD DISTANCE
 710 OF 1215.56 FEET; THENCE RUN WESTERLY ALONG THE ARC OF
 711 SAID CURVE AND SAID NORTH LINE, A DISTANCE OF 1225.21
 712 FEET; THENCE S.86°38'29"W., ALONG SAID NORTH LINE, A
 713 DISTANCE OF 4556.64 FEET; THENCE DEPARTING SAID NORTH
 714 LINE, RUN N.02°44'27"W., A DISTANCE OF 598.14 FEET;
 715 THENCE S.88°45'51"W., A DISTANCE OF 1310.92 FEET;
 716 THENCE S.02°11'09"E., A DISTANCE OF 646.80 FEET TO THE
 717 NORTH LINE OF SAID ABANDONED FLORIDA EAST COAST
 718 RAILROAD; THENCE RUN ALONG SAID NORTH LINE THE
 719 FOLLOWING COURSES AND DISTANCES: S.86°38'29"W., A
 720 DISTANCE OF 6813.36 FEET; THENCE N.01°01'04"W., A
 721 DISTANCE OF 50.04 FEET; THENCE S.86°38'29"W., A
 722 DISTANCE OF 1544.36 FEET; THENCE DEPARTING SAID NORTH
 723 LINE, RUN N.64°20'17"W., A DISTANCE OF 4659.70 FEET;
 724 THENCE N.15°15'27"W., A DISTANCE OF 7492.89 FEET;
 725 THENCE N.15°51'21"W., A DISTANCE OF 829.94 FEET;

726 THENCE N.18°46'59"W., A DISTANCE OF 814.16 FEET;
 727 THENCE N.18°53'10"W., A DISTANCE OF 697.30 FEET;
 728 THENCE N.70°10'39"W., A DISTANCE OF 1587.18 FEET;
 729 THENCE N.14°08'03"W., A DISTANCE OF 3697.19 FEET;
 730 THENCE N.40°29'10"W., A DISTANCE OF 935.94 FEET;
 731 THENCE N.66°49'47"W., A DISTANCE OF 617.13 FEET;
 732 THENCE N.84°07'40"W., A DISTANCE OF 143.78 FEET;
 733 THENCE N.00°51'37"W., ALONG THE WEST LINE OF SAID
 734 SECTION 18, TOWNSHIP 19 SOUTH, RANGE 33 EAST, A
 735 DISTANCE OF 1269.62 FEET TO THE NORTHWEST CORNER OF
 736 SAID SECTION 18; THENCE N.45°02'00"E., A DISTANCE OF
 737 28.62 FEET TO THE EAST RIGHT OF WAY LINE OF PELL ROAD,
 738 AS SHOWN ON THE PLAT OF THE FLORIDA HOMELAND COMPANY
 739 SUBDIVISION, AS RECORDED IN MAP BOOK 4, PAGES 107 AND
 740 108 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA;
 741 THENCE N.00°42'24"E., ALONG SAID EAST RIGHT OF WAY
 742 LINE, A DISTANCE OF 1326.20 FEET; THENCE DEPARTING
 743 SAID EAST RIGHT OF WAY LINE, RUN N.89°24'02"E., ALONG
 744 THE SOUTH LINE OF LOT 8, BLOCK 3, SAID THE FLORIDA
 745 HOMELAND COMPANY SUBDIVISION, A DISTANCE OF 625.17
 746 FEET; THENCE S.00°25'01"W., ALONG THE WEST LINE OF LOT
 747 11, SAID BLOCK 3, A DISTANCE OF 1308.11 FEET; THENCE
 748 N.89°41'36"E., ALONG THE MAINTAINED NORTH RIGHT OF WAY
 749 LINE OF MAYTOWN ROAD, A DISTANCE OF 325.88 FEET;
 750 THENCE N.00°16'19"E., ALONG THE EAST LINE OF SAID LOT

751 11, A DISTANCE OF 1309.72 FEET; THENCE S.89°24'02"W.,
 752 ALONG THE NORTH LINE OF SAID LOT 11, A DISTANCE OF
 753 322.59 FEET; THENCE N.00°25'01"E., ALONG THE WEST LINE
 754 OF LOT 6, SAID BLOCK 3, A DISTANCE OF 1330.61 FEET;
 755 THENCE N.89°26'32"E., ALONG THE NORTH LINE OF LOTS 4,
 756 5 AND 6, SAID BLOCK 3, A DISTANCE OF 957.64 FEET;
 757 THENCE S.00°01'06"E., ALONG THE EAST LINE OF LOT 3,
 758 SAID BLOCK 3, A DISTANCE OF 1329.77 FEET; THENCE
 759 N.89°03'10"E., ALONG THE SOUTH LINE OF SAID LOT 3, A
 760 DISTANCE OF 322.60 FEET; THENCE N.00°09'47"W., ALONG
 761 THE EAST LINE OF SAID LOT 3, A DISTANCE OF 671.28
 762 FEET; THENCE N.89°23'32"E., ALONG THE SOUTH LINE OF
 763 LOT 1, SAID BLOCK 3, A DISTANCE OF 626.76 FEET; THENCE
 764 S.00°27'15"E., ALONG THE EAST LINE OF LOTS 2, 15 AND
 765 16, SAID BLOCK 3, A DISTANCE OF 1986.79 FEET; THENCE
 766 N.89°00'34"E., ALONG THE MAINTAINED NORTH RIGHT OF WAY
 767 LINE OF SAID MAYTOWN ROAD, A DISTANCE OF 30.00 FEET;
 768 THENCE N.00°27'15"W., ALONG THE WEST LINE OF LOTS 9
 769 AND 10, BLOCK 4, SAID THE FLORIDA HOMELAND COMPANY
 770 SUBDIVISION, A DISTANCE OF 1313.30 FEET; THENCE
 771 N.89°06'34"E., ALONG THE SOUTH LINE OF LOT 8, SAID
 772 BLOCK 4, A DISTANCE OF 636.07 FEET; THENCE
 773 N.00°34'02"W., ALONG THE WEST LINE OF LOT 6, SAID
 774 BLOCK 4, A DISTANCE OF 1325.28 FEET; THENCE
 775 N.89°26'32"E., ALONG THE NORTH LINE OF LOTS 5 AND 6,

776 SAID BLOCK 4, A DISTANCE OF 648.45 FEET; THENCE
 777 S.00°40'49"E., ALONG THE EAST LINE OF SAID LOT 5, A
 778 DISTANCE OF 1325.46 FEET; THENCE N.89°17'09"E., ALONG
 779 THE SOUTH LINE OF LOT 4, SAID BLOCK 4, A DISTANCE OF
 780 325.53 FEET; THENCE N.00°44'14"W., ALONG THE EAST LINE
 781 OF SAID LOT 4, A DISTANCE OF 1108.58 FEET; THENCE
 782 DEPARTING SAID EAST LINE, RUN S.89°26'32"W., A
 783 DISTANCE OF 159.50 FEET; THENCE N.00°44'25"W., A
 784 DISTANCE OF 72.00 FEET; THENCE N.89°26'32"E., A
 785 DISTANCE OF 159.50 FEET; THENCE N.00°44'14"W., ALONG
 786 THE EAST LINE OF LOT 4, SAID BLOCK 4 AND LOT 13, BLOCK
 787 1, SAID THE FLORIDA HOMELAND COMPANY SUBDIVISION, A
 788 DISTANCE OF 1121.41 FEET; THENCE DEPARTING SAID EAST
 789 LINE, RUN S.89°28'17"W., A DISTANCE OF 150.00 FEET;
 790 THENCE N.00°44'14"W., A DISTANCE OF 144.00 FEET;
 791 THENCE N.89°28'17"E., A DISTANCE OF 150.00 FEET;
 792 THENCE N.00°44'14"W., ALONG THE EAST LINE OF SAID LOT
 793 13, A DISTANCE OF 231.00 FEET; THENCE S.89°28'17"W.,
 794 ALONG THE NORTH LINE OF SAID LOT 13, A DISTANCE OF
 795 163.88 FEET; THENCE DEPARTING SAID NORTH LINE, RUN
 796 S.00°40'51"E., A DISTANCE OF 144.00 FEET; THENCE
 797 S.89°28'18"W., A DISTANCE OF 159.00 FEET; THENCE
 798 S.00°40'51"E., ALONG THE WEST LINE OF SAID LOT 13, A
 799 DISTANCE OF 159.00 FEET; THENCE DEPARTING SAID WEST
 800 LINE, RUN S.89°28'18"W., A DISTANCE OF 161.59 FEET;

801 THENCE N.00°39'09"W., A DISTANCE OF 72.00 FEET; THENCE
 802 S.89°28'18"W., A DISTANCE OF 161.56 FEET; THENCE
 803 S.00°37'27"E., ALONG THE WEST LINE OF LOT 12, SAID
 804 BLOCK 1, A DISTANCE OF 288.00 FEET; THENCE DEPARTING
 805 SAID WEST LINE, RUN S.89°28'18"W., A DISTANCE OF
 806 323.39 FEET; THENCE S.00°34'01"E., ALONG THE WEST LINE
 807 OF LOT 11, SAID BLOCK 1, A DISTANCE OF 443.90 FEET;
 808 THENCE DEPARTING SAID WEST LINE, RUN N.89°26'32"E., A
 809 DISTANCE OF 161.92 FEET; THENCE S.00°35'44"E., A
 810 DISTANCE OF 360.00 FEET; THENCE S.89°26'32"W., ALONG
 811 THE SOUTH LINE OF SAID LOT 11, AND THE WESTERLY
 812 EXTENSION THEREOF, A DISTANCE OF 3344.00 FEET; THENCE
 813 N00°51'35"W., ALONG THE EAST RIGHT OF WAY LINE OF SAID
 814 PELL ROAD, A DISTANCE OF 2664.12 FEET; THENCE
 815 N.00°35'21"W., ALONG SAID EAST RIGHT OF WAY LINE, A
 816 DISTANCE OF 20.00 FEET; THENCE DEPARTING SAID EAST
 817 RIGHT OF WAY LINE, RUN N.89°30'05"E., ALONG THE SOUTH
 818 LINE OF LOT 10, BLOCK 3, SAID THE FLORIDA HOMELAND
 819 COMPANY SUBDIVISION, A DISTANCE OF 623.13 FEET; THENCE
 820 N.00°32'27"W., ALONG THE EAST LINE OF SAID LOT 10, A
 821 DISTANCE OF 679.03 FEET; THENCE S.89°32'56"W., ALONG
 822 THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 623.71
 823 FEET; THENCE N.00°35'21"W., ALONG THE EAST RIGHT OF
 824 WAY LINE OF SAID PELL ROAD, A DISTANCE OF 4896.87
 825 FEET; THENCE N.00°16'47"W., ALONG SAID EAST RIGHT OF

826 WAY LINE, A DISTANCE OF 2635.06 FEET; THENCE
 827 N.00°27'14"W., ALONG SAID EAST RIGHT OF WAY LINE, A
 828 DISTANCE OF 2664.46 FEET; THENCE DEPARTING SAID EAST
 829 RIGHT OF WAY LINE, RUN N.89°31'48"E., ON A LINE 20.00
 830 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID
 831 SECTION 31, TOWNSHIP 18 SOUTH, RANGE 33 EAST, A
 832 DISTANCE OF 2506.48 FEET; THENCE N.89°14'45"E., ALONG
 833 SAID OFFSET LINE, A DISTANCE OF 2639.57 FEET; THENCE
 834 N.00°32'50"W., ALONG THE EAST LINE OF SAID SECTION 31,
 835 A DISTANCE OF 20.00 FEET; THENCE N.89°20'42"E., ALONG
 836 THE NORTH LINE OF SAID SECTION 32, TOWNSHIP 18 SOUTH,
 837 RANGE 33 EAST, A DISTANCE OF 2644.02 FEET; THENCE
 838 N.89°19'32"E., ALONG SAID NORTH LINE, A DISTANCE OF
 839 2643.63 FEET; THENCE N.00°32'48"W., ALONG THE WEST
 840 LINE OF SAID SECTION 28, TOWNSHIP 18 SOUTH, RANGE 33
 841 EAST, A DISTANCE OF 2661.94 FEET; THENCE
 842 N.01°17'00"W., ALONG SAID WEST LINE, A DISTANCE OF
 843 2653.26 FEET; THENCE N.89°25'34"E., ALONG THE NORTH
 844 LINE OF SAID SECTION 28, A DISTANCE OF 5328.95 FEET;
 845 THENCE N.88°47'55"E., ALONG THE NORTH LINE OF SAID
 846 SECTION 27, TOWNSHIP 18 SOUTH, RANGE 33 EAST, A
 847 DISTANCE OF 2625.74 FEET; THENCE N.00°07'47"W., ALONG
 848 THE WEST LINE OF THE EAST 1/2 OF SAID SECTION 22,
 849 TOWNSHIP 18 SOUTH, RANGE 33 EAST, A DISTANCE OF
 850 5282.93 FEET; THENCE N.00°28'00"W., ALONG THE WEST

851 LINE OF THE EAST 1/2 OF SAID SECTION 15, TOWNSHIP 18
 852 SOUTH, RANGE 33 EAST, A DISTANCE OF 5317.13 FEET;
 853 THENCE S.88°57'39"W., ALONG THE SOUTH LINE OF SAID
 854 SECTION 10, TOWNSHIP 18 SOUTH, RANGE 33 EAST, A
 855 DISTANCE OF 2667.85 FEET; THENCE N.00°24'16"W., ALONG
 856 THE WEST LINE OF SAID SECTION 10, A DISTANCE OF
 857 5338.90 FEET TO THE POINT OF BEGINNING.
 858 TOGETHER WITH
 859 SECTION 37, TOWNSHIP 21 SOUTH, RANGE 33 EAST, VOLUSIA
 860 COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS
 861 FOLLOWS:
 862 FROM THE NORTHEAST CORNER OF SAID SECTION 37, AS THE
 863 POINT OF BEGINNING; RUN S.00°44'05"E., ALONG THE EAST
 864 LINE OF SAID SECTION 37, A DISTANCE OF 2705.45 FEET;
 865 THENCE S.78°54'18"W., ALONG THE SOUTH LINE OF SAID
 866 SECTION 37, A DISTANCE OF 3990.70 FEET; THENCE
 867 N.08°52'58"W., ALONG THE WEST LINE OF SAID SECTION 37,
 868 A DISTANCE OF 3440.28 FEET; THENCE N.89°02'14"E.,
 869 ALONG THE NORTH LINE OF SAID SECTION 37, A DISTANCE OF
 870 4413.26 FEET TO THE POINT OF BEGINNING.
 871 LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS
 872 EXCEPTION NO. 1
 873 A PART OF SECTION 3, TOWNSHIP 18 SOUTH, RANGE 33 EAST,
 874 VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 875 FROM THE SOUTHWEST CORNER OF SAID SECTION 3, RUN

876 N.89°01'41"E., ALONG THE SOUTH LINE OF SAID SECTION 3,
 877 A DISTANCE OF 4619.16 FEET TO THE POINT OF BEGINNING;
 878 THENCE DEPARTING SAID SOUTH LINE, RUN N.00°20'09"W., A
 879 DISTANCE OF 330.00 FEET; THENCE N.89°01'41"E., A
 880 DISTANCE OF 660.00 FEET; THENCE S.00°20'09"E., ALONG
 881 THE EAST LINE OF SAID SECTION 3, A DISTANCE OF 330.00
 882 FEET; THENCE S.89°01'41"W., ALONG THE SOUTH LINE OF
 883 SAID SECTION 3, A DISTANCE OF 660.00 FEET TO THE POINT
 884 OF BEGINNING.

885 EXCEPTION NO. 2

886 A PART OF AN UN-NUMBERED LOT IN FARMTON, FLORIDA, AS
 887 RECORDED IN MAP BOOK 5, PAGE 44, OF THE PUBLIC RECORDS
 888 OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY
 889 DESCRIBED AS FOLLOWS:

890 FROM THE NORTHWEST CORNER OF SECTION 18, TOWNSHIP 19
 891 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, RUN N.
 892 89°21'35"E., ALONG THE NORTH LINE OF SAID SECTION 18,
 893 A DISTANCE OF 1586.56 FEET; THENCE DEPARTING SAID
 894 NORTH LINE, RUN S.00°38'25"E., A DISTANCE OF 247.27
 895 FEET TO THE POINT OF BEGINNING; THENCE S.00°51'37"E.,
 896 A DISTANCE OF 100.00 FEET; THENCE N.89°49'16"W., A
 897 DISTANCE OF 50.00 FEET; THENCE N.00°51'37"W., ALONG
 898 THE EAST RIGHT OF WAY OF SEVENTH STREET, A 60 FOOT
 899 RIGHT OF WAY, A DISTANCE OF 100.0 FEET; THENCE
 900 DEPARTING SAID EAST RIGHT OF WAY, RUN S.89°49'16"E., A

901 DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.
 902 LOTS 16, 17 AND 18, BLOCK 6, FARMTON, FLORIDA, AS
 903 RECORDED IN MAP BOOK 5, PAGE 44, OF THE PUBLIC RECORDS
 904 OF VOLUSIA COUNTY, FLORIDA.
 905 LOTS 38, 39 AND 40, BLOCK 7, FARMTON, FLORIDA, AS
 906 RECORDED IN MAP BOOK 5, PAGE 44, OF THE PUBLIC RECORDS
 907 OF VOLUSIA COUNTY, FLORIDA.
 908 LOT 14, BLOCK 14, FARMTON, FLORIDA, AS RECORDED IN MAP
 909 BOOK 5, PAGE 44, OF THE PUBLIC RECORDS OF VOLUSIA
 910 COUNTY, FLORIDA.
 911 LOTS 1 AND 2, BLOCK 16, FARMTON, FLORIDA, AS RECORDED
 912 IN MAP BOOK 5, PAGE 44, OF THE PUBLIC RECORDS OF
 913 VOLUSIA COUNTY, FLORIDA.
 914 LOT 4, BLOCK 26, FARMTON, FLORIDA, AS RECORDED IN MAP
 915 BOOK 5, PAGE 44, OF THE PUBLIC RECORDS OF VOLUSIA
 916 COUNTY, FLORIDA.
 917 LOT 15, BLOCK 27, FARMTON, FLORIDA, AS RECORDED IN MAP
 918 BOOK 5, PAGE 44, OF THE PUBLIC RECORDS OF VOLUSIA
 919 COUNTY, FLORIDA.
 920 EXCEPTION NO. 3
 921 LOT 14, BLOCK 4, THE FLORIDA HOMELAND COMPANY
 922 SUBDIVISION, AS RECORDED IN MAP BOOK 4, PAGE 108, OF
 923 THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE
 924 PARTICULARLY DESCRIBED AS FOLLOWS:
 925 FROM THE SOUTHEAST CORNER OF SECTION 8, TOWNSHIP 19

926 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, RUN
 927 N.00°31'38"W., ALONG THE EAST LINE OF SAID SECTION 8,
 928 A DISTANCE OF 1328.06 FEET; THENCE DEPARTING SAID EAST
 929 LINE, RUN S.89°08'48"W., A DISTANCE OF 661.36 FEET TO
 930 THE POINT OF BEGINNING; THENCE S.00°34'30"E., ALONG
 931 THE EAST LINE OF SAID LOT 14, A DISTANCE OF 1307.17
 932 FEET; THENCE S.89°03'01"W., ALONG THE SOUTH LINE OF
 933 SAID LOT 14, A DISTANCE OF 330.14 FEET; THENCE
 934 N.00°35'56"W., ALONG THE WEST LINE OF SAID LOT 14, A
 935 DISTANCE OF 1309.72 FEET; THENCE N.89°08'48"E., ALONG
 936 THE NORTH LINE OF SAID LOT 14, A DISTANCE OF 330.68
 937 FEET TO THE POINT OF BEGINNING.

938 EXCEPTION NO. 4
 939 LOTS 1 THROUGH 8, BLOCK 1, THE FLORIDA HOMELAND
 940 COMPANY SUBDIVISION, AS RECORDED IN MAP BOOK 4, PAGE
 941 106 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA,
 942 DESCRIBED AS FOLLOWS:
 943 FROM THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 19
 944 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, AS THE
 945 POINT OF BEGINNING, RUN S.88°58'21"W., ALONG THE NORTH
 946 LINE OF SAID SECTION 16, A DISTANCE OF 2640.30 FEET;
 947 THENCE DEPARTING SAID NORTH LINE, RUN S.00°23'46"E., A
 948 DISTANCE OF 1322.07 FEET; THENCE N.88°49'19"E., A
 949 DISTANCE OF 2644.80 FEET; THENCE N.00°35'19"W., ALONG
 950 THE EAST LINE OF SAID SECTION 16, A DISTANCE OF

951 1315.07 FEET TO THE POINT OF BEGINNING.
 952 EXCEPTION NO. 5
 953 A PART OF SECTION 21, TOWNSHIP 19 SOUTH, RANGE 33
 954 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 955 FROM THE NORTHEAST CORNER OF SAID SECTION 21, RUN
 956 S.01°38'18"E., ALONG THE EAST LINE OF SAID SECTION 21,
 957 A DISTANCE OF 1332.77 FEET TO THE POINT OF BEGINNING;
 958 THENCE CONTINUE S.01°38'18"E., ALONG SAID EAST LINE, A
 959 DISTANCE OF 1332.77 FEET; THENCE DEPARTING SAID EAST
 960 LINE, RUN S.89°12'21"W., A DISTANCE OF 1322.23 FEET;
 961 THENCE N.01°38'54"W., A DISTANCE OF 266.47 FEET;
 962 THENCE S.88°45'38"W., A DISTANCE OF 495.81 FEET;
 963 THENCE N.01°39'08"W., A DISTANCE OF 1056.03 FEET;
 964 THENCE N.88°45'38"E., A DISTANCE OF 1818.24 FEET TO
 965 THE POINT OF BEGINNING.
 966 EXCEPTION NO. 6
 967 A PART OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 33
 968 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 969 FROM THE NORTHEAST CORNER OF SAID SECTION 23, RUN
 970 S.88°11'09"W., ALONG THE NORTH LINE OF SAID SECTION
 971 23, A DISTANCE OF 2780.32 FEET; THENCE DEPARTING SAID
 972 NORTH LINE, RUN S.00°56'58"E., A DISTANCE OF 1085.02
 973 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE
 974 S.00°56'58"E., A DISTANCE OF 681.07 FEET; THENCE
 975 N.89°05'01"E., A DISTANCE OF 1001.22 FEET; THENCE

