



MUNICIPAL ADMINISTRATION

**Friday, September 8, 2023
10:00 a.m. – 2:00 p.m. EDT**

**Salon 9/10
Rosen Centre Orlando
9840 International Drive,
Orlando, Florida 32819**

FLC Staff Contact: Tara Chilton



FLORIDA LEAGUE OF CITIES



Agenda



Municipal Administration Legislative Policy Committee
Friday, September 8, 2023, from 10:00 a.m. to 2:00 p.m.
Rosen Centre Orlando – Meeting Room: Salon 9/10
9840 International Drive, Orlando, Florida

AGENDA

- I.** Introduction & Opening Remarks **Chair NanDrycka King Albert**
Councilwoman, City of Midway
- II.** [FLC Policy Committee Process for 2023-2024](#)..... **Tara Chilton, FLC Staff**
- III.** Florida Gaming Control Commission Presentation..... **Lou Trombetta, Executive Director**
Carl Herold, Director of Law Enforcement
Eric Carr, Director of External Affairs
- IV.** Potential 2024 Priority and Policy Issues **Tara Chilton, FLC Staff**
 - A.** Law Enforcement Recruitment and Retention..... **Tara Chilton, FLC Staff**
 - B.** Short-Term Rentals..... **Tara Chilton, FLC Staff**
 - C.** Legal Notices for Variances/Land Use Changes **Mac Serda**
Town Manager, Town of Hillsboro Beach
 - D.** Virtual Meetings **Darrel Donnatto**
Fire-Rescue Chief & Director of Emergency Management, Town of Palm Beach
 - E.** Public Records Exemption for Reports of Municipal Code Violations **Tara Chilton, FLC Staff**
 - F.** Cybersecurity **Tara Chilton, FLC Staff**
 - G.** Public Records Exemption for City Clerks/Elections Officers..... **Elizabeth Garcia-Beckford**
City Clerk, City of North Lauderdale
 - H.** Sale of Tobacco and Nicotine Products near School Property..... **Tara Chilton, FLC Staff**
- V.** Other Business..... **Tara Chilton, FLC Staff**
- VI.** Additional Information **Tara Chilton, FLC Staff**
 - A.** [Key Legislative Dates](#)
 - B.** [Home Rule Hero Criteria](#)
 - C.** Key Contacts – [Click HERE to sign-up](#)
 - D.** [2023 Legislative Session Final Report](#)
- VII.** Closing Remarks **Chair NanDrycka King Albert**
Councilwoman, City of Midway
- VIII.** Adjournment

Breakfast and Lunch provided by the Florida League of Cities

WiFi is Available

Network: Convention Wireless

Access Code: RCRGH



Committee Roster



2023-2024 Legislative Policy Committee Municipal Administration

Staffed by: Tara Chilton, Legislative Advocate

CHAIR:

**The Honorable NanDrycka King
Albert**

Councilmember, City of Midway

VICE CHAIR:

The Honorable Sandy Golding

Councilwoman, City of Jacksonville
Beach

MEMBERS:

The Honorable Diana Adams

Councilwoman, City of West Melbourne

Chevelle Addie

Village Clerk, Village of Wellington

Robert Anderson

Battalion Chief, City of Fort Walton
Beach

The Honorable Kyle Battie

Mayor, City of Sarasota

The Honorable Blake Bell

Mayor, City of Brooksville

The Honorable Matt Benton

Commissioner, City of Winter Springs

The Honorable Liston Bochette

Councilmember, City of Fort Myers

The Honorable Sandra Lee Bradbury

Mayor, City of Pinellas Park

George Brown

Deputy City Manager, City of Boca
Raton

Maureen Buice

Assistant to the City Manager, City of
Cape Coral

Lakisha Burke

Town Clerk, Town of Loxahatchee
Groves

Patricia Burke

Town Manager, Town of Palm Shores

The Honorable Cynthia Burton

Commissioner, Crescent City

Rosemarie Call

City Clerk, City of Clearwater

Savannah Cobb

Deputy Town Clerk, Town of Longboat
Key

Natasha Colebrook-Williams

Assistant City Manager, City of Miami

Michael Connor

Chief of Police, Town of Indialantic

Ed Cook

City Manager, City of Callaway

Keith Davis

Village Attorney, Village of Tequesta

The Honorable Lisa Davis-Quince

Councilperson, Town of Mangonia Park

The Honorable Ed Dodd

Councilman, City of Sebastian

The Honorable Brad Doyle

Councilman, Town of Hypoluxo

The Honorable Bryan Eastman
Commissioner, City of Gainesville

Brenda Fettrow
City Manager, City of Rockledge

The Honorable Sam Fite
Vice Mayor, City of Bowling Green

Jerome Fletcher
City Manager, City of North Port

The Honorable Mark Franks
Mayor, Town of Shalimar

Babette Friedman
Human Resources Director, Town of
Pembroke Park

The Honorable Mac Fuller
Vice Mayor, City of Lake Alfred

The Honorable Arnold S. Gaines
Commissioner, City of Fort Pierce

Elizabeth Garcia-Beckford
City Clerk, City of North Lauderdale

Donna Gardner
City Clerk, City of Casselberry

Elmon (Lee) Garner
Town Manager, Town of Sneads

Ella Gilbert
Senior Deputy City Attorney, City of
Port St. Lucie

The Honorable Kimberly Glas-Castro
Vice Mayor, Town of Lake Park

Christian Gowan
City Clerk, City of Winter Springs

The Honorable Shirley Green Brown
Commissioner, City of Alachua

The Honorable John Gunter
Mayor, City of Cape Coral

Angie Guy
City Clerk, City of Dade City

Leslie Guyer
City Clerk, City of Gulf Breeze

Chris Hawks
Intergovernmental Relations
Coordinator, City of Largo

Julie A. Hennessy
City Clerk - Auditor, City of DeLand

The Honorable Janet Hernandez
Councilwoman, Village of Indiantown

Traci Houchin
City Clerk, City of Sanford

The Honorable Anne Huffman
Commissioner, City of Haines City

Judelande Jeune
Attorney, Weiss Serota Helfman Cole &
Bierman

Jennifer Jorgensen
Governmental Relations Manager, City
of Sarasota

The Honorable Musfika Kashem
Acting Clerk Commissioner, Town of
Pembroke Park

Marshall Labadie
Town Manager, Town of Highland
Beach

Michelle Longo
City Clerk, City of Longwood

The Honorable Sarah Malega
Commissioner, City of Lake Worth
Beach

Kevin Maloney

Sr. Account Executive, Business Watch

The Honorable Kelli Marks

Council Member, City of Orange City

The Honorable Bob Mayersohn

Commissioner, City of Parkland

Lori McWilliams

Village Clerk/PIO, Village of Tequesta

The Honorable Nancy Miller

Mayor, City of Daytona Beach Shores

The Honorable KaShamba Miller-Anderson

Councilwoman, City of Riviera Beach

Olivia Minshew

City Manager, City of Wauchula

The Honorable Yvonne Minus

Council Member, City of Melbourne

Marcia Monserrat

Chief of Legislative and External Affairs,
City of Miami Beach

Cheryl Mooney

City Clerk, City of Temple Terrace

Brian Moree

City Manager, City of Atlantis

The Honorable Bernie Oder

Councilmember, City of Mary Esther

The Honorable Karen Ostrand

Mayor, Town of Ocean Breeze

Steve Parker

Chief of Police, City of Davenport

The Honorable Tyler Payne

Mayor, City of Treasure Island

Gwen Peirce

City Clerk, City of Satellite Beach

Richard Radcliffe

Executive Director, Palm Beach County
League of Cities

The Honorable Mary Richardson

Commissioner, Town of Dundee

The Honorable Jerry Robinson

Council Vice President, City of Williston

The Honorable Cal Rolfson

Council Member, City of Mount Dora

The Honorable Greg Ross

FLC President and Mayor, Cooper City

The Honorable Seth Salver

Vice Mayor, Village of Bal Harbour

Brittney Sandoval Soto

Town Clerk, Town of Lake Hamilton

The Honorable Arlene Schwartz

Commissioner, City of Margate

The Honorable Robert Shalhoub

Vice Mayor, Town of Lake Clarke Shores

The Honorable Mark Sheldon

Mayor, City of Panama City Beach

Brian Sherman

City Attorney, Goren, Cherof, Doody, &
Ezrol PA

Renee Shrout

City Clerk, City of Oakland Park

Alexis Silcox

City Clerk, City of Belleair Bluffs

The Honorable Iris Siple

Vice Mayor, City of Pembroke Pines

The Honorable Holly D. Smith

FLC Second Vice President and
Councilmember, City of Sanibel

The Honorable Suzy Sofer

Vice Mayor, City of Belleair Bluffs

Mike Staffopoulos

City Manager, City of Jacksonville
Beach

The Honorable Susan Starkey

Councilmember, Town of Davie

The Honorable Dina Sweatt

Councilwoman, City of Groveland

The Honorable Ken Thurston

Mayor, City of Lauderhill

The Honorable John Tornga

Vice Mayor, City of Dunedin

The Honorable Hugo Vargas

Commissioner, City of LaBelle

The Honorable Marlene Wagner

Councilmember, Town of Lake
Hamilton

Tijauna Warner

City Clerk, City of Pahokee

Erin West

City Clerk, City of Green Cove Springs

The Honorable Alice White

Vice Mayor, City of North Port

Morgan Wilson

Grant Administrator, City of Bushnell

The Honorable Brandon Young

Councilman, City of South Daytona



Policy Development Process



2023-2024 FLC Legislative Policy Process

The Florida League of Cities' (FLC's) Charter and Bylaws specify that the League shall engage only on legislation that pertains directly to "municipal affairs." "Municipal affairs" refers to issues that directly pertain to the governmental, corporate and proprietary powers to conduct municipal government, perform municipal functions, render municipal services and raise and expend revenues. Protecting Florida's cities from egregious far-reaching attacks on Home Rule powers will always be the top priority.

Each year, municipal officials from across the state volunteer to serve on the League's legislative policy committees. Appointments are a one-year commitment and involve developing the League's Legislative Platform. The Legislative Platform addresses priority issues of statewide interest that will most likely affect daily municipal governance and local decision-making during the upcoming legislative session.

Policy committee members also help League staff understand the real-world implications of proposed legislation, and they are asked to serve as advocates throughout the year. To get a broad spectrum of ideas and better understand the impact of League policy proposals on rural, suburban and urban cities of all sizes, it is ideal that each of Florida's cities be represented on one or more of the legislative policy committees.

The Florida Legislature convenes the 2024 Legislative Session on January 9. The League's legislative policy committee meetings commence in September 2023 and meet three times.

There are currently five standing **legislative policy committees**:

Finance, Taxation and Personnel Committee: This committee addresses municipal roles in general finance and tax issues, Home Rule revenues, infrastructure funding, insurance, local option revenues, pension issues, personnel and collective bargaining issues, revenue sharing, tax and budget reform, telecommunications and workers' compensation.

Land Use and Economic Development Committee: This committee addresses policies specific to municipal concerns with community redevelopment, economic development, growth management and land use planning issues, annexation, eminent domain, tort liability, property rights and ethics.



Municipal Administration Committee: This committee addresses municipal concerns with code enforcement, elections, emergency management, gaming, homeland security, public meetings, public property management, public records, public safety and procurement, charter counties and special districts.

Transportation and Intergovernmental Relations Committee: This committee addresses municipal concerns relating to transportation and highway safety, as well as aviation, affordable housing (and homelessness), billboards, building codes, charter schools, rights-of-way and veterans affairs.

Utilities, Natural Resources and Public Works Committee: This committee addresses policies specific to municipal concerns with coastal management, energy, environmental and wetlands permitting, hazardous and toxic wastes, recycling, solid waste collection and disposal, stormwater, wastewater treatment and reuse, water management and water quality and quantity.

At the last meeting, each of the five policy committees adopts ONE legislative priority that will be submitted to the Legislative Committee. The Legislative Committee is composed of:

- ▶ Each legislative policy committee chair and the chairs of the other standing committees
- ▶ The president of each local and regional league
- ▶ The presidents of several other municipal associations
- ▶ Chairs of the municipal trust boards
- ▶ Several at-large members appointed by the League President.

The policy priorities, as adopted by the Legislative Committee, are then recommended to the general membership for approval as the League's Legislative Platform.



In addition, a legislative policy committee may, but is not required to, recommend ONE policy position related to other relevant legislative issues. The policy position must satisfy the same criteria above for legislative priorities. The recommended policy position will be considered by the Legislative Committee. If favorably considered by that committee, it will be considered by the general membership. If adopted by the general membership, the policy position may be published and communicated to legislators and others, as appropriate.

Due to Sunshine Law issues, only one elected official per city can be represented on a committee, but a city could have an elected and a non-elected city official on each of the five policy committees. Appointments are made by the League President based upon a city official's support and advocacy of the Legislative Action Platform and participation at meetings, Legislative Action Days and other legislative-related activities.

2023 Legislative Policy Committee Meeting Dates

- ▶ September 8, 2023, 10:00 a.m. to 2:00 p.m. at the Rosen Centre Orlando, 9840 International Drive, Orlando, FL 32819
- ▶ October 6, 2023, 10:00 a.m. to 2:00 p.m. at the Gaylord Palms Resort & Convention Center, 6000 West Osceola Parkway, Kissimmee, FL 34746.
- ▶ November 30, 2023, during the FLC Legislative Conference at the Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819.

If you are interested in serving or learning more, please contact Mary Edenfield at 850.701.3624 or medenfield@flcities.com.



LOCAL
VOICES
MAKING
LOCAL
CHOICES



Law Enforcement Recruitment and Retention

FRAMEWORK FOR FREEDOM

FISCAL YEAR 2023-2024

Public Safety

Public safety has been a leading priority for Governor DeSantis. Due to the continued diligence of Florida law enforcement officers, Floridians are enjoying a 50-year record low crime rate, and year-over-year crime in Florida is down nearly ten percent. The Framework for Freedom Budget continues to make necessary investments in our public safety, including comprehensive salary increases for law enforcement and correctional officers, enhancing law enforcement and correctional officer safety, and combatting the flow of fentanyl into Florida from the southern border.

Salary Increases for Correctional and Law Enforcement Positions

The Framework for Freedom Budget includes \$124.3 million to provide salary increases across various public safety agencies, on top of the 5 percent statewide pay increase. These salary increases include:

- \$107.2 million to increase the Department of Corrections' (FDC) base rate of pay to \$23 per hour for specified Correctional Officer, Correctional Probation Officer, and Inspector positions;
- \$1.8 million to provide a four percent increase to Special Agents and Law Enforcement positions within the Department of Law Enforcement (FDLE);
- \$6.8 million for special pay adjustments based on salary ranges for all sworn law enforcement officers within FDLE, Department of Legal Affairs (DLA), State Attorneys, and State Courts (SCS); and
- \$8.5 million for an increase for years of service for sworn law enforcement officers within FDLE, DLA, State Attorneys, and SCS.

Combatting Fentanyl

The Framework for Freedom Budget includes \$20.7 million to support law enforcement efforts to combat the opioid epidemic affecting Florida's communities:

- \$20 million for the creation of the State Assistance for Fentanyl Eradication (S.A.F.E.) in Florida Program. These funds will assist local law enforcement in combatting the illicit trafficking and sale of fentanyl within Florida. Funds will be provided to FDLE to be distributed to local agencies, with priority given to fiscally constrained counties; and
- \$749,146 for FDLE to expand the mission and capabilities of the Anti-Heroin Task Force statewide.

Law Enforcement Recruitment

The Framework for Freedom Budget includes \$30 million for a second round of recruitment bonus payments for law enforcement officers who are new to the profession in the state, including those relocating from other states. This initiative will provide bonus payments of \$5,000 to new eligible law enforcement officers.

First Responder Recognition Payments Program

The Framework for Freedom Budget recommends \$220 million from reallocated unobligated federal State Fiscal Recovery Funds to provide one-time recognition payments to each essential state and local first responder.

FRAMEWORK FOR FREEDOM

FISCAL YEAR 2023-2024

Enhancing Correctional Officer Staffing

The Framework for Freedom Budget includes \$4.4 million to improve staffing levels at FDC. This funding includes:

- In addition to the five percent pay increase provided to all state employees, \$3.4 million to provide a targeted retention pay plan for the Correctional Officers series, the Correctional Probation Officers series, and the Inspector series that aims to address high turnover rates by providing a \$1,000 pay increase at two years of service, a \$500 pay increase at five years of service, and a \$1,000 pay increase at eight years of service; and
- \$1 million to repurpose existing FTEs for additional statewide recruitment staff to support FDC's recruitment efforts.

Safer Correctional Operations

The Framework for Freedom Budget also includes \$47.2 million for FDC to make Florida's correctional facilities safer. This includes:

- \$10 million for security equipment, such as drone detection equipment, thermal fence cameras, drone support for K-9 operations, and license plate readers;
- \$1.3 million to allow FDC to repurpose existing FTEs for additional professional development, training, and support staff to continuously provide quality instructional products and training to ensure staff are both initially trained and that they maintain requisite certifications over time;
- \$2.3 million to modernize and enhance training provided at the Florida Corrections Academy; and
- \$33.6 million to improve infrastructure including environmental systems, regional evidence facilities, maintenance, repairs, and renovations.

Improving Inmate Health and Well-Being

The Framework for Freedom Budget includes \$28.9 million for FDC to improve inmate health and well-being. This funding includes:

- \$1.4 million to allow FDC to repurpose existing FTEs to create two additional Behavioral Risk Management Teams to provide specialized on-site monitoring of high-risk facilities to ensure inmates with mental health needs have access to appropriate services;
- \$20 million for FDC to improve inmate health and well-being, decrease inmate idleness and violence, address aging infrastructure, and reduce recidivism; and
- \$7.5 million to renovate inmate wellness and program space statewide by increasing and improving program spaces and renovating recreation yards.

Enhancing Florida's Crime Databases

FDLE maintains a variety of databases used daily by law enforcement to investigate crimes and apprehend criminals. Many of these resources are publicly accessible to help keep Floridians safe. The Framework for Freedom Budget invests more than \$18.3 million to expand and enhance these databases, including:

- \$8.16 million for the second phase of the modernization of the Biometric Identification Solution (BIS) database;

FRAMEWORK FOR FREEDOM

FISCAL YEAR 2023-2024

- \$3.58 million for the technology enhancement of breath test instrumentation and associated software within the Alcohol Testing Program;
- \$3 million to increase the Criminal Justice Network bandwidth;
- \$1.96 million to enhance the Missing and Endangered Person Information Clearinghouse applications;
- \$1.1 million to purchase enhanced booking and arrest equipment; and
- \$500,000 for the final year of implementing the Statewide Sexual Assault Tracking System.

Enhancing Law Enforcement Safety

The Framework for Freedom Budget includes \$2 million for FDLE to provide body armor to local law enforcement agencies, with a focus on agencies within fiscally constrained counties.

Supporting State Attorneys

The Framework for Freedom Budget includes \$18 million, in addition to the five percent pay increase provided to all state employees, to provide salary increases to State Attorneys and Assistant State Attorneys.

Supporting State Courts

The Framework for Freedom Budget includes \$15.7 million for the State Court System, in addition to the five percent pay increase provided to all state employees, to provide salary increases for due process staff, including court reporters, court interpreters, case managers, trial court staff attorneys, and court program specialists.

Florida Scholars Academy

The Framework for Freedom Budget includes \$12 million for the Department of Juvenile Justice to create a unified juvenile justice education system. The Florida Scholars Academy provides various educational opportunities, and trade skills in high-demand occupations.

Enhancing Emergency 911 Call Services

Ensuring that local law enforcement agencies have the tools necessary to effectively and efficiently manage emergency 911 (E911) call services is critical to safeguarding our first responders and the residents and visitors of Florida. The Framework for Freedom Budget includes an additional \$44 million for the following E911 initiatives:

- \$25 million for distributions and grant awards to local governments for E911 system maintenance, integration with the Next Generation (NG) 911 system and implementation of text-to-911.
- \$12 million to implement three additional regions of the NG 911 call routing and mapping solutions, which are imperative to improving communications for telecommunicators and first responders.
- \$5.8 million to continue supporting and improving the Statewide Law Enforcement Radio System (SLERS).

FRAMEWORK FOR FREEDOM



FISCAL YEAR 2023-2024

- \$350,000 for no cost training for local government public safety telecommunicators, to include managing work-related stress, cybersecurity threats, and how to use GIS within NG 911.
- \$800,000 for modernization of the Department of Management Services' operations of the E911 program to increase the efficiency of distributions to local governments and the continued implementation of NG 911.

SECTION 4 - CRIMINAL JUSTICE AND CORRECTIONS

| | |
|--|---------|
| Project (HB 3725) (Senate Form 2520)..... | 750,000 |
| Homestead Law Enforcement Technology Upgrades: Community Oriented Policing Services (COPS) Account (HB 3603) (Senate Form 1443)..... | 500,000 |
| K9s United (HB 3049) (Senate Form 1011)..... | 200,000 |
| Lauderhill Gun Violence Reduction (HB 2825) (Senate Form 1681)..... | 356,000 |
| Leon County Sheriff's Office Behavioral, Health, and Occupational Wellness Program (HB 9347) (Senate Form 2217)..... | 187,500 |
| North Miami Beach Police Department Solving Cold Cases Using New Technology (HB 3213) (Senate Form 1923)..... | 100,000 |
| Pasco County Sheriff's Office Community Outreach and Engagement Initiative (HB 2009) (Senate Form 1003)..... | 150,000 |
| Project Cold Case (HB 3971) (Senate Form 1676)..... | 150,000 |
| Rapid DNA Local Government Grant (Senate Form 2293)..... | 500,000 |
| Regional Crime Prevention Strategy (HB 3315) (Senate Form 1414)..... | 525,000 |
| Riviera Beach Mobile Command Center (HB 9037) (Senate Form 2251)..... | 500,000 |
| Sunrise Community Regional Policing - Crime Prevention Program (HB 2581) (Senate Form 1645)..... | 375,000 |
| Tampa Police Department Bomb Squad Response Vehicle (HB 4353) (Senate Form 1431)..... | 200,000 |
| Wandering Rescue and Prevention Project (HB 3363) (Senate Form 1038)..... | 200,000 |

From the funds in Specific Appropriation 1248, \$15,047,787 in recurring funds from the General Revenue Fund is provided for salary increases for deputy sheriffs and correctional officers employed by sheriff's offices in fiscally constrained counties, as defined in section 218.67(1), Florida Statutes, as follows:

| | |
|---|-----------|
| Baker County Sheriff's Office..... | 223,000 |
| Bradford County Sheriff's Office..... | 535,000 |
| Calhoun County Sheriff's Office..... | 330,773 |
| Columbia County Sheriff's Office..... | 1,047,014 |
| Desoto County Sheriff's Office..... | 397,000 |
| Dixie County Sheriff's Office..... | 525,000 |
| Franklin County Sheriff's Office..... | 410,000 |
| Gadsden County Sheriff's Office..... | 500,000 |
| Gilchrist County Sheriff's Office..... | 370,000 |
| Glades County Sheriff's Office..... | 293,000 |
| Gulf County Sheriff's Office..... | 188,000 |
| Hamilton County Sheriff's Office..... | 206,500 |
| Hardee County Sheriff's Office..... | 275,000 |
| Hendry County Sheriff's Office..... | 598,000 |
| Highlands County Sheriff's Office..... | 945,000 |
| Holmes County Sheriff's Office..... | 635,000 |
| Jackson County Sheriff's Office..... | 990,000 |
| Jefferson County Sheriff's Office..... | 261,000 |
| Lafayette County Sheriff's Office..... | 296,000 |
| Levy County Sheriff's Office..... | 825,000 |
| Liberty County Sheriff's Office..... | 476,000 |
| Madison County Sheriff's Office..... | 487,000 |
| Okeechobee County Sheriff's Office..... | 822,500 |
| Putnam County Sheriff's Office..... | 1,125,000 |
| Suwannee County Sheriff's Office..... | 604,000 |
| Taylor County Sheriff's Office..... | 289,000 |
| Union County Sheriff's Office..... | 295,800 |
| Wakulla County Sheriff's Office..... | 653,200 |
| Washington County Sheriff's Office..... | 445,000 |

Funds shall be distributed in quarterly advances and reconciled at the conclusion of each state fiscal year. By October 1, 2022, the sheriff's offices shall report to the Florida Sheriff's Association how funds were distributed to officers.

