Government Accountability Committee

March 16, 2017
9:00 AM-11:00 AM
Morris Hall

Meeting Packet

Richard Corcoran
Speaker

Matt Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Accountability Committee

Start Date and Time:	Thursday, March 16, 2017 09:00 am
End Date and Time:	Thursday, March 16, 2017 11:00 am
Location:	Morris Hall (17 HOB)
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 207 Agency Inspectors General by Plakon
CS/HB 725 Autonomous Vehicles by Transportation & Infrastructure Subcommittee, Brodeur
HB 1141 State Employment by Yarborough
HB 7035 OGSR/Nonpublished Reports and Data/Dept. of Citrus by Oversight, Transparency & Administration Subcommittee, Roth
HB 7067 A Review Under the Open Government Sunset Review Act by Oversight, Transparency & Administration Subcommittee, Rommel

Consideration of the following proposed committee bill(s):

PCB GAC 17-02 -- Collective Bargaining Impasses

NOTICE FINALIZED on 03/14/2017 4:06PM by Smith.Victoria

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 207 Agency Inspectors General
SPONSOR(S): Plakon
TIED BILLS: **IDEN./SIM. BILLS:** SB 1470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Moore	Harrington
2) Public Integrity & Ethics Committee	16 Y, 0 N	Mitz	Rubottom
3) Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

Current law establishes an Office of Inspector General in each state agency to provide a central point for the coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the inspector general is appointed by the agency head. For state agencies under the jurisdiction of the Governor, the inspector general is appointed by the Chief Inspector General (CIG). The agency head or CIG is authorized to set the salary of the inspector general.

The Florida Housing Finance Corporation (corporation) is the state's affordable housing finance agency. The corporation is authorized to employ an inspector general, who is appointed by the corporation's executive director, with the advice and consent of the corporation's nine-member board of directors.

Effective July 1, 2017, the bill prohibits a state agency that enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an inspector general or deputy inspector general, from offering a bonus on work performance in the contract or agreement. The awarding of such a bonus is also prohibited.

The bill also specifically applies these prohibitions to the corporation.

The bill may have a positive fiscal impact on state agency expenditures because agencies are no longer permitted to provide bonuses to inspectors general or deputy inspectors general. The bill does not appear to have a fiscal impact on local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Inspectors General

Authorized under s. 20.055, F.S., an Office of Inspector General is established in each state agency[1] to provide a central point for the coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the inspector general is appointed by the agency head.[2] For state agencies under the jurisdiction of the Governor, the inspector general is appointed by the Chief Inspector General (CIG).[3] The agency head or CIG is authorized to set the salary of the inspector general.[4]

Each agency inspector general is responsible for the following:

- Advising in the development of performance measures, standards, and procedures for the evaluation of state agency programs;
- Assessing the reliability and validity of information provided by the agency on performance measures and standards;
- Reviewing the actions taken by the agency to improve agency performance, and making recommendations, if necessary;
- Supervising and coordinating audits, investigations, and reviews relating to the programs and operations of the agency;
- Conducting, supervising, or coordinating other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- Providing central coordination of efforts to identify and remedy waste, abuse, and deficiencies to the agency head or the CIG; recommending corrective action concerning fraud, abuses, and deficiencies; and reporting on the progress made in implementing corrective action;
- Coordinating agency-specific audit activities between the Auditor General, federal auditors, and other governmental bodies to avoid duplication;
- Reviewing rules relating to the programs and operations of the agency and making recommendations concerning their impact;
- Ensuring that an appropriate balance is maintained between audit, investigative, and other accountability activities; and
- Complying with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.[5]

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[1] Section 20.055(1)(d), F.S., defines the term "state agency" as each department created pursuant to chapter 20, F.S., and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, the Agency for State Technology, the Office of Early Learning, and the state courts system.

[2] Section 20.055(1)(a), F.S., defines the term "agency head" as the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), F.S., or an executive director as defined in s. 20.03(6), F.S. It also includes the chair of the Public Service Commission, the Director of the Office of Insurance Regulation of the Financial Services Commission, the Director of the Office of Financial Regulation of the Financial Services Commission, the board of directors of the Florida Housing Finance Corporation, the executive director of the Office of Early Learning, and the Chief Justice of the State Supreme Court.

[3] Section 20.055(3)(a)1., F.S.

[4] Section 20.055(3)(a)2., F.S.

[5] Section 20.055(2), F.S.