976 N.89°06'09"E., A DISTANCE OF 300.03 FEET; THENCE
 977 S.01°55'57"E., A DISTANCE OF 439.89 FEET; THENCE
 978 S.01°56'44"E., A DISTANCE OF 906.89 FEET; THENCE
 979 S.89°04'18"W., A DISTANCE OF 1113.72 FEET; THENCE
 980 S.88°58'55"W., A DISTANCE OF 210.24 FEET; THENCE
 981 S.89°03'22"W., A DISTANCE OF 1368.56 FEET; THENCE
 982 N.00°30'21"W., A DISTANCE OF 1351.23 FEET; THENCE
 983 N.89°02'05"E., A DISTANCE OF 566.61 FEET; THENCE
 984 N.01°03'27"W., A DISTANCE OF 676.51 FEET; THENCE
 985 N.89°01'31"E., A DISTANCE OF 792.16 FEET TO THE POINT
 986 OF BEGINNING.
 987 EXCEPTION NO. 7
 988 A PART OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 34
 989 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 990 FROM THE NORTHWEST CORNER OF SAID SECTION 30, RUN
 991 N.88°38'58"E., ALONG THE NORTH LINE OF SAID SECTION
 992 30, A DISTANCE OF 2325.54 FEET; THENCE DEPARTING SAID
 993 NORTH LINE, RUN S.00°29'58"E., A DISTANCE OF 1326.77
 994 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE
 995 S.00°29'58"E., A DISTANCE OF 971.19 FEET TO THE
 996 APPROXIMATE NORTH LINE OF THE MAINTAINED LIMITS OF
 997 MAYTOWN ROAD; THENCE RUN ALONG SAID NORTH LINE THE
 998 FOLLOWING COURSES AND DISTANCES: S.60°50'17"W., A
 999 DISTANCE OF 23.44 FEET; THENCE S.62°08'15"W., A
 1000 DISTANCE OF 13.51 FEET; THENCE S.65°22'54"W., A

1001 DISTANCE OF 97.90 FEET; THENCE S.65°14'29"W., A
 1002 DISTANCE OF 100.78 FEET; THENCE S.65°10'43"W., A
 1003 DISTANCE OF 99.18 FEET; THENCE S.65°11'19"W., A
 1004 DISTANCE OF 101.03 FEET; THENCE S.64°13'44"W., A
 1005 DISTANCE OF 100.23 FEET; THENCE S.63°37'08"W., A
 1006 DISTANCE OF 100.05 FEET; THENCE S.65°25'48"W., A
 1007 DISTANCE OF 99.13 FEET; THENCE S.64°59'58"W., A
 1008 DISTANCE OF 100.01 FEET; THENCE S.66°00'09"W., A
 1009 DISTANCE OF 10.72 FEET; THENCE DEPARTING SAID NORTH
 1010 LINE, RUN N.00°38'53"W., A DISTANCE OF 1315.32 FEET;
 1011 THENCE N.88°46'16"E., A DISTANCE OF 771.72 FEET TO THE
 1012 POINT OF BEGINNING.
 1013 EXCEPTION NO. 8
 1014 A PART OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 34
 1015 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 1016 FROM THE NORTHWEST CORNER OF SAID SECTION 30, RUN
 1017 N.88°38'58"E., ALONG THE NORTH LINE OF SAID SECTION
 1018 30, A DISTANCE OF 2325.54 FEET; THENCE DEPARTING SAID
 1019 NORTH LINE, RUN S.00°29'58"E., A DISTANCE OF 2483.00
 1020 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE
 1021 S.00°29'58"E.,
 1022 A DISTANCE OF 170.55 FEET; THENCE S.88°53'38"W., A
 1023 DISTANCE OF 364.92 FEET TO THE SOUTH RIGHT OF WAY LINE
 1024 OF THE FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL, AS
 1025 DESCRIBED IN OFFICIAL RECORDS BOOK 6182, PAGE 1994 OF

1026 THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE
 1027 RUN ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE
 1028 FOLLOWING COURSES AND DISTANCES: N.61°42'29"E., A
 1029 DISTANCE OF 161.81 FEET TO THE POINT OF CURVATURE OF A
 1030 CURVE TO THE RIGHT, HAVING A RADIUS OF 1858.83 FEET, A
 1031 CENTRAL ANGLE OF 07°29'26", A CHORD BEARING OF
 1032 N.65°27'03"E., AND A CHORD DISTANCE OF 242.84 FEET;
 1033 THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE A
 1034 DISTANCE OF 243.01 FEET TO THE POINT OF BEGINNING.
 1035 EXCEPTION NO. 9
 1036 A PART OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 34
 1037 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 1038 FROM THE SOUTHEAST CORNER OF SAID SECTION 30,
 1039 RUNS.89°08'28"W., ALONG THE SOUTH LINE OF SAID SECTION
 1040 30, A DISTANCE OF 1324.16 FEET TO THE POINT OF
 1041 BEGINNING; THENCE CONTINUE S.89°08'28"W., ALONG SAID
 1042 SOUTH LINE, A DISTANCE OF 937.17 FEET TO THE EAST
 1043 RIGHT OF WAY LINE OF THE FLORIDA EAST CENTRAL REGIONAL
 1044 RAIL TRAIL, AS DESCRIBED IN OFFICIAL RECORDS BOOK
 1045 6182, PAGE 1994 OF THE PUBLIC RECORDS OF VOLUSIA
 1046 COUNTY, FLORIDA; THENCE RUN ALONG SAID EAST RIGHT OF
 1047 WAY LINE THE FOLLOWING COURSES AND DISTANCES:
 1048 N.39°55'34"W., A DISTANCE OF 607.41 FEET; THENCE
 1049 N.00°21'04"W., A DISTANCE OF 78.48 FEET; THENCE
 1050 N.39°55'34"W., A DISTANCE OF 471.26 FEET TO THE POINT

1051 OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS
 1052 OF 5829.65 FEET, A CENTRAL ANGLE OF 05°25'05", A CHORD
 1053 BEARING OF N.42°38'07"W., AND A CHORD DISTANCE OF
 1054 551.07 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF
 1055 SAID CURVE A DISTANCE OF 551.27 FEET; THENCE DEPARTING
 1056 SAID EAST RIGHT OF WAY LINE, RUN N.89°01'06"E., A
 1057 DISTANCE OF 1994.48 FEET; THENCE S.00°22'59"E., A
 1058 DISTANCE OF 1331.25 FEET TO THE POINT OF BEGINNING.
 1059 EXCEPTION NO. 10
 1060 A PART OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 34
 1061 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
 1062 FROM THE SOUTHEAST CORNER OF SAID SECTION 30,
 1063 RUNS.89°08'28"W., ALONG THE SOUTH LINE OF SAID SECTION
 1064 30, A DISTANCE OF 2390.14 FEET TO THE POINT OF
 1065 BEGINNING; THENCE CONTINUE S.89°08'28"W., A DISTANCE
 1066 OF 258.18 FEET; THENCE N.00°21'04"W., A DISTANCE OF
 1067 314.64 FEET TO THE WEST RIGHT OF WAY LINE OF THE
 1068 FLORIDA EAST CENTRAL REGIONAL RAIL TRAIL AS DESCRIBED
 1069 IN OFFICIAL RECORDS BOOK 6182, PAGE 1994 OF THE PUBLIC
 1070 RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE
 1071 S.39°55'34"E., ALONG SAID WEST RIGHT OF WAY LINE, A
 1072 DISTANCE OF 405.24 FEET TO THE POINT OF BEGINNING.
 1073 CONTAINING 52,240.415 ACRES, MORE OR LESS.
 1074 LAND IN BREVARD COUNTY, FLORIDA:
 1075 SECTIONS 4, 5, 6, 7, 8, A PART OF SECTION 9, SECTIONS

1076 | 15, 16, 17, 18, 19, 20, 21, AND 42, TOWNSHIP 20 SOUTH,
 1077 | RANGE 34 EAST, BREVARD COUNTY, FLORIDA.
 1078 | TOGETHER WITH
 1079 | SECTION 37, TOWNSHIP 21 SOUTH, RANGE 34 EAST, BREVARD
 1080 | COUNTY, FLORIDA.
 1081 | TOGETHER WITH
 1082 | A PART OF THE WISCONSIN FLORIDA FRUIT LAND COMPANY
 1083 | SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 43, OF
 1084 | THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
 1085 | TOGETHER WITH
 1086 | A PART OF LOTS 3, 5 AND 6, PABLO FONTAINE GRANT, AS
 1087 | RECORDED IN DEED BOOK D, PAGE 525 OF THE PUBLIC
 1088 | RECORDS OF BREVARD COUNTY, FLORIDA.
 1089 | MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 1090 | FROM THE NORTHWEST CORNER OF SAID SECTION 6, AS THE
 1091 | POINT OF BEGINNING, RUN N.89°01'51"E., ALONG THE NORTH
 1092 | LINE OF SAID SECTION 6, A DISTANCE OF 5623.75 FEET;
 1093 | THENCE N.89°03'20"E., ALONG THE NORTH LINE OF SAID
 1094 | SECTION 5, A DISTANCE OF 5412.49 FEET; THENCE N
 1095 | 89°03'20"E., ALONG THE NORTH LINE OF SAID SECTION 4, A
 1096 | DISTANCE OF 3099.33 FEET; THENCE S.11°54'09"E., ALONG
 1097 | THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 5680.76
 1098 | FEET; THENCE S.89°32'42"W., ALONG THE SOUTH LINE OF
 1099 | SAID SECTION 4, A DISTANCE OF 3172.78 FEET TO THE WEST
 1100 | RIGHT OF WAY LINE OF THE FLORIDA EAST CENTRAL REGIONAL

1101 RAIL TRAIL, AS DESCRIBED IN OFFICIAL RECORDS BOOK
 1102 5838, PAGE 949 OF THE PUBLIC RECORDS OF BREVARD
 1103 COUNTY, FLORIDA; THENCE RUN ALONG SAID WEST RIGHT OF
 1104 WAY LINE THE FOLLOWING COURSES AND DISTANCES:
 1105 S.39°55'34"E., A DISTANCE OF 3846.48 FEET TO THE POINT
 1106 OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS
 1107 OF 5779.97 FEET, A CENTRAL ANGLE OF 12°13'18", A CHORD
 1108 BEARING OF S.46°02'13"E., AND A CHORD DISTANCE OF
 1109 1230.57 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF
 1110 SAID CURVE A DISTANCE OF 1232.91 FEET; THENCE
 1111 S.52°08'52"E., A DISTANCE OF 752.99 FEET; THENCE
 1112 S.10°15'13"E., A DISTANCE OF 74.88 FEET; THENCE
 1113 S.52°08'52"E., A DISTANCE OF 768.74 FEET; THENCE
 1114 DEPARTING SAID WEST RIGHT OF WAY LINE, RUN
 1115 N.37°51'08"E., A DISTANCE OF 200.00 FEET TO THE EAST
 1116 RIGHT OF WAY LINE OF SAID FLORIDA EAST CENTRAL
 1117 REGIONAL RAIL TRAIL; THENCE DEPARTING SAID EAST RIGHT
 1118 OF WAY LINE, RUN N.78°47'48"E., A DISTANCE OF 787.00
 1119 FEET; THENCE N.11°13'33"W., A DISTANCE OF 411.40 FEET
 1120 TO THE SOUTH LINE OF TRACT 20, LOT 3, SAID WISCONSIN
 1121 FLORIDA FRUIT LAND COMPANY SUBDIVISION; THENCE
 1122 N.78°47'48"E., ALONG SAID SOUTH LINE, A DISTANCE OF
 1123 7.49 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN
 1124 N.11°13'33"W., A DISTANCE OF 358.60 FEET TO THE NORTH
 1125 LINE OF SAID TRACT 20; THENCE N.78°47'48"E., ALONG

1126 SAID NORTH LINE, A DISTANCE OF 281.51 FEET; THENCE
 1127 DEPARTING SAID NORTH LINE, RUN S.11°13'33"E., A
 1128 DISTANCE OF 358.60 FEET; THENCE N.78°47'48"E., ALONG
 1129 THE SOUTH LINE OF SAID TRACT 20, AND THE EASTERLY
 1130 EXTENSION THEREOF, A DISTANCE OF 593.02 FEET; THENCE
 1131 N.11°13'33"W., ALONG THE WEST LINE OF TRACT 19, LOT 4,
 1132 SAID WISCONSIN FLORIDA FRUIT LAND COMPANY SUBDIVISION
 1133 A DISTANCE OF 358.61 FEET; THENCE N.78°46'27"E., ALONG
 1134 THE NORTH LINE OF SAID TRACT 19 AND THE EASTERLY
 1135 EXTENSION THEREOF A DISTANCE OF 2732.89 FEET TO A
 1136 POINT ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT,
 1137 HAVING A RADIUS OF 2827.00 FEET, A CENTRAL ANGLE OF
 1138 18°15'36", A CHORD BEARING OF N.55°04'18"E., AND A
 1139 CHORD DISTANCE OF 897.15 FEET; THENCE RUN EASTERLY
 1140 ALONG THE ARC OF SAID CURVE A DISTANCE OF 900.96 FEET;
 1141 THENCE N.13°57'49"W., A DISTANCE OF 622.94 FEET;
 1142 THENCE N.76°02'11"E., A DISTANCE OF 660.00 FEET;
 1143 THENCE N.13°57'49"W., A DISTANCE OF 660.00 FEET;
 1144 THENCE N.76°02'11"E., A DISTANCE OF 1197.71 FEET TO
 1145 THE WEST RIGHT OF WAY LINE OF INTERSTATE NO. 95 (STATE
 1146 ROAD NO. 9) A VARIABLE WIDTH RIGHT OF WAY; THENCE RUN
 1147 ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING
 1148 COURSES AND DISTANCES: S.00°56'45"E., A DISTANCE OF
 1149 774.37 FEET; THENCE S.20°13'31"W., A DISTANCE OF
 1150 223.71 FEET; THENCE S.46°46'41"W., A DISTANCE OF 99.90

1151 FEET; THENCE S.43°13'19"E., A DISTANCE OF 200.00 FEET;
 1152 THENCE N.46°46'41"E., A DISTANCE OF 99.90 FEET; THENCE
 1153 S.80°07'53"E., A DISTANCE OF 125.07 FEET; THENCE
 1154 S.27°55'01"E., A DISTANCE OF 470.63 FEET; THENCE
 1155 DEPARTING SAID WEST RIGHT OF WAY LINE, RUN
 1156 S.72°14'16"W., A DISTANCE OF 623.00 FEET TO THE POINT
 1157 OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS
 1158 OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD
 1159 BEARING OF N.62°45'44"W., AND A CHORD DISTANCE OF
 1160 35.36 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID
 1161 CURVE A DISTANCE OF 39.27 FEET; THENCE N.17°45'44"W.,
 1162 ALONG THE EAST RIGHT OF WAY LINE OF JABEZ ROAD, AN 80
 1163 FOOT RIGHT OF WAY AS SHOWN ON ROAD PLAT BOOK 1, PAGE
 1164 2, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A
 1165 DISTANCE OF 280.00 FEET; THENCE S.46°46'41"W., ALONG
 1166 THE SOUTH RIGHT OF WAY LINE OF STUCKWAY ROAD, AS SHOWN
 1167 ON SAID ROAD PLAT BOOK 1, PAGE 2, A DISTANCE OF 88.67
 1168 FEET; THENCE N.43°14'51"W., ALONG THE WEST RIGHT OF
 1169 WAY LINE OF SAID STUCKWAY ROAD, A DISTANCE OF 99.89
 1170 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE,
 1171 RUN S.46°46'11"W., A DISTANCE OF 225.78 FEET TO A
 1172 POINT ON A NON-TANGENT CURVE TO THE RIGHT, HAVING A
 1173 RADIUS OF 4075.00 FEET, A CENTRAL ANGLE OF 07°32'43",
 1174 A CHORD BEARING OF S.67°23'35"W., AND A CHORD DISTANCE
 1175 OF 536.24 FEET; THENCE RUN WESTERLY ALONG THE ARC OF

1176 SAID CURVE A DISTANCE OF 536.63 FEET TO THE POINT OF
 1177 REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING A
 1178 RADIUS OF 2552.00 FEET, A CENTRAL ANGLE OF 35°30'01",
 1179 A CHORD BEARING OF S.53°24'56"W., AND A CHORD DISTANCE
 1180 OF 1556.03 FEET; THENCE RUN WESTERLY ALONG THE ARC OF
 1181 SAID CURVE A DISTANCE OF 1581.21 FEET TO THE POINT OF
 1182 REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING A
 1183 RADIUS OF 3731.00 FEET, A CENTRAL ANGLE OF 17°34'22",
 1184 A CHORD BEARING OF S.44°27'06"W., AND A CHORD DISTANCE
 1185 OF 1139.83 FEET; THENCE RUN WESTERLY ALONG THE ARC OF
 1186 SAID CURVE A DISTANCE OF 1144.31 FEET; THENCE
 1187 S.78°46'27"W., ALONG THE SOUTH LINE OF TRACT 24, LOT
 1188 4, SAID WISCONSIN FLORIDA FRUIT LAND COMPANY
 1189 SUBDIVISION, A DISTANCE OF 182.60 FEET TO A POINT ON A
 1190 NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF
 1191 3656.00 FEET, A CENTRAL ANGLE OF 00°48'39", A CHORD
 1192 BEARING OF S.56°13'36"W., AND A CHORD DISTANCE OF
 1193 51.73 FEET; THENCE RUN WESTERLY ALONG THE ARC OF SAID
 1194 CURVE A DISTANCE OF 51.73 FEET; THENCE S.25°12'07"W.,
 1195 A DISTANCE OF 453.84 FEET; THENCE S.78°46'27"W., ALONG
 1196 THE SOUTH LINE OF TRACT 26, LOT 4, SAID WISCONSIN
 1197 FLORIDA FRUIT LAND COMPANY SUBDIVISION, A DISTANCE
 1198 OF 1095.41 FEET; THENCE DEPARTING SAID SOUTH LINE, RUN
 1199 S.78°47'48"W., A DISTANCE OF 289.01 FEET; THENCE
 1200 S.11°13'33"E., A DISTANCE OF 385.00 FEET; THENCE

1201 S.78°47'48"W., A DISTANCE OF 363.42 FEET TO THE EAST
 1202 RIGHT OF WAY LINE OF SAID FLORIDA EAST CENTRAL
 1203 REGIONAL RAIL TRAIL; THENCE DEPARTING SAID EAST RIGHT
 1204 OF WAY LINE, RUN S.37°51'08"W., A DISTANCE OF 200.00
 1205 FEET TO THE WEST RIGHT OF WAY LINE OF SAID FLORIDA
 1206 EAST CENTRAL REGIONAL RAIL TRAIL; THENCE RUN ALONG
 1207 SAID WEST RIGHT OF WAY LINE THE FOLLOWING COURSES AND
 1208 DISTANCE: S.52°08'52"E., A DISTANCE OF 2493.38 FEET TO
 1209 THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING
 1210 A RADIUS OF 2765.08 FEET, A CENTRAL ANGLE OF
 1211 27°56'49", A CHORD BEARING OF S.38°10'27"E., AND A
 1212 CHORD DISTANCE OF 1335.38 FEET; THENCE RUN SOUTHERLY
 1213 ALONG THE ARC OF SAID CURVE A DISTANCE OF 1348.71
 1214 FEET; THENCE S.24°12'03"E., A DISTANCE OF 1275.04
 1215 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE,
 1216 RUN S.78°50'28"W., ALONG THE SOUTH LINE OF SAID LOT 5,
 1217 PABLO FONTAINE GRANT AND THE SOUTH LINE OF SAID
 1218 SECTIONS 15, 16 AND 21, A DISTANCE OF 7857.48 FEET;
 1219 THENCE S.17°07'37"E., ALONG THE WEST RIGHT OF WAY LINE
 1220 OF A 40 FOOT UN-NAMED ROAD ADJACENT TO THE WEST LINE
 1221 OF SECTION 5 OF INDIAN RIVER PARK, A SUBDIVISION
 1222 RECORDED IN MAP BOOK 2, PAGE 33, OF THE PUBLIC RECORDS
 1223 OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 4960.58
 1224 FEET; THENCE S.78°54'29"W., ALONG THE NORTH RIGHT OF
 1225 WAY LINE OF A 30 FOOT UN-NAMED ROAD ADJACENT TO THE

1226 NORTH LINE OF LOT 1, BLOCK 1, SECTION 13, SAID INDIAN
 1227 RIVER PARK, A DISTANCE OF 639.82 FEET; THENCE
 1228 S.16°49'23"E., ALONG THE WEST LINE OF SAID LOT 1,
 1229 BLOCK 1, AND THE NORTHERLY EXTENSION THEREOF, A
 1230 DISTANCE OF 681.19 FEET; THENCE N.78°54'29"E., ALONG
 1231 THE SOUTH LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF
 1232 639.94 FEET; THENCE S.16°49'23"E., ALONG THE WEST
 1233 RIGHT OF WAY LINE OF A 40 FOOT UN-NAMED ROAD ADJACENT
 1234 TO THE WEST LINE OF SECTION 14 OF SAID INDIAN RIVER
 1235 PARK, A DISTANCE OF 646.01 FEET; THENCE S.78°54'29"W.,
 1236 ALONG THE NORTH RIGHT OF WAY LINE OF A 30 FOOT UN-
 1237 NAMED ROAD ADJACENT TO THE NORTH LINE OF LOTS 1 AND 2,
 1238 BLOCK 4, SAID SECTION 13 OF INDIAN RIVER PARK, A
 1239 DISTANCE OF 1299.95 FEET; THENCE S.16°49'27"E., ALONG
 1240 THE WEST LINE OF LOTS 2 AND 7, BLOCK 4, SAID SECTION
 1241 13, AND THE NORTHERLY AND SOUTHERLY EXTENSION THEREOF,
 1242 A DISTANCE OF 1336.73 FEET; THENCE S.17°01'13"E.,
 1243 ALONG THE WEST LINE OF LOTS 2 AND 7, BLOCK 5, SAID
 1244 SECTION 13, AND LOTS 2 AND 7, BLOCK 8, SAID SECTION
 1245 13, AND THE NORTHERLY AND SOUTHERLY EXTENSION THEREOF,
 1246 A DISTANCE OF 2638.61 FEET; THENCE S.16°54'12"E.,
 1247 ALONG THE WEST LINE OF LOTS 2 AND 7, BLOCK 1, SECTION
 1248 24 OF SAID INDIAN RIVER PARK, LOT 2, BLOCK 4, SAID
 1249 SECTION 24, AND THE NORTHERLY AND SOUTHERLY EXTENSION
 1250 THEREOF, A DISTANCE OF 1978.54 FEET; THENCE

1251 N.78°54'29"E., ALONG THE SOUTH LINE OF LOTS 1 AND 2,
 1252 BLOCK 4, SAID SECTION 24, A DISTANCE OF 1299.97 FEET;
 1253 THENCE S. 16°54'12"E., ALONG THE WEST RIGHT OF WAY
 1254 LINE OF A 40 FOOT UN-NAMED ROAD ADJACENT TO THE WEST
 1255 LINE OF LOT 5, BLOCK 3, SECTION 23 OF SAID INDIAN
 1256 RIVER PARK, A DISTANCE OF 647.24 FEET; THENCE
 1257 S.78°54'29"W., ALONG THE NORTH RIGHT OF WAY LINE OF A
 1258 30 FOOT UN-NAMED ROAD ADJACENT TO THE NORTH LINE OF
 1259 LOTS 1 AND 2, BLOCK 5, SAID SECTION 24, A DISTANCE OF
 1260 1299.95 FEET; THENCE S.16°50'34"E., ALONG THE WEST
 1261 LINE OF LOTS 2 AND 7, BLOCK 5, SAID SECTION 24, AND
 1262 THE NORTHERLY EXTENSION THEREOF, A DISTANCE OF 1319.91
 1263 FEET; THENCE S.78°54'23"W., ALONG THE NORTH RIGHT OF
 1264 WAY LINE OF A 30 FOOT UN-NAMED ROAD ADJACENT TO THE
 1265 NORTH LINE OF LOTS 3 AND 4, BLOCK 8, SAID SECTION 24,
 1266 A DISTANCE OF 1319.08 FEET; THENCE S.16°53'42"E.,
 1267 ALONG THE CENTERLINE OF A VACATED 30 FOOT UN-NAMED
 1268 ROAD ADJACENT TO THE WEST LINE OF LOT 4, BLOCK 8, SAID
 1269 SECTION 24, A DISTANCE OF 675.25 FEET; THENCE
 1270 N.78°47'52"E., ALONG THE SOUTH LINE OF LOTS 1, 2, 3,
 1271 AND 4, BLOCK 8, SAID SECTION 24, A DISTANCE OF 2619.74
 1272 FEET; THENCE S.16°53'42"E., ALONG THE WEST RIGHT OF
 1273 WAY LINE OF A 40 FOOT UN-NAMED ROAD ADJACENT TO THE
 1274 WEST LINE OF LOT 5, BLOCK 7, SAID SECTION 23, A
 1275 DISTANCE OF 660.04 FEET; THENCE S.78°54'23"W., ALONG

1276 THE SOUTH LINE OF SAID SECTION 42, TOWNSHIP 20 SOUTH,
 1277 RANGE 34 EAST, A DISTANCE OF 2621.35 FEET; THENCE
 1278 S.78°51'19"W., ALONG THE SOUTH LINE OF SAID SECTION
 1279 42, AND THE SOUTH LINE OF SAID SECTION 37, TOWNSHIP 21
 1280 SOUTH, RANGE 34 EAST, A DISTANCE OF 2644.18 FEET;
 1281 THENCE S.78°54'18"W., ALONG SAID SOUTH LINE, A
 1282 DISTANCE OF 12476.74 FEET; THENCE N.00°44'05"W., ALONG
 1283 THE WEST LINE OF SAID SECTION 37, TOWNSHIP 21 SOUTH,
 1284 RANGE 34 EAST, A DISTANCE OF 2705.45 FEET; THENCE
 1285 N.01°11'54"W., ALONG THE WEST LINE OF SAID SECTION 42,
 1286 A DISTANCE OF 10597.53 FEET; THENCE N.00°53'46"W.,
 1287 ALONG THE WEST LINE OF SAID SECTION 42, A DISTANCE OF
 1288 2407.41 FEET; THENCE N.00°53'46"W., ALONG THE WEST
 1289 LINE OF SAID SECTION 19, A DISTANCE OF 239.56 FEET;
 1290 THENCE N.01°13'54"W., ALONG SAID WEST LINE, A DISTANCE
 1291 OF 2646.95 FEET; THENCE N.01°16'36"W., ALONG THE WEST
 1292 LINE OF SAID SECTION 18, A DISTANCE OF 5294.30 FEET;
 1293 THENCE N.01°03'19"W., ALONG THE WEST LINE OF SAID
 1294 SECTION 7, A DISTANCE OF 5293.89 FEET; THENCE
 1295 N.00°47'08"W., ALONG THE WEST LINE OF SAID SECTION 6,
 1296 A DISTANCE OF 5460.91 FEET TO THE POINT OF BEGINNING.
 1297 CONTAINING 11,894.585 ACRES, MORE OR LESS.
 1298 CONTAINING A TOTAL AREA OF 64,135.00 ACRES, PLUS OR
 1299 MINUS.