1249 SPECIAL CATEGORIES

| | |
|--|---------|
| OVERTIME | |
| FROM FEDERAL GRANTS TRUST FUND . . . | 314,125 |
| FROM GRANTS AND DONATIONS TRUST FUND | 4,250 |
| FROM FEDERAL LAW ENFORCEMENT TRUST FUND | 100,000 |

SECTION 4 - CRIMINAL JUSTICE AND CORRECTIONS

| | |
|---|---------|
| Traveling Criminal & Illegal Immigration Initiative (HF 0838)..... | 100,726 |
| Wandering Mitigation and Rescue Project (SF 1011) (HF 0063)..... | 200,000 |
| West Palm Beach - Incident Command Vehicle (SF 1172) (HF 0516)..... | 498,943 |
| Winter Springs Police Body Worn Cameras (HF 1342)..... | 67,680 |

From the funds in Specific Appropriation 1275, \$2,750,000 in nonrecurring funds from the General Revenue Fund is provided to the Department of Law Enforcement for the creation of a Rapid DNA Technology pilot program within eleven county jails (SF 2102) (HF 2033). The department shall administer the funds to the following participating sheriff's offices to pay for the purchase of rapid DNA machines, consumables, including sample test kits, installation and maintenance of the machines and any additional expenses necessary for the implementation of the program. The funding shall be distributed to the following counties:

| | |
|--|---------|
| Baker County Sheriff's Office..... | 250,000 |
| Charlotte County Sheriff's Office..... | 250,000 |
| Clay County Sheriff's Office..... | 250,000 |
| Flagler County Sheriff's Office..... | 250,000 |
| Hardee County Sheriff's Office..... | 250,000 |
| Hernando County Sheriff's Office..... | 250,000 |
| Leon County Sheriff's Office..... | 250,000 |
| Martin County Sheriff's Office..... | 250,000 |
| Manatee County Sheriff's Office..... | 250,000 |
| Nassau County Sheriff's Office..... | 250,000 |
| Sarasota County Sheriff's Office..... | 250,000 |

From the funds in Specific Appropriation 1275, \$20,713,800 in recurring funds from the General Revenue Fund is provided for salary increases for deputy sheriffs and correctional officers employed by sheriff's offices or boards of county commissioners in fiscally constrained counties, as defined in section 218.67(1), Florida Statutes, as follows:

| | |
|---|-----------|
| Baker County Sheriff's Office..... | 292,754 |
| Bradford County Sheriff's Office..... | 703,809 |
| Calhoun County Sheriff's Office..... | 434,740 |
| Columbia County Sheriff's Office..... | 1,378,388 |
| Desoto County Sheriff's Office..... | 521,994 |
| Dixie County Sheriff's Office..... | 690,634 |
| Franklin County Sheriff's Office..... | 539,122 |
| Gadsden County Sheriff's Office..... | 657,697 |
| Gilchrist County Sheriff's Office..... | 486,422 |
| Glades County Sheriff's Office..... | 384,974 |
| Gulf County Sheriff's Office..... | 246,637 |
| Hamilton County Sheriff's Office..... | 271,011 |
| Hardee County Sheriff's Office..... | 361,259 |
| Hendry County Sheriff's Office..... | 786,812 |
| Highlands County Sheriff's Office..... | 1,243,984 |
| Holmes County Sheriff's Office..... | 835,559 |
| Jackson County Sheriff's Office..... | 1,303,272 |
| Jefferson County Sheriff's Office..... | 342,814 |
| Lafayette County Sheriff's Office..... | 388,927 |
| Levy County Sheriff's Office..... | 1,085,884 |
| Liberty County Sheriff's Office..... | 626,077 |
| Madison County Sheriff's Office..... | 640,569 |
| Okeechobee County Sheriff's Office..... | 1,082,591 |
| Putnam County Sheriff's Office..... | 1,481,134 |
| Suwannee County Sheriff's Office..... | 794,717 |
| Taylor County Sheriff's Office..... | 379,704 |
| Union County Sheriff's Office..... | 388,663 |
| Wakulla County Sheriff's Office..... | 859,538 |
| Washington County Sheriff's Office..... | 785,234 |
| Jackson County Board of County Commissioners..... | 610,220 |
| Gulf County Board of County Commissioners..... | 108,660 |

Funds shall be distributed in quarterly advances and reconciled at the conclusion of each state fiscal year. By October 2, 2023, the sheriff's offices shall report to the Florida Sheriff's Association how funds were distributed to officers.

1276 SPECIAL CATEGORIES
OVERTIME

FROM FEDERAL GRANTS TRUST FUND . . .

314,125

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 3 Law Enforcement
SPONSOR(S): Appropriations Committee, Leek and others
TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 114 Y's 3 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 3 passed the House on February 16, 2022. The bill was amended in the Senate on March 10, 2022, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on March 10, 2022.

Law enforcement agencies across the United States, including Florida, have reported difficulty in attracting and retaining qualified law enforcement officers. Understaffed law enforcement agencies endanger public safety by increasing response times to emergency calls, hindering the ability to solve crimes, and negatively impacting the morale of law enforcement officers who are currently employed.

The bill provides law enforcement agencies with additional tools to bolster the recruitment and retention of qualified officers by providing financial incentives, enhanced training, expanded educational opportunities, and recognition that honors law enforcement officers' service to the state of Florida. The bill:

- Creates the Florida Law Enforcement Recruitment Bonus Program to provide one-time bonus payments of up to \$5,000 to newly employed law enforcement officers in Florida;
- Creates the Florida Law Enforcement Academy Scholarship Program to cover tuition, fees, and up to \$1,000 of eligible education expenses for trainees enrolled in a law enforcement officer basic recruit training program;
- Creates a reimbursement program to pay for up to \$1,000 of equivalency training costs for certified law enforcement officers who relocate to Florida or members of the special operations forces who become full-time law enforcement officers in Florida;
- Provides law enforcement officers who adopt a child from within the state child welfare system with a \$25,000 benefit for adopting a child with special needs or a \$10,000 benefit for adopting a child without special needs;
- Makes dependent children of law enforcement officers eligible to receive a Family Empowerment Scholarship to attend a private school;
- Increases the base salary for each county sheriff by \$5,000;
- Clarifies that a sheriff may transfer funds between fund and functional categories and object and subobject code levels after his or her budget has been approved by the board of county commissioners or budget commission;
- Exempts veterans and applicants with an associate degree or higher from taking the basic skills test as a prerequisite to entering a law enforcement officer basic recruit training program;
- Requires the Criminal Justice Standards and Training Commission to develop, and law enforcement officers to receive as part of their initial certification training and continued employment training, training in health and wellness principles;
- Allows law enforcement officers or former law enforcement officers to receive postsecondary credit at Florida public postsecondary educational institutions for training and experience acquired while serving;
- Encourages each district school board to establish public safety telecommunication training programs and law enforcement explorer programs in public schools; and
- Designates May 1 of each year as "Law Enforcement Appreciation Day."

The bill was approved by the Governor on April 1, 2022, ch. 2022-23, L.O.F. and will come effective July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Law enforcement agencies across the United States have reported difficulty in attracting and retaining qualified law enforcement officers.¹ According to a 2019 survey conducted by the International Association of Chiefs of Police, 78 percent of law enforcement agencies experienced difficulty in recruiting qualified candidates, 50 percent of agencies reported having to change employment policies in order to expand the pool of eligible recruits, and 25 percent reported having to reduce or eliminate certain law enforcement services or units due to staffing difficulties.²

The emergence of COVID-19 in early 2020 only exacerbated the difficulty in recruiting law enforcement officers. In a survey conducted in September 2020, the number of law enforcement agencies reporting difficulty in recruiting qualified officers jumped to 86 percent.³ Law enforcement agencies have reported a variety of reasons for the difficulty in maintaining full staffing levels, including the negative public perception of law enforcement officers, an increase in retirements, decreased interest in law enforcement careers, the economy and availability of open positions in other occupations, and the lengthy background check and hiring process.⁴ Although law enforcement agencies have attempted to address the problem in a variety of ways, such as by offering hiring incentives, relaxing automatic candidate disqualifiers, providing more flexible work schedules, increasing fringe benefits, and expanding recruitment campaigns, many agencies are still unable to recruit enough qualified officers.⁵

Financial Incentives

Florida Law Enforcement Recruitment Bonus Payment Program

Background

In an effort to reduce staffing shortages, many law enforcement agencies offer financial incentives to recruit new law enforcement officers.⁶ For example, the Orange County Sheriff's Office is offering a \$2,500 signing bonus for candidates with two or more years of full-time law enforcement experience and a \$1,500 signing bonus for all other candidates.⁷ In an attempt to attract new officers, the City of Ft. Myers is offering relocation assistance of up to \$5,000 for out-of-state candidates and up to \$3,000 for in-state candidates, as well as a \$1,000 signing bonus for newly hired officers.⁸

Effect of the Bill – Florida Law Enforcement Recruitment Bonus Payment Program

The bill creates s. 445.08, F.S., to establish the Law Enforcement Recruitment Bonus Payment Program (Bonus Program) within the Florida Department of Economic Opportunity (DEO). The bill provides the Bonus Program is created to administer one-time bonus payments of up to \$5,000 to newly employed officers in Florida, subject to legislative appropriation. The bill defines a “newly

¹ International Association of Chiefs of Police, *The State of Recruitment: A Crisis for Law Enforcement*, https://www.theiacp.org/sites/default/files/239416_IACP_RecruitmentBR_HR_0.pdf (last visited Mar. 15, 2022).

² *Id.*

³ Eric Glasser, *Study finds 86% of police departments experiencing staffing shortages*, WTSP (Sept. 16, 2020), <https://www.wtsp.com/article/news/local/study-finds-86-of-police-departments-experiencing-shortages/67-cd4f8f7c-1d5e-4840-b0b4-53614530249e> (last visited Mar. 15, 2022).

⁴ *Id.*

⁵ International Association of Chiefs of Police, *supra* note 1.

⁶ *Id.*

⁷ Florida Sheriffs Association, *Deputy Sheriff – Patrol (FL Certified Law Enforcement Officer)*, <https://flsheriffsjobs.org/jobs/view/deputy-sheriff-patrol-fl-certified-law-enforcement-officer/49900014/> (last visited Mar. 15, 2022).

⁸ Florida Police Chiefs Association, *Certified (FL) Police Officer*, <https://fpca.com/certified-fl-police-officer-fort-myers-police/> (last visited Mar. 15, 2022).

employed officer” as a person who gains or is appointed to full-time employment as a certified law enforcement officer with a Florida criminal justice employing agency on or after July 1, 2022, and who has never before been employed as a law enforcement officer in this state.

The bill requires bonus payments to be prorated based on the funds appropriated by the Legislature for the Bonus Program. The bill requires the DEO to develop an annual plan for administering the Bonus Program and distributing bonus payments to eligible officers. At a minimum, DEO’s annual plan must include:

- The method for determining the estimated number of newly employed officers to gain or be appointed to full-time employment during the applicable fiscal year.
- The minimum eligibility requirements a newly employed officer must meet to receive and retain a bonus payment, which must include:
 - Obtaining certification as a law enforcement officer.
 - Gaining full-time employment with a Florida criminal justice agency.
 - Maintaining continuous full-time employment with one or more Florida criminal justice agencies for at least two years from the date on which the officer obtained certification, provided that an officer employed by more than one criminal justice agency may not have a break in service longer than 15 days when transitioning between employers.
- The method that will be used to determine the bonus payment amount to be distributed to each newly employed officer.
- The method that will be used to distribute bonus payments to employing law enforcement agencies for distribution to eligible officers.
- The estimated cost to DEO associated with developing and administering the program and distributing bonus payment funds.
- The method by which an officer must reimburse the state if he or she received a bonus payment but failed to maintain continuous employment for the required two-year period. An officer is not required to reimburse the state if he or she is discharged from employment with a law enforcement agency for any reason other than misconduct.

The bill requires DEO to submit the annual plan to the Executive Office of the Governor’s Office of Policy and Budget, the chair of the Senate Appropriations Committee, and the chair of the House of Representatives Appropriations Committee by October 1 of each year. The bill authorizes DEO to submit budget amendments as necessary to release funds appropriated for the Bonus Program to criminal justice employing agencies.

The Bonus Program expires on July 1, 2025.

Florida Law Enforcement Academy Scholarship Program

Background

Prior to being certified as a law enforcement officer in Florida, a person must complete a basic recruit training program unless he or she can claim an exemption.⁹ A trainee may either pay the costs of tuition out-of-pocket, or, under s. 943.16, F.S., an employing agency¹⁰ may sponsor a trainee to pay the costs of his or her tuition.¹¹ A trainee who is sponsored by an employing agency is required to maintain employment with that agency for at least two years after graduation from the basic recruit training

⁹ S. 943.13(9), F.S. See Equivalency Training Reimbursement, *infra*.

¹⁰ “Employing agency” means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

S. 943.10(4), F.S.

¹¹ S. 943.16(1), F.S.

program.¹² In most cases, if a trainee fails to maintain employment for the two-year period, he or she is required to reimburse the employing agency for the full cost of tuition and other course expenses.¹³

Effect of the Bill – Florida Law Enforcement Academy Scholarship Program

The bill creates s. 1009.896, F.S., which, beginning with the 2022-2023 academic year, creates the Florida Law Enforcement Academy Scholarship Program (Scholarship Program). The bill requires the Scholarship Program to be administered by the Department of Education (DOE), in consultation with the Florida Department of Law Enforcement (FDLE), according to the rules and procedures established by the State Board of Education. The bill requires scholarships to be awarded on a first-come, first-served basis based on the date DOE receives each completed application. Scholarships are contingent upon an appropriation by the Legislature. To be eligible for a scholarship, a trainee must:

- Be enrolled at a basic recruit training program approved by the Criminal Justice Standards and Training Commission (CJSTC) at a Florida College System institution or school district technical center.
- Not be sponsored by an employing agency to cover the costs of training.

The bill provides for a scholarship award in an amount equal to the costs and fees which are necessary to complete the basic recruit training program, less any state financial aid received by a trainee. A nonresident may apply for a scholarship, but the bill prohibits such an award from including the additional out-of-state student fee. In addition to tuition and costs, a trainee is also eligible for up to \$1,000 for educational expenses, including the officer certification examination fee, textbooks, uniforms, ammunition, required insurance, and any other costs or fees for consumable materials required to complete the basic recruit training program.

Equivalency Training Reimbursement

Background

A person may be exempt from completing all or part of a law enforcement officer basic recruit training program if he or she:

- Has completed a comparable basic recruit training program in another state or with the Federal Government and served as a full-time sworn officer in another state for at least one year, provided he or she has no more than an eight-year break in employment;
- Served in the special operations forces¹⁴ for a minimum of five years, provided he or she has no more than a four-year break from special operations service; or
- Was previously certified as a law enforcement officer in Florida but is on inactive status and he or she has more than a four-year break in service, but no more than an eight-year break in service.¹⁵

To claim an exemption, a person must document the reason he or she is requesting an exemption on an FDLE-issued form and submit the form to his or her employing agency, training center, or criminal justice selection center for initial verification.¹⁶ The form is then forwarded to the CJSTC for final

¹² S. 943.16(2), F.S.

¹³ *Id.* A trainee is not required to reimburse the employing agency if he or she terminates employment with the employing agency and resigns his or her law enforcement certification or if the trainee terminates employment due to hardship or extenuating circumstances. Ss. 943.16(6) and (7), F.S.

¹⁴ "Special operations forces" means those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes, but is not limited to, servicemembers of the United States Army Special Forces and the United States Army 75th Ranger Regiment; the United States Navy SEALs and Special Warfare Combatant-Craft Crewmen; the United States Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; the United States Marine Corps Critical Skills Operators; and any other component of the United States Special Operations Command approved by the commission. S. 943.10(22), F.S.

¹⁵ Ss. 943.13(8) and 943.131(2)(a), F.S.

¹⁶ S. 943.131(2), F.S.

approval.¹⁷ If a person receives an exemption from basic recruit training, he or she has one year to complete any additional required training, to demonstrate proficiency in high-liability training areas,¹⁸ and to pass the officer certification examination.¹⁹

Effect of the Bill – Equivalency Training Reimbursement

The bill creates s. 1009.8961, F.S., which, beginning with the 2022-2023 academic year, requires DOE, in consultation with FDLE, to reimburse the costs of equivalency training for certified law enforcement officers from other states who relocate to Florida and members of the special operations forces who are transitioning into service as full-time law enforcement officers. To be eligible for such reimbursement, an applicant's employing agency must certify that he or she:

- Qualifies for an exemption from the basic recruit training program.
- Is not sponsored by the employing agency to cover the cost of equivalency training.

The bill provides that applicants may be reimbursed up to \$1,000 for eligible expenses, contingent upon appropriation by the Legislature. Reimbursement is awarded on a first-come, first-served basis for costs or fees incurred by an applicant for:

- Equivalency assessment tests.
- Equivalency training.
- The law enforcement officer certification examination.

Adoption Benefits

Background

Section 409.1664, F.S., provides a one-time, lump-sum monetary benefit to a qualifying adoptive employee,²⁰ veteran,²¹ or servicemember²² who adopts a child within Florida's child welfare system²³ of \$10,000 for adopting a child who has special needs²⁴ or \$5,000 for adopting a child who does not have special needs.

¹⁷ *Id.*

¹⁸ High-liability training areas include firearms, defensive tactics, vehicle operations, and first aid. R. 11B-35.0021, F.A.C.

¹⁹ S. 943.131(4), F.S.

²⁰ "Qualifying adoptive employee" means a full-time or part-time employee of a state agency, a charter school established under s. 1002.33, F.S., or the Florida Virtual School established under s. 1002.37, F.S., who is not an independent contractor and who adopts a child within the child welfare system pursuant to ch. 63, F.S., on or after July 1, 2015. The term includes instructional personnel, as defined in s. 1012.01, F.S., who are employed by the Florida School for the Deaf and the Blind, and includes other personal-services employees who have been continuously employed full time or part time by a state agency for at least one year. S. 409.1664(1)(b), F.S.

²¹ "Veteran" means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during a specified period of wartime service. S. 1.01(14), F.S.

²² "Servicemember" means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. S. 250.01(19), F.S.

²³ "Child within the child welfare system" means a special needs child and any other child who was removed from the child's caregiver due to abuse or neglect and whose permanent custody has been awarded to the department or to a licensed child-placing agency. S. 409.166(2)(c), F.S.

²⁴ For purposes of the adoption benefit program, a child who has special needs is:

- A child whose permanent custody has been awarded to the Department of Children and Families or to a licensed child-placing agency; and
- Who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is:
 - Eight years of age or older;
 - Developmentally disabled;
 - Physically or emotionally handicapped;
 - Of black or racially mixed parentage; or
 - A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- For whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy, except when the child is being adopted by the child's foster parents or relative caregivers. S. 409.166(2), F.S.

Adoption benefits are awarded on a first-come, first-served basis and subject to appropriation by the Legislature.²⁵ To obtain the adoption benefit, a qualifying adoptive employee must apply to his or her agency head or to his or her school director.²⁶ A veteran or servicemember must apply directly to the Department of Children and Families to receive the benefit.²⁷

Effect of the Bill – Adoption Benefits

The bill amends s. 409.1664, F.S., to make a law enforcement officer²⁸ who is domiciled in Florida eligible, for adoptions occurring on or after July 1, 2022, for a benefit of \$25,000 for adopting a child who has special needs or \$10,000 for adopting a child who does not have special needs from within the child welfare system. The bill requires a law enforcement officer to apply to FDLE to obtain the adoption benefit.

Sheriff Salaries

Background

Article VIII, section 1(d) of the Florida Constitution establishes the offices of sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court in each county. Article II, section 5(c) of the Florida Constitution provides that the powers, duties, compensation, and method of payment of state and county officers, including the sheriff, shall be fixed by law. Section 145.071, F.S., provides a schedule for calculating the salary of each sheriff based on county population as follows:

| Population Group | County Population Range | | Base Salary | Group Rate |
|------------------|-------------------------|---------|-------------|------------|
| | Minimum | Maximum | | |
| I | 0 | 49,999 | \$23,350 | \$0.07875 |
| II | 50,000 | 99,999 | \$26,500 | \$0.06300 |
| III | 100,000 | 199,999 | \$29,650 | \$0.02625 |
| IV | 200,000 | 399,999 | \$32,275 | \$0.01575 |
| V | 400,000 | 999,999 | \$35,425 | \$0.00525 |
| VI | 1,000,000 | — | \$38,575 | \$0.00400 |

A sheriff's salary is calculated by adjusting the base salary for a sheriff's county to reflect the actual population within the given range,²⁹ then, to account for inflation, multiplying the result by several factors that are provided in statute.³⁰

The compensation requirements apply to sheriffs in all counties of the state, except those sheriffs from counties:

- Whose salaries are not subject to being set by the Legislature because of the provisions of a county home rule charter;³¹ or

²⁵ Ss. 409.1664(2)(c) and (3), F.S.

²⁶ S. 409.1664(3), F.S.

²⁷ *Id.*

²⁸ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. S. 943.10(1), F.S. This definition applies to the term "law enforcement officer" as used in CS/HB 3 and in this analysis.

²⁹ The base salary is adjusted by multiplying the appropriate group rate by the population in excess of the minimum for the population group. The result is added to the base salary for the population group. S. 145.071, F.S.

³⁰ S. 145.19, F.S.

³¹ There are currently 20 charter counties in Florida: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla. Florida Association of Counties, *Charter County Information*, <https://www.fl-counties.com/charter-county-information> (last visited Mar. 15, 2022).

- With a consolidated form of government as provided in ch. 67-1320, Laws of Fla. (Duval County).³²

Effect of the Bill – Sheriff Salaries

The bill increases the base salary for a sheriff in each of the six population groups by \$5,000 as follows:

| Population Group | County Population Range | | Base Salary | Group Rate |
|------------------|-------------------------|---------|-------------|------------|
| | Minimum | Maximum | | |
| I | 0 | 49,999 | \$28,350 | \$0.07875 |
| II | 50,000 | 99,999 | \$31,500 | \$0.06300 |
| III | 100,000 | 199,999 | \$34,650 | \$0.02625 |
| IV | 200,000 | 399,999 | \$37,275 | \$0.01575 |
| V | 400,000 | 999,999 | \$40,425 | \$0.00525 |
| VI | 1,000,000 | – | \$43,575 | \$0.00400 |

Law Enforcement Training and Education Requirements

Basic Recruit Training Program Entry Requirements

Background

The CJSTC was established for the purpose of ensuring criminal justice officers in Florida are ethical, qualified, and well-trained.³³ The CJSTC is comprised of:

- Three sheriffs.
- Three chiefs of police.
- Five law enforcement officers who are neither sheriffs nor chiefs, who are the rank of sergeant or below.
- Two correctional officers, one of which is an administrator of a state correctional institution and one who is of the rank of sergeant or below.
- One Florida resident who falls into none of the above categories.
- The Attorney General or his or her designated proxy.
- The Secretary of the Department of Corrections or his or her designated proxy.
- The Director of the Florida Highway Patrol.³⁴

The primary responsibilities of the CJSTC are to:

- Establish uniform minimum standards for employment and training of full-time, part-time, and auxiliary law enforcement, correctional officers, and correctional probation officers.
- Establish and maintain officer training programs, curricula requirements, and certification of training schools and training school instructors.
- Certify officers who complete a Florida basic recruit training program, or who are diversely qualified through experience and training, and who meet minimum employment standards.
- Review and administer appropriate administrative sanctions in instances when an officer, a training school instructor, or a training school is found in violation of law or CJSTC standards.
- Promulgate rules and procedures to administer the requirements of ss. 943.085–943.257, F.S., relating to standards and training for officers.
- Conduct studies of compensation, education, and training for the correctional, correctional probation, and law enforcement disciplines.
- Maintain a central repository of records of all certified officers.

³² S. 145.012, F.S.

³³ Florida Department of Law Enforcement, *Criminal Justice Standards & Training Commission*, <https://www.fdle.state.fl.us/CJSTC/Commission/CJSTC-Home.aspx> (last visited Mar. 15, 2022).

³⁴ S. 943.11, F.S.

- Conduct quarterly meetings to discuss issues and approve rules that relate to officer standards and training.
- Develop, maintain, and administer the State Officer Certification Examination for criminal justice officers.³⁵

As part of its responsibility in establishing training standards for law enforcement officers, the CJSTC is required to design, implement, maintain, evaluate, and revise entry requirements for the basic recruit training program.³⁶ Section 943.17(1)(g), F.S., requires the CJSTC to limit entry to basic recruit training programs to those persons who have passed a basic skills examination and assessment instrument, commonly referred to as the Basic Abilities Test (BAT).³⁷ Out-of-state law enforcement officers, federal officers, certain members of the special operations forces, and previously certified Florida law enforcement officers may qualify for an exemption from the BAT as part of the equivalency of training process.³⁸

The BAT is a 97 question, 90 minute examination that measures “minimum competencies” as adopted by the CJSTC in three sections: behavioral attributes, memorization, and cognitive abilities.³⁹ A candidate must receive a score of 70 or higher across all three sections of the BAT to pass the examination.⁴⁰ According to FDLE, the pass rate for the law enforcement BAT from FY 2016-17 – FY 2020-21 is 88.31 percent.⁴¹

Effect of the Bill – Basic Recruit Training Program Entry Requirements

The bill amends s. 943.17, F.S., to exempt a person who is a veteran⁴² or who holds an associate degree or higher from an accredited college or university from taking the BAT prior to enrolling in a basic recruit training program.

Law Enforcement Training

Background

The basic recruit training program for initial certification as a law enforcement officer is 770 hours and consists of the following topics:

- Introduction to law enforcement;
- Legal;
- Interactions in a diverse community;
- Interviewing and report writing;
- Fundamentals of patrol;
- Calls for service;
- Criminal investigations;
- Crime scene to courtroom;
- Critical incidents;
- Traffic stops;
- DUI traffic stops;

³⁵ *Id.*

³⁶ S. 943.17, F.S.

³⁷ Florida Department of Law Enforcement, *Basic Abilities Test (BAT)*, <https://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Basic-Abilities-Test.aspx> (last visited Mar. 15, 2022).

³⁸ S. 943.131(2), F.S. Florida Department of Law Enforcement, *Equivalency of Training*, <http://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Equivalency-of-Training.aspx> (last visited Mar. 15, 2022).

³⁹ Pearson VUE, *The FDLE Basic Abilities Test Exam*, <https://home.pearsonvue.com/fdle/bat> (last visited Mar. 15, 2022).

⁴⁰ Pearson VUE, *Exam Description*, <https://home.pearsonvue.com/getattachment/7093b7e6-bd7f-4f5a-8f93-df30ae23f60a/Florida%20Department%20of%20Law%20Enforcement%20BAT%20Exam%20Description.aspx> (last visited Mar. 15, 2022).

⁴¹ Email from Bobbie Smith, Legislative Analyst, Florida Department of Law Enforcement, RE: Basic Abilities Test (Oct. 6, 2021).

⁴² S. 1.01(14), F.S., *supra* note 21.

- Traffic crash investigations;
- Law enforcement vehicle operations;
- First aid for criminal justice officers;
- Firearms;
- Defensive tactics;
- Dart-firing stun gun; and
- Criminal justice officer physical fitness training.⁴³

After an officer obtains initial certification, as a condition of continued employment or appointment as a law enforcement officer, s. 943.135, F.S., requires the officer to receive at least 40 hours of continued employment training every four years. Current law requires CJSTC to develop continued education training relating to several topics, such as training for diabetic emergencies,⁴⁴ juvenile sexual offender investigations,⁴⁵ and interpersonal skills relating to diverse populations.⁴⁶ The employing agency must document that the continued employment training is job-related and consistent with the needs of the employing agency and report training completion to CJSTC.

Effect of the Bill – Law Enforcement Training

The bill creates s. 943.1745, F.S., which requires the CJSTC, in consultation with the Florida State University Institute for Justice Research and Development and the Resiliency Behind the Badge Training Program,⁴⁷ to develop a training program relating to officer health and wellness principles. At a minimum, such training must include:

- Understanding the role secondary trauma and work-related incidents have on an officer's personal life;
- Methods for identifying and addressing personal and work-related stressors;
- Strategies to better understand when to seek professional help and what kind of professional help to seek; and
- Strategies to normalize conversations about stress, trauma, and mental health within the law enforcement community.

By July 1, 2023, CS/HB 3 requires CJSTC to incorporate a training component relating to officer health and wellness principles into the course curriculum required for a law enforcement officer to obtain his or her initial certification and as part of the 40 hours of required instruction for continued employment or appointment as a law enforcement officer.

Education

Family Empowerment Scholarship Program

Background

The Family Empowerment Scholarship (FES) Program was established in 2019 to provide educational options to eligible children of families with limited financial resources (known as FES-Educational Options or EO).⁴⁸ For the 2019-2020 school year, 18,000 scholarships were awarded. Beginning in the

⁴³ Florida Department of Law Enforcement, *Florida Law Enforcement Academy (Version 2020.07) #2000*, <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses/2010.aspx> (last visited Mar. 15, 2022).

⁴⁴ S. 943.1726, F.S.

⁴⁵ S. 943.17295, F.S.

⁴⁶ S. 943.1716, F.S.

⁴⁷ The "Resiliency Behind the Badge" training program, developed by Florida State University's Institute for Justice Research and Development, is a self-paced, interactive, online training program specifically designed to assist law enforcement officers in gaining "a deeper understanding of how their mind and body react to on-the-job stress and learn actionable steps they can take to manage that stress." Florida State University Institute for Justice Research and Development, *Resiliency Behind the Badge*, <https://ijrd.csw.fsu.edu/resiliency-behind-badge> (last visited Mar. 15, 2022).

⁴⁸ S. 1002.394(1), F.S.

2020-2021 school year, the maximum number of students participating in the FES-EO Program may annually increase by 1 percent of the state's total public school enrollment.⁴⁹ Beginning in the 2021-2022 school year, a scholarship recipient meeting one of the statutorily-identified criteria is excluded from the maximum number of students allowed to participate.⁵⁰

A student is eligible for the FES-EO Program if the student:

- Is on the direct certification list⁵¹ or the student's household income level does not exceed 185 percent of the federal poverty level;
- Is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care;
- Has a household income level that does not exceed 375 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level that is increased by 25 percentage points in the fiscal year following any fiscal year in which more than five percent of the authorized FES scholarships have not been funded;
- Is a sibling of a student who is participating in the FES-EO Program and such siblings reside in the same household; or
- Is a dependent child of a member of the United States Armed Forces.⁵²

A student must use FES-EO Program funds to pay tuition and fees at an eligible private school or to pay for transportation to a public school or lab school that is different from the school to which the student is assigned.⁵³ Scholarship awards remain in effect until a student returns to a public school, graduates from high school, or reaches the age of 21, whichever occurs first.⁵⁴

Beginning in the 2021-2022 school year, the FES Program was expanded to include existing scholarship programs for students with disabilities (known as FES-Unique Abilities or UA).⁵⁵ For the 2021-2022 school year, scholarships for up to 20,000 students can be awarded, and beginning in the 2022-2023 school year, the maximum number of students with disabilities participating in the FES-UA Program may annually increase by 1 percent or the state's total exceptional student education enrollments. Certain statutorily-identified students are excluded from the maximum number of students participating in the FES-UA Program.

Effect of the Bill – Family Empowerment Scholarship Program

For the FES-EO Program, the bill expands eligibility to include dependent children of law enforcement officers. The bill also excludes dependent children of law enforcement officers from the maximum number of students participating in both the FES-EO and FES-UA Programs.

College Credit for Law Enforcement Training

Background

Section 1004.096, F.S., requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules to create a process to allow eligible servicemembers or veterans of the United States Armed Forces to earn postsecondary credit across all Florida public postsecondary educational institutions for college-level training and education acquired in the military. These regulations and rules

⁴⁹ S. 1002.394(12)(a)1, F.S.

⁵⁰ *Id.*

⁵¹ "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. S. 1002.395(2)(c), F.S.

⁵² S. 1002.394(3)(a), F.S.

⁵³ S. 1002.394(4)(a), F.S.

⁵⁴ S. 1002.394(5)(a), F.S.

⁵⁵ Ch. 2021-27, Laws of Fla.

include procedures for credential evaluation and the uniform award of postsecondary credit or career education clock hours, including, but not limited to, equivalency and alignment of military coursework with appropriate postsecondary courses and course descriptions.⁵⁶ State universities, Florida College System institutions, and career centers are required to award postsecondary credit or career education clock hours for courses taken and occupations held by individuals during their service in the military based on the rules and regulations adopted by the Board of Governors and the State Board of Education.⁵⁷

Effect of the Bill – College Credit for Law Enforcement Training

The bill creates s. 1004.098, F.S., which requires the Board of Governors and the State Board of Education to adopt rules to create a process to allow eligible law enforcement officers or former law enforcement officers to earn postsecondary credit across all Florida public postsecondary educational institutions for college-level training and education acquired while serving as a law enforcement officer. Such regulations and rules must include procedures for credential evaluation and the uniform award of postsecondary credit or career education clock hours, including, but not limited to, equivalency and alignment of law enforcement training with appropriate postsecondary courses and course descriptions.

The bill requires the Articulation Coordinating Committee⁵⁸ (ACC) to convene a workgroup by September 1, 2022 to develop a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for law enforcement training and experience. The workgroup is composed of the following 14 members:

- The chair of the ACC, or his or her designee, who shall serve as chair.
- Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the Board of Governors.
- Four members representing academic affairs administrators and faculty from Florida College System institutions, appointed by the chair of the State Board of Education.
- Two members representing faculty from career centers, appointed by the State Board of Education.
- A representative from the Florida Sheriffs Association.
- A representative from the Florida Police Chiefs Association.
- A representative from the Criminal Justice Standards and Training Commission.

The workgroup must provide recommendations to the Board of Governors and the State Board of Education by March 1, 2023. The bill requires the ACC to approve and annually update a prioritized list of postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for law enforcement training and experience. The bill requires State universities, Florida College System institutions, and career centers to award postsecondary credit or career education clock hours for law enforcement training and experience based on the rules and regulations adopted by the Board of Governors and the State Board of Education.

⁵⁶ S. 1004.096(1), F.S.

⁵⁷ S. 1004.096(2)(f), F.S.

⁵⁸ The Articulation Coordinating Committee (ACC) is a K-20 advisory body appointed by the Commissioner of Education. It is comprised of representatives from all levels of public and private education: the State University System, the Florida College System (FCS), independent postsecondary institutions, public schools, nonpublic schools, and career centers. There is also an additional member representing students. Florida Department of Education, *Articulation Coordinating Committee*, <http://www.fldoe.org/policy/articulation/committees/articulation-coordinating-committee-ov/meetings.stm> (last visited Mar. 15, 2022).

Public Safety Training in Public Schools

911 Public Safety Telecommunication Training Programs

Background

Section 401.465(2)(a), F.S., requires any person employed as a 911 public safety telecommunicator to be certified by the Department of Health (DOH). A “911 public safety telecommunicator” is a public safety dispatcher or 911 operator whose duties and responsibilities include:

- The answering, receiving, transferring, and dispatching functions related to 911 calls;
- Dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency;
- Providing real-time information from federal, state, and local crime databases; or
- Supervising or serving as the command officer to a person or persons having such duties and responsibilities.⁵⁹

To be certified as a 911 public safety telecommunicator, a person must:

- Complete a 911 public safety telecommunication training program;⁶⁰
- Certify that he or she is not addicted to alcohol or any controlled substance;
- Certify that he or she is free from any physical or mental defect that might impair the person’s ability to perform his or her duties; and
- Submit a completed application and application fee to DOH.⁶¹

911 public safety telecommunicator training programs are offered by law enforcement and public safety agencies, Florida College System institutions, technical colleges, and some public high schools.⁶²

Effect of the Bill – 911 Public Safety Telecommunication Training Programs

The bill encourages each district school board to establish a public safety telecommunication training program in at least one public high school in a school district or to partner with an existing public safety telecommunication training program operated by a law enforcement agency or Florida College System institution. The bill requires a school district to allow a student attending a public high school in the district to attend a public safety telecommunication training program at another public high school in the district unless:

- The student’s school offers a public safety telecommunication training program;
- The student does not meet the minimum enrollment qualifications for the public safety telecommunication training program; or
- Scheduling of the student’s courses of study does not allow the student to attend the public safety telecommunication training program at another public high school in the district.

Law Enforcement Explorer Programs

Background

⁵⁹ The term does not include administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel. S. 401.465(1)(a), F.S.

⁶⁰ “Public safety telecommunication training program” means a 911 emergency public safety telecommunication training program that [DOH] determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the Department of Education and consists of not less than 232 hours. S. 401.465(1)(c), F.S.

⁶¹ S. 401.465(2)(d), F.S.

⁶² Florida Department of Health, *License Verification*, <https://mqa.internet.doh.state.fl.us/MQASearchServices/HealthCareProviders/IndexPaged?page=1> (last visited Mar. 15, 2022).

Law enforcement Explorer programs provide young adults between the ages of 14 and 21 with the opportunity to receive experience and training in the law enforcement profession.⁶³ Participants in Explorer programs receive training in the basics of law enforcement, including patrol procedures, traffic control, firearm safety, first aid, and radio procedures.⁶⁴ Explorers also may assist certified law enforcement officers in controlled settings, such as assisting with crowd control at parades and athletic events.⁶⁵ In Florida, Explorer programs are offered by both sheriff's offices and municipal police departments.

Effect of the Bill – Law Enforcement Explorer Programs

The bill encourages each district school board to partner with a law enforcement agency to offer a law enforcement Explorer program at public middle and high schools, either by integrating the Explorer program into existing curriculum or by offering an Explorer program as an elective course or an after-school activity. The bill requires a district school board to award course credit if an Explorer program is offered as an elective course.

Sheriff's Budget Authority

Background

Each sheriff must annually prepare and submit to the board of county commissioners a 2022 budget for carrying out the powers, duties, and operations of the office for the next fiscal year.⁶⁶ The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year.⁶⁷

The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, and must be categorized at the appropriate fund and functional level.⁶⁸ The fund or functional level is the broadest category within the sheriff's budget (includes general law enforcement, corrections and detention alternative facilities, court services). Within the appropriate fund and functional category, expenditures are further itemized into objects, which include:⁶⁹

- Personnel services;
- Operating expenses;
- Capital outlay;
- Debt service;
- Grants and aides; and
- Other uses.

If requested by the county, the sheriff must further break down expenses into the subobject level.⁷⁰ The county may not amend, modify, increase, or reduce any expenditure at this subobject level.⁷¹

At a public hearing, the board of county commissioners or the budget commission, as appropriate, may amend, modify, increase, or reduce any or all items of expenditures in the proposed budget and must ultimately approve the budget.⁷²

⁶³ Florida Sheriffs Association, *Youth Programs*, <https://www.flsheriffs.org/law-enforcement-programs/florida-sheriffs-explorer-association> (last visited Mar. 15, 2022).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ S. 30.49, F.S.

⁶⁷ S. 30.49(2)(b), F.S.

⁶⁸ S. 30.49(2), F.S.

⁶⁹ S. 30.49(2)(c), F.S.

⁷⁰ S. 30.49(3), F.S.

⁷¹ *Id.*

⁷² S. 30.49(4), F.S.

Any county constitutional officer whose budget is approved by the board of county commissioners, who has not been reelected to office or is not seeking reelection, must be prohibited from making any budget amendments, transferring funds between itemized appropriations, or expending in a single month more than one-twelfth of any itemized approved appropriation, following the date he or she is eliminated as a candidate or October 1, whichever comes later, without approval of the board of county commissioners.⁷³ As such, current law provides that when a sheriff is no longer seeking reelection or has not been reelected, the sheriff loses the ability to transfer funds between itemized appropriations without approval of the board of county commissioners. Until then, the sheriff appears to retain flexibility to administer his office within the general parameters of his or her budget.⁷⁴ This year, however, the Florida Supreme Court held that a sheriff must follow the budget amendment process established in ch. 129, F.S., before transferring funds between objects in his or her budget.⁷⁵

Effect of the Bill – Sheriff's Budget Authority

The bill clarifies that a sheriff may transfer funds between fund and functional categories and object and subobject code levels after his or her budget has been approved by the board of county commissioners or budget commission.

Law Enforcement Appreciation Day

Background

In 1972, the Florida Legislature designated the month of May as “Law Enforcement Appreciation Month.”⁷⁶ Under s. 683.11, F.S., “[t]he Governor and the mayor of each municipality may issue annually a proclamation designating the month of May as ‘Law Enforcement Appreciation Month’ and urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe this occasion through appropriate programs, meetings, services, or celebrations in which state, county, and local law enforcement officers are invited to participate.”

Effect of the Bill – Law Enforcement Appreciation Day

The bill amends s. 683.11, F.S., to designate May 1 of each year “Law Enforcement Appreciation Day,” in Florida and authorizes the Governor and mayor of each municipality to annually issue such a proclamation.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2022.

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:

⁷³ S. 129.06(5), F.S.

⁷⁴ *Id.*, see also ss. 30.15 and 30.53, F.S.

⁷⁵ *Alachua County, FL v. Watson, Jr.*, No. SC19-2016 (Fla. 2022).

⁷⁶ Ch. 72-322, Laws of Fla.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Recruitment Incentive Programs

The General Appropriations Act for Fiscal Year 2022-2023 provides \$6.0 million recurring and \$20.0 million nonrecurring funds from the General Revenue Fund to implement the recruitment incentive program provisions included in the bill.

Florida Law Enforcement Recruitment Bonus Program

While it is unclear how many new individuals may be recruited into law enforcement in Florida, law enforcement data illustrates a five-year average of approximately 2,711 initial law enforcement certifications annually. Based upon this historical data, a \$5,000 bonus payment indicates the state could expect to expend approximately \$13.6 million annually on bonuses for recruitment purposes.

The bill specifies that a one-time bonus payment of up to \$5,000 could be provided to newly employed law enforcement officers within the state contingent upon annual appropriation by the Legislature, and that payments shall be prorated subject to the amount appropriated for the program. The General Appropriations Act for Fiscal Year 2022-2023 appropriates \$20.0 million in nonrecurring general revenue funds to administer the Florida Law Enforcement Recruitment Bonus Program.

Additionally, workload created within the Department of Economic Opportunity associated with administering the program is also indeterminate. However, administering this law enforcement bonus program can likely be handled within existing resources, similar to how the department has managed the pandemic first responder's bonus payment program in Fiscal Year 2021-2022.

Florida Law Enforcement Academy Scholarship Program

The Florida College System (FCS) in-state tuition rate for a postsecondary vocational certificate is \$71.98 per credit hour⁷⁷; additionally, the standard in-state tuition rate for a school district career certificate is \$2.33 per contact hour.⁷⁸ On average, FCS and school district technical center basic recruit training programs are 775 contact hours, or 27 credit hours in duration. This equates to an average in-state program tuition cost of \$1,943 at a FCS institution and \$1,805 at a school district technical center.

The bill specifies that awarded scholarship amounts are equal to tuition and specified fees, and up to \$1,000 for eligible expenses. Costs associated with out-of-state fees for nonresident trainees are excluded. Furthermore, the bill provides any potential expenditures for the scholarship program are contingent upon annual appropriation by the Legislature on a first-come, first-served basis. The

⁷⁷ S. 1009.23(3)(a), F.S.

⁷⁸ S. 1009.22(3)(c), F.S.

General Appropriations Act for Fiscal Year 2022-2023 appropriates \$5.0 million in recurring general revenue funds to administer the Florida Law Enforcement Academy Scholarship Program.

Equivalency Training Reimbursement Program

Equivalency training or assessments conducted at a FCS institution or school district technical center could be subject to the tuition and fees of the respective postsecondary institution. The State Officer Certification Examination (SOCE) is administered electronically by a third party contract provider at authorized testing sites throughout the state. The standard fee for taking the SOCE is \$100, plus any additional fees that may be assessed by individual testing sites.⁷⁹

The bill specifies that the reimbursement for equivalency training is contingent upon annual appropriation by the Legislature. The General Appropriations Act for Fiscal Year 2022-2023 appropriates \$1.0 million in recurring general revenue funds to administer the Equivalency Training Reimbursement Program.

Adoption Benefits

The bill adds law enforcement officers to the list of individuals who may receive an adoption benefit pursuant to s. 409.1664, F.S. The payment of adoption benefits under s. 409.1664, F.S., is contingent upon an annual appropriation by the Legislature. The General Appropriations Act for Fiscal Year 2022-2023 appropriates \$8,377,437 in recurring general revenue funds to provide adoption benefits as currently authorized under s. 409.1664, F.S., and for the newly added benefit for law enforcement officers as specified in the bill.