1300

1301 Being subject to any rights-of-way, restrictions, and easements
1302 of record.

1303 Section 5. Board of supervisors; members and meetings;
1304 organization; powers; duties; terms of office; related election
1305 requirements.-

1306 (1) The board of the District shall exercise the powers
1307 granted to the District pursuant to this act. The board shall
1308 consist of five members, each of whom shall hold office for a
1309 term of 4 years, as provided in this section, except as
1310 otherwise provided herein for initial board members, and until a
1311 successor is chosen and qualified. The members of the board must
1312 be residents of the state and citizens of the United States.

1313 (2) (a) Within 90 days after the effective date of this
1314 act, there shall be held a meeting of the landowners of the
1315 District for the purpose of electing five supervisors for the
1316 District. Notice of the landowners' meeting shall be published
1317 once a week for 2 consecutive weeks in a newspaper of general
1318 circulation in the District, the last day of such publication to
1319 be not fewer than 14 days nor more than 28 days before the date
1320 of the election. The landowners, when assembled at such meeting,
1321 shall organize by electing a chair, who shall conduct the
1322 meeting. The chair may be any person present at the meeting. If
1323 the chair is a landowner or proxy holder of a landowner, he or
1324 she may nominate candidates and make and second motions. The
1325 landowners present at the meeting, in person or by proxy, shall

1326 constitute a quorum. At any landowners' meeting, 50 percent of
1327 the District acreage shall not be required to constitute a
1328 quorum, and each governing board member elected by landowners
1329 shall be elected by a majority of the acreage represented either
1330 by owner or proxy present and voting at said meeting.

1331 (b) At such meeting, each landowner shall be entitled to
1332 cast one vote per acre of land owned by him or her and located
1333 within the District for each person to be elected. A landowner
1334 may vote in person or by proxy in writing. Each proxy must be
1335 signed by one of the legal owners of the property for which the
1336 vote is cast and must contain the typed or printed name of the
1337 individual who signed the proxy; the street address, legal
1338 description of the property, or tax parcel identification
1339 number; and the number of authorized votes. If the proxy
1340 authorizes more than one vote, each property must be listed and
1341 the number of acres of each property must be included. The
1342 signature on a proxy need not be notarized. A fraction of an
1343 acre shall be treated as 1 acre, entitling the landowner to one
1344 vote with respect thereto. The three candidates receiving the
1345 highest number of votes shall each be elected for terms expiring
1346 November 17, 2024, and the two candidates receiving the next
1347 highest number of votes shall each be elected for terms expiring
1348 November 20, 2022, with the term of office for each successful
1349 candidate commencing upon election. The members of the first
1350 board elected by landowners shall serve their respective terms;

1351 however, the next election of board members shall be held on the
1352 first Tuesday after the first Monday in November 2022.
1353 Thereafter, there shall be an election by landowners for the
1354 District every 2 years on the first Tuesday after the first
1355 Monday in November, which shall be noticed pursuant to paragraph
1356 (a). The second and subsequent landowners' election shall be
1357 announced at a public meeting of the board at least 90 days
1358 before the date of the landowners' meeting and shall also be
1359 noticed pursuant to paragraph (a). Instructions on how all
1360 landowners may participate in the election, along with sample
1361 proxies, shall be provided during the board meeting that
1362 announces the landowners' meeting. Each supervisor elected in or
1363 after November 2020 shall serve a 4-year term.

1364 (3) (a) 1. The board may not exercise the ad valorem taxing
1365 power authorized by this act until such time as all members of
1366 the board are qualified electors who are elected by qualified
1367 electors of the District.

1368 2.a. Regardless of whether the District has proposed to
1369 levy ad valorem taxes, board members shall begin being elected
1370 by qualified electors of the District as the District becomes
1371 populated with qualified electors. The transition shall occur
1372 such that the composition of the board, after the first general
1373 election following a trigger of the qualified elector population
1374 thresholds set forth below, shall be as follows:

1375 (I) Once 15,022 qualified electors reside within the

1376 District, one governing board member shall be a person who is a
1377 qualified elector of the District and who was elected by the
1378 qualified electors, and four governing board members shall be
1379 persons who were elected by the landowners.

1380 (II) Once 30,044 qualified electors reside within the
1381 District, two governing board members shall be persons who are
1382 qualified electors of the District and who were elected by the
1383 qualified electors, and three governing board members shall be
1384 persons who were elected by the landowners.

1385 (III) Once 45,066 qualified electors reside within the
1386 District, three governing board members shall be persons who are
1387 qualified electors of the District and who were elected by the
1388 qualified electors and two governing board members shall be
1389 persons who were elected by the landowners.

1390 (IV) Once 60,088 qualified electors reside within the
1391 District, four governing board members shall be persons who are
1392 qualified electors of the District and who were elected by the
1393 qualified electors and one governing board member shall be a
1394 person who was elected by the landowners.

1395 (V) Once 75,110 qualified electors reside within the
1396 District, all five governing board members shall be persons who
1397 are qualified electors of the District and who were elected by
1398 the qualified electors.

1399
1400 Nothing in this sub-subparagraph is intended to require an

1401 election prior to the expiration of an existing board member's
1402 term.

1403 b. On or before June 1 of each election year, the board
1404 shall determine the number of qualified electors in the District
1405 as of the immediately preceding April 15. The board shall use
1406 and rely upon the official records maintained by the supervisor
1407 of elections and property appraiser or tax collector in Brevard
1408 and Volusia Counties in making this determination. Such
1409 determination shall be made at a properly noticed meeting of the
1410 board and shall become a part of the official minutes of the
1411 District.

1412 c. All governing board members elected by qualified
1413 electors shall be elected at large at an election occurring as
1414 provided in subsection (2) and this subsection.

1415 d. All governing board members elected by qualified
1416 electors shall reside in the District.

1417 e. Once the District qualifies to have any of its board
1418 members elected by the qualified electors of the District, the
1419 initial and all subsequent elections by the qualified electors
1420 of the District shall be held at the general election in
1421 November. The board shall adopt a resolution, if necessary, to
1422 implement this requirement. The transition process described
1423 herein is intended to be in lieu of the process set forth in s.
1424 189.041, Florida Statutes.

1425 (b) Elections of board members by qualified electors held

1426 pursuant to this subsection shall be nonpartisan and shall be
1427 conducted in the manner prescribed by law for holding general
1428 elections. Board members shall assume the office on the second
1429 Tuesday following their election.

1430 (c) Candidates seeking election to office by qualified
1431 electors under this subsection shall conduct their campaigns in
1432 accordance with the provisions of chapter 106, Florida Statutes,
1433 and shall file qualifying papers and qualify for individual
1434 seats in accordance with s. 99.061, Florida Statutes.

1435 (d) The supervisor of elections in the respective counties
1436 shall appoint the inspectors and clerks of elections, prepare
1437 and furnish the ballots, designate polling places, and canvass
1438 the returns of the election of board members by qualified
1439 electors. The county canvassing board shall declare and certify
1440 the results of the election.

1441 (4) Members of the board, regardless of how elected, shall
1442 be public officers, shall be known as supervisors, and, upon
1443 entering into office, shall take and subscribe to the oath of
1444 office as prescribed by s. 876.05, Florida Statutes. Members of
1445 the board shall be subject to ethics and conflict of interest
1446 laws of the state that apply to all local public officers. They
1447 shall hold office for the terms for which they were elected or
1448 appointed and until their successors are chosen and qualified.
1449 If, during the term of office, a vacancy occurs, the remaining
1450 members of the board shall fill each vacancy by an appointment

1451 for the remainder of the unexpired term.

1452 (5) Any elected member of the board of supervisors may be
 1453 removed by the Governor for malfeasance, misfeasance,
 1454 dishonesty, incompetency, or failure to perform the duties
 1455 imposed upon him or her by this act, and any vacancies that may
 1456 occur in such office for such reasons shall be filled by the
 1457 Governor as soon as practicable.

1458 (6) A majority of the members of the board constitutes a
 1459 quorum for the purposes of conducting its business and
 1460 exercising its powers and for all other purposes. Action taken
 1461 by the District shall be upon a vote of a majority of the
 1462 members present unless general law or a rule of the District
 1463 requires a greater number.

1464 (7) As soon as practicable after each election or
 1465 appointment, the board shall organize by electing one of its
 1466 members as chair and by electing a secretary, who need not be a
 1467 member of the board, and such other officers as the board may
 1468 deem necessary.

1469 (8) The board shall keep a permanent record book entitled
 1470 "Record of Proceedings of Deering Park Stewardship District," in
 1471 which shall be recorded minutes of all meetings, resolutions,
 1472 proceedings, certificates, bonds given by all employees, and any
 1473 and all corporate acts. The record book and all other District
 1474 records shall at reasonable times be opened to inspection in the
 1475 same manner as state, county, and municipal records pursuant to

1476 chapter 119, Florida Statutes. The record book shall be kept at
1477 the office or other regular place of business maintained by the
1478 board in a designated location in either Brevard County, Volusia
1479 County, or the City of Edgewater.

1480 (9) Each supervisor shall receive travel and per diem
1481 expenses as set forth in s. 112.061, Florida Statutes; however,
1482 a supervisor is not entitled to receive compensation for his or
1483 her services in excess of the limits established in s.
1484 190.006(8), Florida Statutes, or any successor statute.

1485 (10) All meetings of the board shall be open to the public
1486 and governed by chapter 286, Florida Statutes.

1487 Section 6. Board of supervisors; general duties.-

1488 (1) DISTRICT MANAGER AND EMPLOYEES.-The board shall employ
1489 and fix the compensation of a District manager, who shall have
1490 charge and supervision of the works of the District and shall be
1491 responsible for preserving and maintaining any improvement or
1492 facility constructed or erected pursuant to the provisions of
1493 this act, for maintaining and operating the equipment owned by
1494 the District, and for performing such other duties as may be
1495 prescribed by the board. It shall not be a conflict of interest
1496 or constitute an abuse of public position under chapter 112,
1497 Florida Statutes, for a board member, the District manager, or
1498 another employee of the District to be a stockholder, officer,
1499 or employee of a landowner. The District manager may hire or
1500 otherwise employ and terminate the employment of such other

1501 persons, including, without limitation, professional,
1502 supervisory, and clerical employees, as may be necessary and
1503 authorized by the board. The compensation and other conditions
1504 of employment of the officers and employees of the District
1505 shall be as provided by the board.

1506 (2) TREASURER.—The board shall designate a person who is a
1507 resident of the state as treasurer of the District, who shall
1508 have charge of the funds of the District. Such funds shall be
1509 disbursed only upon the order of or pursuant to a resolution of
1510 the board by warrant or check countersigned by the treasurer and
1511 by such other person as may be authorized by the board. The
1512 board may give the treasurer such other or additional powers and
1513 duties as the board may deem appropriate and may fix his or her
1514 compensation. The board may require the treasurer to give a bond
1515 in such amount, on such terms, and with such sureties as may be
1516 deemed satisfactory to the board to secure the performance by
1517 the treasurer of his or her powers and duties. The financial
1518 records of the board shall be audited by an independent
1519 certified public accountant in accordance with the requirements
1520 of general law.

1521 (3) PUBLIC DEPOSITORY.—The board is authorized to select
1522 as a depository for its funds any qualified public depository as
1523 defined in s. 280.02, Florida Statutes, which meets all the
1524 requirements of chapter 280, Florida Statutes, and has been
1525 designated by the treasurer as a qualified public depository

1526 upon such terms and conditions as to the payment of interest by
1527 such depository upon the funds so deposited as the board may
1528 deem just and reasonable.

1529 (4) BUDGET; REPORTS AND REVIEWS.—

1530 (a) The District shall provide financial reports in such
1531 form and such manner as prescribed pursuant to this act and
1532 chapter 218, Florida Statutes, as amended from time to time.

1533 (b) On or before July 15 of each year, the District
1534 manager shall prepare a proposed budget for the ensuing fiscal
1535 year to be submitted to the board for board approval. The
1536 proposed budget shall include at the direction of the board an
1537 estimate of all necessary expenditures of the District for the
1538 ensuing fiscal year and an estimate of income to the District
1539 from the taxes and assessments provided in this act. The board
1540 shall consider the proposed budget item by item and may either
1541 approve the budget as proposed by the District manager or modify
1542 the same in part or in whole. The board shall indicate its
1543 approval of the budget by resolution, which resolution shall
1544 provide for a hearing on the budget as approved. Notice of the
1545 hearing on the budget shall be published once a week for 2
1546 consecutive weeks in a newspaper of general circulation in the
1547 District, except that the first publication shall be no fewer
1548 than 15 days prior to the date of the hearing. The notice shall
1549 further contain a designation of the day, time, and place of the
1550 public hearing. At the time and place designated in the notice,

1551 the board shall hear all objections to the budget as proposed
1552 and may make such changes as the board deems necessary. At the
1553 conclusion of the budget hearing, the board shall, by
1554 resolution, adopt the budget as finally approved by the board.
1555 The budget shall be adopted prior to October 1 of each year.

1556 (c) At least 60 days prior to adoption, the board of
1557 supervisors of the District shall submit to the Board of County
1558 Commissioners of Brevard County, to the County Council of
1559 Volusia County, and to the City Council of the City of
1560 Edgewater, for purposes of disclosure and information only, the
1561 proposed annual budget for the ensuing fiscal year, and each
1562 county and the city may submit written comments to the board of
1563 supervisors solely for the assistance and information of the
1564 board of supervisors of the District in adopting its annual
1565 District budget.

1566 (d) The board of supervisors of the District shall submit
1567 annually a public facilities report to the Board of County
1568 Commissioners of Brevard County, to the County Council of
1569 Volusia County, and to the City Council of the City of Edgewater
1570 pursuant to general law. Each county and the city may use and
1571 rely on the District's public facilities report in the
1572 preparation or revision of their comprehensive plans.

1573 (5) DISCLOSURE OF PUBLIC INFORMATION; WEB-BASED PUBLIC
1574 ACCESS.—The District shall take affirmative steps to provide for
1575 the full disclosure of information relating to the public

1576 financing and maintenance of improvements to real property
1577 undertaken by the District. Such information shall be made
1578 available to all existing residents and all prospective
1579 residents of the District. The District shall furnish each
1580 developer of a residential development within the District with
1581 sufficient copies of that information to provide each
1582 prospective initial purchaser of property in that development
1583 with a copy; and any developer of a residential development
1584 within the District, when required by law to provide a public
1585 offering statement, shall include a copy of such information
1586 relating to the public financing and maintenance of improvements
1587 in the public offering statement. The District shall file the
1588 disclosure documents required by this subsection and any
1589 amendments thereto in the property records of each county in
1590 which the District is located. By the end of the first full
1591 fiscal year of the District's creation, the District shall
1592 maintain an official Internet website in accordance with s.
1593 189.069, Florida Statutes.

1594 (6) GENERAL POWERS.—The District shall have, and the board
1595 may exercise, the following general powers:

1596 (a) To sue and be sued in the name of the District; to
1597 adopt and use a seal and authorize the use of a facsimile
1598 thereof; to acquire, by purchase, gift, devise, or otherwise,
1599 and to dispose of, real and personal property, or any estate
1600 therein; and to make and execute contracts and other instruments

1601 necessary or convenient to the exercise of its powers.

1602 (b) To apply for coverage of its employees under the
1603 Florida Retirement System in the same manner as if such
1604 employees were state employees.

1605 (c) To contract for the services of consultants to perform
1606 planning, engineering, legal, or other appropriate services of a
1607 professional nature. Such contracts shall be subject to public
1608 bidding or competitive negotiation requirements as set forth in
1609 general law applicable to independent special districts.

1610 (d) To borrow money and accept gifts; to apply for and use
1611 grants or loans of money or other property from the United
1612 States, the state, a unit of local government, or any person for
1613 any District purposes and enter into agreements required in
1614 connection therewith; and to hold, use, and dispose of such
1615 moneys or property for any District purposes in accordance with
1616 the terms of the gift, grant, loan, or agreement relating
1617 thereto.

1618 (e) To adopt and enforce rules and orders pursuant to the
1619 provisions of chapter 120, Florida Statutes, prescribing the
1620 powers, duties, and functions of the officers of the District;
1621 the conduct of the business of the District; the maintenance of
1622 records; and the form of certificates evidencing tax liens and
1623 all other documents and records of the District. The board may
1624 also adopt and enforce administrative rules with respect to any
1625 of the projects of the District and define the area to be

1626 included therein. The board may also adopt resolutions which may
1627 be necessary for the conduct of District business.

1628 (f) To maintain an office at such place or places as the
1629 board of supervisors designates in Brevard County, Volusia
1630 County, or the City of Edgewater, and within the District when
1631 facilities are available.

1632 (g) To hold, control, and acquire by donation, purchase,
1633 or condemnation, or dispose of, any public easements,
1634 dedications to public use, platted reservations for public
1635 purposes, or any reservations for those purposes authorized by
1636 this act and to make use of such easements, dedications, or
1637 reservations for the purposes authorized by this act.

1638 (h) To lease as lessor or lessee to or from any person,
1639 firm, corporation, association, or body, public or private, any
1640 projects of the type that the District is authorized to
1641 undertake and facilities or property of any nature for the use
1642 of the District to carry out the purposes authorized by this
1643 act.

1644 (i) To borrow money and issue bonds, certificates,
1645 warrants, notes, or other evidence of indebtedness as provided
1646 herein; to levy such taxes and assessments as may be authorized;
1647 and to charge, collect, and enforce fees and other user charges.

1648 (j) To raise, by user charges or fees authorized by
1649 resolution of the board, amounts of money which are necessary
1650 for the conduct of District activities and services and to

1651 enforce their receipt and collection in the manner prescribed by
1652 resolution not inconsistent with law.

1653 (k) To exercise all powers of eminent domain now or
1654 hereafter conferred on counties in this state; provided,
1655 however, that such power of eminent domain may not be exercised
1656 outside the territorial limits of the District unless the
1657 District receives prior approval by vote of a resolution of the
1658 governing body of the county if the taking will occur in an
1659 unincorporated area in that county, or the governing body of the
1660 city if the taking will occur in an incorporated area. The
1661 District shall not have the power to exercise eminent domain
1662 over municipal, county, state, or federal property. The powers
1663 hereinabove granted to the District shall be so construed to
1664 enable the District to fulfill the objects and purposes of the
1665 District as set forth in this act.

1666 (l) To cooperate with, or contract with, other
1667 governmental agencies as may be necessary, convenient,
1668 incidental, or proper in connection with any of the powers,
1669 duties, or purposes authorized by this act.

1670 (m) To assess and to impose upon lands in the District ad
1671 valorem taxes as provided by this act.

1672 (n) If and when authorized by general law, to determine,
1673 order, levy, impose, collect, and enforce maintenance taxes.

1674 (o) To determine, order, levy, impose, collect, and
1675 enforce assessments pursuant to this act and chapter 170,

1676 Florida Statutes, as amended from time to time, pursuant to
1677 authority granted in s. 197.3631, Florida Statutes, or pursuant
1678 to other provisions of general law now or hereinafter enacted
1679 which provide or authorize a supplemental means to order, levy,
1680 impose, or collect special assessments. Such special
1681 assessments, at the discretion of the District, may be collected
1682 and enforced pursuant to the provisions of ss. 197.3632 and
1683 197.3635, Florida Statutes, and chapters 170 and 173, Florida
1684 Statutes, as they may be amended from time to time, or as
1685 provided by this act, or by other means authorized by general
1686 law now or hereinafter enacted. The District may levy such
1687 special assessments for the purposes enumerated in this act and
1688 to pay special assessments imposed by Brevard and Volusia
1689 Counties and the City of Edgewater on lands within the District.

1690 (p) To exercise such special powers and other express
1691 powers as may be authorized and granted by this act in the
1692 charter of the District, including powers as provided in any
1693 interlocal agreement entered into pursuant to chapter 163,
1694 Florida Statutes, or which shall be required or permitted to be
1695 undertaken by the District pursuant to any development order,
1696 including any detailed specific area plan development order, or
1697 any interlocal service agreement with Brevard County, Volusia
1698 County, or the City of Edgewater for fair-share capital
1699 construction funding for any certain capital facilities or
1700 systems required of a developer pursuant to any applicable

1701 development order or agreement.