Sheriff Salaries

The fiscal impact on counties related to sheriff salary increases is indeterminate. The bill increases sheriffs' base salaries by \$5,000. The annual salary for each sheriff is based on a statutory formula contained in ss. 145.071 and 145.19, F.S. In September of each year, the Office of Economic and Demographic Research issues a report which contains the annual formula-based calculations of the salaries of elected county constitutional officers.

Law Enforcement Training

FDLE estimates that nonrecurring costs for developing the basic skills and continued education training required by the bill, as well as nonrecurring updates to the department's information technology systems will cost \$54,291.⁸⁰ However these costs are insignificant and could likely be absorbed within FDLE's existing resources.

Family Empowerment Scholarship Program

Expanding the Family Empowerment Scholarship Program will have an indeterminate fiscal impact to the Florida Education Finance Program (FEFP). The FEFP is the primary funding source for K-12 education in Florida, to include both the FES-EO and FES-UA Programs. It is currently unknown how many of the 52,383 law enforcement officers⁸¹ currently in Florida may be eligible and enroll his or her student in either the FES-EO or FES-UA Program. It is also unknown how many of these individuals already participate in the FES-EO or FES-UA Program. To the extent that law enforcement officers opt to enroll into the program, the fiscal impact on the FEFP is indeterminate.

⁷⁹ Florida Department of Law Enforcement, State Officer Certification Exam, <http://www.fdle.state.fl.us/CJSTC/Exam/Exam-Home.aspx> (last visited Mar. 15, 2022)

⁸⁰ Florida Department of Law Enforcement, Agency Analysis of 2022 House Bill 3, p.4 (Jan. 18, 2022)

⁸¹ Email from Ron Draa, Chief of Staff, Florida Department of Law Enforcement, RE: State of Florida Law Enforcement Officer Count (Jan. 28, 2022).

For each FES-EO scholarship awarded to a dependent child of a law enforcement officer who was not funded in the FEFP for the 2021-2022 school year or was already participating in the FES-EO Program, there will be a fiscal impact to the FEFP.

For the FES-UA Program, the bill excludes scholarships awarded to dependent children of law enforcement officers from the maximum number of allowable participants. It is unclear how many current FES-UA scholarships would now be excluded from the maximum number participating cap in addition to how many new FES-UA scholarships will be awarded that are also excluded from the cap. Both types would have a potential fiscal impact to the FEFP.

College Credit for Law Enforcement Training

The fiscal impact on state funding pertaining to students taking fewer credit or clock hours is indeterminate. By requiring the Board of Governors to adopt regulations and the State Board of Education to adopt rules to allow eligible law enforcement officers to earn postsecondary credit for college-level training and education, the bill could decrease the amount of time and cost for officers to receive a postsecondary degree. This may result in a slight decrease of tuition and fee revenue for state postsecondary education entities. Incurred costs resulting from the activities for determining postsecondary course equivalencies can likely be absorbed by the partnering entities.



Short-Term Rentals



Long-Term Concerns with Short-Term Rentals

By Cicely Hodges August 3, 2023

Preemption of Local Short-Term Rental Regulations Collides With Affordable Housing Crisis

A record number of tourists visited Florida in 2022: **137 million**. Many of these vacationers chose to forgo traditional hotel stays for the privacy and convenience of short-term rentals through companies like Airbnb. Yet, Airbnb and similar companies have not been without **controversy** — with issues ranging from **raising market rental rates**, **discrimination**, **various safety concerns**, to an **overall lack of regulation**. In Florida, the growth in short-term rentals through companies like Airbnb has exacerbated the state's affordable housing and homelessness crisis through ripple effects on the housing market in their surrounding areas. Affordable housing development, vacation and short-term rentals, and homelessness - these intertwined issues are all part of the bigger picture when it comes to housing and affordability; and they warrant consideration in developing comprehensive policy solutions to address these challenges.

Short-term rentals are often rented out on a daily, weekly, or monthly basis, while long-term rentals are often used for a period of months, though usually a full year. To combat issues with short-term rentals, there has been bipartisan action and support for greater regulation of the industry at the **local**, **state**, and **federal** levels. Federal legislation attempts to create a right to enforce claims against internet providers of short-term rentals carved out from the **current protections** guaranteed under the Telecommunications Act, while state and local actions are typically centered around **taxation**, **licensing and permitting**, **capping available stock**, **capping rental periods**, and **curbing anticompetitive behavior and effects**.

In Florida, the Legislature has greatly restricted the ways in which cities and counties can regulate short-term rentals. **The Legislature banned** cities and counties from adopting new vacation rental rules in 2011. This legislation barred local governments from banning short-term rentals, or even regulating duration periods and frequency. Localities lucky enough to have had short-term rental regulations on the books before 2011 were **exempted** from the ban on such regulations, meaning that they can use zoning to choose where short-term rentals are allowed. Facing a public backlash, lawmakers revised the preemption statute in 2014 and allowed communities to regulate rentals, so long as they did not ban them outright or limit their frequency or duration. Those restrictions have led to careful consideration by local officials across the state when crafting new vacation rental rules. Meaning, all local governments in Florida still have some tools at their disposal; including code enforcement, licensing, and occupancy restrictions. Miami Dade County, for example passed some limited **regulations** of short-term rentals in 2017.

A **2017 study** sheds light on the influence that short-term rentals have on local rents. It found that housing prices and rental rates are increased by short-term rental stock. In the same study, for example, the authors found that 23 percent of the annual rent increase in the Miami-Fort Lauderdale-West Palm Beach area could be directly attributed to local Airbnb growth. Many of Miami-Dade's residents of modest means have been **forced out** of the county recently, due to a rapid rise in housing prices and rental rates brought on by wealthy residents and investors flooding the area.

Impact of Short-Term Rentals in Sarasota-Bradenton Area

As there is a lack of government-released data, one must turn to private companies, like AirDNA, to obtain current data on short-term rental trends. **AirDNA** is an online tool that measures short-term rental data localized to cities and towns. Utilizing this data, FPI analyzed one metro-area (DeSoto, Manatee, and Sarasota counties) to better understand the makeup of short-term rentals in Florida. Out of 13 cities in the region, **Sarasota** has the highest number of short-term rentals with 6,654 units, an increase of over 1,000 units since 2021. To put this in perspective, in 2022 there were only **23,965 total households** living in Sarasota – that amounts to almost one short-term rental for every three households.

Since 2019, the average cost of rent in Sarasota and Manatee counties has swelled **30.6 percent and 33.7 percent**, respectively. Perhaps unsurprisingly, the number of homeless families with minor children is up **nearly 200 percent** in Sarasota and Manatee Counties over the last year – ten times the rate of the **state's** increase. This should be a serious wakeup call that the lack of affordable housing in the area is having dire effects. Meanwhile, depending on the city, between **19 percent and 58 percent** of the short-term rental units sat vacant for effectively half of last year in the Sarasota-Bradenton region (See Table 1). In light of the rising number of homeless families in the region, out-of-reach rents, and high move-in fees, a key question begs an answer. How many families are turning to these short-term rentals because they cannot afford housing in the long-term market?

Since 2019, the average cost of rent in Sarasota and Manatee counties has swelled **30.6 percent and 33.7 percent**, respectively.

Unsurprisingly, the hotel industry has been the main financial backer of the fight against short-term rental growth, most notably through the lobbying efforts of the **American Hotel and Lodging Association**. On the other hand, Airbnb has managed to make alliances with organizations like the NAACP, who note that the **economic impact** of Airbnbs improves the social and economic mobility of individuals and families. However, current short-term rental ownership is still predominantly **white** and has had **gentrification-like effects** on Black, Indigenous, and people of color (BIPOC) communities.

While the growth of short-term rentals is only one aspect of the housing affordability crisis in Florida, state lawmakers need to reevaluate whether the preemption of local regulation has contributed to skyrocketing rents and build data-informed, sustainable, and transparent policy solutions.

Table 1. Short-Term Rentals Lie Vacant Much of the Year in the Sarasota-Bradenton Region

| City | Number of Active Rentals | Average Guest Count | Vacant at Least 181 Days Last Year | 30+ Day Minimum Stay |
|-----------------|--------------------------|---------------------|------------------------------------|----------------------|
| Arcadia | 58 | 5.2 | 19% [11] | 1% [<1] |
| Anna Maria | 865 | 6.4 | 58% [501] | 0% [0] |
| Bradenton | 2,265 | 6.4 | 35% [792] | 9% [203] |
| Bradenton Beach | 2,340 | 6.2 | 47% [1,099] | 2% [46] |
| Myakka City | 17 | 4.6 | 33% [5] | 8% [1] |
| Palmetto | 180 | 6 | 33% [59] | 7% [12] |
| Parrish | 14 | 5.2 | 20% [2] | 5% [<1] |
| Longboat Key | 708 | 5.3 | 33% [233] | 18% [127] |
| Nokomis | 444 | 5.2 | 37% [164] | 11% [48] |
| North Port | 369 | 6.1 | 22% [81] | 3% [11] |
| Osprey | 73 | 4.8 | 31% [22] | 15% [10] |
| Sarasota | 6,654 | 5.7 | 39% [2,595] | 6% [399] |
| Venice | 930 | 5.2 | 24% [223] | 14% [130] |

Source: AirDNA data for 2022 on short-term rentals, <https://www.airdna.co/>.

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Regulated Industries

[2023s00714.hms.ri]

BILL: CS/CS/CS/SB 714

INTRODUCER: Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment; and General Government; Regulated Industries Committee; and Senator DiCeglie

SUBJECT: Vacation rentals

DATE: May 2, 2023

I. Amendments Contained in Message:

House Amendment – 433635 (body and title)

II. Summary of Amendments Contained in Message:

House Amendment – *Barcode* 433635:

- Revises the effect of the provision permitting a local government to adopt a new local law if it had a “grandfathered” local law in effect on June 1, 2011, to pass a new, less restrictive ordinance;
- Removes from the bill the authority of local governments to impose a fine for failure to register a vacation rental;
- Revises the local registration fees from \$150 to \$100 for an individual registration, and from \$200 for up to a total of 25 individual registrations to \$200 for processing more than five but fewer than 26 individual registrations;
- Removes from the bill the authority for local governments to assess a fee for building and fire safety inspections after registration;
- Removes from the bill the provisions requiring registrants, as a condition for a local registration, to:
 - Submit a license number with the local registration instead of requiring that the registrant obtain a license issued by the Division of Hotels and Restaurants (division) to operate as a vacation rental;
 - Submit identifying information to the local government;
 - Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government;
 - Update required information on a continuing basis to be current;
 - Comply with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals;
 - Pay all recorded municipal or county code liens; and

- Provide health and safety information and information about applicable laws, ordinances, or regulations to guests;
- Removes from the bill the grounds for termination or suspension of a local registration by the local government;
- Expands the information for the responsible party to include address and email address;
- Limits the requirement that the responsible party be available 24 hours a day, seven days a week, to registrants with more than 5 vacation rentals in the jurisdiction;
- Requires local governments to provide proof to the division of unsatisfied liens, final orders or judgments terminating the use of a vacation rental, and of a determination by a code enforcement board, special magistrate or other authority that the vacation rental has established a pattern and practice of municipal or county code violations;
- Requires vacation rental owners or advertisers to attest to the identifying information for the responsible party provided to the division in advertisements on advertising platforms;
- Removes from the bill the requirement for advertising platforms to verify licensure before publishing an advertisement;
- Requires the division to maintain information for the responsible party in a readily accessible electronic format;
- Authorizes the division to revoke, suspend, or refuse to issue or renew, a vacation rental license based on the final order or judgment directing the termination of the premises' use as a vacation rental; unsatisfied liens; a determination by a code enforcement board, special magistrate, or other authority that the vacation rental has established a pattern and practice of municipal or county code violations; the premises is not registered, if required; the license number is not included in advertisements; or failure to provide contact information for a responsible party; and
- Authorizes the division to waive a requirement for local registration if local registration was unreasonably withheld.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/CS/SB 714

INTRODUCER: Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment; and General Government; Regulated Industries Committee; and Senator DiCeglie

SUBJECT: Vacation Rentals

DATE: April 25, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|---------------|
| 1. | Oxamendi | Imhof | RI | Fav/CS |
| 2. | Davis | Betta | AEG | Fav/CS |
| 3. | Oxamendi | Yeatman | FP | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/CS/SB 714 revises the regulation of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). Current law does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. Additionally, a local government that had such a grandfathered regulation in effect on June 1, 2011, to pass a new, less restrictive ordinance. The bill does not affect vacation rental ordinances in jurisdictions located in an area of critical state concern. The bill provides that a local law, ordinance, or regulation may restrict the maximum occupancy for rented residential properties if the restriction applies uniformly without regard to whether the residential property is used as a vacation rental.

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$150 for an individual registration application or \$200 for a collective registration application for up to a total of 25 individual vacation rentals. The bill allows local governments to charge a reasonable fee to inspect a vacation rental after registration to verify compliance with the Florida Building Code and the Florida Fire Prevention Code.

The bill permits a local government to impose a fine for failure to register a vacation rental. The bill establishes limits for a local government registration program, including requiring a vacation rental owner to obtain any required tax registrations, pay all recorded municipal or county code liens, and designate a responsible person who is available 24/7 to respond to complaints, and to state the maximum occupancy for the vacation rental based on the number of sleeping accommodations for persons staying overnight in the vacation rental. A local government may adopt parking and garbage requirements so long as those standards are not imposed solely on vacation rentals. Additionally, the bill requires local governments to accept or deny a registration application within 15 days of receipt of an application. The bill authorizes the division to issue temporary licenses to permit the operation of the vacation rental while the license application is pending.

The bill permits a local government to terminate a local registration, or refuse to renew a registration, for violations of local registration requirements, a final order or judgment lawfully directs the termination of the premises' use as a vacation rental, or there is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental, provided local governments give a vacation rental owner at least 60 days to satisfy a recorded municipal or county code lien before terminating a local registration because of the unsatisfied lien.

The bill also authorizes the division to revoke or suspend state vacation rental licenses for violations of local registration requirements and violations of community association property restrictions.

The bill preempts the regulation of advertising platforms to the state. An advertising platform is a person who electronically advertises a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property's vacation rental license number issued by the DBPR and the local registration number on the vacation rental's advertisement, and attest that, to the best of their knowledge, those numbers are current, valid, and accurate. The vacation rental property owner or operator must display this tax and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number and the local registration number of each property that advertises on its platform. Effective July 1, 2024, an advertising platform must verify the validity of the vacation rental's license number before it publishes the advertisement and must perform ongoing checks every calendar quarter thereafter. To facilitate this verification, the division must maintain vacation rental license information in a readily accessible electronic format by July 1, 2024. Under the bill, an advertising platform is not required to verify the local registration number. The advertising platform must remove from

public view any advertisement or listing that fails to display a valid vacation rental license number.

Advertising platforms are required by the bill to collect and remit any taxes imposed under chs. 125, 205, and 212, F.S., that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable amount if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

Additionally, the bill:

- Authorizes the division to fine an advertising platform an amount not to exceed \$1,000 for a violation of the provisions in the bill or rules of the division;
- Requires advertising platforms to adopt anti-discrimination policies and to inform users of the public lodging discrimination prohibition found in section 509.092, F.S.;
- Provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms;
- Allows the Department of Revenue to adopt emergency rules for six months which may be renewed until permanent rules are adopted; and
- Provides that its terms do not supersede any current or future declaration or covenant for condominium, cooperative, or homeowners' associations.

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

For the 2023-2024 fiscal year, the bill provides an appropriation of \$298,507 in recurring funds and \$49,017 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$175,868 in recurring funds and \$17,025 in nonrecurring funds from the Administrative Trust Fund to the DBPR and six full-time employee positions for the purpose of implementing the bill.

Except as otherwise expressly provided in the bill, the bill takes effect upon becoming a law.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and non-transient public lodging establishments.¹ The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

¹ Section 509.013(4)(a), F.S.

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis added)

A “non-transient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis added)

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

- Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
- Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
- Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
- Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008 - 381.00895, F.S.;
- Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
- Any nonprofit organization that operates a facility providing housing only to patients, patients’ families, and patients’ caregivers and not to the general public;
- Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department’s behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and

- Any rooming house, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, non-transient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, or timeshare project if the establishment satisfies specified criteria.²

A “vacation rental” is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for “a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quad plex, or other dwelling unit that has four or less units collectively.”⁴ The division does not license or regulate the rental of individual rooms within a dwelling unit based on the rooming house and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.⁵

The 63,690 public lodging establishment licenses issued by the division are distributed as follows:⁶

- Hotels – 2,308 licenses;
- Motels – 2,397 licenses;
- Non-transient apartments – 18,315 licenses;
- Transient apartments – 913 licenses;
- Bed and Breakfast Inns – 261 licenses;
- Vacation rental condominiums – 12,716 licenses;
- Vacation rental dwellings – 26,733 licenses; and
- Vacation rental timeshare projects – 47 licenses.

² Section 509.242(1), F.S.

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

⁴ The division further classifies a vacation rental license as a single, group, or collective license. *See* Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.

⁵ *See* s. 509.242(1)(c), F.S., defining the term “vacation rental.”

⁶ Department of Business and Professional Regulation, Division of Hotels and Restaurants Annual Report for FY 2020-2021 at page 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2021_22.pdf (last visited Apr. 3, 2023). The total number of vacation rental licenses for each classification include single licenses and group and collective licenses that cover multiple condominium units, dwellings, and timeshare projects.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and non-transient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.⁷ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2021-2022, the division received 325 consumer complaints regarding vacation rentals. In response to the complaints, the division's inspection confirmed a violation for 34 of the complaints.⁸

The division's inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other general safety and regulatory matters.⁹ The division must notify the local fire safety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,¹⁰ which relates to a public lodging establishment.¹¹ The rules of the State Fire Marshall provide fire safety standards for transient public lodging establishments, including occupancy limits for one and two family dwellings.¹²

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.¹³

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

⁷ Section 509.032(2)(a), F.S.

⁸ *Supra* at note 6 at page 21.

⁹ See ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. See also Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Feb. 28, 2023).

¹⁰ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹¹ Section 509.032(2)(d), F.S.

¹² See Fla. Admin. Code R. 69A-43.018, relating one and two Family dwellings, recreational vehicles and mobile homes licensed as public lodging establishments.

¹³ See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Feb. 28, 2023).

Current law does not preempt the authority of a local government or a local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹⁴

Section 509.032(7)(b), F.S., does not allow local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹⁵

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.¹⁶

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁷

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁸ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use, or occupancy.”¹⁹

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.²⁰ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the

¹⁴ Section 509.032(7)(a), F.S.

¹⁵ See s. 163.3164(43), F.S., which provides that the state land planning agency is the Department of Economic Opportunity.

¹⁶ Chapter 2011-119, Laws of Fla.

¹⁷ *Id.*

¹⁸ Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).

¹⁹ *Id.*

²⁰ Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances*, Oct. 22, 2013, (on file with the Senate Committee on Regulated Industries).

grandfather date of June 1, 2011, established in s. 509.032(7)(b), F.S. The Attorney General concluded that the county's local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.²¹

In addition, the Attorney General issued an advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed zoning ordinance.²² The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²³

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.²⁴ The new provisions would be preempted by state law if they revise an ordinance in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered "less restrictive" than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.²⁵

²¹ Op. Att'y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 13, 2014), available at <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E> (last visited Feb. 28, 2023).

²² Op. Att'y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals - Preemption* - <http://www.myfloridalegal.com/ago.nsf/Opinions/1F9A7D9219CF89A3852587AB006DDC58> (last visited Feb. 28, 2023).

²³ *Id.*

²⁴ Op. Att'y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) available at <http://www.myfloridalegal.com/ago.nsf/Opinions/933B3706FADB00CA85258458006F4CFA> (last visited Feb. 28, 2023).

²⁵ See Florida Commission on Human Relations, *Public Accommodations*, <https://fchr.myflorida.com/public-accommodations> (last visited Feb. 28, 2023).

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt the regulation of advertising platforms to the state. The bill also amends s. 509.032(7), F.S., to preempt the licensing of vacation rentals to the state.

The bill permits any “grandfathered” local law, ordinance, or regulation adopted on or before June 1, 2011, to be amended to be less restrictive or to comply with local registration requirements. Additionally, a local government that had such a grandfathered regulation in effect on June 1, 2011, to pass a new, less restrictive ordinance.

Definition of “Advertising Platform”

The bill creates s. 509.013(17), F.S., to define the term “advertising platform.” Under the bill, an advertising platform:

- Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Local Registration of Vacation Rentals

Under the bill, a local government may require vacation rentals to be registered. The registration fee may not exceed \$150 for processing an individual registration application, or \$200 for processing a collective registration application for up to a total of 25 individual vacation rentals. A local government may impose a fine for failure to register a vacation rental. The bill allows local governments to charge a reasonable fee to inspect a vacation rental after registration to verify compliance with the Florida Building Code and the Florida Fire Prevention Code.

The bill provides that a local law, ordinance, or regulation may restrict the maximum occupancy for rented residential properties if the restriction applies uniformly without regard to whether the residential property is used as a vacation rental.

The bill establishes limits for a local government registration program. A local registration program may only require an owner or operator of a vacation rental to:

- Register no more than once per year; however, a new owner may be required to submit a new application for registration;
- Submit identifying information;
- Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government;

- Update required information on a continuing basis to be current;
- Comply with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals;
- Designate and maintain a responsible person who is available at all times to respond to complaints by telephone at a listed phone number;
- State the maximum occupancy for the vacation rental based on the number of sleeping accommodations for persons staying overnight in the vacation rental; and
- Pay all recorded municipal or county code liens.

Additionally, the bill requires local governments to review a registration application for completeness and accept or issue a written notice specifying deficient areas within 15 days of receipt of an application. The vacation rental owner or operator may agree to an extension of this time period. Such notice may be provided by mail or electronically.

If a local government denies an application, the written notice of denial may be sent by United States mail or electronically. The notice must state with particularity the factual reasons for the denial and the applicable portions of an ordinance, rule, statute, or other legal authority for the denial. A local government cannot deny a registration application if the applicant cures the identified deficiency.

If a local government fails to accept or deny the registrations within the provided timeframes, the application is deemed accepted.

Upon the acceptance of a registration application, the local government must assign a unique registration number to the vacation rental or other indicia of registration and provide such registration number or other indicia of registration to the owner or operator of the vacation rental in writing or electronically.

The bill authorizes a local government to terminate a registration or to refuse to renew a registration when:

- There is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental, provided local governments to give a vacation rental owner at least 60 days to satisfy a recorded municipal or county code lien before terminating a local registration because of the unsatisfied lien;
- The operation of the subject premises violates a registration requirement or a local law, ordinance, or regulation that doesn't apply solely to vacation rentals; or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

Regulation of Vacation Rentals by the Division

Effective January 1, 2024, the bill amends ss. 509.241(2) and (3), F.S., relating to the license application process for vacation rentals, to:

- Authorize the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) upon receiving an application for a vacation rental license to grant a temporary license to permit the operation of the vacation rental while

the license application is pending and to post the information required under s. 509.243(1)(c), F.S.

- The temporary license automatically expires upon final agency action regarding the license application.
- Require any license issued by the division to be displayed conspicuously to the public inside the licensed establishment, instead of “in the office or lobby.”
- Require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number and the applicable local registration number.

The bill amends s. 509.261, F.S., to authorize the division to revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

- The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chs. 718, 719, or 720, F.S., as determined;²⁶
- The owner or operator fails to provide proof of registration, if required by local law, ordinance, or regulation;
- The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5; or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises’ use as a vacation rental.

Under the bill, the division may suspend, for a period of not more than 30 days, a vacation rental license when the owner or operator has been found by the code enforcement board to have committed two or more code violations related to the vacation during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding.

Requirements for Advertising Platforms

Effective January 1, 2024, the bill creates s. 509.243, F.S., to provide requirements, including tax collection and remittance requirements for an advertising platform.

Advertising and Reporting Requirements

Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
 - Include the vacation rental license number and, if applicable, the local registration number; and
 - Attest to the best of the person’s knowledge that the license number and the local registration number, if applicable, for the vacation rental property are current, valid, and accurately stated in the advertisement.
- Display the vacation rental license number and, if applicable, the local registration number.

²⁶ Chapters 718, 719, or 720, F.S., relate to the regulation and governance of condominium, cooperative, and homeowners’ associations, respectively.

- Effective July 1, 2024, check that vacation rental license number provided by the owner or operator's attestation appears as current in the information posted by the division and applies to the subject vacation before publishing the advertisement on its platform and re-verify the license number on a quarterly basis. Under the bill, an advertising platform is not required to verify the local registration number.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

The bill provides advertising platforms that comply with the requirements are deemed to be in compliance. The bill also provides that it does not create and is not intended to create a private cause of action against advertising platforms. Advertising platform may not be held liable for any action it takes voluntarily in good faith in relation to its users to comply with ch. 509, F.S., or the advertising platform's terms of services.

By July 1, 2024, the division must maintain vacation rental license information in a readily accessible electronic format sufficient to facilitate prompt compliance.

The bill provides processes for the division to issue a cease and desist order for any person who violates ch. 509, F.S. The bill authorizes the division to seek an injunction or a writ of mandamus to enforce a cease and desist order. If the DBPR is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.

The bill authorizes the division to fine an advertising platform an amount not to exceed \$1,000 per offense for a violation of the provisions in the bill or rules of the division.

The bill provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms.

Tax Collection and Reporting Requirements

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,²⁷ 125.0108,²⁸ 205.044,²⁹ 212.03,³⁰ 212.0305,³¹ and 212.055, F.S.,³² resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

²⁷ Section 125.0104, F.S., relates to the local option tourist development tax.

²⁸ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

²⁹ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

³⁰ Section 212.03, F.S., relates to the transient rentals tax.

³¹ Section 212.0305, F.S., relates to convention development taxes.

³² Section 212.055, F.S., relates to discretionary sales taxes.

The bill also amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:

- Provide that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
- Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2026.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium adopted pursuant to ch. 718, F.S., cooperative documents adopted pursuant to ch. 719, F.S., or declaration of covenants or declaration for a homeowners' association adopted pursuant to ch. 720, F.S.

Appropriations

For the 2023-2024 fiscal year, the bill provides an appropriation of \$298,507 in recurring funds and \$49,017 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$175,868 in recurring funds and \$17,025 in nonrecurring funds from the Administrative Trust Fund to the DBPR and six full-time employee positions for the purpose of implementing the bill.

Effective Date

Except as otherwise expressly provided in the bill, the bill takes effect upon becoming a law. The requirements for vacation rental owners or operators to display license and registration information become effective January 1, 2024. The bill requires the division to maintain vacation rental license information in a readily accessible electronic formation by July 1, 2024. The provisions governing advertising platforms become effective January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, Section 19 of the Florida Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

Article VII, Section 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

The bill does not impose or authorize a state tax or fee. The bill provides that a local government may not require a registration fee of more than \$200. Under the bill, a local government is not required to charge a registration fee.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.³³

B. Private Sector Impact:

Indeterminate. Vacation rental owners may incur local registration costs of up to \$100 if the local government in which the vacation rental is located adopts an ordinance, law, or regulation consistent with the provisions of this bill.

C. Government Sector Impact:

The Department of Business and Professional Regulation (DBPR) states it will incur additional expenses related to the number of full-time employees (FTE) required to handle the workload needed to implement the bill. The DBPR estimates it will need six

³³ Revenue Impact Results, Revenue Estimating Conference, Mar. 3, 2023 (on file with the Regulated Industries Committee).

additional staff and associated costs of \$540,417 (\$347,527 Hotels and Restaurant Trust Fund and \$192,893 Administrative Trust Fund) for Fiscal Year 2023-2024.³⁴

For the 2023-2024 fiscal year, the bill provides an appropriation of \$298,507 in recurring funds and \$49,017 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$175,868 in recurring funds and \$17,025 in nonrecurring funds from the Administrative Trust Fund to the DBPR and six full-time employee positions for the purpose of implementing the bill.

The DBPR is also expected to incur some nonrecurring costs to implement an electronic data submission system and database to collect and organize property data received from advertising platforms. According to the DBPR, the system modifications can be made with existing resources.³⁵

The bill may result in an increase in licensing revenue to the DBPR, however, it is unknown how many advertising platforms which are currently exempt from licensing would require licensure. The bill may also result in an indeterminate increase in fines due to noncompliance.³⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.03, 509.013, 509.032, 509.241, 509.261, 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 559.955, 705.17, 705.185, 717.1355, and 877.24.

The bill creates section 509.243 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Fiscal Policy on April 25, 2023:

The committee substitute:

³⁴ See Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for CS/SB 714* at 6 (February 13, 2023) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

³⁵ *Id.* at 8.

³⁶ *Id.* at 6.

- Removes the requirement that applicants for a state vacation rental license include the applicable local registration number in the license application;
- Requires local governments to give a vacation rental owner at least 60 days to satisfy a recorded municipal or county code lien before terminating a local registration because of the unsatisfied lien, and moves this provision from the registration requirements to the provision specifying the grounds for termination, or refusal to renew, of a local registration; and
- Clarifies that the platform's verification of a vacation rental's license number is based on the vacation rental owner or operator's attestation;

CS/CS by Appropriations Committee on Agriculture, Environment, and General Government on April 18, 2023:

The committee substitute:

- Clarifies that a local law, ordinance, or regulation may restrict the maximum occupancy for rented residential properties if the restriction applies uniformly without regard to whether the residential property is used as a vacation rental; and
- Allows local governments to require applicants for local vacation rental registration to state the maximum occupancy for the vacation rental based on the number of sleeping accommodations for persons staying overnight in the vacation rental.
- Allows local governments to charge a reasonable fee to inspect a vacation rental after registration to verify compliance with the Florida Building Code and the Florida Fire Prevention Code;
- Increases the maximum processing fees that a local government may charge for a vacation rental registration to \$150 for an individual registration application (from \$50 for an individual registration) and \$200 for a collective registration application for up to a total of 25 individual vacation rentals (from \$100 for a collective registration without a limit on the number of vacation rentals under the collective registration);
- Provides an appropriation to the DBPR.

CS by Regulated Industries on March 14, 2023:

The CS amends s. 212.03, (2), F.S., to:

- Add "as amended" after "Internal Revenue Code of 1986";
- Remove references to s. 205.044, F.S., relating to a tax not collected by the DOR; and
- Delete the reference to "department," i.e., the Florida Department of Revenue, in the flush left provision because this is a provision that is only relevant to counties that self-administer the taxes imposed or authorized in ch. 125, F.S., including the local option tourist development tax.

B. Amendments:

None.



Legal Notices for Variances/ Land Use Changes

Proposed legislative changes to FSS 339.155(3) 5 (c) 1 a

Issue Background

When a site plan or variance requests comes for approval, local governments are required to mail notices to all property owners within a 300 foot radius. If the request occurs close to a condo building – or two buildings, we may have to mail 500 letters or possibly more. In a small city, this is overly burdensome, and when we outsource the mailing, it will often cost us over \$2,000. The typical variance fee for cities is only about 1,000 to 3,000, and this has to include cost of outsourcing. I don't want to be punitive to residents trying to apply for site plans or variances, but the mailing costs are too costly and labor intensive.

Small Towns do not have mail services, planning depts to carry out this mailing process.

Proposed Solution

Allow local governments to have the option to post a sign or billboard on the property identifying the proposed application and hearing day/time instead of mailings.

Statute Titles > Title 26 > Ch. 339 > Sec. 339.155

339.155 - Transportation planning.

(1) THE FLORIDA TRANSPORTATION PLAN.—The department shall develop a statewide transportation plan, to be known as the Florida Transportation Plan. The plan shall be designed so as to be easily read and understood by the general public. The plan shall consider the needs of the entire state transportation system and examine the use of all modes of transportation to effectively and efficiently meet such needs. The purpose of the Florida Transportation Plan is to establish and define the state's long-range transportation goals and objectives to be accomplished over a period of at least 20 years within the context of the State Comprehensive Plan, and any other statutory mandates and authorizations and based upon the prevailing principles of:

- (a) Preserving the existing transportation infrastructure.
- (b) Enhancing Florida's economic competitiveness.
- (c) Improving travel choices to ensure mobility.
- (d) Expanding the state's role as a hub for trade and investment.

(2) SCOPE OF PLANNING PROCESS.—The department shall carry out a transportation planning process in conformance with s. 334.046(1) and 23 U.S.C. s. 135.

(3) FORMAT, SCHEDULE, AND REVIEW.—The Florida Transportation Plan shall be a unified, concise planning document that clearly defines the state's long-range transportation goals and objectives. The plan shall:

- (a) Include a glossary that clearly and succinctly defines any and all phrases, words, or terms of art included in the plan, with which the general public may be unfamiliar.
- (b) Document the goals and long-term objectives necessary to implement the results of the department's findings from its examination of the criteria specified in s. 334.046(1) and 23 U.S.C. s. 135.
- (c) Be developed in cooperation with the metropolitan planning organizations and reconciled, to the maximum extent feasible, with the long-range plans developed by metropolitan planning organizations pursuant to s. 339.175.
- (d) Be developed in consultation with affected local officials in nonmetropolitan areas and with any affected Indian tribal governments.
- (e) Provide an examination of transportation issues likely to arise during at least a 20-year period.
- (f) Be updated at least once every 5 years, or more often as necessary, to reflect substantive changes to federal or state law.

(4) ADDITIONAL TRANSPORTATION PLANS.—

- (a) Upon request by local governmental entities, the department may in its discretion develop and design transportation corridors, arterial and collector streets, vehicular parking areas, and other support facilities which are consistent with the plans of the department for major transportation facilities. The department may render to local governmental entities or their planning agencies such technical assistance and services as are necessary so that local plans and facilities are coordinated with the plans and facilities of the department.

(b) Each regional planning council, as provided for in s. 186.504, or any successor agency thereto, shall develop, as an element of its strategic regional policy plan, transportation goals and policies. The transportation goals and policies must be prioritized to comply with the prevailing principles provided in subsection (1) and s. 334.046(1). The transportation goals and policies shall be consistent, to the maximum extent feasible, with the goals and policies of the metropolitan planning organization and the Florida Transportation Plan. The transportation goals and policies of the regional planning council will be advisory only and shall be submitted to the department and any affected metropolitan planning organization for their consideration and comments. Metropolitan planning organization plans and other local transportation plans shall be developed consistent, to the maximum extent feasible, with the regional transportation goals and policies.

(c) Regional transportation plans may be developed in regional transportation areas in accordance with an interlocal agreement entered into pursuant to s. 163.01 by two or more contiguous metropolitan planning organizations; one or more metropolitan planning organizations and one or more contiguous counties, none of which is a member of a metropolitan planning organization; a multicounty regional transportation authority created by or pursuant to law; two or more contiguous counties that are not members of a metropolitan planning organization; or metropolitan planning organizations comprised of three or more counties.

(d) The interlocal agreement must, at a minimum, identify the entity that will coordinate the development of the regional transportation plan; delineate the boundaries of the regional transportation area; provide the duration of the agreement and specify how the agreement may be terminated, modified, or rescinded; describe the process by which the regional transportation plan will be developed; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the development or content of the regional transportation plan. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in the regional transportation area.

(e) The regional transportation plan developed pursuant to this section must, at a minimum, identify regionally significant transportation facilities located within a regional transportation area and contain a prioritized list of regionally significant projects. The projects shall be adopted into the capital improvements schedule of the local government comprehensive plan pursuant to s. 163.3177(3).

(5) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) During the development of the Florida Transportation Plan and prior to substantive revisions, the department shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other known interested parties with an opportunity to comment on the proposed plan or revisions. These opportunities shall include, at a minimum, publishing a notice in the Florida Administrative Register and within a newspaper of general circulation within the area of each department district office.

(b) During development of major transportation improvements, such as those increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location, the department shall hold one or more hearings prior to the selection of the facility to be provided; prior to the selection of the site or corridor of the proposed facility; and prior to the selection of and commitment to a specific design proposal for the proposed facility. Such public hearings shall be conducted so as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions that will be made.

(c) Opportunity for design hearings:

1. The department, prior to holding a design hearing, shall duly notify all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

- a. Those whose property lies in whole or in part within 300 feet on either side of the centerline of the proposed facility.

- b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall publish notice prior to the hearing date in a newspaper of general circulation for the area affected. These notices must be published twice, with the first notice appearing at least 15 days, but no later than 30 days, before the hearing.
3. A copy of the notice of opportunity for the hearing must be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.
4. The opportunity for another hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a hearing as to have a substantially different social, economic, or environmental effect.
5. The opportunity for a hearing shall be afforded in each case in which the department is in doubt as to whether a hearing is required.

History.—s. 3, ch. 70-996; s. 1, ch. 73-355; s. 1, ch. 77-102; s. 218, ch. 84-309; s. 2, ch. 84-332; s. 19, ch. 85-81; s. 22, ch. 88-168; s. 5, ch. 89-301; s. 36, ch. 90-136; s. 3, ch. 92-152; s. 3, ch. 93-164; s. 49, ch. 94-237; s. 8, ch. 95-149; s. 53, ch. 95-257; s. 8, ch. 99-256; s. 32, ch. 99-385; s. 19, ch. 2000-266; s. 21, ch. 2005-290; s. 21, ch. 2007-105; s. 48, ch. 2011-139; s. 4, ch. 2011-164; s. 54, ch. 2012-174; s. 27, ch. 2013-14; s. 16, ch. 2015-30.

Note.—Former s. 334.211.



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Statute Titles > Title 12 > Ch. 166 > Sec. 166.041

166.041 - Procedures for adoption of ordinances and resolutions.

(1) As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(a) "Ordinance" means an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) "Resolution" means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(2) Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(3)(a) Except as provided in paragraphs (c) and (d), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(b) The governing body of a municipality may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection. However, no emergency ordinance or resolution shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the actual list of permitted, conditional, or prohibited uses within a zoning category. Emergency enactment procedures for land use plans adopted pursuant to part II of chapter 163 shall be pursuant to that part.

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel

or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. If published in the print edition of a newspaper, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper in the municipality and of general interest and readership in the municipality pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly unless the only newspaper in the municipality is published less than weekly. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The _(name of local governmental unit)_ proposes to adopt the following ordinance: _(title of the ordinance)_.

A public hearing on the ordinance will be held on _(date and time)_ at _(meeting place)_.

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. If published in the print edition of the newspaper, the map must also be part of any online notice made pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

(d) Consideration of the proposed municipal ordinance at a meeting properly noticed pursuant to this subsection may be continued to a subsequent meeting if, at the meeting, the date, time, and place of the subsequent meeting is publicly stated. No further publication, mailing, or posted notice as required under this subsection is required, except that the continued consideration must be listed in an agenda or similar communication produced for the subsequent meeting. This paragraph is remedial in nature, is intended to clarify existing law, and shall apply retroactively.



Virtual Meetings



TOWN OF PALM BEACH

Mayor & Town Council's Office

MAYOR DANIELLE H. MOORE

COUNCIL

MARGARET A. ZEIDMAN, PRESIDENT
BARBARA LINDSAY, PRESIDENT PRO-TEM
JULIE ARASKOG
LEWIS W. CRAMPTON
EDWARD COONEY

August 31, 2023

Florida League of Cities
301 South Borough Street, Suite 300
Tallahassee, FL 32301

Subject: Support for Legislation Enabling Virtual Meetings for Municipal Governments

As the Town's ombudsman, I write on behalf of the Town of Palm Beach to express our enthusiastic support for the Florida League of Cities' pursuit of legislation that would enable municipal governments to utilize virtual meeting platforms for off-season meetings.

During our most recent Town Council regular business meeting held on August 8, 2023, the Council engaged in a constructive discussion and reached a unanimous consensus regarding the exploration of remote meeting technology. In recognition of the increasingly digital landscape and the benefits of virtual communication, our Council is keen to embrace modern solutions that enhance civic engagement and facilitate the efficient conduct of official business, even during periods when traditional in-person meetings might not be feasible.

We firmly believe that the adoption of legislation allowing municipal governments to convene meetings and carry out limited official business using teleconferencing and other technological means is a progressive step forward. By embracing virtual meeting platforms, we anticipate a range of advantages, including enhanced accessibility, cost efficiency, environmental impacts, flexibility, convenience, and continuity of governance.

Our Town Council stands in unison with the Florida League of Cities' vision to modernize municipal governance practices. We believe that enabling local governments to leverage virtual meeting technologies aligns with the evolving needs of our communities and the technological advancements of our time.

We wholeheartedly urge you to pursue the necessary legislative changes to empower municipal governments with the tools needed to embrace virtual meetings during the off-season. Your leadership and advocacy on this matter will undoubtedly contribute to the advancement of local governance practices across the state.

Thank you for your dedication to fostering innovative solutions for Florida's cities and towns. We remain eager to collaborate with the League and contribute to the formulation of progressive legislation that benefits all.

Warm wishes,

A handwritten signature in blue ink, reading "Danielle H. Moore". The signature is fluid and cursive, with the first name "Danielle" being the most prominent part.

Danielle H. Moore
Mayor

MUNICIPAL MEETINGS

Draft Statement:

The Florida League of Cities SUPPORTS legislation that would allow municipal governments to convene meetings and conduct limited official business utilizing teleconferencing and/or other technological means.

Background:

Municipal governments are vital institutions that represent the interests and needs of the local residents. They are responsible for making decisions on various matters public safety, authorizing expenditures, entering into agreements, and more. However, in seasonal communities, where many people only live for part of the year, holding regular governing body meetings can be challenging for both seasonal residents as well as elected officials.

Conducting remote meeting using technologies such as Zoom or GoToMeeting would seem like a great alternative, as these meeting proved very effective during the COVID19 pandemic. However, the current interpretation of what constitutes a quorum for the purpose of conducting official business by municipal governing bodies does not permit that as an option.

The Town of Palm Beach is one of these seasonal communities. The Town's current charter requires the Town Council to meet monthly. The Town's residents could opt to modify the existing charter to allow the Town Council to not meet and to not conduct business during these seasonal months, as many other seasonal communities in Florida do now. However, it would seem more prudent to allow the Town Council to meet remotely and continue carrying out their responsibilities to the community as opposed postponing important issues during the off-season months.

The Town is proposing legislation that would modify Chapter 166 of the Florida Statutes granting limited authority for municipal governments to convene meetings and conduct limited official business utilizing teleconferencing and/or other technological means.

166.0213 Governing body meetings.—

(1) The governing body of a municipality having a population of 500 or fewer residents may hold meetings within 5 miles of the exterior jurisdictional boundary of the municipality at such time and place as may be prescribed by ordinance or resolution.

(2) The governing body of a municipality may hold joint meetings to receive, discuss, and act upon matters of mutual interest with the governing body of the county within which the municipality is located or the governing body of another municipality at such time and place as shall be prescribed by ordinance or resolution.

(3) The governing body of a municipality may convene meetings and conduct official business utilizing teleconferencing and/or other technological means so long as those meetings

(a) Not occur more frequently than two times within a calendar year.

(b) Meet all of the requirements for public notice, public access, and public participation,

(c) Not include any formal action on ordinances, and

(d) Not include the conduct of quasi-judicial hearings.

The limitations on business conducted and number of times that a municipality meets utilizing teleconferencing and/or other technological means can be suspended upon the order of the Governor during a local or statewide disaster or emergency.

Municipal governing bodies in seasonal communities can greatly improve their efficiency and effectiveness by using technologies such as Zoom to meet year-round, as opposed to not meeting at all during seasonal periods. This will benefit the residents and the community as a whole by enable them to maintain a consistent and inclusive governance process throughout the year.

Public meeting quorums using technology

Number: AGO 2020-03

Date: March 19, 2020

Subject:
Public meeting quorums using technology

The Honorable Ron DeSantis
Governor
The Capitol
Tallahassee, Florida 32399-0001

Dear Governor DeSantis:

Our office has received your letter dated March 17, 2020, requesting an opinion pursuant to Section 16.01(3), Florida Statutes, in light of recent developments arising from the spread of COVID-19. On March 9, 2020, you issued Executive Order No. 20-52, declaring a state of emergency statewide and requiring Florida government officials to take necessary and timely precautions to protect their communities.

You state that, as a result of the dangers of COVID-19, public safety directives encourage citizens to engage in "social distancing" and to avoid public gatherings, where possible. As a result, your office "has been contacted by numerous county and local government bodies regarding concerns for public meetings held in light of the COVID-19 public health emergency. These entities raise issues involving Florida Statutes and Attorney General Advisory Opinion interpretations that limit the ability to hold public meetings using communications media technology."¹

Question Presented

Under these circumstances, you ask the following question:

Whether, and to what extent, local government bodies may utilize teleconferencing and/or other technological means to convene meetings and conduct official business, while still providing public access to those meetings?

It is my opinion under existing law that, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either (1) a statute permits a quorum to be present by means other than in person, or (2) the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency. If such meetings are conducted by teleconferencing or other technological means, public access must be afforded which permits the public to attend the meeting. That public access may be provided by teleconferencing or technological means.

Discussion

Article I, Section 24(b) of the Florida Constitution provides that “[a]ll meetings...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, shall be open and noticed to the public[.]” Florida’s Sunshine Law, found in chapter 286, Florida Statutes, provides that “[a]ll meetings of any...agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution,...at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken at such meeting.” § 286.011(1), Fla. Stat. (2019). Section 286.0114, Florida Statutes, also provides, with respect to certain “propositions” before a board or commission, that an opportunity for public comment must be afforded.