1702 (q) To exercise all of the powers necessary, convenient,
1703 incidental, or proper in connection with any other powers or
1704 duties or the special and limited purpose of the District
1705 authorized by this act.

1706
1707 The provisions of this subsection shall be construed liberally
1708 in order to carry out effectively the special and limited
1709 purpose of this act.

1710 (7) SPECIAL POWERS.—The District shall have, and the board
1711 may exercise, the following special powers to implement its
1712 lawful and special purpose and to provide, pursuant to that
1713 purpose, systems, facilities, services, improvements, projects,
1714 works, and infrastructure, each of which constitutes a lawful
1715 public purpose when exercised pursuant to this charter, subject
1716 to, and not inconsistent with, general law regarding utility
1717 providers' territorial and service agreements, the regulatory
1718 jurisdiction and permitting authority of all other applicable
1719 governmental bodies, agencies, and any special districts having
1720 authority with respect to any area included therein, and to
1721 plan, establish, acquire, construct or reconstruct, enlarge or
1722 extend, equip, operate, finance, fund, and maintain
1723 improvements, systems, facilities, services, works, projects,
1724 and infrastructure. Any or all of the following special powers
1725 are granted by this act in order to implement the special and

1726 limited purpose of the District but do not constitute
1727 obligations to undertake such improvements, systems, facilities,
1728 services, works, projects, or infrastructure:

1729 (a) To provide water management and control for the lands
1730 within the District, including irrigation systems and
1731 facilities, and to connect some or any of such facilities with
1732 roads and bridges. In the event that the board assumes the
1733 responsibility for providing water management and control for
1734 the District which is to be financed by benefit special
1735 assessments, the board shall adopt plans and assessments
1736 pursuant to law or may proceed to adopt water management and
1737 control plans, assess for benefits, and apportion and levy
1738 special assessments, as follows:

1739 1. The board shall cause to be made by the District's
1740 engineer, or such other engineer or engineers as the board may
1741 employ for that purpose, complete and comprehensive water
1742 management and control plans for the lands located within the
1743 District that will be improved in any part or in whole by any
1744 system of facilities that may be outlined and adopted, and the
1745 engineer or engineers shall make a report in writing to the
1746 board with maps and profiles of said surveys and an estimate of
1747 the cost of carrying out and completing the plans.

1748 2. Upon the completion of such plans, the board shall hold
1749 a hearing thereon to hear objections thereto, shall give notice
1750 of the time and place fixed for such hearing by publication once

1751 a week for 2 consecutive weeks in a newspaper of general
1752 circulation in the District, and shall permit the inspection of
1753 the plan at the office of the District by all persons
1754 interested. All objections to the plan shall be filed at or
1755 before the time fixed in the notice for the hearing and shall be
1756 in writing.

1757 3. After the hearing, the board shall consider the
1758 proposed plan and any objections thereto and may modify, reject,
1759 or adopt the plan or continue the hearing until a day certain
1760 for further consideration of the proposed plan or modifications
1761 thereof.

1762 4. When the board approves a plan, a resolution shall be
1763 adopted and a certified copy thereof shall be filed in the
1764 office of the secretary and incorporated by him or her into the
1765 records of the District.

1766 5. The water management and control plan may be altered in
1767 detail from time to time until the engineer's report pursuant to
1768 s. 298.301, Florida Statutes, is filed but not in such manner as
1769 to affect materially the conditions of its adoption. After the
1770 engineer's report has been filed, no alteration of the plan
1771 shall be made, except as provided by this act.

1772 6. Within 20 days after the final adoption of the plan by
1773 the board, the board shall proceed pursuant to s. 298.301,
1774 Florida Statutes.

1775 (b) To provide water supply, sewer, wastewater, and

1776 reclaimed water management, reclamation, and reuse, or any
1777 combination thereof, and any irrigation systems, facilities, and
1778 services and to construct and operate water systems, sewer
1779 systems, irrigation systems, and reclaimed water systems such as
1780 connecting intercepting or outlet sewers and sewer mains and
1781 pipes and water mains, conduits, or pipelines in, along, and
1782 under any street, alley, highway, or other public place or ways,
1783 and to dispose of any water, effluent, residue, or other
1784 byproducts of such water system, sewer system, irrigation
1785 system, or reclaimed water system and to enter into interlocal
1786 agreements and other agreements with public or private entities
1787 for the same; provided, however, that nothing herein shall
1788 impair or alter the provision of water, sewer, and reclaimed
1789 water within the City of Edgewater's utility service areas.

1790 (c) To provide bridges, culverts, wildlife corridors, or
1791 road crossings that may be needed across any drain, ditch,
1792 canal, floodway, holding basin, excavation, public highway,
1793 tract, grade, fill, or cut and roadways over levees and
1794 embankments, and to construct any and all of such works and
1795 improvements across, through, or over any public right-of way,
1796 highway, grade, fill, or cut.

1797 (d) To provide District or other roads equal to or
1798 exceeding the specifications of the county or the City of
1799 Edgewater in which such District or other roads are located, and
1800 to provide street lights. This special power includes, but is

1801 not limited to, roads, parkways, intersections, interchanges,
1802 bridges, landscaping, hardscaping, irrigation, bicycle lanes,
1803 sidewalks, jogging paths, multiuse pathways and trails, street
1804 lighting, traffic signals, regulatory or informational signage,
1805 road striping, underground conduit, underground cable or fiber
1806 or wire installed pursuant to an agreement with or tariff of a
1807 provider of services, and all other customary elements of a
1808 functioning modern road system in general or as tied to the
1809 conditions of development approval for the area within and
1810 without the District, and parking facilities that are
1811 freestanding or that may be related to any innovative strategic
1812 intermodal system of transportation pursuant to applicable
1813 federal, state, and local law and ordinance.

1814 (e) To provide buses, trolleys, autonomous vehicles, rail
1815 access, mass transit facilities, transit shelters, ridesharing
1816 facilities and services, parking improvements, and related
1817 signage.

1818 (f) To provide investigation and remediation costs
1819 associated with the cleanup of actual or perceived environmental
1820 contamination within the District under the supervision or
1821 direction of a competent governmental authority unless the
1822 covered costs benefit any person who is a landowner within the
1823 District and who caused or contributed to the contamination.

1824 (g) To provide observation areas, mitigation areas,
1825 wetland creation areas, and wildlife habitat, including the

1826 maintenance of any plant or animal species, and any related
 1827 interest in real or personal property.

1828 (h) Using its general and special powers as set forth in
 1829 this act, to provide any other project within or without the
 1830 boundaries of the District when the project is the subject of an
 1831 agreement between the District and the Board of County
 1832 Commissioners of Brevard County, the County Council of Volusia
 1833 County, or the City Council of the City of Edgewater or with any
 1834 other applicable public or private entity, and is not
 1835 inconsistent with the effective local comprehensive plans.

1836 (i) To provide parks and facilities for indoor and outdoor
 1837 recreational, cultural, and educational uses.

1838 (j) To provide school buildings and related structures,
 1839 which may be leased, sold, or donated to the school district,
 1840 for use in the educational system when authorized by the
 1841 District school board.

1842 (k) To provide security, including electronic intrusion-
 1843 detection systems and patrol cars, when authorized by proper
 1844 governmental agencies, and may enter into a contract with the
 1845 appropriate general-purpose local government agencies for an
 1846 increased level of such services within the District boundaries.

1847 (l) To provide control and elimination of mosquitoes and
 1848 other arthropods of public health importance.

1849 (m) To enter into impact fee, mobility fee, or other
 1850 similar credit agreements with Brevard County, Volusia County,

1851 or the City of Edgewater or other governmental bodies or a
1852 landowner or developer and to sell or assign such credits, on
1853 such terms as the District deems appropriate.

1854 (n) To provide buildings and structures for District
1855 offices, maintenance facilities, meeting facilities, town
1856 centers, or any other project authorized or granted by this act.

1857 (o) To establish and create, at noticed meetings, such
1858 departments of the board of supervisors of the District, as well
1859 as committees, task forces, boards, or commissions, or other
1860 agencies under the supervision and control of the District, as
1861 from time to time the members of the board may deem necessary or
1862 desirable in the performance of the acts or other things
1863 necessary to exercise the board's general or special powers to
1864 implement an innovative project to carry out the special and
1865 limited purpose of the District as provided in this act and to
1866 delegate the exercise of its powers to such departments, boards,
1867 task forces, committees, or other agencies, and such
1868 administrative duties and other powers as the board may deem
1869 necessary or desirable, but only if there is a set of expressed
1870 limitations for accountability, notice, and periodic written
1871 reporting to the board that shall retain the powers of the
1872 board.

1873 (p) To provide electrical, sustainable, or green
1874 infrastructure improvements, facilities, and services,
1875 including, but not limited to, recycling of natural resources,

1876 reduction of energy demands, development and generation of
 1877 alternative or renewable energy sources and technologies,
 1878 mitigation of urban heat islands, sequestration, capping or
 1879 trading of carbon emissions or carbon emissions credits, United
 1880 States Green Building Council LEED for Neighborhood Development
 1881 and Energy Star or Florida Green Building Coalition Green
 1882 Development Designation certification including other programs
 1883 deemed comparable to the University of Florida Program for
 1884 Resource Efficient Communities as well as the development of
 1885 facilities and improvements for low-impact development or
 1886 compact communities, and to enter into joint ventures, public-
 1887 private partnerships, and other agreements, and to grant such
 1888 easements as may be necessary to accomplish the foregoing.
 1889 Nothing herein shall authorize the District to provide electric
 1890 service to retail customers or otherwise act to impair electric
 1891 utility franchise agreements.

1892 (q) To provide for any facilities or improvements that may
 1893 otherwise be provided for by any county or municipality,
 1894 including, but not limited to, libraries, annexes, substations,
 1895 and other buildings to house public officials, staff, and
 1896 employees.

1897 (r) To provide waste collection and disposal; provided,
 1898 however, that nothing herein shall impair or alter the City of
 1899 Edgewater's provision of solid waste management services within
 1900 the city limits.

1901 (s) To provide for the construction and operation of
1902 communications systems and related infrastructure for the
1903 carriage and distribution of communications services, and to
1904 enter into joint ventures, public-private partnerships, and
1905 other agreements and to grant such easements as may be necessary
1906 to accomplish the foregoing. "Communications systems" means all
1907 facilities, buildings, equipment, items, and methods necessary
1908 or desirable in order to provide communications services,
1909 including, without limitation, wires, cables, conduits, fiber,
1910 wireless cell sites, computers, modems, satellite antennae
1911 sites, transmission facilities, network facilities, and
1912 appurtenant devices necessary and appropriate to support the
1913 provision of communications services. "Communications services"
1914 includes, without limitation, Internet, voice telephone or
1915 similar services provided by voice-over-Internet protocol, cable
1916 television, data transmission services, electronic security
1917 monitoring services, and multi-channel video programming
1918 distribution services. Nothing herein shall authorize the
1919 District to provide communications services to retail customers.

1920 (t) To provide health care facilities and to enter into
1921 public-private partnerships and agreements as may be necessary
1922 to accomplish the foregoing.

1923 (u) To coordinate, work with, and, as the board deems
1924 appropriate, enter into interlocal agreements with any public or
1925 private entity for the provision of an institution or

1926 | institutions of higher education.

1927 | (v) To coordinate, work with, and, as the board deems
 1928 | appropriate, enter into public-private partnerships and
 1929 | agreements as may be necessary or useful to effectuate the
 1930 | purposes of this act.

1931 |
 1932 | The enumeration of special powers herein shall not be deemed
 1933 | exclusive or restrictive but shall be deemed to incorporate all
 1934 | powers express or implied necessary or incident to carrying out
 1935 | such enumerated special powers, including also the general
 1936 | powers provided by this special act charter to the District to
 1937 | implement its purposes. Further, the provisions of this
 1938 | subsection shall be construed liberally in order to carry out
 1939 | effectively the special and limited purpose of the District
 1940 | under this act.

1941 | (8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to
 1942 | the other powers provided for in this act, and not in limitation
 1943 | thereof, the District shall have the power, at any time and from
 1944 | time to time after the issuance of any bonds of the District are
 1945 | authorized, to borrow money for the purposes for which such
 1946 | bonds are to be issued in anticipation of the receipt of the
 1947 | proceeds of the sale of such bonds and to issue bond
 1948 | anticipation notes in a principal sum not in excess of the
 1949 | authorized maximum amount of such bond issue. Such notes shall
 1950 | be in such denomination or denominations, bear interest at such

1951 rate or rates as the board may determine not to exceed the
1952 maximum rate allowed by general law, mature at such date or
1953 dates not later than 5 years from the date of issuance, and be
1954 in such form and executed in such manner as the board shall
1955 prescribe. Such notes may be sold at either public or private
1956 sale or, if such notes are renewal notes, may be exchanged for
1957 notes then outstanding on such terms as the board shall
1958 determine. Such notes shall be paid from the proceeds of such
1959 bonds when issued. The board may, in its discretion, in lieu of
1960 retiring the notes by means of bonds, retire them by means of
1961 current revenues or from any taxes or assessments levied for the
1962 payment of such bonds, but, in such event, a like amount of the
1963 bonds authorized shall not be issued.

1964 (9) BORROWING.—The District may, at any time, obtain
1965 loans, in such amount and on such terms and conditions as the
1966 board may approve, for the purpose of paying any of the expenses
1967 of the District or any costs incurred or that may be incurred in
1968 connection with any of the projects of the District, which loans
1969 shall bear interest as the board determines, not to exceed the
1970 maximum rate allowed by general law, and may be payable from and
1971 secured by a pledge of such funds, revenues, taxes, and
1972 assessments as the board may determine; subject, however, to the
1973 provisions contained in any proceeding under which bonds were
1974 theretofore issued and are then outstanding. For the purpose of
1975 defraying such costs and expenses, the District may issue

1976 negotiable notes, warrants, or other evidences of debt to be
1977 payable at such date or dates and to bear such interest as the
1978 board may determine, not to exceed the maximum rate allowed by
1979 general law, and to be sold or discounted at such price or
1980 prices not less than 95 percent of par value and on such terms
1981 as the board may deem advisable. The board shall have the right
1982 to provide for the payment thereof by pledging the whole or any
1983 part of the funds, revenues, taxes, and assessments of the
1984 District or by covenanting to budget and appropriate from such
1985 funds. The approval of the electors residing in the District
1986 shall not be necessary except when required by the State
1987 Constitution.

1988 (10) BONDS.—

1989 (a) Sale of bonds.—Bonds may be sold in blocks or
1990 installments at different times, or an entire issue or series
1991 may be sold at one time. Bonds may be sold at public or private
1992 sale after such advertisement, if any, as the board may deem
1993 advisable, but not in any event at less than 90 percent of the
1994 par value thereof, together with accrued interest thereon. Bonds
1995 may be sold or exchanged for refunding bonds. Special assessment
1996 and revenue bonds may be delivered by the District as payment of
1997 the purchase price of any project or part thereof, or a
1998 combination of projects or parts thereof, or as the purchase
1999 price or exchange for any property, real, personal, or mixed,
2000 including franchises or services rendered by any contractor,

2001 engineer, or other person, all at one time or in blocks from
 2002 time to time, in such manner and upon such terms as the board at
 2003 its discretion shall determine. The price or prices for any
 2004 bonds sold, exchanged, or delivered may be:

- 2005 1. The money paid for the bonds.
- 2006 2. The principal amount, plus accrued interest to the date
 2007 of redemption or exchange, or outstanding obligations exchanged
 2008 for refunding bonds.
- 2009 3. In the case of special assessment or revenue bonds, the
 2010 amount of any indebtedness to contractors or other persons paid
 2011 with such bonds, or the fair value of any properties exchanged
 2012 for the bonds, as determined by the board.

2013 (b) Authorization and form of bonds.—Any general
 2014 obligation bonds, special assessment bonds, or revenue bonds may
 2015 be authorized by resolution or resolutions of the board which
 2016 shall be adopted by a majority of all the members thereof then
 2017 in office. Such resolution or resolutions may be adopted at the
 2018 same meeting at which they are introduced and need not be
 2019 published or posted. The board may, by resolution, authorize the
 2020 issuance of bonds and fix the aggregate amount of bonds to be
 2021 issued; the purpose or purposes for which the moneys derived
 2022 therefrom shall be expended, including, but not limited to,
 2023 payment of costs as defined in paragraph (2) (i) of section 2;
 2024 the rate or rates of interest, not to exceed the maximum rate
 2025 allowed by general law; the denomination of the bonds; whether

2026 or not the bonds are to be issued in one or more series; the
2027 date or dates of maturity, which shall not exceed 40 years from
2028 their respective dates of issuance; the medium of payment; the
2029 place or places within or without the state at which payment
2030 shall be made; registration privileges; redemption terms and
2031 privileges, whether with or without premium; the manner of
2032 execution; the form of the bonds, including any interest coupons
2033 to be attached thereto; the manner of execution of bonds and
2034 coupons; and any and all other terms, covenants, and conditions
2035 thereof and the establishment of revenue or other funds. Such
2036 authorizing resolution or resolutions may further provide for
2037 the contracts authorized by s. 159.825(1)(f) and (g), Florida
2038 Statutes, regardless of the tax treatment of such bonds being
2039 authorized, subject to the finding by the board of a net saving
2040 to the District resulting by reason thereof. Such authorizing
2041 resolution may further provide that such bonds may be executed
2042 in accordance with the Registered Public Obligations Act, except
2043 that bonds not issued in registered form shall be valid if
2044 manually countersigned by an officer designated by appropriate
2045 resolution of the board. The seal of the District may be
2046 affixed, lithographed, engraved, or otherwise reproduced in
2047 facsimile on such bonds. In case any officer whose signature
2048 shall appear on any bonds or coupons shall cease to be such
2049 officer before the delivery of such bonds, such signature or
2050 facsimile shall nevertheless be valid and sufficient for all

2051 purposes the same as if he or she had remained in office until
 2052 such delivery.

2053 (c) Interim certificates; replacement certificates.—
 2054 Pending the preparation of definitive bonds, the board may issue
 2055 interim certificates or receipts or temporary bonds, in such
 2056 form and with such provisions as the board may determine,
 2057 exchangeable for definitive bonds when such bonds have been
 2058 executed and are available for delivery. The board may also
 2059 provide for the replacement of any bonds which become mutilated,
 2060 lost, or destroyed.

2061 (d) Negotiability of bonds.—Any bond issued under this act
 2062 or any temporary bond, in the absence of an express recital on
 2063 the face thereof that it is nonnegotiable, shall be fully
 2064 negotiable and shall be and constitute a negotiable instrument
 2065 within the meaning and for all purposes of the law merchant and
 2066 the laws of the state.

2067 (e) Defeasance.—The board may make such provision with
 2068 respect to the defeasance of the right, title, and interest of
 2069 the holders of any of the bonds and obligations of the District
 2070 in any revenues, funds, or other properties by which such bonds
 2071 are secured as the board deems appropriate and, without
 2072 limitation on the foregoing, may provide that when such bonds or
 2073 obligations become due and payable or shall have been called for
 2074 redemption and the whole amount of the principal and interest
 2075 and premium, if any, due and payable upon the bonds or

2076 obligations then outstanding shall be held in trust for such
2077 purpose, and provision shall also be made for paying all other
2078 sums payable in connection with such bonds or other obligations,
2079 then and in such event the right, title, and interest of the
2080 holders of the bonds in any revenues, funds, or other properties
2081 by which such bonds are secured shall thereupon cease,
2082 terminate, and become void; and the board may apply any surplus
2083 in any sinking fund established in connection with such bonds or
2084 obligations and all balances remaining in all other funds or
2085 accounts other than moneys held for the redemption or payment of
2086 the bonds or other obligations to any lawful purpose of the
2087 District as the board shall determine.

2088 (f) Issuance of additional bonds.—If the proceeds of any
2089 bonds are less than the cost of completing the project in
2090 connection with which such bonds were issued, the board may
2091 authorize the issuance of additional bonds, upon such terms and
2092 conditions as the board may provide in the resolution
2093 authorizing the issuance thereof, but only in compliance with
2094 the resolution or other proceedings authorizing the issuance of
2095 the original bonds.

2096 (g) Refunding bonds.—The District shall have the power to
2097 issue bonds to provide for the retirement or refunding of any
2098 bonds or obligations of the District that at the time of such
2099 issuance are or subsequent thereto become due and payable, or
2100 that at the time of issuance have been called or are, or will

2101 be, subject to call for redemption within 10 years thereafter,
2102 or the surrender of which can be procured from the holders
2103 thereof at prices satisfactory to the board. Refunding bonds may
2104 be issued at any time that in the judgment of the board such
2105 issuance will be advantageous to the District. No approval of
2106 the qualified electors residing in the District shall be
2107 required for the issuance of refunding bonds except in cases in
2108 which such approval is required by the State Constitution. The
2109 board may by resolution confer upon the holders of such
2110 refunding bonds all rights, powers, and remedies to which the
2111 holders would be entitled if they continued to be the owners and
2112 had possession of the bonds for the refinancing of which such
2113 refunding bonds are issued, including, but not limited to, the
2114 preservation of the lien of such bonds on the revenues of any
2115 project or on pledged funds, without extinguishment, impairment,
2116 or diminution thereof. The provisions of this act pertaining to
2117 bonds of the District shall, unless the context otherwise
2118 requires, govern the issuance of refunding bonds, the form and
2119 other details thereof, the rights of the holders thereof, and
2120 the duties of the board with respect thereto.

2121 (h) Revenue bonds.—

2122 1. The District shall have the power to issue revenue
2123 bonds from time to time without limitation as to amount. Such
2124 revenue bonds may be secured by, or payable from, the gross or
2125 net pledge of the revenues to be derived from any project or

2126 combination of projects; from the rates, fees, or other charges
 2127 to be collected from the users of any project or combination of
 2128 projects; from any revenue-producing undertaking or activity of
 2129 the District; from special assessments; or from benefit special
 2130 assessments; or from any other source or pledged security. Such
 2131 bonds shall not constitute an indebtedness of the District, and
 2132 the approval of the qualified electors shall not be required
 2133 unless such bonds are additionally secured by the full faith and
 2134 credit and taxing power of the District.

2135 2. Any two or more projects may be combined and
 2136 consolidated into a single project and may hereafter be operated
 2137 and maintained as a single project. The revenue bonds authorized
 2138 herein may be issued to finance any one or more of such
 2139 projects, regardless of whether such projects have been combined
 2140 and consolidated into a single project. If the board deems it
 2141 advisable, the proceedings authorizing such revenue bonds may
 2142 provide that the District may thereafter combine the projects
 2143 then being financed or theretofore financed with other projects
 2144 to be subsequently financed by the District and that revenue
 2145 bonds to be thereafter issued by the District shall be on parity
 2146 with the revenue bonds then being issued, all on such terms,
 2147 conditions, and limitations as shall have been provided in the
 2148 proceeding which authorized the original bonds.