Though the Florida Constitution and the Sunshine Law both require that, unless exempt by law, meetings of a local government body must be “public meetings” that are “open to the public,” the text of neither provision requires that members of the public body be physically present during the meeting. Nor does either provision prescribe any particular *means* of holding meetings. Since 1997, Florida law has allowed many state agencies to conduct public meetings, hearings and workshops by “communications media technology” in full compliance with the Sunshine Law, and they regularly do so. See § 120.52(5)(b)2., Fla. Stat. (2019); Ch. 28-109, Fla. Adm. Code. No reported judicial decision has held that meetings conducted by such means violate the Florida Constitution or the Sunshine Law. The Legislature has also, by statute, permitted certain public entities other than state agencies to conduct meetings using communications media technology.²

When asked similar questions by local government bodies in the past, the Attorney General’s office has made it clear that any requirement for physical presence of members derives from other law specifying that a quorum be present to lawfully conduct public business or that the meeting of a local government body be held at a place within the body’s jurisdiction. See Ops. Att’y Gen. Fla. 1983-100 (1983), 1998-28 (1998), 2006-20 (2006). How a quorum is lawfully constituted, or where a meeting is “held,” are questions distinct from the Sunshine Law and governed by other law. Indeed, a quorum is not required to be present for a meeting to be otherwise subject to the Sunshine Law.³

Some statutes governing the conduct of business by local government bodies (such as section 166.041, Florida Statutes) specifically include the requirement of a “quorum” or that a quorum be “present” to conduct certain kinds of public business, such as the adoption of ordinances or resolutions. See § 166.041(4), Fla. Stat. (providing that, for municipalities, a majority of members constitutes a quorum and an affirmative vote of a “majority of a quorum present” is necessary to adopt an ordinance or resolution). Other statutes require that meetings be held in a place within the jurisdiction of the local government body. For example, section 125.001(1), Florida Statutes, requires that meetings of a board of county commissioners “may be held at any appropriate place in the county.” These statutes have not defined the term “quorum” or what it means to be “present.” Nor have they defined what it means for a meeting to be “held” in a place.

Absent any statutory definition of these terms, the Attorney General's office has, in prior opinions, relied upon the plain meanings of the terms "quorum" and "present" by resorting to legal dictionaries and dictionaries of common usage. See Op. Att'y Gen. Fla. 2010-34 n.5-6 (referring to unabridged dictionary and legal dictionary for definition of term "quorum", which included the word "present", and concluding that "a quorum requirement, in and of itself, contemplates the physical presence of the members of a board or commission at any meeting subject to the requirement."). Doing so is a universally accepted mode of interpretation repeatedly endorsed by Florida courts. See *Lee Mem. Health Sys. v. Progressive Select Ins. Co.*, 260 So. 3d 1038, 1043 (Fla. 2018); *Berkovich v. Casa Paradiso North, Inc.*, 125 So. 3d 938, 941 (Fla. 4th DCA 2013) ("The common usage of the term 'quorum' requires the presence of individuals.") (citing Black's Law Dictionary 1284 (8th ed.2004)).

The term "quorum" is defined as "who must be present for a deliberative assembly to legally transact business." Black's Law Dictionary (11th ed. 2019). The word "present," is defined as "in attendance; not elsewhere." Black's Law Dictionary (11th ed. 2019); see also Webster's Third New International Dictionary Unabridged 1793 (2002 ed.) (defining "present" as "being before, beside, with, or in the same place as someone or something <both men were present at the meeting>.").

Thus, in the absence of a statute to the contrary, the Attorney General's office historically has taken a conservative approach, out of concern for the validity of actions taken by the public body, concluding that any statutory quorum requirement to conduct public business requires the quorum of members to be physically present and that members present by electronic means could not count toward establishing the quorum. A long line of opinions by my predecessors contain conclusions to that effect.

For example, in Attorney General Opinion 83-100, Attorney General Smith concluded that a county could not conduct a meeting unless members constituting a quorum were physically present (and, even then, that a physically absent member could not participate by telephone). Op. Att'y Gen. Fla. 83-100 (1983). In Attorney General Opinion 92-44, Attorney General Butterworth concluded that a county commissioner physically unable to attend a meeting because of medical treatment could participate and vote in commission meetings where a quorum of other commissioners was physically present. Op. Att'y Gen. Fla. 92-44 (1992). In Attorney General Opinion 98-28, Attorney General Butterworth concluded that a school board member could attend a meeting by electronic means, so long as a quorum was physically present at the meeting site. Op. Att'y Gen. Fla. 98-28. In Attorney General Opinion 2002-82, Attorney General Doran concluded that physically disabled members of a city board could participate and vote on matters as long as a quorum was physically present. Op. Att'y Gen. Fla. 2002-82 (2002). In Attorney General Opinion 2003-41, Attorney General Crist concluded that a member of a city human rights board who was physically absent from a board meeting but participated by telephone conference could not be counted toward the presence of a quorum. Op. Att'y Gen. Fla. 2003-41 (2003). And in Attorney General Opinion 2010-34, Attorney General McCollum concluded that the Coral Gables City Commission could not adopt an ordinance for the city's retirement board declaring that the requirements to create a quorum would be met if members of the board appeared via electronic means, because doing so would conflict with the statutory requirement in section 166.041, Florida Statutes that a quorum be present. Op. Att'y

Conclusion

The nature, extent, and potential duration of the current emergency involving COVID-19 present unique circumstances. However, without legislative action, they do not change existing law. It is my opinion that, unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency.

Sincerely,

Ashley Moody
Attorney General

AM/ttlm

1 Letter from Governor Ron DeSantis to Attorney General Ashley Moody dated March 17, 2020.

2 *Compare, e.g.*, § 163.01, Fla. Stat. (2019) (authorizing any separate legal entity created under subsection (7) of the Florida Interlocal Cooperation Act of 1969 to conduct public meetings and workshops by means of “conference telephone, video conference, or other communications technology by which all persons attending a public meeting or workshop may audibly communicate,” providing specific requirements; and providing that the “participation by an officer, board member, or other representative of a member public agency in a meeting or workshop conducted through communications media technology constitutes that individual’s presence at such meeting or workshop”); § 373.079(7), Fla. Stat. (2019) (authorizing the water management district “governing board, a basin board, a committee, or an advisory board” to “conduct meetings by means of communications media technology in accordance with rules adopted pursuant to s. 120.54”); § 374.983(3), Fla. Stat. (2019) (authorizing the Board of Commissioners of the Florida Inland Navigation District to conduct board and committee meetings “utilizing communications media technology, pursuant to s. 120.54(5)(b)2”); § 553.75(3), Fla. Stat. (2019) (authorizing the use of communications media technology in conducting meetings of the Florida Building Commission or of any meetings held in conjunction with meetings of the commission); § 1002.33(9)(p)3, Fla. Stat. (2019) (authorizing members of each charter school’s governing board to attend public meetings to “in person or by means of communications media technology used in accordance with rules adopted by the Administration Commission under s. 120.54(5), and specifying other requirements) *with* § 349.04(8), Fla. Stat. (2019) (authorizing the Jacksonville Transportation Authority to “conduct public meetings and workshops by means of communications media technology, as provided in s. 120.54(5),” but specifying that “a resolution, rule, or formal action is not binding unless a quorum is physically present at the noticed meeting location, and only members physically present may vote on any item”).

3 Indeed, a quorum is not required to be present for a meeting to be otherwise subject to the Sunshine Law. *See Hough v. Stembridge*, 278 So. 2d 288 (Fla. 3d DCA 1973).

By Senator Cruz

18-00109-22

2022674__

A bill to be entitled
An act relating to public meetings during declared
states of emergency; creating s. 252.386, F.S.;
defining terms; providing for the suspension of
certain statutory provisions during declared states of
emergency for a specified timeframe; providing an
exception; authorizing governing bodies to use
communications media technology to conduct meetings
during declared states of emergency; providing that
certain remote participation by a governing body
member in a meeting constitutes that individual's
presence at such meeting and counts toward a quorum
during a declared state of emergency; requiring
meetings conducted through communications media
technology during a declared state of emergency to
function as if they are being conducted in person;
authorizing members of a governing body to attend
certain meetings in person or through communications
media technology; providing an effective date.

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

Section 1. Section 252.386, Florida Statutes, is created to
read:

252.386 Suspension of statutory provisions during states of
emergency.—

(1) For purposes of this section, the term:

(a) "Governing body" means the council, commission, or
other board or body in which the general legislative powers of a

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local or regional governmental entity are vested.

(b) "Local governmental entity" means a municipality, a county, a district school board, a special district, or any other local entity within the jurisdiction of one county created by general or special law or local ordinance.

(c) "Regional governmental entity" means a regional planning council, a metropolitan planning organization, a water supply authority that includes more than one county, a local health council, a water management district, and any other regional entity that is authorized and created by general or special law which have duties or responsibilities extending beyond the jurisdiction of a single county.

(2) Any statutory provision that requires the physical presence of members to satisfy a quorum or that requires the members of a governing body to be physically present at a specified public place is suspended if a state of emergency is declared by the Governor, for a period not to exceed 6 months from the date on which the state of emergency is declared, unless the state of emergency is extended by the Governor pursuant to executive order.

(a) If a county is declared to be under a state of emergency by the Governor, a governing body within that county may use communications media technology, including telephonic and video conferencing, as provided in s. 120.54(5)(b)2. to conduct meetings.

(b) The participation by a member of a governing body in a meeting conducted through communications media technology as provided in paragraph (a) constitutes that member's presence at such meeting and counts toward a quorum.

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59 (c) A meeting conducted through communications media
60 technology must function as if it is being conducted in person.

61 (d) If a meeting is conducted through communications media
62 technology, a member of the governing body is entitled to attend
63 the meeting in person or to attend the meeting through
64 communications media technology.

65 Section 2. This act shall take effect July 1, 2022.



Public Records Exemption for Reports of Municipal Code Violations

By Senator Harrell

31-01384-23

2023842__

A bill to be entitled
An act relating to public records; amending s.
119.071, F.S.; providing an exemption from public
records requirements for personal identifying and
location information of persons reporting a potential
violation of a county or municipal code or ordinance;
providing for retroactive application; providing for
future legislative review and repeal of the exemption;
providing a statement of public necessity; providing
an effective date.

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

Section 1. Paragraph (k) is added to subsection (5) of
section 119.071, Florida Statutes, to read:

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

(5) OTHER PERSONAL INFORMATION.—

(k) The home address, telephone number, name, and date of
birth of a person who reports a potential violation of a county
or municipal code or ordinance pursuant to s. 125.69 or s.
162.06 are exempt from s. 119.07(1) and s. 24(a), Art. I of the
State Constitution for a period of 1 year from the filing of the
potential violation with the appropriate agency.

1. This exemption applies to personal identifying and
location information held by an agency before, on, or after the
effective date of this exemption.

2. This paragraph is subject to the Open Government Sunset
Review Act in accordance with s. 119.15 and shall stand repealed

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on October 2, 2028, unless reviewed and saved from repeal
through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public
necessity that personal identifying and location information of
persons reporting a potential violation of a county or municipal
code or ordinance which is held by an agency be made exempt from
s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
State Constitution. The Legislature finds that allowing
continued public access to the personal identifying and location
information of persons reporting potential violations of county
or municipal codes or ordinances jeopardizes the safety of such
persons. The Legislature finds that protecting the safety and
security of such persons outweighs any public benefit that may
be derived from the public disclosure of the personal
identifying and location information.

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



Cybersecurity

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1511 Cybersecurity
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Giallombardo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1708

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|------------|--|
| 1) Energy, Communications & Cybersecurity Subcommittee | 18 Y, 0 N, As CS | Mortellaro | Keating |
| 2) State Administration & Technology Appropriations Subcommittee | | | |
| 3) Commerce Committee | | | |

SUMMARY ANALYSIS

Over the last decade, cybersecurity has rapidly become a growing concern. Cyberattacks are growing in frequency and severity. Currently, the Department of Management Services (DMS) oversees information technology (IT) governance and security for the executive branch of state government. The Florida Digital Service (FLDS) is housed within DMS and was established in 2020 to replace the Division of State Technology. Through FLDS, DMS implements duties and policies for information technology and cybersecurity for state agencies.

The bill:

- Provides DMS, acting through FLDS, with additional responsibilities related to ensuring the independence of technology project oversight and responding to state agency cybersecurity incidents;
- Requires DMS, through FLDS, to create an operations committee to foster interagency collaboration;
- Requires the state chief information officer (CIO) to designate a state chief technology officer and outlines the responsibilities of that position;
- Specifies oversight of the state data center (SDC) and provides FLDS authority to appoint its director;
- Specifies information that the SDC must report to DMS and FLDS.
- Requires the state CIO to assume responsibility for the contract between DMS and the Northwest Regional Data Center (NWRDC) and requires NWRDC to provide FLDS with access to information regarding operations of the SDC;
- Requires the SDC to fully integrate with the Cybersecurity Operations Center;
- Requires state agencies and local governments to report all ransomware incidents within 4 hours and all cybersecurity incidents within 2 hours and adds FLDS to the list of entities to receive such reports;
- Provides new requirements for heads of state agencies related to cybersecurity;
- Creates a career service exemption for particular positions;
- Requires FLDS to provide cybersecurity briefings to members of specified legislative committees;
- Provides that specified legislative committees may hold meetings closed by the respective legislative body when being briefed on certain information; and
- Provides that a government or private entity is not liable for events connected to a cybersecurity incident if it meets specified standards.

The bill does not have a fiscal impact on state or local government revenues or local government expenditures. The bill may increase state expenditures. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Cybersecurity Governance

Present Situation

Over the last decade, cybersecurity has rapidly become a growing concern. The cyberattacks are growing in frequency and severity. Cybercrime is expected to inflict \$8 trillion worth of damage globally in 2023.¹ The United States is often a target of cyberattacks, including attacks on critical infrastructure, and has been a target of more significant cyberattacks² over the last 14 years than any other country.³ The Colonial Pipeline is an example of critical infrastructure that was attacked, disrupting what is arguably the nation's most important fuel conduit.⁴

Ransomware is a type of cybersecurity incident where malware⁵ that is designed to encrypt files on a device and renders the files and the systems that rely on them unusable. In other words, critical information is no longer accessible. During a ransomware attack, malicious actors demand a ransom in exchange for regained access through decryption. If the ransom is not paid, the ransomware actors will often threaten to sell or leak the data or authentication information. Even if the ransom is paid, there is no guarantee that the bad actor will follow through with decryption.

In recent years, ransomware incidents have become increasingly prevalent among the nation's state, local, tribal, and territorial government entities and critical infrastructure organizations.⁶ For example, Tallahassee Memorial Hospital was hit by a ransomware attack early this February, and the hospitals systems were forced to shut down, impacting many local residents in need of medical care.⁷

Information Technology and Cybersecurity Management

The Department of Management Services (DMS) oversees information technology (IT)⁸ governance and security for the executive branch in Florida.⁹ The Florida Digital Service (FLDS) is housed within DMS and was established in 2020 to replace the Division of State Technology.¹⁰ FLDS works under DMS to implement policies for information technology and cybersecurity for state agencies.¹¹

¹ Cybercrime Magazine, *Cybercrime to Cost the World \$8 Trillion Annually in 2023*, <https://cybersecurityventures.com/cybercrime-to-cost-the-world-8-trillion-annually-in-2023/> (last visited March 7, 2023).

² "Significant cyber-attacks" are defined as cyber-attacks on a country's government agencies, defense and high-tech companies, or economic crimes with losses equating to more than a million dollars. FRA Conferences, *Study: U.S. Largest Target for Significant Cyber-Attacks*, <https://www.fraconferences.com/insights-articles/compliance/study-us-largest-target-for-significant-cyber-attacks/#:~:text=The%20United%20States%20has%20been%20on%20the%20receiving,article%20is%20from%20FRA%27s%20sister%20company%2C%20Compliance%20Week> (last visited Mar. 20, 2023).

³ *Id.*

⁴ S&P Global, *Pipeline operators must start reporting cyberattacks to government: TSA orders*, https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/electric-power/052721-pipeline-operators-must-start-reporting-cyberattacks-to-government-tsa-orders?utm_campaign=corporatepro&utm_medium=contentdigest&utm_source=esgmay2021 (last visited Mar. 8, 2023).

⁵ "Malware" means hardware, firmware, or software that is intentionally included or inserted in a system for a harmful purpose. <https://csrc.nist.gov/glossary/term/malware> (last visited Mar 16, 2023).

⁶ Cybersecurity and Infrastructure Agency, *Ransomware 101*, <https://www.cisa.gov/stopransomware/ransomware-101> (last visited January 30, 2022).

⁷ Tallahassee Democrat, *TMH says it has taken 'major step' toward restoration after cybersecurity incident* (Feb. 15, 2023) <https://www.tallahassee.com/story/news/local/2023/02/14/tmh-update-hospital-has-taken-major-step-toward-restoration/69904510007/> (last visited Mar. 7, 2023).

⁸ 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. S. 282.0041(19), F.S.

⁹ See s. 20.22, F.S.

¹⁰ Ch. 2020-161, L.O.F.

¹¹ See s. 20.22(2)(b), F.S.

The head of FLDS is appointed by the Secretary of Management Services¹² and serves as the state chief information officer (CIO).¹³ The CIO must have at least five years of experience in the development of IT system strategic planning and IT policy and, preferably, have leadership-level experience in the design, development, and deployment of interoperable software and data solutions.¹⁴ FLDS must propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation and interoperability, and to fully support Florida's cloud first policy.¹⁵

DMS, *through* FLDS, has the following powers, duties, and functions:

- Develop IT policy for the management of the state's IT resources;
- Develop an enterprise architecture;
- Establish project management and oversight standards with which state agencies must comply when implementing IT projects;
- Perform project oversight on all state agency IT projects that have a total cost of \$10 million or more and that are funded in the General Appropriations Act or any other law; and
- Identify opportunities for standardization and consolidation of IT services that support interoperability, Florida's cloud first policy, and business functions and operations that are common across state agencies.¹⁶

Information Technology Security Act

In 2021, the Legislature passed the IT Security Act,¹⁷ which requires DMS and the state agency¹⁸ heads to meet certain requirements in order to enhance the IT security of the state agencies. Specifically, the IT Security Act provides that DMS is responsible for establishing standards and processes consistent with accepted best practices for IT security,¹⁹ including cybersecurity, and adopting rules that safeguard an agency's data, information, and IT resources to ensure availability, confidentiality, integrity, and to mitigate risks.²⁰ In addition, DMS must:

- Designate a state chief information security officer (CISO) to oversee state IT security;
- Develop, and annually update, a statewide IT security strategic plan;
- Develop and publish an IT security framework for use by state agencies;
- Collaborate with the Cybercrime Office within the Florida Department of Law Enforcement (FDLE) to provide training; and
- Annually review the strategic and operational IT security plans of executive branch agencies.²¹

State Cybersecurity Act

In 2022, the Legislature passed the State Cybersecurity Act,²² which requires DMS and the heads of the state agencies²³ to meet certain requirements to enhance the cybersecurity²⁴ of the state agencies.

¹² The Secretary of Management Services serves as the head of DMS and is appointed by the Governor, subject to confirmation by the Senate. S. 20.22(1), F.S.

¹³ S. 282.0051(2)(a), F.S.

¹⁴ *Id.*

¹⁵ S. 282.0051(1), F.S.

¹⁶ *Id.*

¹⁷ S. 282.318, F.S.

¹⁸ 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. S. 282.0041(33), 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. S. 282.318(2), F.S.

¹⁹ 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. S. 282.0041(22), F.S.

²⁰ S. 292.318(3), F.S.

²¹ *Id.*

²² S. 282.318, F.S.

²³ For purposes of the State Cybersecurity Act, the term "state agency" includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services. S. 282.318(2), F.S.

²⁴ "Cybersecurity" means the protection afforded to an automated information system in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of data, information, and information technology resources. S. 282.0041(8), F.S.

DMS is tasked with completing the following, through FLDS:

- Establishing standards for assessing agency cybersecurity risks;
- Adopting rules to mitigate risk, support a security governance framework, and safeguard agency digital assets, data,²⁵ information, and IT resources;²⁶
- Designating a chief information security officer (CISO);
- Developing and annually updating a statewide cybersecurity strategic plan such as identification and mitigation of risk, protections against threats, and tactical risk detection for cyber incidents;²⁷
- Developing and publishing for use by state agencies a cybersecurity governance framework;
- Assisting the state agencies in complying with the State Cybersecurity Act;
- Annually providing training on cybersecurity for managers and team members;
- Annually reviewing the strategic and operational cybersecurity plans of state agencies;
- Tracking the state agencies' implementation of remediation plans;
- Providing cybersecurity training to all state agency technology professionals that develops, assesses, and documents competencies by role and skill level;
- Maintaining a Cybersecurity Operations Center (CSOC) led by the CISO to serve as a clearinghouse for threat information and coordinate with FDLE to support responses to incidents; and
- Leading an Emergency Support Function under the state emergency management plan.²⁸

The State Cybersecurity Act requires the head of each state agency to designate an information security manager to administer the state agency's cybersecurity program.²⁹ The head of the agency has additional tasks in protecting against cybersecurity threats as follows:

- Establish a cybersecurity incident response team with FLDS and the Cybercrime Office, which must immediately report all confirmed or suspected incidents to the CISO;
- Annually submit to DMS the state agency's strategic and operational cybersecurity plans;
- Conduct and update a comprehensive risk assessment to determine the security threats;
- Develop and update written internal policies and procedures for reporting cyber incidents;
- Implement safeguards and risk assessment remediation plans to address identified risks;
- Ensure internal audits and evaluations of the agency's cybersecurity program are conducted;
- Ensure that the cybersecurity requirements for the solicitation, contracts, and service-level agreement of IT and IT resources meet or exceed applicable state and federal laws, regulations, and standards for cybersecurity, including the National Institute of Standards and Technology (NIST)³⁰ cybersecurity framework;
- Provide cybersecurity training to all agency employees within 30 days of employment; and
- Develop a process that is consistent with the rules and guidelines established by FLDS for detecting, reporting, and responding to threats, breaches, or cybersecurity incidents.³¹

Florida Cybersecurity Advisory Council

²⁵ "Data" means a subset of structured information in a format that allows such information to be electronically retrieved and transmitted. S. 282.0041(9), F.S.

²⁶ "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training. S. 282.0041(22), F.S.

²⁷ "Incident" means a violation or imminent threat of violation, whether such violation is accidental or deliberate, of information technology resources, security, policies, or practices. An imminent threat of violation refers to a situation in which the state agency has a factual basis for believing that a specific incident is about to occur. S. 282.0041(19), F.S.

²⁸ S. 282.318(3), F.S.

²⁹ S. 282.318(4)(a), F.S.

³⁰ NIST, otherwise known as the National Institute of Standards and Technology, "is a non-regulatory government agency that develops technology, metrics, and standards to drive innovation and economic competitiveness at U.S.-based organizations in the science and technology industry." Nate Lord, *What is NIST Compliance*, DataInsider (Dec. 1, 2020), <https://www.digitalguardian.com/blog/what-nist-compliance> (last visited Mar. 17, 2023).

³¹ S. 282.318(4), F.S.

The Florida Cybersecurity Advisory Council³² (CAC) within DMS³³ assists state agencies in protecting IT resources from cyber threats and incidents.³⁴ The CAC must assist FLDS in implementing best cybersecurity practices, taking into consideration the final recommendations of the Florida Cybersecurity Task Force – a task force created to review and assess the state’s cybersecurity infrastructure, governance, and operations.³⁵ The CAC meets at least quarterly to:

- Review existing state agency cybersecurity policies;
- Assess ongoing risks to state agency IT;
- Recommend a reporting and information sharing system to notify state agencies of new risks;
- Recommend data breach simulation exercises;
- Assist FLDS in developing cybersecurity best practice recommendations; and
- Examine inconsistencies between state and federal law regarding cybersecurity.³⁶

The CAC must work with NIST and other federal agencies, private sector businesses, and private security experts to identify which local infrastructure sectors, not covered by federal law, are at the greatest risk of cyber-attacks and to identify categories of critical infrastructure as critical cyber infrastructure if cyber damage to the infrastructure could result in catastrophic consequences.³⁷

The CAC must also prepare and submit a comprehensive report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes data, trends, analysis, findings, and recommendations for state and local action regarding ransomware incidents as stated below:

- Descriptive statistics, including the amount of ransom requested, duration of the incident, and overall monetary cost to taxpayers of the incident;
- A detailed statistical analysis of the circumstances that led to the ransomware incident which does not include the name of the state agency or local government, network information, or system identifying information;
- Statistical analysis of the level of cybersecurity employee training and frequency of data backup for the state agencies or local governments that reported incidents;
- Specific issues identified with current policy, procedure, rule, or statute and recommendations to address those issues; and
- Other recommendations to prevent ransomware incidents.

State Data Center

In 2022, legislation moved the State Data Center (SDC) from FLDS to DMS, which now operates and maintains the SDC. The SDC provides data center services that comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements.³⁸ The standards used by the SDC are created through the Information Technology Infrastructure Library (ITIL), the International Organization for Standardization, and the International Electrotechnical Commission (ISO/IEC) 20000, and the Project Management Institute’s (PMI) best practices.

Northwest Regional Data Center

The Northwest Regional Data Center (NWRDC) is the leading computing provider for educational and governmental communities in Florida. In 2022, NWRDC (located at Florida State University) was declared an official state data center, and the current SDC resources, contracts, and assets were transferred to NWRDC, through contract.³⁹ This allows for NWRDC to provide services from the SDC

³² Under Florida law, an “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis. Generally, an advisory council is enacted to study the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. S. 20.03(7), F.S.; See also s. 20.052, F.S.

³³ S. 282.319(1), F.S.

³⁴ S. 282.319(2), F.S.

³⁵ S. 282.319(3), F.S.

³⁶ S. 282.319(9), F.S.

³⁷ S. 282.319(10), F.S.

³⁸ S. 282.201(1), F.S.

³⁹ S. 282.201(5), F.S.

facility. The NWRDC offers services and 24/7 management support for various IT support solutions, including: public/private cloud services, backup and recovery, storage, managed services, Tallahassee fiber loop, Florida LambdaRail, MyFloridaNet, Florida Power and Light Fibernet, CenturyLink Connectivity, security services, multi-site colocation, and disaster recovery.⁴⁰

Cyber Incident Response

The National Cyber Incident Response Plan (NCIRP) was developed according to the direction of Presidential Policy Directive (PPD)-41,⁴¹ by the U.S. Department of Homeland Security. The NCIRP is part of the broader National Preparedness System and establishes the strategic framework for a whole-of-Nation approach to mitigating, responding to, and recovering from cybersecurity incidents posing risk to critical infrastructure.⁴² The NCIRP was developed in coordination with federal, state, local, and private sector entities and is designed to interface with industry best practice standards for cybersecurity, including the NIST Cybersecurity Framework.

The NCIRP adopted a common schema for describing the severity of cybersecurity incidents affecting the U.S. The schema establishes a common framework to evaluate and assess cybersecurity incidents to ensure that all departments and agencies have a common view of the severity of a given incident; urgency required for responding to a given incident; seniority level necessary for coordinating response efforts; and level of investment required for response efforts.⁴³

The severity level of a cybersecurity incident in accordance with the NCIRP is determined as follows:

- Level 5: An emergency-level incident within the specified jurisdiction if the incident poses an imminent threat to the provision of wide-scale critical infrastructure services; national, state, or local security; or the lives of the country's, state's, or local government's citizens.
- Level 4: A severe-level incident if the incident is likely to result in a significant impact within the affected jurisdiction which affects the public health or safety; national, state, or local security; economic security; or individual civil liberties.
- Level 3: A high-level incident if the incident is likely to result in a demonstrable impact in the affected jurisdiction to public health or safety; national, state, or local security; economic security; civil liberties; or public confidence.
- Level 2: A medium-level incident if the incident may impact public health or safety; national, state, or local security; economic security; civil liberties; or public confidence.
- Level 1: A low-level incident if the incident is unlikely to impact public health or safety; national, state, or local security; economic security; or public confidence.⁴⁴

State agencies and local governments in Florida, must report all ransomware incidents and any cybersecurity incidents at severity levels three, four, and five incident as soon as possible, but no later than 48 hours after discovery of a cybersecurity incident and no later than 12 hours after discovery of a ransomware incident, to the Cybersecurity Operations Center (CSOC).⁴⁵ The CSOC shall notify the President of the Senate and the Speaker of the House of Representatives of any severity level three, four, or five as soon as possible, but no later than 12 hours after receiving the incident report from the state agency or local government.⁴⁶ For state agency incidents at severity levels one and two, they must report these to the CSOC and the Cybercrime Office at FDLE as soon as possible.⁴⁷

⁴⁰ NWRDC: Florida's Cloud Broker, *About Northwest Regional Data Center*, at <https://www.nwrdc.fsu.edu/about> (last visited Mar. 15, 2023).

⁴¹ Annex for PPD-41: *U.S. Cyber Incident Coordination*, available at: <https://obamawhitehouse.archives.gov/the-press-office/2016/07/26/annex-presidential-policy-directive-united-states-cyber-incident> (last visited Mar. 15, 2023).

⁴² Cybersecurity & Infrastructure Security Agency, *Cybersecurity Incident Response*, available at <https://www.cisa.gov/topics/cybersecurity-best-practices/organizations-and-cyber-safety/cybersecurity-incident-response#:~:text=%20National%20Cyber%20Incident%20Response%20Plan%20%28NCIRP%29%20The,incidents%20and%20how%20those%20activities%20all%20fit%20together> (last visited Mar. 15, 2023).

⁴³ *Id.*

⁴⁴ S. 282.318(3)(c)9.a, F.S.

⁴⁵ S. 282.318(3)(c)9.c, F.S.

⁴⁶ S. 282.318(3)(c)9.c.(II), F.S.

⁴⁷ S. 282.318(3)(c)(9)(d), F.S.

The notification must include a high-level description of the incident and the likely effects. An incident report for a cybersecurity or ransomware incident by a state agency or local government must include, at a minimum:

- A summary of the facts surrounding the cybersecurity or ransomware incident;
- The date on which the state agency or local government most recently backed up its data, the physical location of the backup, if the backup was affected, and if the backup was created using cloud computing;
- The types of data compromised by the cybersecurity or ransomware incident;
- The estimated fiscal impact of the cybersecurity or ransomware incident;
- In the case of a ransomware incident, the details of the ransom demanded; and
- If the reporting entity is a local government, a statement requesting or declining assistance from the CSOC, FDLE Cybercrime Office, or sheriff.⁴⁸

In addition, the CSOC must provide consolidated incident reports to the President of the Senate, Speaker of the House of Representatives, and the CAC on a quarterly basis.⁴⁹ The consolidated incident reports to the CAC may not contain any state agency or local government name, network information, or system identifying information, but must contain sufficient relevant information to allow the CAC to fulfill its responsibilities.⁵⁰

Legislation passed in 2022 additionally requires state agencies and local governments to submit an after-action report to FLDS within one week of the remediation of a cybersecurity or ransomware incident.⁵¹ The report must summarize the incident, state the resolution, and any insights from the incident.

Effect of the Bill

The bill creates the “Florida Cyber Protection Act.”

The bill defines the following terms:

- “As a service” means contracting with or outsourcing to a third-party of a defined role or function as a means of delivery.
- “Cloud provider” has the same meaning as provided in NIST Special Publication 800-145.
- “Independent” means, for an entity providing independent verification and validation, having no technical, managerial, or financial interest in the relevant technology project; no relationship to the relevant agency; and no responsibility for or participation in any aspect of the project, which includes project oversight by FLDS.
- “Independent verification and validation” means a third-party support service that provides a completely dependent and impartial assessment of the progress and work products of a technology project from concept to business case and throughout the project lifecycle.

The bill modifies the definition of “incident” to add anything that may “jeopardize the confidentiality, integrity, or availability of an information technology system or the information the system processes, stores, or transmits.”

The bill provides that DMS, through FLDS, must ensure that independent project oversight for all state agency information technology projects that have total costs of \$10 million or more is performed in compliance with applicable state and federal law. Under this oversight:

- DMS cannot be considered independent for purposes of project oversight where DMS provided assistance.
- DMS shall establish appropriate contract vehicles to facilitate procurement of project oversight as a service by a state agency and ensure that the contract vehicle includes offerings that

⁴⁸ S. 282.318(3)(c)9.b, F.S.

⁴⁹ S. 282.318(3)(c)9.e, F.S.

⁵⁰ *Id.*

⁵¹ S. 282.318(4)(k), F.S.

incorporate the ability to abide by law. Any entity providing project oversight “as a service” must provide a report to DMS.

- A state agency can request DMS to procure project oversight as a service for a project. Such procurement by DMS would not violate the requirement that the project oversight must be independent.
- DMS, acting through FLDS, must review at least quarterly project oversight reports and, upon acceptance of the contents of the reports, provide reports to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill further provides that DMS, through FLDS, must create an operations committee to meet as necessary to develop collaborative efforts between agencies on cybersecurity issues. The Secretary of Management Services is to serve as the executive director of the committee, which is composed of the following members:

- State chief information officer, or his or her designee;
- Attorney General, or his or her designee;
- Secretary of State, or his or her designee;
- Executive director of the Department of Law Enforcement, or his or her designee;
- Secretary of Transportation, or his or her designee;
- Director of the Division of Emergency Management, or his or her designee;
- Secretary of Health Care Administration, or his or her designee;
- Commissioner of Education, or his or her designee;
- Executive director of the Department of Highway Safety and Motor Vehicles, or his or her designee;
- Chair of the Public Service Commission, or his or her designee;
- Adjunct General of the Florida National Guard, or his or her designee; and
- Any other agency head appointed by the Governor.

The bill authorizes DMS, through FLDS, to respond to any state agency cybersecurity incident.

The bill changes the method by which the state CIO is appointed, requiring the Governor to appoint the position subject to confirmation by the Senate. The bill removes the requirement that the CIO consult the Secretary of Management Services when appointing a state chief data officer.

The bill requires the CIO to designate a state chief technology officer (STO) who is responsible for:

- Exploring technology solutions to meet enterprise need;
- The deployments of adopted enterprise solutions;
- Compliance with the cloud first policy;
- Recommending best practices to increase the likelihood of technology project success;
- Developing strategic partnerships with the private sector; and
- Directly supporting enterprise cybersecurity and data interoperability initiatives.

The STO may acquire cloud migration as a service to implement the enterprise of the cloud-first policy.

The bill specifies that the State Data Center (SDC) shall be overseen by and accountable to DMS in consultation with the state CIO, the state chief data officer, the state chief information security officer, and the state CTO. The bill shifts authority from DMS to FLDS to appoint the SDC director. Under the bill, a procurement or purchase of enterprise architecture by the SDC that is comparable to a project subject to requirements under s. 282.0051(4), F.S., if the total project cost is \$10 million or more and may be consumed by an enterprise, must be provided to DMS and FLDS to review before publication.

The bill provides that the state CIO must assume responsibility for the contract between DMS and the Northwest Regional Data Center (NWRDC), and the NWRDC must provide FLDS with access to information regarding operations of the SDC.

Under the bill, the SDC and any successor entity assuming the responsibilities of the SDC, including NWRDC, must provide FLDS with full access to any infrastructure, system, application, or other means

that hosts, supports, or manages data in the custody of an enterprise, which must fully integrate with the Cybersecurity Operations Center (CSOC).

The bill requires the SDC and any successor entity to submit a quarterly report to DMS and FLDS that provides, relating to infrastructure servicing enterprise customers and data, the number of:

- Technology assets within 1 year of the end of life as defined by the manufacturer;
- Technology assets which are beyond end of life as defined by the manufacturer;
- Technology assets which are within 2 years of being unsupported by manufacturer;
- Technology assets which are currently unsupported by the manufacturer;
- Workloads which are hosted by a commercial cloud service provider as defined in NIST publication 500-292; and
- Service level disruptions and average duration of disruption.

The bill provides that state agencies and local governments must report ransomware or cybersecurity incidents of all security levels and adds FLDS to the list of entities that must receive such reports. Such reports must be made as soon as possible but no later than four hours after discovery of a cybersecurity incident and no later than two hours after discovery of a ransomware incident. Furthermore, the bill requires FLDS to notify the Governor, President of the Senate, and the Speaker of the House of any incident discovered by a state agency but not timely reported.

The bill requires that heads of state agencies:

- Designate a chief information security officer to integrate the agency's technical and operational cybersecurity efforts with the Cybersecurity Operations Center. This must be done annually in writing to FLDS by January 1. An agency's chief information security officer must report to the agency's chief information officer. An agency can request DMS to procure a chief information security officer as a service to fulfill these duties.
- Designate an information security manager to ensure compliance with cybersecurity governance and comply with the state's incident response plan.
- In establishing an agency cybersecurity team, incorporate the resources of the Florida State Guard as appropriate.
- Sign an annual comprehensive risk assessment facilitated by DMS. This assessment must comply with the criteria, methodology, and cope developed by the state chief information security officer. The findings must also be signed by FLDS.

The bill establishes an annual reporting deadline of January 15th for DMS to submit a report to the Governor, President of the Senate, and the Speaker of the House on alternative standards that do not conflict with federal regulations or requirements.

The bill removes the requirement that the Florida Cybersecurity Advisory Council must include a representative from a water treatment facility.

The bill creates a career service exemption for particular positions. The bill exempts personnel who are employed by or report to the CIO, state chief data officer, a chief information security officer, and an agency information security manager.

Under the bill, DMS, through FLDS, must provide cybersecurity briefings to members of any legislative committee or subcommittee responsible for policy matters relating to cybersecurity. Further, the bill allows any legislative committee or subcommittee responsible for policy matters relating to cybersecurity to hold meetings closed under the rules of the legislative body when such committee or subcommittee is briefed on records made confidential and exempt. The committee and subcommittee must maintain the confidential and exempt status of the records.

Limitation on Liability

Present Situation

Access to Courts

The Florida Constitution broadly protects the right to access the courts, which "shall be open to every person for redress of any injury..."⁵² However, this constitutional right is not unlimited.

In *Kluger v. White*,⁵³ the Court stated that it would not completely prohibit the Legislature from altering a cause of action, but neither would it allow the Legislature "to destroy a traditional and long-standing cause of action upon mere legislative whim..." The takeaway from *Kluger* and other relevant case law is that the Legislature may:

- Reduce the right to bring a cause of action as long as the right is not entirely abolished.⁵⁴
- Abolish a cause of action that is not "traditional and long-standing"—that is, a cause of action that did not exist at common law, and that did not exist in statute before the adoption of the Florida Constitution's Declaration of Rights.⁵⁵
- Abolish a cause of action if the Legislature either:
 - Provides a reasonable commensurate benefit in exchange;⁵⁶ or
 - Shows an "overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown."⁵⁷

Tort Liability and Negligence

A "tort" is a wrong for which the law provides a remedy. The purpose of tort law is to fairly compensate a person harmed by another person's wrongful acts, whether intentional, reckless, or negligent, through a civil action or other comparable process. A properly-functioning tort system:

- Provides a fair and equitable forum to resolve disputes;
- Appropriately compensates legitimately harmed persons;
- Shifts the loss to responsible parties;
- Provides an incentive to prevent future harm; and
- Deters undesirable behavior.⁵⁸

"Negligence" is a legal term for a type of tort action that is unintentionally committed. In a negligence action, the plaintiff is the party that brings the lawsuit, and the defendant is the party that defends against it. To prevail in a negligence lawsuit, a plaintiff must demonstrate that the:

- Defendant had a legal duty of care requiring the defendant to conform to a certain standard of conduct for the protection of others, including the plaintiff, against unreasonable risks;
- Defendant breached his or her duty of care by failing to conform to the required standard;
- Defendant's breach caused the plaintiff's injury; and
- Plaintiff suffered actual damage or loss resulting from his or her injury.⁵⁹

Courts distinguish varying degrees of civil negligence by using terms such as:

⁵² Art. I, s. 21, Fla. Const.

⁵³ *Kluger*, 281 So. 2d 1.

⁵⁴ See *Achord v. Osceola Farms Co.*, 52 So. 3d 699 (Fla. 2010).

⁵⁵ See *Anderson v. Gannett Comp.*, 994 So. 2d 1048 (Fla. 2008) (false light was not actionable under the common law); *McPhail v. Jenkins*, 382 So. 2d 1329 (Fla. 1980) (wrongful death was not actionable under the common law); see also *Kluger*, 281 So. 2d at 4 ("We hold, therefore, that where a right of access to the courts for redress for a particular injury has been provided by statutory law predating the adoption of the Declaration of Rights of the Constitution of the State of Florida, or where such right has become a part of the common law of the State . . . the Legislature is without power to abolish such a right without providing a reasonable alternative . . . unless the Legislature can show an overpowering public necessity . . .").

⁵⁶ *Kluger*, 281 So. 2d at 4; see *Univ. of Miami v. Echarte*, 618 So. 2d 189 (Fla. 1993) (upholding a statutory cap on medical malpractice damages because the Legislature provided arbitration, which is a "commensurate benefit" for a claimant); accord *Lasky v. State Farm Ins. Co.*, 296 So. 2d 9 (Fla. 1974); but see *Smith v. Dept. of Ins.*, 507 So. 2d 1080 (Fla. 1992) (striking down a noneconomic cap on damages, which, while not wholly abolishing a cause of action, did not provide a commensurate benefit).

⁵⁷ *Kluger*, 281 So. 2d at 4-5 (noting that in 1945, the Legislature abolished the right to sue for several causes of action, but successfully demonstrated "the public necessity required for the total abolition of a right to sue") (citing *Rotwein v. Gersten*, 36 So. 2d 419 (Fla. 1948); see *Echarte*, 618 So. 2d at 195 ("Even if the medical malpractice arbitration statutes at issue did not provide a commensurate benefit, we would find that the statutes satisfy the second prong of *Kluger* which requires a legislative finding that an 'overpowering public necessity exists, and further that 'no alternative method of meeting such public necessity can be shown'").

⁵⁸ Am. Jur. 2d Torts s. 2.

⁵⁹ 6 *Florida Practice Series* s. 1.1; see *Barnett v. Dept. of Financial Services*, 303 So. 3d 508 (Fla. 2020).

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| Slight Negligence | The failure to exercise great care. This often applies to injuries caused by common carriers charged with the duty to exercise the highest degree of care toward their passengers. ⁶⁰ |
| Ordinary Negligence | The failure to exercise that degree of care which an ordinary prudent person would exercise; or, in other words, a course of conduct which a reasonable and prudent person would know might possibly result in injury to others. ⁶¹ |
| Gross Negligence | A course of conduct which a reasonable and prudent person knows would probably and most likely result in injury to another. ⁶² To prove gross negligence, a plaintiff must usually show that the defendant had knowledge or awareness of imminent danger to another and acted or failed to act with a conscious disregard for the consequences. ⁶³ Once proven, gross negligence may support a punitive ⁶⁴ damages award. ⁶⁵ |

In Florida, before a court awards damages in a negligence action, the jury generally assigns a fault percentage to each party under the comparative negligence rule. Florida applies⁶⁶ a "pure" comparative negligence rule, which allows a plaintiff to recover damages proportional to his or her fault percentage.⁶⁷ For example, if a plaintiff is 40 percent at fault for an accident causing the plaintiff's injury and the defendant is 60 percent at fault, the plaintiff would recover 60 percent of his or her damages.

The Florida Rules of Civil Procedure generally require a plaintiff in a civil action to file a complaint, and require a defendant to file an answer to the complaint.⁶⁸ Florida is a "fact-pleading jurisdiction." This means that a pleading setting forth a claim for relief, including a complaint, must generally state a cause of action and contain a:

- Short and plain statement of the grounds on which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds to support it;
- Short and plain statement of the ultimate facts⁶⁹ showing the pleader is entitled to relief; and
- Demand for the relief to which the pleader believes he or she is entitled to.⁷⁰

However, certain allegations⁷¹ must be plead with "particularity," which is a heightened level of pleading requiring a statement of facts sufficient to satisfy the elements of each claim.

Burden of Proof and Presumptions

The burden of proof is an obligation to prove a material fact in issue.⁷² Generally, the party who asserts the material fact in issue has the burden of proof.⁷³ In a civil proceeding, for example, the burden of proof is on the plaintiff to prove the allegations contained in his or her complaint. Further, a defendant in

⁶⁰ See *Faircloth v. Hill*, 85 So. 2d 870 (Fla. 1956); see also *Holland America Cruises, Inc. v. Underwood*, 470 So. 2d 19 (Fla. 2d DCA 1985); *Werndli v. Greyhound Corp.*, 365 So. 2d 177 (Fla. 2d DCA 1978); 6 *Florida Practice Series* s. 1.2.

⁶¹ See *De Wald v. Quarnstrom*, 60 So. 2d 919 (Fla. 1952); see also *Clements v. Deeb*, 88 So. 2d 505 (Fla. 1956); 6 *Florida Practice Series* s. 1.2.

⁶² See *Clements*, 88 So. 2d 505; 6 *Florida Practice Series* s. 1.2.

⁶³ See *Carraway v. Revell*, 116 So. 2d 16 (Fla. 1959).

⁶⁴ Punitive damages are awarded in addition to actual damages to punish a defendant for behavior considered especially harmful. Florida generally caps punitive damage awards at \$500,000 or triple the value of compensatory damages, whichever is greater, and caps cases of intentional misconduct with a financial motivation at two million dollars or four times the amount of compensatory damages, whichever is greater. S. 768.73(1), F.S.

⁶⁵ See *Glaab v. Caudill*, 236 So. 2d 180 (Fla. 2d DCA 1970); 6 *Florida Practice Series* s. 1.2; s. 768.72(2), F.S.

⁶⁶ The comparative negligence standard does not apply to any action brought to recover economic damages from pollution, based on an intentional tort, or to which the joint and several liability doctrines is specifically applied in chs. 403, 498, 517, 542, and 895, F.S. S. 768.81(4), F.S.

⁶⁷ S. 768.81(2), F.S.; see *Williams v. Davis*, 974 So. 2d 1052 (Fla. 2007).

⁶⁸ Fla. R. Civ. P. 1.100.

⁶⁹ Ultimate facts are facts that must be accepted for a claim to prevail, usually inferred from a number of supporting evidentiary facts, which themselves are facts making other facts more probable. See Legal Information Institute, *Ultimate Fact*, https://www.law.cornell.edu/wex/ultimate_fact (last visited Mar. 16, 2023); see also Legal Information Institute, *Evidentiary Facts*, https://www.law.cornell.edu/wex/evidentiary_fact (last visited Mar. 16, 2023).

⁷⁰ See *Goldschmidt v. Holman*, 571 So. 2d 422 (Fla. 1990); Fla. R. Civ. P. 1.110.

⁷¹ These allegations include fraud, mistake, condition of the mind, and denial of performance or occurrence. Fla. R. Civ. P. 1.120(b),(c).