2149 (i) General obligation bonds.—

2150 1. Subject to the limitations of this charter, the

2151 District shall have the power from time to time to issue general
2152 obligation bonds to finance or refinance capital projects or to
2153 refund outstanding bonds in an aggregate principal amount of
2154 bonds outstanding at any one time not in excess of 35 percent of
2155 the assessed value of the taxable property within the District
2156 as shown on the pertinent tax records at the time of the
2157 authorization of the general obligation bonds for which the full
2158 faith and credit of the District is pledged. Except for
2159 refunding bonds, no general obligation bonds shall be issued
2160 unless the bonds are issued to finance or refinance a capital
2161 project and the issuance has been approved at an election held
2162 in accordance with the requirements for such election as
2163 prescribed by the State Constitution. Such elections shall be
2164 called to be held in the District by the Board of County
2165 Commissioners of Brevard County and the County Council of
2166 Volusia County upon the request of the board of the District.
2167 The expenses of calling and holding an election shall be at the
2168 expense of the District and the District shall reimburse the
2169 counties for any expenses incurred in calling or holding such
2170 election.

2171 2. The District may pledge its full faith and credit for
2172 the payment of the principal and interest on such general
2173 obligation bonds and for any reserve funds provided therefor and
2174 may unconditionally and irrevocably pledge itself to levy ad
2175 valorem taxes on all taxable property in the District, to the

2176 extent necessary for the payment thereof, without limitation as
2177 to rate or amount.

2178 3. If the board determines to issue general obligation
2179 bonds for more than one capital project, the approval of the
2180 issuance of the bonds for each and all such projects may be
2181 submitted to the electors on one and the same ballot. The
2182 failure of the electors to approve the issuance of bonds for any
2183 one or more capital projects shall not defeat the approval of
2184 bonds for any capital project which has been approved by the
2185 electors.

2186 4. In arriving at the amount of general obligation bonds
2187 permitted to be outstanding at any one time pursuant to
2188 subparagraph 1., there shall not be included any general
2189 obligation bonds that are additionally secured by the pledge of:

2190 a. Any assessments levied in an amount sufficient to pay
2191 the principal and interest on the general obligation bonds so
2192 additionally secured, which assessments have been equalized and
2193 confirmed by resolution of the board pursuant to this act or s.
2194 170.08, Florida Statutes.

2195 b. Water revenues, sewer revenues, or water and sewer
2196 revenues of the District to be derived from user fees in an
2197 amount sufficient to pay the principal and interest on the
2198 general obligation bonds so additionally secured.

2199 c. Any combination of assessments and revenues described
2200 in sub-subparagraphs a. and b.

2201 (j) Bonds as legal investment or security.—
 2202 1. Notwithstanding provisions of law to the contrary, all
 2203 bonds issued under the provisions of this act shall constitute
 2204 legal investments for savings banks, banks, trust companies,
 2205 insurance companies, executors, administrators, trustees,
 2206 guardians, and other fiduciaries and for any board, body,
 2207 agency, instrumentality, county, municipality, or other
 2208 political subdivision of the state and shall be and constitute
 2209 security which may be deposited by banks or trust companies as
 2210 security for deposits of state, county, municipal, or other
 2211 public funds or by insurance companies as required or voluntary
 2212 statutory deposits.

2213 2. Any bonds issued by the District shall be incontestable
 2214 in the hands of bona fide purchasers or holders for value and
 2215 shall not be invalid because of any irregularity or defect in
 2216 the proceedings for the issue and sale thereof.

2217 (k) Covenants.—Any resolution authorizing the issuance of
 2218 bonds may contain such covenants as the board may deem
 2219 advisable, and all such covenants shall constitute valid and
 2220 legally binding and enforceable contracts between the District
 2221 and the bondholders, regardless of the time of issuance thereof.
 2222 Such covenants may include, without limitation, covenants
 2223 concerning the disposition of the bond proceeds; the use and
 2224 disposition of project revenues; the pledging of revenues,
 2225 taxes, and assessments; the obligations of the District with

2226 respect to the operation of the project and the maintenance of
2227 adequate project revenues; the issuance of additional bonds; the
2228 appointment, powers, and duties of trustees and receivers; the
2229 acquisition of outstanding bonds and obligations; restrictions
2230 on the establishing of competing projects or facilities;
2231 restrictions on the sale or disposal of the assets and property
2232 of the District; the priority of assessment liens; the priority
2233 of claims by bondholders on the taxing power of the District;
2234 the maintenance of deposits to ensure the payment of revenues by
2235 users of District facilities and services; the discontinuance of
2236 District services by reason of delinquent payments; acceleration
2237 upon default; the execution of necessary instruments; the
2238 procedure for amending or abrogating covenants with the
2239 bondholders; and such other covenants as may be deemed necessary
2240 or desirable for the security of the bondholders.

2241 (l) Validation proceedings.—The power of the District to
2242 issue bonds under the provisions of this act may be determined,
2243 and any of the bonds of the District maturing over a period of
2244 more than 5 years shall be validated and confirmed, by court
2245 decree, under the provisions of chapter 75, Florida Statutes,
2246 and laws amendatory thereof or supplementary thereto.

2247 (m) Tax exemption.—To the extent allowed by general law,
2248 all bonds issued hereunder and interest paid thereon and all
2249 fees, charges, and other revenues derived by the District from
2250 the projects provided by this act are exempt from all taxes by

2251 the state or by any political subdivision, agency, or
2252 instrumentality thereof; however, any interest, income, or
2253 profits on debt obligations issued hereunder are not exempt from
2254 the tax imposed by chapter 220, Florida Statutes. Further, the
2255 District is not exempt from the provisions of chapter 212,
2256 Florida Statutes.

2257 (n) Application.—Bonds issued by the District shall meet
2258 the criteria set forth in s. 189.051, Florida Statutes.

2259 (o) Act furnishes full authority for issuance of bonds.—
2260 This act constitutes full and complete authority for the
2261 issuance of bonds and the exercise of the powers of the District
2262 provided herein. No procedures or proceedings, publications,
2263 notices, consents, approvals, orders, acts, or things by the
2264 board, or any board, officer, commission, department, agency, or
2265 instrumentality of the District, other than those required by
2266 this act, shall be required to perform anything under this act,
2267 except that the issuance or sale of bonds pursuant to the
2268 provisions of this act shall comply with the general law
2269 requirements applicable to the issuance or sale of bonds by the
2270 District. Nothing in this act shall be construed to authorize
2271 the District to utilize bond proceeds to fund the ongoing
2272 operations of the District.

2273 (p) Pledge by the state to the bondholders of the
2274 District.—The state pledges to the holders of any bonds issued
2275 under this act that it will not limit or alter the rights of the

2276 District to own, acquire, construct, reconstruct, improve,
 2277 maintain, operate, or furnish the projects or to levy and
 2278 collect the taxes, assessments, rentals, rates, fees, and other
 2279 charges provided for herein and to fulfill the terms of any
 2280 agreement made with the holders of such bonds or other
 2281 obligations and that it will not in any way impair the rights or
 2282 remedies of such holders.

2283 (q) Default.—A default on the bonds or obligations of a
 2284 District shall not constitute a debt or obligation of the state
 2285 or any general-purpose local government or the state. In the
 2286 event of a default or dissolution of the District, no general-
 2287 purpose local government shall be required to assume the
 2288 property of the District, the debts of the District, or the
 2289 District's obligations to complete any infrastructure
 2290 improvements or provide any services to the District. The
 2291 provisions of s. 189.076(2), Florida Statutes, shall not apply
 2292 to the District.

2293 (11) TRUST AGREEMENTS.—Any issue of bonds shall be secured
 2294 by a trust agreement or resolution by and between the District
 2295 and a corporate trustee or trustees, which may be any trust
 2296 company or bank having the powers of a trust company within or
 2297 without the state. The resolution authorizing the issuance of
 2298 the bonds or such trust agreement may pledge the revenues to be
 2299 received from any projects of the District and may contain such
 2300 provisions for protecting and enforcing the rights and remedies

2301 of the bondholders as the board may approve, including, without
2302 limitation, covenants setting forth the duties of the District
2303 in relation to: the acquisition, construction, reconstruction,
2304 improvement, maintenance, repair, operation, and insurance of
2305 any projects; the fixing and revising of the rates, fees, and
2306 charges; and the custody, safeguarding, and application of all
2307 moneys and for the employment of consulting engineers in
2308 connection with such acquisition, construction, reconstruction,
2309 improvement, maintenance, repair, or operation. It shall be
2310 lawful for any bank or trust company within or without the state
2311 which may act as a depository of the proceeds of bonds or of
2312 revenues to furnish such indemnifying bonds or to pledge such
2313 securities as may be required by the District. Such resolution
2314 or trust agreement may set forth the rights and remedies of the
2315 bondholders and of the trustee, if any, and may restrict the
2316 individual right of action by bondholders. The board may provide
2317 for the payment of proceeds of the sale of the bonds and the
2318 revenues of any project to such officer, board, or depository as
2319 it may designate for the custody thereof and may provide for the
2320 method of disbursement thereof with such safeguards and
2321 restrictions as it may determine. All expenses incurred in
2322 carrying out the provisions of such resolution or trust
2323 agreement may be treated as part of the cost of operation of the
2324 project to which such trust agreement pertains.

2325 (12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL

2326 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
 2327 ASSESSMENTS; MAINTENANCE TAXES.—

2328 (a) Ad valorem taxes.—At such time as all members of the
 2329 board are qualified electors who are elected by qualified
 2330 electors of the District, the board shall have the power to levy
 2331 and assess an ad valorem tax on all the taxable property in the
 2332 District to construct, operate, and maintain assessable
 2333 improvements; to pay the principal of, and interest on, any
 2334 general obligation bonds of the District; and to provide for any
 2335 sinking or other funds established in connection with any such
 2336 bonds. An ad valorem tax levied by the board for operating
 2337 purposes, exclusive of debt service on bonds, shall not exceed 3
 2338 mills. The ad valorem tax provided for herein shall be in
 2339 addition to county and all other ad valorem taxes provided for
 2340 by law. Such tax shall be assessed, levied, and collected in the
 2341 same manner and at the same time as county taxes. The levy of ad
 2342 valorem taxes must be approved by referendum as required by s.
 2343 9, Art. VII of the State Constitution.

2344 (b) Benefit special assessments.—The board annually shall
 2345 determine, order, and levy the annual installment of the total
 2346 benefit special assessments for bonds issued and related
 2347 expenses to finance assessable improvements. These assessments
 2348 may be due and collected during each year county taxes are due
 2349 and collected, in which case such annual installment and levy
 2350 shall be evidenced to and certified to the property appraiser by

2351 the board not later than August 31 of each year. Such assessment
2352 shall be entered by the property appraiser on the county tax
2353 rolls and shall be collected and enforced by the tax collector
2354 in the same manner and at the same time as county taxes, and the
2355 proceeds thereof shall be paid to the District. However, this
2356 subsection shall not prohibit the District in its discretion
2357 from using the method prescribed in either s. 197.3632, Florida
2358 Statutes, or chapter 173, Florida Statutes, as each may be
2359 amended from time to time, for collecting and enforcing these
2360 assessments. Each annual installment of benefit special
2361 assessments shall be a lien on the property against which
2362 assessed until paid and shall be enforceable in like manner as
2363 county taxes. The amount of the assessment for the exercise of
2364 the District's powers under subsections (6) and (7) shall be
2365 determined by the board based upon a report of the District's
2366 engineer and assessed by the board upon such lands, which may be
2367 part or all of the lands within the District benefited by the
2368 improvement, apportioned between benefited lands in proportion
2369 to the benefits received by each tract of land. The board may,
2370 if it determines it is in the best interests of the District,
2371 set forth in the proceedings initially levying such benefit
2372 special assessments or in subsequent proceedings a formula for
2373 the determination of an amount, which when paid by a taxpayer
2374 with respect to any tax parcel shall constitute a prepayment of
2375 all future annual installments of such benefit special

2376 assessments and that the payment of which amount with respect to
2377 such tax parcel shall relieve and discharge such tax parcel of
2378 the lien of such benefit special assessments and any subsequent
2379 annual installment thereof. The board may provide further that
2380 upon delinquency in the payment of any annual installment of
2381 benefit special assessments, the prepayment amount of all future
2382 annual installments of benefit special assessments shall be and
2383 become immediately due and payable together with such delinquent
2384 annual installment.

2385 (c) Non-ad valorem maintenance taxes.—If and when
2386 authorized by general law, to maintain and to preserve the
2387 physical facilities and services constituting the works,
2388 improvements, or infrastructure owned by the District pursuant
2389 to this act, to repair and restore any one or more of them, when
2390 needed, and to defray the current expenses of the District,
2391 including any sum which may be required to pay state and county
2392 ad valorem taxes on any lands which may have been purchased and
2393 which are held by the District under the provisions of this act,
2394 the board of supervisors may, upon the completion of said
2395 systems, facilities, services, works, improvements, or
2396 infrastructure, in whole or in part, as may be certified to the
2397 board by the engineer of the board, levy annually a non-ad
2398 valorem and non-millage tax upon each tract or parcel of land
2399 within the District, to be known as a "maintenance tax." This
2400 non-ad valorem maintenance tax shall be apportioned upon the

2401 basis of the net assessments of benefits assessed as accruing
2402 from the original construction and shall be evidenced to and
2403 certified by the board of supervisors of the District not later
2404 than June 1 of each year to the tax collectors for Brevard and
2405 Volusia Counties and shall be extended on the tax rolls and
2406 collected by the tax collector on the merged collection roll of
2407 the tax collector in the same manner and at the same time as
2408 county ad valorem taxes, and the proceeds therefrom shall be
2409 paid to the District. This non-ad valorem maintenance tax shall
2410 be a lien until paid on the property against which assessed and
2411 enforceable in like manner and of the same dignity as county ad
2412 valorem taxes.

2413 (d) Maintenance special assessments.—To maintain and
2414 preserve the facilities and projects of the District, the board
2415 may levy a maintenance special assessment. This assessment may
2416 be evidenced to and certified to the tax collector by the board
2417 of supervisors not later than August 31 of each year and shall
2418 be entered by the property appraiser on the county tax rolls and
2419 shall be collected and enforced by the tax collector in the same
2420 manner and at the same time as county taxes, and the proceeds
2421 therefrom shall be paid to the District. However, this
2422 subsection shall not prohibit the District in its discretion
2423 from using the method prescribed in s. 197.363, s. 197.3631, or
2424 s. 197.3632, Florida Statutes, for collecting and enforcing
2425 these assessments. These maintenance special assessments shall

2426 be a lien on the property against which assessed until paid and
2427 shall be enforceable in like manner as county taxes. The amount
2428 of the maintenance special assessment for the exercise of the
2429 District's powers under this section shall be determined by the
2430 board based upon a report of the District's engineer and
2431 assessed by the board upon such lands, which may be all of the
2432 lands within the District benefited by the maintenance thereof,
2433 apportioned between the benefited lands in proportion to the
2434 benefits received by each tract of land.

2435 (e) Special assessments.—The board may levy and impose any
2436 special assessments pursuant to this subsection.

2437 (f) Enforcement of taxes.—The collection and enforcement
2438 of all taxes levied by the District shall be at the same time
2439 and in like manner as county taxes, and the provisions of the
2440 Laws of Florida relating to the sale of lands for unpaid and
2441 delinquent county taxes; the issuance, sale, and delivery of tax
2442 certificates for such unpaid and delinquent county taxes; the
2443 redemption thereof; the issuance to individuals of tax deeds
2444 based thereon; and all other procedures in connection therewith
2445 shall be applicable to the District to the same extent as if
2446 such statutory provisions were expressly set forth herein. All
2447 taxes shall be subject to the same discounts as county taxes.

2448 (g) When unpaid tax is delinquent; penalty.—All taxes
2449 provided for in this act shall become delinquent and bear
2450 penalties on the amount of such taxes in the same manner as

2451 county taxes.

2452 (h) Status of assessments.—Benefit special assessments,
2453 maintenance special assessments, and special assessments are
2454 hereby found and determined to be non-ad valorem assessments as
2455 defined by s. 197.3632, Florida Statutes. Maintenance taxes are
2456 non-ad valorem taxes and are not special assessments.

2457 (i) Assessments constitute liens; collection.—Any and all
2458 assessments, including special assessments, benefit special
2459 assessments, and maintenance special assessments authorized by
2460 this section, and including special assessments as defined in
2461 paragraph (2) (z) of section 2 and granted and authorized by this
2462 subsection, and including maintenance taxes if authorized by
2463 general law, shall constitute a lien on the property against
2464 which assessed from the date of levy and imposition thereof
2465 until paid, coequal with the lien of state, county, municipal,
2466 and school board taxes. These assessments may be collected, at
2467 the District's discretion, under authority of s. 197.3631,
2468 Florida Statutes, as amended from time to time, by the tax
2469 collector pursuant to the provisions of ss. 197.3632 and
2470 197.3635, Florida Statutes, as amended from time to time, or in
2471 accordance with other collection measures provided by law. In
2472 addition to, and not in limitation of, any powers otherwise set
2473 forth herein or in general law, these assessments may also be
2474 enforced pursuant to the provisions of chapter 173, Florida
2475 Statutes, as amended from time to time.

2476 (j) Land owned by governmental entity.—Except as otherwise
2477 provided by law, no levy of ad valorem taxes or non-ad valorem
2478 assessments under this act or chapter 170, Florida Statutes, or
2479 chapter 197, Florida Statutes, as each may be amended from time
2480 to time, or otherwise, by a board of the District on property of
2481 a governmental entity that is subject to a ground lease as
2482 described in s. 190.003(14), Florida Statutes, shall constitute
2483 a lien or encumbrance on the underlying fee interest of such
2484 governmental entity.

2485 (13) SPECIAL ASSESSMENTS.—

2486 (a) As an alternative method to the levy and imposition of
2487 special assessments pursuant to chapter 170, Florida Statutes,
2488 pursuant to the authority of s. 197.3631, Florida Statutes, or
2489 pursuant to other provisions of general law, now or hereafter
2490 enacted, which provide a supplemental means or authority to
2491 impose, levy, and collect special assessments as otherwise
2492 authorized under this act, the board may levy and impose special
2493 assessments to finance the exercise of any of its powers
2494 permitted under this act using the following uniform procedures:

2495 1. At a noticed meeting, the board of supervisors of the
2496 District may consider and review an engineer's report on the
2497 costs of the systems, facilities, and services to be provided, a
2498 preliminary special assessment methodology, and a preliminary
2499 roll based on acreage or platted lands, depending upon whether
2500 platting has occurred.

2501 a. The special assessment methodology shall address and
2502 discuss and the board shall consider whether the systems,
2503 facilities, and services being contemplated will result in
2504 special benefits peculiar to the property, different in kind and
2505 degree than general benefits, as a logical connection between
2506 the systems, facilities, and services themselves and the
2507 property, and whether the duty to pay the special assessments by
2508 the property owners is apportioned in a manner that is fair and
2509 equitable and not in excess of the special benefit received. It
2510 shall be fair and equitable to designate a fixed proportion of
2511 the annual debt service, together with interest thereon, on the
2512 aggregate principal amount of bonds issued to finance such
2513 systems, facilities, and services which give rise to unique,
2514 special, and peculiar benefits to property of the same or
2515 similar characteristics under the special assessment methodology
2516 so long as such fixed proportion does not exceed the unique,
2517 special, and peculiar benefits enjoyed by such property from
2518 such systems, facilities, and services.

2519 b. The engineer's cost report shall identify the nature of
2520 the proposed systems, facilities, and services, their location,
2521 a cost breakdown plus a total estimated cost, including cost of
2522 construction or reconstruction, labor, and materials, lands,
2523 property, rights, easements, franchises, or systems, facilities,
2524 and services to be acquired, cost of plans and specifications,
2525 surveys of estimates of costs and revenues, costs of

2526 engineering, legal, and other professional consultation
2527 services, and other expenses or costs necessary or incident to
2528 determining the feasibility or practicability of such
2529 construction, reconstruction, or acquisition, administrative
2530 expenses, relationship to the authority and power of the
2531 District in its charter, and such other expenses or costs as may
2532 be necessary or incident to the financing to be authorized by
2533 the board of supervisors.

2534 c. The preliminary special assessment roll shall be in
2535 accordance with the assessment methodology as may be adopted by
2536 the board of supervisors; the special assessment roll shall be
2537 completed as promptly as possible and shall show the acreage,
2538 lots, lands, or plats assessed and the amount of the fairly and
2539 reasonably apportioned assessment based on special and peculiar
2540 benefit to the property, lot, parcel, or acreage of land; and,
2541 if the special assessment against such lot, parcel, acreage, or
2542 portion of land is to be paid in installments, the number of
2543 annual installments in which the special assessment is divided
2544 shall be entered into and shown upon the special assessment
2545 roll.

2546 2. The board of supervisors of the District may determine
2547 and declare by an initial special assessment resolution to levy
2548 and assess the special assessments with respect to assessable
2549 improvements stating the nature of the systems, facilities, and
2550 services, improvements, projects, or infrastructure constituting

2551 such assessable improvements, the information in the engineer's
2552 cost report, the information in the special assessment
2553 methodology as determined by the board at the noticed meeting
2554 and referencing and incorporating as part of the resolution the
2555 engineer's cost report, the preliminary special assessment
2556 methodology, and the preliminary special assessment roll as
2557 referenced exhibits to the resolution by reference. If the board
2558 determines to declare and levy the special assessments by the
2559 initial special assessment resolution, the board shall also
2560 adopt and declare a notice resolution which shall provide and
2561 cause the initial special assessment resolution to be published
2562 once a week for 2 consecutive weeks in newspapers of general
2563 circulation in Brevard and Volusia Counties, and said board
2564 shall by the same resolution fix a time and place at which the
2565 owner or owners of the property to be assessed or any other
2566 persons interested therein may appear before said board and be
2567 heard as to the propriety and advisability of making such
2568 improvements, as to the costs thereof, as to the manner of
2569 payment therefor, and as to the amount thereof to be assessed
2570 against each property so improved. Thirty days' notice in
2571 writing of such time and place shall be given to such property
2572 owners. The notice shall include the amount of the special
2573 assessment and shall be served by mailing a copy to each
2574 assessed property owner at his or her last known address, the
2575 names and addresses of such property owners to be obtained from

2576 the record of the property appraiser of the county political
2577 subdivision in which the land is located or from such other
2578 sources as the District manager or engineer deems reliable, and
2579 proof of such mailing shall be made by the affidavit of the
2580 manager of the District or by the engineer, said proof to be
2581 filed with the District manager, provided that failure to mail
2582 said notice or notices shall not invalidate any of the
2583 proceedings hereunder. It is provided further that the last
2584 publication shall be at least 1 week prior to the date of the
2585 hearing on the final special assessment resolution. Said notice
2586 shall describe the general areas to be improved and advise all
2587 persons interested that the description of each property to be
2588 assessed and the amount to be assessed to each piece, parcel,
2589 lot, or acre of property may be ascertained at the office of the
2590 manager of the District. Such service by publication shall be
2591 verified by the affidavit of the publisher and filed with the
2592 manager of the District. Moreover, the initial special
2593 assessment resolution with its attached, referenced, and
2594 incorporated engineer's cost report, preliminary special
2595 assessment methodology, and preliminary special assessment roll,
2596 along with the notice resolution, shall be available for public
2597 inspection at the office of the manager and the office of the
2598 engineer or any other office designated by the board of
2599 supervisors in the notice resolution. Notwithstanding the
2600 foregoing, the landowners of all of the property which is

2601 proposed to be assessed may give the District written notice of
2602 waiver of any notice and publication provided for in this
2603 subparagraph and such notice and publication shall not be
2604 required; provided, however, that any meeting of the board of
2605 supervisors to consider such resolution shall be a publicly
2606 noticed meeting.

2607 3. At the time and place named in the noticed resolution
2608 as provided for in subparagraph 2., the board of supervisors of
2609 the District shall meet and hear testimony from affected
2610 property owners as to the propriety and advisability of making
2611 the systems, facilities, services, projects, works,
2612 improvements, or infrastructure and funding them with
2613 assessments referenced in the initial special assessment
2614 resolution on the property. Following the testimony and
2615 questions from the members of the board or any professional
2616 advisors to the District of the preparers of the engineer's cost
2617 report, the special assessment methodology, and the special
2618 assessment roll, the board of supervisors shall make a final
2619 decision on whether to levy and assess the particular special
2620 assessments. Thereafter, the board of supervisors shall meet as
2621 an equalizing board to hear and to consider any and all
2622 complaints as to the particular special assessments and shall
2623 adjust and equalize the special assessments to ensure proper
2624 assessment based on the benefit conferred on the property.

2625 4. When so equalized and approved by resolution or

2626 ordinance by the board of supervisors, to be called the final
2627 special assessment resolution, a final special assessment roll
2628 shall be filed with the clerk of the board and such special
2629 assessment shall stand confirmed and remain legal, valid, and
2630 binding first liens on the property against which such special
2631 assessments are made until paid, equal in dignity to the first
2632 liens of ad valorem taxation of county and municipal governments
2633 and school boards. However, upon completion of the systems,
2634 facilities, service, project, improvement, works, or
2635 infrastructure, the District shall credit to each of the
2636 assessments the difference in the special assessment as
2637 originally made, approved, levied, assessed, and confirmed and
2638 the proportionate part of the actual cost of the improvement to
2639 be paid by the particular special assessments as finally
2640 determined upon the completion of the improvement, but in no
2641 event shall the final special assessment exceed the amount of
2642 the special and peculiar benefits as apportioned fairly and
2643 reasonably to the property from the system, facility, or service
2644 being provided as originally assessed. Promptly after such
2645 confirmation, the special assessment shall be recorded by the
2646 clerk of the District in the minutes of the proceedings of the
2647 District, and the record of the lien in this set of minutes
2648 shall constitute prima facie evidence of its validity. The board
2649 of supervisors, in its sole discretion, may, by resolution,
2650 grant a discount equal to all or a part of the payee's

2651 proportionate share of the cost of the project consisting of
2652 bond financing cost, such as capitalized interest, funded
2653 reserves, and bond discounts included in the estimated cost of
2654 the project, upon payment in full of any special assessments
2655 during such period prior to the time such financing costs are
2656 incurred as may be specified by the board of supervisors in such
2657 resolution.

2658 5. District special assessments may be made payable in
2659 installments over no more than 40 years from the date of the
2660 payment of the first installment thereof and may bear interest
2661 at fixed or variable rates.

2662 (b) Notwithstanding any provision of this act or chapter
2663 170, Florida Statutes, that portion of s. 170.09, Florida
2664 Statutes, that provides that special assessments may be paid
2665 without interest at any time within 30 days after the
2666 improvement is completed and a resolution accepting the same has
2667 been adopted by the governing authority shall not be applicable
2668 to any District special assessments, whether imposed, levied,
2669 and collected pursuant to the provisions of this act or general
2670 law, including, but not limited to, chapter 170, Florida
2671 Statutes.

2672 (c) In addition, the District is authorized expressly in
2673 the exercise of its rulemaking power to adopt a rule or rules
2674 which provides or provide for notice, levy, imposition,
2675 equalization, and collection of assessments.

2676 (14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON
2677 ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.—

2678 (a) The board may, after any special assessments or
2679 benefit special assessments for assessable improvements are
2680 made, determined, and confirmed as provided in this act, issue
2681 certificates of indebtedness for the amount so assessed against
2682 the abutting property or property otherwise benefited, as the
2683 case may be, and separate certificates shall be issued against
2684 each part or parcel of land or property assessed, which
2685 certificates shall state the general nature of the improvement
2686 for which the assessment is made. The certificates shall be
2687 payable in annual installments in accordance with the
2688 installments of the special assessment for which they are
2689 issued. The board may determine the interest to be borne by such
2690 certificates, not to exceed the maximum rate allowed by general
2691 law, and may sell such certificates at either private or public
2692 sale and determine the form, manner of execution, and other
2693 details of such certificates. The certificates shall recite that
2694 they are payable only from the special assessments levied and
2695 collected from the part or parcel of land or property against
2696 which they are issued. The proceeds of such certificates may be
2697 pledged for the payment of principal of and interest on any
2698 revenue bonds or general obligation bonds issued to finance in
2699 whole or in part such assessable improvement, or, if not so
2700 pledged, may be used to pay the cost or part of the cost of such

2701 assessable improvements.

2702 (b) The District may also issue assessment bonds, revenue
2703 bonds, or other obligations payable from a special fund into
2704 which such certificates of indebtedness referred to in paragraph
2705 (a) may be deposited or, if such certificates of indebtedness
2706 have not been issued, the District may assign to such special
2707 fund for the benefit of the holders of such assessment bonds or
2708 other obligations, or to a trustee for such bondholders, the
2709 assessment liens provided for in this act unless such
2710 certificates of indebtedness or assessment liens have been
2711 theretofore pledged for any bonds or other obligations
2712 authorized hereunder. In the event of the creation of such
2713 special fund and the issuance of such assessment bonds or other
2714 obligations, the proceeds of such certificates of indebtedness
2715 or assessment liens deposited therein shall be used only for the
2716 payment of the assessment bonds or other obligations issued as
2717 provided in this section. The District is authorized to covenant
2718 with the holders of such assessment bonds, revenue bonds, or
2719 other obligations that it will diligently and faithfully enforce
2720 and collect all the special assessments, and interest and
2721 penalties thereon, for which such certificates of indebtedness
2722 or assessment liens have been deposited in or assigned to such
2723 fund; to foreclose such assessment liens so assigned to such
2724 special fund or represented by the certificates of indebtedness
2725 deposited in the special fund, after such assessment liens have

2726 become delinquent, and deposit the proceeds derived from such
2727 foreclosure, including interest and penalties, in such special
2728 fund; and to make any other covenants deemed necessary or
2729 advisable in order to properly secure the holders of such
2730 assessment bonds or other obligations.

2731 (c) The assessment bonds, revenue bonds, or other
2732 obligations issued pursuant to this section shall have such
2733 dates of issue and maturity as shall be deemed advisable by the
2734 board; however, the maturities of such assessment bonds or other
2735 obligations shall not be more than 2 years after the due date of
2736 the last installment which will be payable on any of the special
2737 assessments for which such assessment liens, or the certificates
2738 of indebtedness representing such assessment liens, are assigned
2739 to or deposited in such special fund.

2740 (d) Such assessment bonds, revenue bonds, or other
2741 obligations issued under this section shall bear such interest
2742 as the board may determine, not to exceed the maximum rate
2743 allowed by general law, and shall be executed, shall have such
2744 provisions for redemption prior to maturity, shall be sold in
2745 the manner, and shall be subject to all of the applicable
2746 provisions contained in this act for revenue bonds, except as
2747 the same may be inconsistent with the provisions of this
2748 section.

2749 (e) All assessment bonds, revenue bonds, or other
2750 obligations issued under the provisions of this section shall

2751 be, shall constitute, and shall have all the qualities and
2752 incidents of negotiable instruments under the law merchant and
2753 the laws of the state.

2754 (15) TAX LIENS.—All taxes of the District provided for in
2755 this act, together with all penalties for default in the payment
2756 of the same and all costs in collecting the same, including a
2757 reasonable attorney fee fixed by the court and taxed as a cost
2758 in the action brought to enforce payment, shall, from January 1
2759 for each year the property is liable to assessment and until
2760 paid, constitute a lien of equal dignity with the liens for
2761 state and county taxes and other taxes of equal dignity with
2762 state and county taxes upon all the lands against which such
2763 taxes shall be levied. A sale of any of the real property within
2764 the District for state and county or other taxes shall not
2765 operate to relieve or release the property so sold from the lien
2766 for subsequent District taxes or installments of District taxes,
2767 which lien may be enforced against such property as though no
2768 such sale thereof had been made. For purposes of s. 197.552,
2769 Florida Statutes, in addition to and not in limitation of such
2770 sale, the lien of all special assessments levied by the District
2771 shall constitute a lien of record held by a municipal or county
2772 governmental unit. The provisions of ss. 194.171, 197.122,
2773 197.333, and 197.432, Florida Statutes, shall be applicable to
2774 District taxes with the same force and effect as if such
2775 provisions were expressly set forth in this act.

2776 (16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
 2777 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.-

2778 (a) The District shall have the power and right to:

2779 1. Pay any delinquent state, county, district, municipal,
 2780 or other tax or assessment upon lands located wholly or
 2781 partially within the boundaries of the District.

2782 2. Redeem or purchase any tax sales certificates issued or
 2783 sold on account of any state, county, district, municipal, or
 2784 other taxes or assessments upon lands located wholly or
 2785 partially within the boundaries of the District.

2786 (b) Delinquent taxes paid, or tax sales certificates
 2787 redeemed or purchased, by the District, together with all
 2788 penalties for the default in payment of the same and all costs
 2789 in collecting the same and a reasonable attorney fee, shall
 2790 constitute a lien in favor of the District of equal dignity with
 2791 the liens of state and county taxes and other taxes of equal
 2792 dignity with state and county taxes upon all the real property
 2793 against which the taxes were levied. The lien of the District
 2794 may be foreclosed in the manner provided in this act.

2795 (c) In any sale of land pursuant to s. 197.542, Florida
 2796 Statutes, as may be amended from time to time, the District may
 2797 certify to the clerk of the circuit court of the county holding
 2798 such sale the amount of taxes due to the District upon the lands
 2799 sought to be sold, and the District shall share in the
 2800 disbursement of the sales proceeds in accordance with the

2801 provisions of this act and under the laws of the state.

2802 (17) FORECLOSURE OF LIENS.—Any lien in favor of the

2803 District arising under this act may be foreclosed by the

2804 District by foreclosure proceedings in the name of the District

2805 in a court of competent jurisdiction as provided by general law

2806 in like manner as is provided in chapter 170, Florida Statutes,

2807 or chapter 173, Florida Statutes, and amendments thereto and the

2808 provisions of those chapters shall be applicable to such

2809 proceedings with the same force and effect as if those

2810 provisions were expressly set forth in this act. Any act

2811 required or authorized to be done by or on behalf of a

2812 municipality in foreclosure proceedings under chapter 170,

2813 Florida Statutes, or chapter 173, Florida Statutes, may be

2814 performed by such officer or agent of the District as the board

2815 of supervisors may designate. Such foreclosure proceedings may

2816 be brought at any time after the expiration of 1 year from the

2817 date any tax, or installment thereof, becomes delinquent;

2818 however, no lien shall be foreclosed against any political

2819 subdivision or agency of the state. Other legal remedies shall

2820 remain available.

2821 (18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,

2822 FACILITIES, AND SERVICES.—To the full extent permitted by law,

2823 the District shall require all lands, buildings, premises,

2824 persons, firms, and corporations within the District to use the

2825 facilities of the District.

2826 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
2827 PROVISIONS REQUIRED.—

2828 (a) No contract shall be let by the board for any goods,
2829 supplies, or materials to be purchased when the amount thereof
2830 to be paid by the District shall exceed the amount provided in
2831 s. 287.017, Florida Statutes, as amended from time to time, for
2832 category four, unless notice of bids shall be advertised once in
2833 newspapers of general circulation in Brevard and Volusia
2834 Counties. Any board seeking to construct or improve a public
2835 building, structure, or other public works shall comply with the
2836 bidding procedures of s. 255.20, Florida Statutes, as amended
2837 from time to time, and other applicable general law. In each
2838 case, the bid of the lowest responsive and responsible bidder
2839 shall be accepted unless all bids are rejected because the bids
2840 are too high or the board determines it is in the best interests
2841 of the District to reject all bids. The board may require the
2842 bidders to furnish bond with a responsible surety to be approved
2843 by the board. Nothing in this subsection shall prevent the board
2844 from undertaking and performing the construction, operation, and
2845 maintenance of any project or facility authorized by this act by
2846 the employment of labor, material, and machinery.

2847 (b) The provisions of the Consultants' Competitive
2848 Negotiation Act, s. 287.055, Florida Statutes, apply to
2849 contracts for engineering, architecture, landscape architecture,
2850 or registered surveying and mapping services let by the board.

2851 (c) Contracts for maintenance services for any District
 2852 facility or project shall be subject to competitive bidding
 2853 requirements when the amount thereof to be paid by the District
 2854 exceeds the amount provided in s. 287.017, Florida Statutes, as
 2855 amended from time to time, for category four. The District shall
 2856 adopt rules, policies, or procedures establishing competitive
 2857 bidding procedures for maintenance services. Contracts for other
 2858 services shall not be subject to competitive bidding unless the
 2859 District adopts a rule, policy, or procedure applying
 2860 competitive bidding procedures to said contracts. Nothing herein
 2861 shall preclude the use of requests for proposal instead of
 2862 invitations to bid as determined by the District to be in its
 2863 best interest.

2864 (20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
 2865 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.—

2866 (a) The District is authorized to prescribe, fix,
 2867 establish, and collect rates, fees, rentals, or other charges,
 2868 hereinafter sometimes referred to as "revenues," and to revise
 2869 the same from time to time, for the systems, facilities, and
 2870 services furnished by the District, within the limits of the
 2871 District, including, but not limited to, recreational
 2872 facilities, water management and control facilities, and water
 2873 and sewer systems; to recover the costs of making connection
 2874 with any District service, facility, or system; and to provide
 2875 for reasonable penalties against any user or property for any

2876 such rates, fees, rentals, or other charges that are delinquent.
2877 (b) No such rates, fees, rentals, or other charges for any
2878 of the facilities or services of the District shall be fixed
2879 until after a public hearing at which all the users of the
2880 proposed facility or services or owners, tenants, or occupants
2881 served or to be served thereby and all other interested persons
2882 shall have an opportunity to be heard concerning the proposed
2883 rates, fees, rentals, or other charges. Rates, fees, rentals,
2884 and other charges shall be adopted under the administrative
2885 rulemaking authority of the District, but shall not apply to
2886 District leases. Notice of such public hearing setting forth the
2887 proposed schedule or schedules of rates, fees, rentals, and
2888 other charges shall have been published at least once and at
2889 least 10 days prior to such public hearing in newspapers of
2890 general circulation in Brevard and Volusia Counties. The
2891 rulemaking hearing may be adjourned from time to time. After
2892 such hearing, such schedule or schedules, either as initially
2893 proposed or as modified or amended, may be finally adopted. A
2894 copy of the schedule or schedules of such rates, fees, rentals,
2895 or charges as finally adopted shall be kept on file in an office
2896 designated by the board and shall be open at all reasonable
2897 times to public inspection. The rates, fees, rentals, or charges
2898 so fixed for any class of users or property served shall be
2899 extended to cover any additional users or properties thereafter
2900 served which shall fall in the same class, without the necessity

2901 of any notice or hearing.

2902 (c) Such rates, fees, rentals, and charges shall be just
2903 and equitable and uniform for users of the same class, and when
2904 appropriate may be based or computed either upon the amount of
2905 service furnished, upon the average number of persons residing
2906 or working in or otherwise occupying the premises served, or
2907 upon any other factor affecting the use of the facilities
2908 furnished, or upon any combination of the foregoing factors, as
2909 may be determined by the board on an equitable basis.

2910 (d) The rates, fees, rentals, or other charges prescribed
2911 shall be such as will produce revenues, together with any other
2912 assessments, taxes, revenues, or funds available or pledged for
2913 such purpose, at least sufficient to provide for the items
2914 hereinafter listed, but not necessarily in the order stated:

2915 1. To provide for all expenses of operation and
2916 maintenance of such facility or service.

2917 2. To pay when due all bonds and interest thereon for the
2918 payment of which such revenues are, or shall have been, pledged
2919 or encumbered, including reserves for such purpose.

2920 3. To provide for any other funds which may be required
2921 under the resolution or resolutions authorizing the issuance of
2922 bonds pursuant to this act.

2923 (e) The board shall have the power to enter into contracts
2924 for the use of the projects of the District and with respect to
2925 the services, systems, and facilities furnished or to be

2926 | furnished by the District.

2927 | (21) RECOVERY OF DELINQUENT CHARGES.—In the event that any
 2928 | rates, fees, rentals, charges, or delinquent penalties are not
 2929 | paid as and when due and are in default for 60 days or more, the
 2930 | unpaid balance thereof and all interest accrued thereon,
 2931 | together with reasonable attorney fees and costs, may be
 2932 | recovered by the District in a civil action.

2933 | (22) DISCONTINUANCE OF SERVICE.—If any rentals, fees, or
 2934 | other charges for District services or facilities are not paid
 2935 | when due, the board shall have the power, under such reasonable
 2936 | rules and regulations as the board may adopt, to discontinue and
 2937 | shut off such services or facilities until such rentals, fees,
 2938 | or other charges, including interest, penalties, and other
 2939 | charges for the shutting off and discontinuance and the
 2940 | restoration of such services or facilities, are fully paid; and,
 2941 | for such purposes, the board may enter on any lands, waters, or
 2942 | premises of any person, firm, corporation, or body, public or
 2943 | private, within the District limits. Such delinquent rentals,
 2944 | fees, or other charges, including interest, penalties, and other
 2945 | charges for the shutting off and discontinuance and the
 2946 | restoration of such services or facilities and reasonable
 2947 | attorney fees and other expenses, may be recovered by the
 2948 | District, which may also enforce payment of such delinquent
 2949 | rentals, fees, or other charges by any other lawful method of
 2950 | enforcement.

2951 (23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved
2952 person may have recourse to such remedies in law and at equity
2953 as may be necessary to ensure compliance with the provisions of
2954 this act, including injunctive relief to enjoin or restrain any
2955 person violating the provisions of this act or any bylaws,
2956 resolutions, regulations, rules, codes, or orders adopted under
2957 this act. In case any building or structure is erected,
2958 constructed, reconstructed, altered, repaired, converted, or
2959 maintained, or any building, structure, land, or water is used,
2960 in violation of this act or of any code, order, resolution, or
2961 other regulation made under authority conferred by this act or
2962 under law, the board or any citizen residing in the District may
2963 institute any appropriate action or proceeding to prevent such
2964 unlawful erection, construction, reconstruction, alteration,
2965 repair, conversion, maintenance, or use; to restrain, correct,
2966 or avoid such violation; to prevent the occupancy of such
2967 building, structure, land, or water; and to prevent any illegal
2968 act, conduct, business, or use in or about such premises, land,
2969 or water.

2970 (24) SUITS AGAINST THE DISTRICT.—Any suit or action
2971 brought or maintained against the District for damages arising
2972 out of tort, including, without limitation, any claim arising
2973 upon account of an act causing an injury or loss of property,
2974 personal injury, or death, shall be subject to the limitations
2975 provided in s. 768.28, Florida Statutes.

2976 (25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.—All
2977 District property shall be exempt from levy and sale by virtue
2978 of an execution, and no execution or other judicial process
2979 shall issue against such property, nor shall any judgment
2980 against the District be a charge or lien on its property or
2981 revenues; however, nothing contained herein shall apply to or
2982 limit the rights of bondholders to pursue any remedy for the
2983 enforcement of any lien or pledge given by the District in
2984 connection with any of the bonds or obligations of the District.

2985 (26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.—

2986 (a) The board of supervisors of the District shall not ask
2987 the Legislature to repeal or amend this act to expand or to
2988 contract the boundaries of the District or otherwise cause the
2989 merger or termination of the District without first obtaining a
2990 resolution or official statement from Brevard and Volusia
2991 Counties and the City of Edgewater as required by s.
2992 189.031(2)(e)4., Florida Statutes, for creation of an
2993 independent special district. The District's consent may be
2994 evidenced by a resolution or other official written statement of
2995 the District.

2996 (b) The District shall remain in existence until:

2997 1. The District is terminated and dissolved pursuant to
2998 amendment to this act by the Legislature.

2999 2. The District has become inactive pursuant to s.
3000 189.062, Florida Statutes.

3001 (27) MERGER WITH COMMUNITY DEVELOPMENT DISTRICTS.—
 3002 (a) The District may merge with one or more community
 3003 development districts situated wholly within its boundaries. The
 3004 District shall be the surviving entity of the merger. Any
 3005 mergers shall commence upon each such community development
 3006 district filing a written request for merger with the District.
 3007 A copy of the written request shall also be filed with Brevard
 3008 and Volusia Counties and the City of Edgewater. The District,
 3009 subject to the direction of its board, shall enter into a merger
 3010 agreement which shall provide for:

- 3011 1. The proper allocation of debt;
- 3012 2. The manner in which such debt shall be retired;
- 3013 3. The transition of the community development district
 3014 board; and
- 3015 4. The transfer of all financial obligations and operating
 3016 and maintenance responsibilities to the District.

3017 (b) The execution of the merger agreement by the District
 3018 and each community development district constitutes consent of
 3019 the landowners within each District. The District and each
 3020 community development district requesting merger shall hold a
 3021 public hearing within its boundaries to provide information
 3022 about and take public comment on the proposed merger in the
 3023 merger agreement. The public hearing shall be held within 45
 3024 days after the execution of the merger agreement by all parties
 3025 thereto. Notice of the public hearing shall be published at

3026 least 14 days before the hearing in newspapers of general
 3027 circulation in Brevard and Volusia Counties. At the conclusion
 3028 of the public hearing each District shall consider a resolution
 3029 either approving or disapproving of the proposed merger. If the
 3030 District and each community development district which is a
 3031 party to the merger agreement adopt a resolution approving the
 3032 proposed merger, the resolutions and the merger shall be filed
 3033 with Brevard and Volusia Counties and the City of Edgewater.
 3034 Upon receipt of the resolutions approving the merger and the
 3035 merger agreement, the county or city which originally
 3036 established the community development district shall adopt a
 3037 nonemergency ordinance dissolving such community development
 3038 district pursuant to s. 190.046(10), Florida Statutes.

3039 (28) INCLUSION OF TERRITORY.—The inclusion of any or all
 3040 territory of the District within a municipality does not change,
 3041 alter, or affect the boundary, territory, existence, or
 3042 jurisdiction of the District.

3043 (29) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
 3044 DISCLOSURE TO PURCHASER.—Subsequent to the creation of the
 3045 District under this act, each contract for the initial sale of a
 3046 parcel of real property and each contract for the initial sale
 3047 of a residential unit within the District shall include,
 3048 immediately prior to the space reserved in the contract for the
 3049 signature of the purchaser, the following disclosure statement
 3050 in boldfaced and conspicuous type which is larger than the type

3051 in the remaining text of the contract: "THE DEERING PARK
 3052 STEWARDSHIP DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS,
 3053 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND
 3054 ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE
 3055 COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE
 3056 DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE
 3057 DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY
 3058 AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER
 3059 TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

3060 (30) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days
 3061 after the election of the first board of supervisors creating
 3062 the District, the District shall cause to be recorded in the
 3063 grantor-grantee index of the property records in Brevard and
 3064 Volusia Counties and the City of Edgewater a "Notice of Creation
 3065 and Establishment of the Deering Park Stewardship District." The
 3066 notice shall, at a minimum, include the legal description of the
 3067 property covered by this act.