⁷² 5 *Florida Practice Series* s. 16:1.

⁷³ *Id.*; see *Berg v. Bridle Path Homeowners Ass'n, Inc.*, 809 So. 2d 32 (Fla. 4th DCA 2002).

either a criminal or a civil proceeding has the burden to prove any affirmative defenses⁷⁴ he or she may raise in response to the charges or allegations. However, there are certain statutory and common law presumptions⁷⁵ that may shift the burden of proof from the party asserting the material fact in issue to the party defending against such fact.⁷⁶ These presumptions remain in effect following the introduction of evidence rebutting the presumption, and the factfinder must decide if such evidence is strong enough to overcome the presumption.⁷⁷ A presumption is a legal inference that can be made with knowing certain facts. Most presumptions are able to be rebutted, if proven to be false or thrown into sufficient doubt by the evidence.⁷⁸

Cybersecurity Standards

Per Florida law, local governments are required to adopt cybersecurity standards that safeguard the local government's data, information technology, and information technology resources to ensure availability, confidentiality, and integrity.⁷⁹ The standards must be consistent with generally accepted best practices for cybersecurity, including the NIST cybersecurity framework.⁸⁰ Once the standards are adopted, each local government is to notify FLDS as soon as possible.⁸¹

The National Institute for Standards and Technology (NIST) is a non-regulatory federal agency housed within the U.S. Department of Commerce. NIST is charged with providing a prioritized, flexible, repeatable, performance-based, and cost-effective framework that helps owners and operators of critical infrastructure identify, assess, and manage cyber risk. While the framework was developed with critical infrastructure in mind, it can be used by organizations in any sector of the economy or society.⁸² The framework is designed to complement, and not replace, an organization's own unique approach to cybersecurity risk management. As such, there are a variety of ways to use the framework and the decision about how to apply it is left to the implementing organization. For example, an organization may use its current processes and consider the framework to identify opportunities to strengthen its cybersecurity risk management. The framework, overall, provides an outline of best practices that helps organizations decide where to focus resources for cybersecurity protection.⁸³ Other cybersecurity standards include:

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| NIST special publication 800-171 | Provides recommended requirements for protecting the confidentiality of controlled unclassified information. If a manufacturer is part of a Department of Defense, General Services Administration, NASA, or other state or federal agency supply chain then they must comply with these security requirements. ⁸⁴ |
| NIST special publications 800-53 and 800-53A | A category of security and privacy controls. Covers the steps in the Risk Management Framework that address security controls for federal information systems. ⁸⁵ |

⁷⁴ An affirmative defense is a defense which, if proven, negates criminal or civil liability even if it is proven that the defendant committed the acts alleged. Examples include self-defense, entrapment, insanity, necessity, and *respondeat superior*. Legal Information Institute, *Affirmative Defense*, https://www.law.cornell.edu/wex/affirmative_defense (last visited Mar. 16, 2021).

⁷⁵ These presumptions tend to be social policy expressions, such as the presumption that all people are sane or that all children born in wedlock are legitimate. 5 *Florida Practice Series* s. 16:1.

⁷⁶ 5 *Florida Practice Series* s. 16:1.

⁷⁷ *Id.*

⁷⁸ Legal Information Institute, *Presumption*, <https://www.law.cornell.edu/wex/presumption> (last visited Mar. 16, 2023).

⁷⁹ S.282.3185(4)(a), F.S.

⁸⁰ *Id.*

⁸¹ S.282.3185(4)(d), F.S.

⁸² National Institute of Standards and Technology, *Framework for Improving Critical Infrastructure Cybersecurity*, <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf> (last visited March 7, 2023).

⁸³ *Id.*

⁸⁴ NIST, *What is the NIST SP 800-171 and Who Needs to Follow It?*, <https://www.nist.gov/blogs/manufacturing-innovation-blog/what-nist-sp-800-171-and-who-needs-follow-it-0#:~:text=NIST%20SP%20800-171%20is%20a%20NIST%20Special%20Publication,protecting%20the%20confidentiality%20of%20controlled%20unclassified%20information%20%28CUI%29> (last visited Mar. 15, 2023).

⁸⁵ NIST, *Selecting Security and Privacy Controls: Choosing the Right Approach*, <https://www.nist.gov/blogs/cybersecurity-insights/selecting-security-and-privacy-controls-choosing-right-approach> (last visited Mar. 16, 2023).

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| The Federal Risk and Authorization Management Program security assessment framework | Organization established by the General Services Administration (a Federal Government Program) that provides U.S. federal agencies, state agencies, and their vendors with a standardized set of best practices to assess, adopt, and monitor the use of cloud-based technology services under the Federal Information Security Management Act (FISMA). ⁸⁶ |
| CIS Critical Security Controls | The Center for Internet Security Critical Security Controls (CIS) are a prescriptive and simplified set of best practices for strengthening cybersecurity for different organizations. CIS was created in response to extreme data losses experienced by organizations in the U.S. defense industrial base. ⁸⁷ |
| The International Organization for Standardization/International Electrotechnical Commission 27000 – series family of standards | ISO/IEC 27001 (ISO) enables organizations of all sectors to manage security of financial information, intellectual property, employee data and information entrusted by third parties. ISO has auditors and is an international standard. There are 804 technical committees and subcommittees concerned with such standards of development. ⁸⁸ |

⁸⁶ Reciprocity, *How State and Local Agencies Can Use FedRAMP*, <https://reciprocity.com/how-state-and-local-agencies-can-use-fedramp/#:~:text=The%20Federal%20Risk%20and%20Authorization%20Management%20Program%20%28FedRAMP%29,cloud%20products%20offered%20by%20cloud%20service%20providers%20%28CSPs%29> (last visited Mar. 16, 2023).

⁸⁷ CIS Security, *CIS Critical Security Controls*, <https://www.cisecurity.org/controls> (last visited Mar. 16, 2023).

⁸⁸ ITGovernance, *ISO 27001, The International Security Standard*, <https://www.itgovernanceusa.com/iso27001#:~:text=ISO%2027001%20is%20a%20globally%20recognized%20information%20security,trusted%20benchmark.%20Protect%20your%20data%2C%20wherever%20it%20lives> (last visited Mar. 16, 2023).

Effect of the Bill

The bill provides that specified entities that substantially comply with certain standards are not liable in connection with a cybersecurity incident.

Under the bill, a county or municipality that substantially complies with s. 282.3185, F.S., is not liable in connection with a cybersecurity incident. The bill also provides that a sole proprietorship, partnership, corporation, trust, estate, cooperative, association, or other commercial entity acquires, maintains, stores, or uses personal information is not liable if the entity substantially complies with s. 501.171, F.S., and has adopted a cybersecurity program that substantially aligns with the current version of any of the following:

- National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity;
- NIST special publication 800-171;
- NIST special publications 800-53 and 800-53A;
- The Federal Risk and Authorization Management Program security assessment framework;
- CIS Critical Security Controls; or
- The International Organization for Standardization/International Electrotechnical Commission 27000 – series family of standards.

Under the bill, if the entity is regulated by the state or federal government, or both, or if otherwise subject to the requirements of any of the following laws and regulations, it must substantially comply its cybersecurity program to the current version of:

- The security requirements of the Health Insurance Portability and Accountability Act of 1996;
- Title V of the Gramm-Leach-Bliley Act of 1999 as amended;
- The Federal Information Security Modernization Act of 2014; or
- The Health Information Technology for Economic and Clinical Health Act.

The bill provides that the specified non-governmental entities must base their compliance with one of the standards off of these factors:

- The size and complexity of the covered entity;
- The nature and scope of the activities of the covered entity; and
- The sensitivity of the information to be protected.

Under the bill, any commercial entity that substantially complies with a combination of industry-recognized cybersecurity frameworks or standards, including the payment card industry data security standard, gains a presumption against liability and must adopt the revised frameworks or standards within 1 year after the latest publication date stated in the revisions.

The bill does not establish a private cause of action. It provides that a failure of a county, municipality, or commercial entity to substantially implement a cybersecurity program that would allow it to gain a presumption against liability under the bill is not evidence of negligence and does not constitute negligence per se. In an action in connection to a cybersecurity incident, if the defendant is an entity covered by the bill, the defendant holds the burden of proof to establish substantial compliance.

The bill provides that the act shall take effect July 1, 2023

B. SECTION DIRECTORY:

Section 1: Provides a short title for the act.

Section 2: Amends s. 110.225, F.S., relating to career service exemptions.

Section 3: Amends s. 282.0041, F.S., relating to definitions.

Section 4: Amends s. 282.0051, F.S. relating to DMS; FLDS; powers, duties, and functions.

Section 5: Amends s. 282.201, F.S., relating to the State Data Center.

Section 6: Amends s. 282.318, F.S., relating to cybersecurity.

- Section 7:** Amends s. 282.3185, F.S., relating to local government cybersecurity.
- Section 8:** Amends and adds to s. 282.319, F.S., relating to Florida Cybersecurity Advisory Council.
- Section 9:** Creates s. 768.401, F.S., creating a presumption against liability.
- Section 10:** Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may require additional expenditures by the state.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 21, 2023, the Energy, Communications & Cybersecurity Subcommittee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The amendment:

- Removed language from the bill that shifted authority related to cybersecurity governance from the Department of Management Services (DMS) to the Florida Digital Service (FLDS).
- Added and amended definitions.
- Provided DMS with additional responsibilities related to technology project oversight and cybersecurity incidents.
- Modified the membership of the operations committee required by the bill.
- Required the state CIO to designate a state chief technology officer and outlined the responsibilities of that position.
- Specified oversight of the state data center (SDC) and provided FLDS with authority to appoint the SDC director.
- Required the SDC to fully integrate with the Cybersecurity Operations Center.
- Specified information that the SDC must report to DMS and FLDS.
- Provided that the state CIO must assume responsibility for the contract between DMS and the Northwest Regional Data Center (NWRDC) and that NWRDC must provide FLDS with access to information regarding operations of the SDC.
- Required state agencies and local governments to report all ransomware incidents within 4 hours and all cybersecurity incidents within 2 hours and added FLDS to the list of entities that must receive such reports.
- Provided new requirements for heads of state agencies related to cybersecurity.
- Removed the State Technology Advancement Council created by the bill.
- Created a career service exemption for particular positions.
- Clarified application of a presumption against liability.

This analysis is drafted to the committee substitute as adopted by the Energy, Communications & Cybersecurity Subcommittee.



Public Records Exemption for City Clerks/Elections Officers

Title 21-A: ELECTIONS
Chapter 9: CONDUCT OF ELECTIONS
Subchapter 2: ELECTION PROCEDURE
Article 3: VOTING AND CHALLENGES

§674. Violations and penalties

1. Class E crime. A person commits a Class E crime if that person:

A. Knowingly removes a ballot from a voting place on election day except as authorized by this Title; [PL 1993, c. 473, §18 (RPR); PL 1993, c. 473, §46 (AFF).]

B. Interferes with a voter attempting to cast a vote; [PL 2003, c. 447, §14 (AMD).]

B-1. Interferes with a voter in marking that voter's ballot; [PL 2003, c. 447, §15 (NEW).]

B-2. Attempts to influence a voter in marking that voter's ballot; [PL 2003, c. 447, §15 (NEW).]

C. Assists or offers to assist another person at the voting place in marking that other person's ballot, unless the person has been requested to do so by the warden or ward clerk; or [PL 1993, c. 473, §18 (RPR); PL 1993, c. 473, §46 (AFF).]

D. [PL 2011, c. 342, §23 (RP).]

E. [PL 1993, c. 473, §18 (RP); PL 1993, c. 473, §46 (AFF).]

F. [PL 1993, c. 473, §18 (RP); PL 1993, c. 473, §46 (AFF).]

G. Having been entrusted with another voter's marked ballot, intentionally or knowingly discloses the content of that ballot to another person. [PL 2011, c. 342, §24 (NEW).]

[PL 2011, c. 342, §§23, 24 (AMD).]

2. Class D crime. A person commits a Class D crime if that person:

A. Assists another person in voting, knowing that the other person is not eligible to vote; or [PL 2021, c. 568, §5 (AMD).]

B. [PL 2003, c. 474, §17 (RP).]

C. [PL 1993, c. 473, §18 (RP); PL 1993, c. 473, §46 (AFF).]

D. [PL 1993, c. 473, §18 (RP); PL 1993, c. 473, §46 (AFF).]

E. Intentionally interferes by force, violence or intimidation or by any physical act with any public official who is in fact performing or who the person believes is performing an official function relating to a federal, state or municipal election. [PL 2021, c. 568, §6 (NEW).]

[PL 2021, c. 568, §§5, 6 (AMD).]

3. Class C crime. A person commits a Class C crime if that person:

A. Knowingly causes a delay in the registration or enrollment of another or knowingly causes a delay in the delivery of an absentee ballot or absentee ballot application with the intent to prevent a person from voting or to render that person's vote ineffective; [PL 1993, c. 473, §18 (NEW); PL 1993, c. 473, §46 (AFF).]

B. Votes knowing that the person is not eligible to do so; [PL 2003, c. 447, §18 (AMD).]

B-1. Attempts to vote knowing that the person is not eligible to do so; [PL 2003, c. 447, §19 (NEW).]

B-2. Having once voted, whether within or outside this State, again votes at the same election; [PL 2003, c. 447, §19 (NEW).]

B-3. Having once voted, whether within or outside this State, attempts to vote at the same election; [PL 2003, c. 447, §19 (NEW).]

C. Votes by using the name of another; or [PL 2003, c. 447, §20 (AMD).]

D. Attempts to vote by using the name of another. [PL 2003, c. 447, §21 (NEW).]

[PL 2003, c. 447, §§18-21 (AMD).]

4. Class B crime. A person commits a Class B crime if that person:

A. Tamperers with ballots or voting lists or opens or breaks a seal of a sealed box or packages of ballots or voting lists with the intent of changing the outcome of any election, except as permitted by this Title. [PL 1993, c. 473, §18 (NEW); PL 1993, c. 473, §46 (AFF).]

[PL 1993, c. 473, §18 (NEW); PL 1993, c. 473, §46 (AFF).]

SECTION HISTORY

PL 1985, c. 161, §6 (NEW). PL 1993, c. 473, §18 (RPR). PL 1993, c. 473, §46 (AFF). PL 2003, c. 447, §§14-21 (AMD). PL 2011, c. 342, §§23, 24 (AMD). PL 2021, c. 568, §§5, 6 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes (mailto:webmaster_ros@legislature.maine.gov) · 7 State House Station · State House Room 108 · Augusta, Maine 04333-0007

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FLORIDA SUPERVISORS OF ELECTIONS

PO Box 350 | Tallahassee, FL 32302 | Telephone: (850) 599-9120

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General Counsel

Ronald Labasky, Esq.

The following issues were adopted by the FSE Legislative Committee on September 29, 2021, and voted and ratified by the FSE membership on October 5, 2021, as legislative priorities for the 2022 Legislative Session.

PRIORITIES:

1. Adjustment of timelines relating to mailing of VBM ballots and tabulation deadlines, as well as conforming mail-only elections timelines and mailing to match general election timelines.
2. Designation of paper ballots as the actual public record, not digital ballot images (Section 101.21)
3. Public Records Exemption for ALL voter information contained in the statewide voter database, including email addresses and phone numbers, except for use for legitimate political purposes. (Amend 97.0585)
4. 3rd Degree felony penalties for threats or harassment against SOE employees and poll workers.
5. Public Records Exemption to further ensure provisional ballot information is confidential and exempt from public record, in accordance with current Florida case law. (Section 102.141(2)(a)).
6. Allow VBM drop boxes to be monitored by camera at the SOE offices.
7. Remove the conflict in statute between sections 101.043(1)(b) & (c) regarding providing identification and confirming the address and correct precinct of the voter. Strike the word "not" from paragraph (c) to remove the conflict.
8. Eliminate requirement to use provisional ballot envelope for votes cast but not in line before 7:00 PM on election night due to executive or judicial extension of time (Amend 101.049). Ballots would be segregated but not required to use provisional ballot envelope.
9. Public Records Exemption for address information of SOE employees and poll workers.
10. Eliminate the \$25,000 fine on a SOE relating to drop boxes. (Section 101.69(3)).

Other issues SUPPORTED by the FSE:

- Amend 103.091 to allow State Committeemen and State Committeewomen to prequalify (currently only allowed during qualifying week).
- Amend date that political parties must nominate and submit candidate names for President/VP so SOE can receive certified ballot language from the State and still have 11 weeks between August Primary and November General Election to prepare ballot proof and mail ballots. Current law has a September 1 deadline which shortens the ballot preparation time (103.021(4)(a)).
- Allow Super Voting Sites as an option, at the county level, for early voting and Election Day voting at Super Voting Sites where any voter from the County can cast their ballot.
- Allow the SOE, with approval from the Department of State, to change drop box locations during an emergency (Amend 101.62(2)(b)).



Sale of Tobacco and Nicotine Products near School Property

569.315 - Preemption.

The establishment of the minimum age for purchasing or possessing, and the regulation for the marketing, sale, or delivery of, nicotine products is preempted to the state.

History.—s. 21, ch. 2021-14.

569.007 - Sale or delivery of tobacco products; restrictions.

(1) In order to prevent persons under 21 years of age from purchasing or receiving tobacco products, the sale or delivery of tobacco products is prohibited, except:

(a) When under the direct control or line of sight of the dealer or the dealer's agent or employee; or

(b) Sales from a vending machine are prohibited under the provisions of paragraph (1)(a) and are only permissible from a machine that is equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee who directly regulates the sale of items through the machine by triggering the lockout device to allow the dispensing of one tobacco product. The lockout device must include a mechanism to prevent the machine from functioning if the power source for the lockout device fails or if the lockout device is disabled and a mechanism to ensure that only one tobacco product is dispensed at a time.

(2) The provisions of subsection (1) shall not apply to an establishment that prohibits persons under 21 years of age on the licensed premises.

(3) The provisions of subsection (1) shall not apply to the sale or delivery of cigars and pipe tobacco.

(4) A dealer or a dealer's agent or employee must require proof of age of a purchaser of a tobacco product before selling the product to that person, unless the purchaser appears to be 30 years of age or older.

(5) A wholesale dealer or distributing agent, as those terms are defined in s. 210.01, or a distributor, as defined in s. 210.25, may sell or deliver tobacco products only to dealers who have permits.

History.—s. 7, ch. 92-285; s. 53, ch. 95-144; s. 11, ch. 97-162; s. 11, ch. 2021-14.

386.212 - Smoking and vaping prohibited near school property; penalty.

(1) It is unlawful for any person under 21 years of age to smoke tobacco or vape in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence.

(2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating this section. Any such citation must contain:

- (a) The date and time of issuance.
- (b) The name and address of the person cited.
- (c) The date and time the civil infraction was committed.
- (d) The statute violated.
- (e) The facts constituting the violation.
- (f) The name and authority of the law enforcement officer.
- (g) The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court.
- (h) The applicable civil penalty if the person elects not to contest the citation.
- (i) The applicable civil penalty if the person elects to contest the citation.

(3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco or anti-vaping “alternative to suspension” program.

(4) Any person who fails to comply with the directions on the citation shall be deemed to waive his or her right to contest the citation and an order to show cause may be issued by the court.

History.—s. 1, ch. 96-217; s. 12, ch. 2003-398; s. 12, ch. 2019-14; s. 3, ch. 2021-14.



Key Dates



2023 - 2024 Key Legislative Dates

September 2023

- | | |
|-------|--|
| 8 | FLC Legislative Policy Committee Meetings (Round 1) – Rosen Centre Orlando, 9840 International Drive, Orlando, FL 32819 |
| 18-22 | Interim Legislative Committee Meetings (House only) |

October 2023

- | | |
|-------|--|
| 6 | FLC Legislative Policy Committee Meetings (Round 2) – Gaylord Palms Resort & Convention Center, 6000 West Osceola Parkway, Kissimmee, FL 34746 |
| 9-13 | Interim Legislative Committee Meetings |
| 16-20 | Interim Legislative Committee Meetings |
| 17-18 | FAST Fly-In – Washington, D.C. |

November 2023

- | | |
|-----------|---|
| 6-9 | Interim Legislative Committee Meetings |
| 13-17 | Interim Legislative Committee Meetings |
| 16-18 | NLC City Summit – Atlanta, GA |
| 29-Dec. 1 | FLC Legislative Conference – Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819 |

December 2023

- | | |
|-------|--|
| 4-7 | Interim Legislative Committee Meetings |
| 11-15 | Interim Legislative Committee Meetings |

January 2024

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|---|---|
| 4 | FLC Pre-Legislative Session Webinar at 2:00 p.m. ET |
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January 2024 continued

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| 9 | Regular Legislative Session Convenes |
| 29-31 | FLC Legislative Action Days – Tallahassee, FL |

March 2024

- | | |
|-------|--|
| 8 | Last Day of Regular Legislative Session |
| 11-13 | NLC Congressional City Conference – Washington, DC |
| 19 | FLC Post-Legislative Session Webinar at 2:00 p.m. ET |

For further details about the mentioned events, contact medenfield@flcities.com.



Home Rule Hero Criteria

Do you want to become a **HOME RULE HERO?**

AS THE ADAGE GOES, "ALL POLITICS IS LOCAL." Successful advocacy starts at home, not in Tallahassee. No one – not even a professional lobbyist – can tell your community's story better than you. Your involvement helps the League's legislative team turn the abstract into concrete. It is essential to help legislators understand how their decisions may impact their communities back home.

The League appreciates the individual advocacy efforts undertaken by municipal officials throughout the state. Each year, there are some League members who make an extraordinary effort; people who stand out for their high level of participation and effectiveness. The Home Rule Hero Award was created to acknowledge and thank them for their efforts. Hundreds of municipal officials have been recognized as "Home Rule Heroes" since the award's inception in 2009, and we thank you!

Home Rule Hero Award recipients are selected by the League's legislative team following each legislative session.

For the award, the most important criteria are timely responses and actions to FLC's Legislative Alerts, and notifying FLC staff of communications with your legislators.

Other exceptional efforts are:

- Attending the Florida League of Cities' Legislative Action Days in Tallahassee and Legislative Conference.
- Testifying before a House or Senate committee on an FLC priority issue, when a call to action has been sent out.
- Participating in FLC's Monday Morning "Call-ins" during session and on FLC's pre-and post-legislative session webinars.
- Participating in FLC's Legislator "Key Contact" program.
- Meeting legislators in their districts or in Tallahassee.
- Responding to FLC requests for information and data about how proposed legislation will specifically impact your city (telling your city's "story").
- Speaking at local legislative delegation meetings to discuss FLC municipal issues.
- Setting up opportunities for legislators and their staff to attend a city council meeting or special event; tour a park, project or facility; and attend a local league meeting.
- Serving on a FLC legislative policy committee.
- Participating in a Federal Action Strike Team fly-in to Washington, D.C.
- During an election year, providing opportunities for candidates for legislative offices to learn about your city and its issues, and introducing candidates to key city stakeholders or those in your professional network.

For more information on these activities and ways to step up your advocacy game, please contact Allison Payne at apayne@flcities.com.





Notes



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