3068 (31) DISTRICT PROPERTY PUBLIC; FEES.—Any system, facility,
 3069 service, works, improvement, project, or other infrastructure
 3070 owned by the District, or funded by federal tax-exempt bonding
 3071 issued by the District, is public; and the District may by rule
 3072 regulate, and may impose reasonable charges or fees for, the use
 3073 thereof, but not to the extent that such regulation or
 3074 imposition of such charges or fees constitutes denial of
 3075 reasonable access.

3076 Section 7. If any provision of this act is determined
3077 unconstitutional or otherwise determined invalid by a court of
3078 law, all the rest and remainder of the act shall remain in full
3079 force and effect as the law of this state.

3080 Section 8. This act shall take effect upon becoming a law,
3081 except that the provisions of this act which authorize the levy
3082 of ad valorem taxation shall take effect only upon approval by a
3083 majority vote of those qualified electors of the Deering Park
3084 Stewardship District voting in a referendum election held at
3085 such time as all members of the board are qualified electors who
3086 are elected by qualified electors of the District as provided in
3087 this act.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1303 (2020)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

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

3
4 **Amendment**

5 Remove line 1919 and insert:

6 District to provide communications services to retail customers
7 or otherwise act to impair existing service provider franchise
8 agreements. However, the District may contract with such
9 providers for resale purposes, provided the District complies
10 with s. 350.81, Florida Statutes, when contracting for resale
11 purposes.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1387 Sale of Surplus State-owned Lands

SPONSOR(S): Grant, J.

TIED BILLS: **IDEN./SIM. BILLS:** SB 1714

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations & Technology Appropriations Subcommittee	12 Y, 0 N	Keith	Topp
2) State Affairs Committee		Etheridge	Williamson
3) Appropriations Committee			

SUMMARY ANALYSIS

The Board of Trustees (board) of the Internal Improvement Trust Fund is tasked with determining which state-owned lands, the title to which is vested in the board, may be surplus. Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, donation, or for no consideration must be deposited into the Internal Improvement Trust Fund.

The Architects Incidental Trust Fund was created for the purpose of providing sufficient funds for the operation of the facilities development activities of the Department of Management Services (department). The department may levy and assess an amount necessary to cover the cost of administration by the department of fixed capital outlay projects on which it serves as owner representative on behalf of the state. The fund is used to preserve the integrity of funds collected from fixed capital outlay projects and to document the expenditure and utilization of such funds. The primary sources of revenue for the fund comes from construction fees from other state agencies, assessments on state fixed capital outlay projects, direct supplemental contracts, and interest earnings.

The bill removes the requirement that a building or parcel of land must be offered to state universities or Florida College System institutions prior to being offered for lease or sale. The bill also provides requirements for determining the value of surplus lands to be based on the highest and best use of the property considering all applicable developmental rights to ensure the highest value to the state.

The bill clarifies that only funds received from the sale of surplus state-owned office buildings and the nonconservation lands associated with such buildings must be deposited into the Architects Incidental Trust Fund and that the funds may only be used for specific operational and facilities development activities of the department.

The bill may have a neutral, yet indeterminate fiscal impact to state government revenues and no fiscal impact to local government. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Architects Incidental Trust Fund

The Architects Incidental Trust Fund was created for the purpose of providing sufficient funds for the operation of the facilities development activities of the Department of Management Services (department).¹ The department may levy and assess an amount necessary to cover the cost of administration by the department of fixed capital outlay projects on which it serves as owner representative on behalf of the state. The assessment rate is provided in the General Appropriations Act based on estimated operating cost projections for the services to be rendered. The total assessment of funds collected from various fixed capital outlay projects is transferred into the Architects Incidental Trust Fund at the beginning of each fiscal year.²

The trust fund is used to preserve the integrity of funds collected from fixed capital outlay projects and to document the expenditures and utilization of such funds. The primary sources of revenue for the fund comes from construction fees from other state agencies, assessments on state fixed capital outlay projects, direct supplemental contracts, and interest earnings.

Surplus of State-Owned Lands

The Board of Trustees (board) of the Internal Improvement Trust Fund³ is tasked with determining which state-owned lands, the title to which is vested in the board, may be surplus.⁴ Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.⁵

Within 60 days after an offer for lease of a surplus building or parcel, a state university or Florida College System institution requesting the lease must submit a plan for review and approval by the Board regarding the intended use, including any future use, of the building or parcel of land before approval of any lease.⁶ State agencies that request the lease of such facilities or parcels must also submit a plan within 60 days for review and approval by the Board.⁷ The state agency plan must include the intended use, including at a minimum, the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria required by board rules.⁸

In current practice, the lease can be executed for up to 50 years. Pursuant to Rule 18-2.020(8), F.A.C., an annual administrative fee of \$300 to occupy state-owned nonconservation land is assessed in July of each year.⁹ There are no other fees, such as lease fees, assessed to a state university or Florida College System institution if a state-owned building and associated non-conservation land is determined to be suited for sale, and a state agency, state university, or Florida College System institution claims the first right of lease.¹⁰

¹ S. 215.196(1), F.S.

² S. 215.196(2), F.S.

³ S. 253.001, F.S.

⁴ S. 253.0341(1), F.S.

⁵ S. 253.0341(7), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ R. 18-2.020(8), F.A.C.

¹⁰ Department of Management Services, Agency Analysis of 2020 House Bill 1387, p. 2 (Jan. 29, 2020).

Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, donation, or for no consideration are deposited into the Internal Improvement Trust Fund.¹¹

Effect of the Bill

The bill amends s. 215.196, F.S., requiring that funds received from the sale of surplus state-owned office buildings, as defined in s. 255.248, F.S., and the nonconservation lands associated with such buildings, must be deposited into the Architects Incidental Trust Fund. The bill also requires that the trust fund deposits are for providing sufficient funds for the operation of the facilities development activities of the department and to acquire, lease, plan, entitle, design, permit, construct, or maintain state-owned office buildings as defined in s. 255.248(9), F.S., and nonconservation lands associated with such buildings.

The bill amends s. 253.0341, F.S., removing a requirement that a state-owned building or parcel of land be offered to state universities or Florida College System institutions prior to being offered for lease or sale. The bill also provides requirements for determining the value of surplus lands to be based on the highest and best use of the property considering all applicable developmental rights to ensure the highest value to the state as provided in s. 253.03(7)(a), F.S. The bill defines the term “highest and best use” as the reasonable, probable, and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and results in the highest value.

The bill clarifies that only funds received from the sale of surplus state-owned office buildings, and the nonconservation lands associated with such buildings must be deposited into the Architects Incidental Trust Fund. The funds that would be received from the sale of surplus nonconservation lands or lands that were acquired by gift, donation, or for no consideration will continue to be deposited into the Internal Improvement Trust Fund as required by current law.¹²

B. SECTION DIRECTORY:

Section 1. Amends s. 215.196, F.S., relating to the deposit of funds into the Architects Incidental Trust Fund within the department.

Section 2. Amends s. 253.0341, F.S., relating to sale of surplus state-owned buildings and lands.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹¹ S. 253.0341(14), F.S.

¹² *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a neutral, yet indeterminate fiscal impact to state government revenues. There could be an increase in state revenues if a state-owned office building and the associated nonconservation land is sold, and the funds are deposited into the Architects Incidental Trust Fund. Conversely, there could be a negative impact to the Internal Improvement Trust Fund related to funds that would have otherwise been received prior to provisions in the bill redirecting them to the Architects Incidental Trust Fund. Any proceeds from the sale of state-owned buildings and nonconservation lands would remain in the Architects Incidental Trust Fund until an appropriation is provided by the Legislature.

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the sale of surplus state-owned
 3 lands; amending s. 215.196, F.S.; requiring funds from
 4 the sale of surplus state-owned buildings and
 5 associated nonconservation lands to be deposited in
 6 the Architects Incidental Trust Fund and used for
 7 specified purposes; amending s. 253.0341, F.S.;
 8 removing the requirement that surplus state-owned
 9 buildings and lands be offered for lease or sale to
 10 state universities and Florida College System
 11 institutions before being offered to state agencies;
 12 providing a requirement for determining the value of
 13 surplus lands; defining the term "highest and best
 14 use"; requiring funds from the sale of surplus state-
 15 owned buildings and associated nonconservation lands
 16 be deposited into the Architects Incidental Trust
 17 Fund; providing an effective date.

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

20
 21 Section 1. Subsection (3) is added to section 215.196,
 22 Florida Statutes, to read:

23 215.196 Architects Incidental Trust Fund; creation;
 24 assessment.—

25 (3) Funds received from the sale of surplus state-owned

26 office buildings as defined in s. 255.248 and the
27 nonconservation lands associated with such buildings pursuant to
28 s. 253.0341(14) (b) shall be deposited in the Architects
29 Incidental Trust Fund for the purpose of providing sufficient
30 funds for the operation of the facilities development activities
31 of the Department of Management Services and to acquire, lease,
32 plan, entitle, design, permit, construct, or maintain state-
33 owned office buildings as defined in s. 255.248(9) and
34 nonconservation lands associated with such buildings.

35 Section 2. Subsections (7), (8), and (14) of section
36 253.0341, Florida Statutes, are amended to read:

37 253.0341 Surplus of state-owned lands.—

38 (7) Before a building or parcel of land is offered for
39 lease or sale to a local or federal unit of government or a
40 private party, it shall first be offered for lease to state
41 agencies, ~~state universities, and Florida College System~~
42 ~~institutions, with priority consideration given to state~~
43 ~~universities and Florida College System institutions. Within 60~~
44 ~~days after the offer for lease of a surplus building or parcel,~~
45 ~~a state university or Florida College System institution that~~
46 ~~requests the lease must submit a plan for review and approval by~~
47 ~~the Board of Trustees of the Internal Improvement Trust Fund~~
48 ~~regarding the intended use, including future use, of the~~
49 ~~building or parcel of land before approval of a lease. Within 60~~
50 ~~days after the offer for lease of a surplus building or parcel,~~

51 a state agency that requests the lease of such facility or
52 parcel must submit a plan for review and approval by the board
53 of trustees regarding the intended use. The state agency plan
54 must, at a minimum, include the proposed use of the facility or
55 parcel, the estimated cost of renovation, a capital improvement
56 plan for the building, evidence that the building or parcel
57 meets an existing need that cannot otherwise be met, and other
58 criteria developed by rule by the board of trustees. The board
59 or its designee shall compare the estimated value of the
60 building or parcel to any submitted business plan to determine
61 if the lease or sale is in the best interest of the state. The
62 board of trustees shall adopt rules pursuant to chapter 120 for
63 the implementation of this section.

64 (8) The sale price of lands determined to be surplus
65 pursuant to this section and s. 253.82 shall be determined by
66 the Division of State Lands, which shall consider an appraisal
67 of the property or, if the estimated value of the land is
68 \$500,000 or less, a comparable sales analysis or a broker's
69 opinion of value. The division may require a second appraisal.
70 The individual or entity that requests to purchase the surplus
71 parcel shall pay all costs associated with determining the
72 property's value, if any.

73 (a) A written valuation of land determined to be surplus
74 pursuant to this section and s. 253.82, and related documents
75 used to form the valuation or which pertain to the valuation,

76 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
77 I of the State Constitution.

78 1. The exemption expires 2 weeks before the contract or
79 agreement regarding the purchase, exchange, or disposal of the
80 surplus land is first considered for approval by the board of
81 trustees.

82 2. Before expiration of the exemption, the Division of
83 State Lands may disclose confidential and exempt appraisals,
84 valuations, or valuation information regarding surplus land:

85 a. During negotiations for the sale or exchange of the
86 land;

87 b. During the marketing effort or bidding process
88 associated with the sale, disposal, or exchange of the land to
89 facilitate closure of such effort or process;

90 c. When the passage of time has made the conclusions of
91 value invalid; or

92 d. When negotiations or marketing efforts concerning the
93 land are concluded.

94 (b) A unit of government that acquires title to lands
95 pursuant to this section for less than appraised value may not
96 sell or transfer title to all or any portion of the lands to any
97 private owner for 10 years. A unit of government seeking to
98 transfer or sell lands pursuant to this paragraph must first
99 allow the board of trustees to reacquire such lands for the
100 price at which the board of trustees sold such lands.

101 (c) For the purposes of determining the value of surplus
 102 lands pursuant to this subsection, the value shall be based on
 103 the highest and best use of the property considering all
 104 applicable developmental rights to ensure the highest value to
 105 the state as provided in s. 253.03(7) (a). As used in this
 106 paragraph, the term "highest and best use" means the reasonable,
 107 probable, and legal use of vacant land or an improved property
 108 that is physically possible, appropriately supported,
 109 financially feasible, and that results in the highest value.

110 (14) (a) Funds received from the sale of surplus
 111 nonconservation lands or lands that were acquired by gift, by
 112 donation, or for no consideration shall be deposited into the
 113 Internal Improvement Trust Fund.

114 (b) Notwithstanding paragraph (a), funds received from the
 115 sale of surplus state-owned office buildings as defined in s.
 116 255.248 and the nonconservation lands associated with such
 117 buildings pursuant to this section shall be deposited into the
 118 Architects Incidental Trust Fund.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1433 Drones
SPONSOR(S): Yarborough, Watson, C. and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 520

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N	Frost	Hall
2) State Affairs Committee		Johnson	Williamson
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida law defines a drone as a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload. Florida law restricts the use of drones to conduct surveillance. Law enforcement may not use a drone to gather evidence or other information, with certain exceptions. When law enforcement has reasonable suspicion that swift action is needed for one of the following reasons, drone use is permitted:

- To prevent imminent danger to life or serious damage to property;
- To forestall the imminent escape of a suspect or the destruction of evidence; or
- To achieve purposes including facilitating the search for a missing person.

Other exceptions authorizing drone use include, among others, countering terrorist attacks, effecting a search warrant, aerial mapping, and certain lawful business activities licensed by the state.

The bill expands the exceptions to the prohibition on drone surveillance to permit the use of a drone:

- To provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more.
- To assist a law enforcement agency with traffic management, except that a drone may not be used to issue a traffic infraction citation based on images or video captured by the drone.
- To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
- By a state agency or political subdivision:
 - To assess damage due to a flood, wildfire, or natural disaster; or
 - For vegetation or wildlife management on publicly owned land or water.
- By certified fire department personnel to perform tasks within the scope and practice of their certification.

The bill may have a positive fiscal impact on the state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Drones

Under Florida law, a drone is a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.¹

The entire system of a drone and its associated elements, including communication links and components used to control the drone, is called an unmanned aircraft system.²

Drones can range vastly in size and weight and may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone. Drones can also be equipped with infrared cameras³ and "LADAR" (laser radar).⁴

Public Safety Uses for Drones

Drones have proven useful to law enforcement and governmental entities. A study by the Center for the Study of the Drone at Bard College estimates that at least 910 state and local police, fire, emergency medical services, and other public safety agencies have acquired drones in recent years.⁵ Two-thirds of the public safety agencies using drones are law enforcement agencies.⁶ Some available capabilities include searching for missing persons;⁷ enhancing situational awareness in active shooter, hostage, or barricaded suspect incidents;⁸ and assisting with border patrol operations.⁹

In traffic accident reconstruction, a drone can capture photographs from above a crash site for highly accurate reconstructions using composite images.¹⁰ The North Carolina Department of Transportation (NCDOT) found that by utilizing drones and advanced imaging software, law enforcement can greatly

¹ S. 934.50(2)(a), F.S.

² S. 330.41(2)(c), F.S.

³ Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Apr. 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited Jan. 7, 2020).

⁴ The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Massachusetts Institute of Technology, *Micro-lidar*, available at <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last visited Jan. 7, 2020).

⁵ Dan Gettinger, Center for the Study of the Drone at Bard College, *Public Safety Drones: An Update* (May 2018), <https://dronecenter.bard.edu/files/2018/05/CSD-Public-Safety-Drones-Update-1.pdf> (last visited Jan. 29, 2020).

⁶ *Id.*

⁷ Associated Press, *Lost horse riders found with drone* (Jan. 26, 2019), <https://www.wctv.tv/content/news/Lost-horse-riders-found-with-drone-504913522.html> (last visited Jan. 24, 2020).

⁸ Los Angeles Police Department, *Small Unmanned Aerial System Pilot Program Deployment Guidelines and Procedures* (Oct. 13, 2017), http://www.lapdpolicecom.lacity.org/101717/BPC_17-0410.pdf (last visited Jan. 29, 2020).

⁹ David Bier and Matthew Feeney, *Drones on the Border: Efficacy and Privacy Implications*, Cato Institute (May 1, 2018), <https://www.cato.org/publications/immigration-research-policy-brief/drones-border-efficacy-privacy-implications> (last visited Jan. 29, 2020).

¹⁰ Bob Susnjara, *How drones help Lake County police investigate crashes, get roads open faster*, DAILY HERALD (May 7, 2017), <http://www.dailyherald.com/news/20170506/how-drones-help-lake-county-police-investigate-crashes-get-roads-open-faster> (last visited Jan. 29, 2020).

accelerate accident investigations at a lower cost and with less risk to motorists and investigators.¹¹ In one study, NCDOT simulated a two-car crash and found that a drone was able to map the scene in 25 minutes while a terrestrial scanner, traditionally used for such mapping, took one hour and 51 minutes.¹² Other departments cite similar time-saving benefits to drone use, which consequently saves resources and helps reopen roads more quickly.¹³

Another potential use for drones is in traffic management, where the need for timely information on traffic flow and incidents is essential.¹⁴ A 2004 study from the University of Florida, in conjunction with the Florida Department of Transportation, found that drone use in data collection and other tasks could drastically improve traffic management.¹⁵ More recently, the Georgia Department of Transportation conducted a feasibility study to determine the economic and operational benefits of using drones.¹⁶ The study noted that current traffic surveillance technologies are either inflexible, such as fixed traffic sensors, or labor intensive;¹⁷ however, drones provide a low-cost means of observing traffic aerially and thus improve response times and outcomes for a number of different traffic events.¹⁸ In 2018, the Ohio Department of Transportation launched a three-year study on the potential for coordination and communication between smart vehicles, transportation infrastructure, and drones.¹⁹

Drones also promote efficiency in responding to natural disasters. A drone can quickly assess damage to buildings and infrastructure.²⁰ During Hurricane Harvey in Houston in 2017, drones were used to monitor levees, predict flooding, estimate how long an area would be underwater, and create detailed maps to help emergency management agencies.²¹ Following Hurricane Michael in 2018, the University of Florida Institute of Food and Agricultural Sciences used drones to determine agricultural crop damage and yield reduction to provide a more accurate account of the damage caused by the storm.²² Drones may also provide vital assistance to fire departments by using thermal cameras to find victims trapped in a fire, assess how a fire is spreading, or to make emergency supply deliveries.²³

Federal Drone Regulation

The Federal Aviation Administration (FAA) regulates use of navigable airspace.²⁴ The FAA has allowed drone use for essential public operations such as firefighting, disaster relief, search and rescue, law enforcement, border patrol, and scientific research since 1990.²⁵ In February 2012, the Congress

¹¹ North Carolina Department of Transportation, Aviation Division, *Collision Scene Reconstruction and Investigation Using Unmanned Aircraft Systems* (August 2017), <https://www.ncdot.gov/divisions/aviation/Documents/ncshp-uas-mapping-study.pdf#search=traffic%20reconstruction%20drone> (last visited Jan. 29, 2020).

¹² *Id.*

¹³ Jenni Bergal, Pew Charitable Trusts, *Another Use for Drones: Investigating Car Wrecks* (August 6, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/08/06/another-use-for-drones-investigating-car-wrecks> (last visited Jan. 29, 2020).

¹⁴ Florida Department of Transportation, *Use of Unmanned Aerial Vehicles in Traffic Surveillance and Traffic Management: Technical Memorandum*, pg. 1 (May 12, 2005), https://www.i95coalition.org/wp-content/uploads/2015/03/Report_TechMemo_UAV_FL.pdf (last visited Jan. 29, 2020).

¹⁵ *Id.* at 4.

¹⁶ Javier Irizarry and Eric Johnson, *Feasibility Study to Determine the Economic and Operational Benefits of Utilizing Unmanned Aerial Vehicles (UAVs): Final Report* (May 6, 2014), <https://smartech.gatech.edu/bitstream/handle/1853/52810/FHWA-GA-1H-12-38.pdf> (last visited Jan. 29, 2020).

¹⁷ *Id.* at 13.

¹⁸ *Id.*

¹⁹ Matt Leonard, *Ohio plans to integrate drones into traffic management*, GCN (Jun. 19, 2018), <https://gcn.com/articles/2018/06/19/ohio-drone-traffic-management.aspx> (last visited Jan. 29, 2020).

²⁰ Matthew Hutson, *Hurricanes Show Why Drones Are the Future of Disaster Relief* (Sep. 9, 2017), <https://www.nbcnews.com/mach/science/hurricanes-show-why-drones-are-future-disaster-relief-ncna799961> (last visited Jan. 29, 2020).

²¹ *Id.*

²² Beverly James, *Florida Panhandle: Drones Used to Assess Hurricane Michael Damage* (Oct. 30, 2018), <https://agfax.com/2018/10/30/florida-panhandle-drones-used-to-assess-hurricane-michael-damage/> (last visited Jan. 29, 2020).

²³ Zacc Dukowitz, *7 ways Fire Departments Use Drones in the Field* (Apr. 25, 2018), <https://uavcoach.com/drones-fire-departments/> (last visited Jan. 29, 2020).

²⁴ 49 U.S.C. § 40103 (2019).

²⁵ FAA, *Fact Sheet – Unmanned Aircraft Systems*, (Feb. 15, 2015), https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=18297 (last visited Jan. 29, 2020).

passed the Federal Aviation Authority Modernizing and Reform Act (Act), which required the FAA to safely open the nation's airspace to drones by September 2015.

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.²⁶ The 2016 small drone regulations facilitated civilian drone use in the navigable airspace and included airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA. These regulations, which are currently in effect, also include a maximum altitude of 400 feet above the ground or a structure, a requirement that the operator maintain visual line of sight of the aircraft, and a prohibition on operating a drone at night.

In 2017, the FAA launched the Unmanned Aircraft Systems Integration Pilot Program.²⁷ One objective of this pilot program is to test and evaluate various models of state, local, and tribal government involvement to develop and enforce federal regulation of drone operations. Current pilot program participants are exploring package delivery, delivery of life-saving medical equipment, pipeline inspection, airport security, and border protection.²⁸ These proposals require the FAA to waive some regulations controlling drone operation.

On January 18, 2019, the FAA announced a new proposed regulation for the use of drones that would allow drone operators to routinely fly over people and fly at night.²⁹ The proposed regulation creates a risk-assessment model based upon the weight and design of the drone, and considers mitigation of the drone design to prohibit serious injury or property damage should the drone make contact with a person or property on the ground.³⁰ The FAA began accepting public comment on the proposed regulation on February 13, 2019, and has yet to complete a final draft.³¹

Fourth Amendment Considerations

The Fourth Amendment of the United States Constitution guarantees:

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and
- No warrants shall issue without probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.³²

Under Fourth Amendment jurisprudence, a search occurs whenever the government intrudes upon an area in which a person has a reasonable expectation of privacy. If there is no reasonable expectation of privacy in the area, Fourth Amendment protections do not apply. However, if the activity qualifies as a search because there is a reasonable expectation of privacy in the area, either the government must secure a warrant or an exception to the warrant requirement must apply.³³

Searches from the Navigable Airspace

The United States Supreme Court held that a person does not have an expectation of privacy in the navigable airspace above otherwise protected areas, such as a home. In 1986, the Court held in *California v. Ciraolo* that police officers who flew a private plane 1,000 feet over a yard to observe marijuana growing within did not conduct a search under the Fourth Amendment.³⁴ The Court reasoned

²⁶ 81 Fed. Reg. 42063 (2016).

²⁷ FAA, UAS Integration Program, *Program Overview* (Oct. 25, 2017), https://www.faa.gov/uas/programs_partnerships/integration_pilot_program/ (last visited Jan. 29, 2020).

²⁸ Federal Aviation Administration, *Integration Pilot Program Lead Participants*, https://www.faa.gov/uas/programs_partnerships/integration_pilot_program/lead_participants/ (last visited Jan. 29, 2020).

²⁹ Safe and Secure Operations of Small Unmanned Aircraft Systems, 84 Fed. Reg. 3732 (February 13, 2019) (to be codified at 14 CFR Part 107), available at <https://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-00758.pdf> (last visited Jan. 7, 2020).

³⁰ *Id.*

³¹ *Id.*

³² U.S. Const. amend. IV.

³³ Examples of exceptions to the warrant requirement include exigent circumstances, searches of motor vehicles, and searches incident to arrest.

³⁴ *California v. Ciraolo*, 476 U.S. 207 (1986).

that a person does not have a reasonable expectation of privacy under these circumstances because “[a]ny member of the public flying in this airspace who glanced down could have seen everything that these officers observed.”³⁵ Of note, the officers’ observations in *Ciraolo* were naked-eye.

During the same term as *Ciraolo*, the Court considered *Dow Chemical Co. v. United States*, in which the federal Environmental Protection Agency (EPA) employed a contractor to conduct aerial surveillance of a chemical plant using an airplane and aerial mapping camera.³⁶ The Court noted that the photographs used by the EPA are commonly used in mapmaking, further reasoning that “any person with an airplane and an aerial camera could readily duplicate them.”³⁷ The Court signaled, however, that more sophisticated technologies might give rise to Fourth Amendment protections:

It may well be, as the Government concedes, that surveillance of private property by using highly sophisticated surveillance equipment not generally available to the public, such as satellite technology, might be constitutionally proscribed absent a warrant. But the photographs here are not so revealing of intimate details as to raise constitutional concerns. Although they undoubtedly give EPA more detailed information than naked-eye views, they remain limited to an outline of the facility's buildings and equipment. The mere fact that human vision is enhanced somewhat, at least to the degree here, does not give rise to constitutional problems.³⁸

Governmental Use of Advanced Technologies

In 2001, the Court held in *Kyllo v. United States* that police use of sense-enhancing technology not generally available to the public constituted a search under the Fourth Amendment when used to intrude into a constitutionally protected area.³⁹ The technology at issue in *Kyllo* was a thermal-imaging sensor, which police used to scan a home to detect marijuana cultivation within. Although the police did not physically enter the home, the Court held that using a device not in general public use to explore details of the home that would previously have been unknowable without physical intrusion was a search that was presumptively unreasonable without a warrant.⁴⁰

The Court has not addressed drones and the Fourth Amendment. Importantly, civilian hobbyist and commercial drone use has increased in recent years along with law enforcement use. The FAA estimates the market for commercial drones will triple by 2023.⁴¹ As drone flight is available to the general public, it follows under both the *Ciraolo* line of cases regarding aerial surveillance and *Kyllo* that drone observations would not constitute a search. However, the Court has recently changed course in Fourth Amendment jurisprudence with several key cases addressing new technological capabilities in other areas, such as with cell phones, mobile trackers, and cell site tracking.⁴² These cases addressing new technologies suggest a trend towards increasing privacy protections beyond the traditional analyses used in the *Ciraolo* and *Kyllo* era, making it difficult to predict with any precision how the courts will handle drones and privacy issues.

Florida Law

Section 934.50, F.S., restricts the use of drones by individuals and government entities to conduct surveillance. The law recognizes that a real property owner is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she cannot be seen by

³⁵ *Id.* at 214-15.

³⁶ *Dow Chemical Co. v. U.S.*, 476 U.S. 227 (1986).

³⁷ *Id.* at 231.

³⁸ *Id.* at 238.

³⁹ *Kyllo v. U.S.*, 533 U.S. 27, 34 (2001).

⁴⁰ *Id.* at 40.

⁴¹ Federal Aviation Administration, *FAA Aerospace Forecast: Fiscal Years 2019-2039*,

https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2019-39_FAA_Aerospace_Forecast.pdf (last visited Jan. 29, 2020).

⁴² *Riley v. California*, 134 S.Ct. 2473 (2014); *United States v. Jones*, 565 U.S. 400 (2012); *Carpenter v. United States*, 138 S.Ct. 2206 (2018).

persons at ground level who are in a place they have a legal right to be.⁴³ Thus, law enforcement may not use a drone to gather evidence or other information, with certain exceptions. When law enforcement has reasonable suspicion that swift action is needed, drone use is permitted to:

- Prevent imminent danger to life or serious damage to property;
- Forestall the imminent escape of a suspect or the destruction of evidence; or
- Achieve purposes including facilitating the search for a missing person.⁴⁴

Other exceptions authorizing drone use include:

- Countering terrorist attacks;
- Effecting search warrants authorized by a judge;
- Lawful business activities licensed by the state, with certain exceptions;
- Assessing property for ad valorem taxation purposes;
- Capturing images of utilities for specified purposes;
- Aerial mapping;
- Cargo delivery;
- Capturing images necessary for drone navigation; and
- Routing, siting, installation, maintenance, or inspection of communications service facilities.⁴⁵

Section 934.50, F.S., further provides that evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in the state, unless it is permitted under one of the statute's exceptions.⁴⁶

Effect of Proposed Changes

The bill expands the exceptions to the prohibition on drone surveillance. Specifically, the bill authorizes the use of drones:

- To provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more.
- To assist a law enforcement agency with traffic management, except that a drone may not be used to issue a traffic infraction citation based on images or video captured by the drone.
- To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
- By a state agency or political subdivision:
 - To assess damage due to a flood, wildfire, or natural disaster; or
 - For vegetation or wildlife management on publicly owned land or water.
- By certified fire department personnel to perform tasks within the scope and practice of their certification.

The bill creates opportunities for law enforcement and state agencies to improve efficiency by authorizing drone use to accomplish tasks currently performed by manned aircraft. As with any surveillance activity, governmental actors are bound by Fourth Amendment protections. Though the bill allows the government to use drones, the manner of use must comport with constitutional privacy protections.

B. SECTION DIRECTORY:

Section 1: Amends s. 934.50, F.S., relating to searches and seizure using a drone.

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

⁴³ Ss. 934.50(3)(a) and 934.50(4), F.S.

⁴⁴ S. 943.50(4)(c), F.S.

⁴⁵ S. 943.50(4)(a)-(b), and (d)-(j), F.S.

⁴⁶ S. 934.50(6), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Drones have proven to be more efficient than traditional on-the-ground or manned aircraft efforts in several public safety operations. Authorizing their use for more purposes may reduce costs for state agencies performing these operations, such as the Florida Highway Patrol and the Department of Agriculture and Consumer Services.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Drones have proven to be more efficient than traditional on-the-ground or manned aircraft efforts in several public safety operations. Authorizing their use for more purposes may reduce costs for local law enforcement and fire departments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Governmental action is subject to the requirements of the Fourth Amendment. Though the bill authorizes drone use in certain circumstances, the Fourth Amendment might control how the drone is used under a particular factual scenario, such as determining whether a warrant is required.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or 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 drones; amending s. 934.50, F.S.;
 3 expanding the authorized uses of drones by law
 4 enforcement agencies and other specified entities for
 5 specified purposes; providing an effective date.

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

9 Section 1. Present paragraphs (d) through (j) of
 10 subsection (4) of section 934.50, Florida Statutes, are
 11 redesignated as paragraphs (i) through (o), respectively,
 12 paragraph (a) of subsection (3) of that section is amended, and
 13 new paragraphs (d) through (h) are added to subsection (4) of
 14 that section, to read:

15 934.50 Searches and seizure using a drone.—

16 (3) PROHIBITED USE OF DRONES.—

17 (a) A law enforcement agency may not use a drone to gather
 18 evidence or other information, except as provided in subsection
 19 (4).

20 (4) EXCEPTIONS.—This section does not prohibit the use of
 21 a drone:

22 (d) To provide a law enforcement agency with an aerial
 23 perspective of a crowd of 50 people or more.

24 (e) To assist a law enforcement agency with traffic
 25 management; however, a law enforcement agency acting under this

26 | paragraph may not issue a traffic infraction citation based on
27 | images or video captured by a drone.

28 | (f) To facilitate a law enforcement agency's collection of
29 | evidence at a crime scene or traffic crash scene.

30 | (g) By a state agency or political subdivision for the
31 | assessment of damage due to a flood, wildfire, or natural
32 | disaster or for vegetation or wildlife management on publicly
33 | owned land or water.

34 | (h) By certified fire department personnel to perform
35 | tasks within the scope and practice authorized under their
36 | certifications.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1463 Dunnellon Airport Authority, Marion County

SPONSOR(S): Stone

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	9 Y, 0 N	Moehrle	Miller
2) Ways & Means Committee	15 Y, 0 N	Aldridge	Langston
3) State Affairs Committee		Moehrle	Williamson

SUMMARY ANALYSIS

The Dunnellon Airport Authority (Authority) was created in 1981. The Authority is a dependent special district, governed by the Marion County Board of County Commissioners (BOCC). The Authority oversees the Marion County Airport, a 792-acre airport, which features two active lighted runways. Revenues are generated primarily through fuel sales, the rental of county-owned real property, and grants received from the Florida Department of Transportation. The BOCC is authorized to levy an ad valorem tax for the purpose of contributing funds to the Authority, though no levy has been approved as of January 2020.

The bill abolishes the Authority and transfers all assets and liabilities to Marion County.

According to the Economic Impact Statement filed for the bill, the BOCC will be responsible for the Authority's expenses and liabilities. There are no financial impacts associated with abolishing the Authority.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law,² special act,³ local ordinance,⁴ or rule of the Governor and Cabinet.⁵ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁶

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of the governing body of a single county or municipality.⁷

An “independent special district” is a special district that is not a dependent special district.⁸ Additionally, a district that includes more than one county is an independent special district, unless that district lies wholly within a single municipality’s boundaries.⁹

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.¹⁰

Dunnellon Airport Authority

The Dunnellon Airport Authority (Authority) was created in 1981.¹¹ The Authority is a dependent special district with the Marion County Board of County Commissioners (BOCC) serving as its board.¹² The Authority’s purpose is to acquire, construct, improve, finance, operate, and maintain airport facilities in Marion County.¹³ The Authority operates the Marion County Airport, a 792-acre airport with two active lighted runways.¹⁴

¹ S. 189.012(6), F.S.

² S. 189.031(3), F.S.

³ *Id.*

⁴ S. 189.02(1), F.S.

⁵ S. 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

⁶ 2018-2020 *Local Government Formation Manual*, p. 60,

<https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3025> (last visited Jan. 24, 2020).

⁷ S. 189.012(2), F.S.

⁸ S. 189.012(3), F.S.

⁹ *Id.*

¹⁰ Art. VII, s. 9(a), Fla. Const.

¹¹ Ch. 81-436, Laws of Fla.

¹² *Id.*

¹³ Marion County, *Dunnellon Airport Authority*, marioncountyfl.org/departments-a-n/airport/Dunnellon-airport-authority (last visited Jan. 24, 2020).

¹⁴ Marion County, *Marion County Airport*, marioncountyfl.org/departments-agencies/departments-a-n/airport (last visited Jan. 24, 2020).

The Authority may:

- Adopt bylaws for the regulation of its affairs and conduct its business;
- Adopt an official seal and alter the same;
- Maintain an office at such place as it may designate;
- Sue and be sued in its own name, plead and be impleaded;
- Acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, equip, repair, maintain and operate any airport facilities;
- Lease, sell or dispose of any land or other airport facilities which it has determined are no longer used or useful for airport purposes, subject to any limitations by any bonds issued by the Authority;
- Issue bonds to pay the cost of acquisition, construction, reconstruction, improvement, extension, enlargement or equipment;
- Issue refunding bonds;
- Combine any airport facilities for the purpose of operation and financing;
- Collect rates, fees and other charges for the use of or for the services furnished by any airport facilities;
- Exercise the right of eminent domain in accordance with Florida law;
- Make and enter into contracts and agreements necessary to the performance of its duties and powers;
- Accept grants of money, materials, or property for airport facilities from federal and state agencies;
- Purchase money mortgages on any additional property purchased by the Authority;
- Borrow money and procure lines of credit;
- Exercise all powers and prerogatives conferred upon political subdivisions¹⁵ of the state;
- Construct, maintain, operate, lease and regulate motor vehicle parking facilities for the agents, employees, guests and business invitees of the Authority;
- Adopt a budget prior to September 30 of each year for the ensuing fiscal year; and
- Employ an airport manager to manage the airport.¹⁶

The BOCC may levy an annual ad valorem tax on all taxable property within Marion County for the purpose of contributing funds to the Authority.¹⁷ As of 2020, the BOCC has not levied a tax for this purpose and revenue for airport operations is generated primarily through fuel sales, the rental of county-owned property, and grants from the Florida Department of Transportation.¹⁸ In fiscal year 2018, the Authority's budget expenditures were \$826,530, with revenues of \$1,163,783.¹⁹ Revenues and expenditures related to the operation of the airport are accounted for in the Dunnellon Airport Fund, a special revenue fund.²⁰

The Authority is considered an agency subject to the Administrative Procedure Act.²¹

Statutory Provisions Pertaining to Dissolving Dependent Special Districts

A dependent special district may be merged or dissolved by an ordinance of the local governmental entity where the special district is located.²² A county may not dissolve a special district that is dependent to a municipality or vice versa.²³ If an active dependent special district was created and

¹⁵ Ch. 333, F.S.

¹⁶ Ch. 81-436, Laws of Fla.

¹⁷ *Id.*

¹⁸ *Dunnellon Airport Authority, supra* note 13; Marion County Florida, *Comprehensive Annual Financial Report* (Sept. 30, 2018), <https://frontrunner-mccc.s3.amazonaws.com/f27d2e8d-5096-907d-8d6e-42e5ce245096.pdf> (last visited Jan. 24, 2020).

¹⁹ Marion County Board of County Commissioners, *Fiscal Year 2020 Adopted Budget*, available at sire.marioncountyfl.org/sirepub/mtgviewer.aspx?meetid=2579&doctype=Agenda (last visited Jan. 24, 2020). FY 2018 revenues included \$37,399 in administrative transfers and \$372,285 in balances forward.

²⁰ *Id.*

²¹ Ch. 81-436, Laws of Fla; *see* ch. 120, F.S.

²² S. 189.071(1), F.S.

²³ *Id.*

operating pursuant to a special act, it may only be dissolved or merged by further act of the Legislature, unless general law provides otherwise.²⁴

Since the Authority was created by special act, it may only be abolished by the Legislature.

Effect of the Bill

The bill abolishes the Dunnellon Airport Authority and transfers all assets and liabilities of the Authority to the Marion County BOCC. According to the Economic Impact Statement filed, the bill has no financial impacts.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 81-436, Laws of Fla., relating to the Dunnellon Airport Authority.

Section 2: Abolishes the Authority and transfers all assets and liabilities of the Authority to the Board of County Commissioners of Marion County.

Section 3: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 17, 2019.

WHERE? The *Star-Banner*, a daily newspaper of general circulation in Marion 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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HB 1463

2020

1 A bill to be entitled
2 An act relating to the Dunnellon Airport Authority,
3 Marion County; repealing chapter 81-436, Laws of
4 Florida; abolishing the authority; transferring all
5 assets and liabilities of the authority to the Board
6 of County Commissioners of Marion County; providing an
7 effective date.
8

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

11 Section 1. Chapter 81-436, Laws of Florida, is repealed.

12 Section 2. The Dunnellon Airport Authority is abolished.
13 All assets and liabilities of the authority are transferred to
14 the Board of County Commissioners of Marion County.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7075 PCB OTM 20-10 OGSR/Animal Medical Records
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee, Stevenson
TIED BILLS: **IDEN./SIM. BILLS:** SB 7008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee	15 Y, 0 N	Villa	Smith
1) State Affairs Committee		Villa	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption 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 certain animal medical records held by a state college of veterinary medicine that is accredited by the American Veterinary Medical Association Council on Education.

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 the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

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

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

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Animal Medical Records Held by Licensed Veterinarians

Animal medical records generated or held by licensed veterinarians must be furnished, upon request, to a client in a timely manner.⁵ Otherwise, such records may not be furnished to any person other than the client except under the following circumstances:

- To any person, firm, or corporation that has procured or furnished such examination or treatment with the client's consent.
- In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the client or the client's legal representative by the party seeking such records.
- For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient and the client, or provided written permission is received from the client or the client's legal representative.
- In any criminal action or situation where a veterinarian suspects a criminal violation.⁶

Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for animal medical records held by a state college of veterinary medicine that is accredited by the American Veterinary Medical Association

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ Section 474.2165(3), F.S.

⁶ Section 474.2165(4), F.S.

Council on Education.^{7,8} Specifically, the exemption provides that the following records are confidential and exempt⁹ from public record requirements:

- Medical records generated that relate to diagnosing the medical condition of an animal; prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal; or performing a manual procedure for the diagnosis of or treatment for pregnancy, fertility, or infertility of an animal; and
- Any such medical records that are transferred by a previous record owner in connection with the transaction of official business by a state college of veterinary medicine that is accredited by the American Veterinary Medical Association Council on Education.¹⁰

Such records may be disclosed to a governmental entity in the performance of its duties and responsibilities, and pursuant to existing laws governing animal medical records held by licensed veterinarians.¹¹

The 2015 public necessity statement¹² for the exemption provides that:

[T]he release of such animal medical records compromises the confidentiality protections otherwise afforded the owners of such animals treated by licensed veterinarians in this state pursuant to [chapter 474, F.S.] The Legislature finds that the owners of animals have the right to privacy of the medical records of their animals. The Legislature finds that this exemption permits a state college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education to effectively and efficiently carry out its mission to educate students in veterinary medicine. Without this exemption, this mission would be significantly impaired. The Legislature finds that the privacy concerns that result from the release of animal medical records outweigh any public benefit that may be derived from the disclosure of the information.¹³

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.¹⁴

During the 2019 interim, subcommittee staff sent a questionnaire to the University of Florida College of Veterinary Medicine (UF-CVM).¹⁵ UF-CVM explained that its core business is training the next

⁷ Chapter 2015-62, L.O.F.; codified as s. 474.2167, F.S.

⁸ The American Veterinary Medical Association Council on Education is recognized by the Council of Higher Education Accreditation as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the US and Canada, and may also approve foreign veterinary colleges. *See* American Veterinary Medical Association, *COE Accreditation Policies and Procedures: Overview*, <https://www.avma.org/education/accreditation/colleges/coe-accreditation-policies-and-procedures-overview> (last visited January 26, 2020).

⁹ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Attorney General Opinion 85-62 (August 1, 1985).

¹⁰ Section 474.2167(1), F.S.

¹¹ Section 474.2165, F.S., relates to ownership and control of veterinary medical patient records and provides instances when animal medical records can be released.

¹² Article I, s. 24(c), FLA. CONST., requires each public record exemption state with specificity the public necessity justifying the exemption.

¹³ Section 2, ch. 2015-62, L.O.F.

¹⁴ Section 474.2167(4), F.S.

¹⁵ UF-CVM is Florida's only veterinary medical college, and is the only Florida University accredited by the American Veterinary Medical Association Council on Education. *See* University of Florida College of Veterinary Medicine, *About the College*, <https://www.vetmed.ufl.edu/about-the-college/> (last visited October 29, 2019); *See also* American Veterinary Medical Association,

generation of veterinarians. Over 90 percent of the clinical teaching and almost 100 percent of the resident training is based on patient care cases in the UF-CVM Hospital. If the exemption is repealed, the UF-CVM Hospital would be the only veterinary medical practice in the state without confidentiality protections for records and information concerning veterinary medical service. As such, maintaining the public record exemption for the animal medical records is critical to the success of the program and in “providing the caliber of public service that Florida taxpayers support and expect.”¹⁶

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for certain animal medical records held by a state college of veterinary medicine that is accredited by the American Veterinary Medical Association Council on Education.

B. SECTION DIRECTORY:

Section 1 amends s. 474.2167, F.S., to save from repeal the public record exemption for certain animal medical records held by a state college of veterinary medicine that is accredited by the American Veterinary Medical Association Council on Education.

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.

Accredited Veterinary Colleges, https://www.avma.org/ProfessionalDevelopment/Education/Accreditation/Colleges/Pages/colleges-accredited_results.aspx?college=Florida (last visited October 29, 2019).

¹⁶ Open Government Sunset Review Questionnaire, UF-CVM Response, July 8, 2019, on file with the House Oversight, Transparency & Public Management Subcommittee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or 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 review under the Open Government
 3 Sunset Review Act; amending s. 474.2167, F.S., which
 4 provides a public record exemption for animal medical
 5 records held by any state college of veterinary
 6 medicine that is accredited by the American Veterinary
 7 Medical Association Council on Education; removing the
 8 scheduled repeal of the exemption; providing an
 9 effective date.

10

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

12

13 Section 1. Section 474.2167, Florida Statutes, is amended
 14 to read:

15 474.2167 Confidentiality of animal medical records.—

16 (1) The following records held by any state college of
 17 veterinary medicine that is accredited by the American
 18 Veterinary Medical Association Council on Education are
 19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 20 of the State Constitution:

21 (a) A medical record generated which relates to diagnosing
 22 the medical condition of an animal; prescribing, dispensing, or
 23 administering drugs, medicine, appliances, applications, or
 24 treatment of whatever nature for the prevention, cure, or relief
 25 of a wound, fracture, bodily injury, or disease of an animal; or

26 performing a manual procedure for the diagnosis of or treatment
27 for pregnancy, fertility, or infertility of an animal; and

28 (b) A medical record described in paragraph (a) which is
29 transferred by a previous record owner in connection with the
30 transaction of official business by a state college of
31 veterinary medicine that is accredited by the American
32 Veterinary Medical Association Council on Education.

33 (2) A record made confidential and exempt under subsection
34 (1) may be disclosed to another governmental entity in the
35 performance of its duties and responsibilities and may be
36 disclosed pursuant to s. 474.2165.

37 (3) The exemption from public records requirements under
38 subsection (1) applies to animal medical records held before,
39 on, or after the effective date of this exemption.

40 ~~(4) This section is subject to the Open Government Sunset~~
41 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
42 ~~on October 2, 2020, unless reviewed and saved from repeal~~
43 ~~through reenactment by the Legislature.~~

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