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (corporation), a public corporation administratively housed within the Department of Economic Opportunity,[6] is the state's affordable housing finance agency. As such, the corporation is responsible for increasing the amount of affordable housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the corporation uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.[7]

The corporation is authorized to employ an inspector general, who is appointed by the corporation's executive director, with the advice and consent of the corporation's nine-member board of directors.[8] The inspector general is charged with performing the same duties outlined above for inspectors general of other state agencies.[9]

Effect of the Bill

The bill prohibits a state agency that enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an inspector general or deputy inspector general from offering a bonus on work performance in the contract or agreement. The awarding of such a bonus is also prohibited.

The bill also specifically applies these prohibitions to the corporation.

These prohibitions become effective July 1, 2017.

B. SECTION DIRECTORY:

Section 1 amends s. 20.055, F.S., prohibiting an agency from offering a bonus on work performance in an inspector general contract or agreement.

Section 2 amends s. 420.506, F.S., prohibiting the corporation from offering a bonus on work performance in an inspector general contract or agreement.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have an impact on state government revenues.

2. Expenditures:

   The bill may have a positive fiscal impact on agency expenditures because agencies will no longer be permitted to provide bonuses to inspectors general or deputy inspectors general.

[6] Section 420.504(1), F.S.
[7] *See* ss. 420.502 and 420.507, F.S.
[8] Section 420.506(2), F.S.
[9] *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have an impact on local government revenues.

2. Expenditures:

   The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to agency inspectors general; amending s. 20.055, F.S.; prohibiting an agency from offering a bonus on work performance in an inspector general contract or agreement; amending s. 420.506, F.S.; prohibiting the Florida Housing Finance Corporation from offering a bonus on work performance in an inspector general contract or agreement; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspectors general.—

(3)(a)1. For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the inspector general shall be appointed by the agency head. For state agencies under the jurisdiction of the Governor, the inspector general shall be appointed by the Chief Inspector General. The agency head or Chief Inspector General shall notify the Governor in writing of his or her intention to hire the inspector general at least 7 days before an offer of employment. The inspector general shall be appointed without regard to political affiliation.

2. Within 60 days after a vacancy or anticipated vacancy

in the position of inspector general, the agency head or, for agencies under the jurisdiction of the Governor, the Chief Inspector General, shall initiate a national search for an inspector general and shall set the salary of the inspector general. Effective July 1, 2017, an agency that enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement with an inspector general or deputy inspector, may not offer a bonus on work performance in the contract or agreement and the awarding of such bonuses is prohibited. In the event of a vacancy in the position of inspector general, the agency head or, for agencies under the jurisdiction of the Governor, the Chief Inspector General, may appoint other office of inspector general management personnel as interim inspector general until such time as a successor inspector general is appointed.

3. A former or current elected official may not be appointed inspector general within 5 years after the end of such individual's period of service. This restriction does not prohibit the reappointment of a current inspector general.

Section 2. Subsection (2) of section 420.506, Florida Statutes, is amended to read:

420.506 Executive director; agents and employees; inspector general.—

(2)(a) The appointment and removal of an inspector general shall be by the executive director, with the advice and consent

of the corporation's board of directors. The corporation's inspector general shall perform for the corporation the functions set forth in s. 20.055. The inspector general shall administratively report to the executive director. The inspector general shall meet the minimum qualifications as set forth in s. 20.055(4). The corporation may establish additional qualifications deemed necessary by the board of directors to meet the unique needs of the corporation. The inspector general shall be responsible for coordinating the responsibilities set forth in s. 420.0006.

(b) Effective July 1, 2017, if the corporation enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement with an inspector general or deputy inspector, the corporation may not offer a bonus on work performance in the contract or agreement and the awarding of such bonuses is prohibited.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 725 Autonomous Vehicles
SPONSOR(S): Transportation & Infrastructure Subcommittee; Brodeur and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1066

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N, As CS	Johnson	Vickers
2) Government Accountability Committee		Johnson	Williamson

SUMMARY ANALYSIS

Current law authorizes a person possessing a valid driver license to operate an autonomous vehicle in autonomous mode on Florida roads if the vehicle is equipped with autonomous technology. The physical presence of an operator in the autonomous vehicle is not required under specified conditions. Current law provides that federal standards and regulations relating to autonomous vehicles supersede Florida law when there is a conflict.

An "autonomous vehicle" is a vehicle equipped with autonomous technology. Autonomous technology is defined as technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring of a human operator.

The bill amends current law relating to the operation of autonomous vehicles. For purposes of determining compliance with applicable traffic and motor vehicle laws, the bill provides that autonomous technology is deemed to be the operator of an autonomous vehicle operating in autonomous mode regardless of whether a human person is physically present in the vehicle. It also provides that a licensed human operator is not required in order to operate an autonomous vehicle in certain instances. When an autonomous vehicle is operating in autonomous mode, the autonomous technology is deemed to be validly licensed to operate a motor vehicle and to satisfy all examination and physical acts required of a human operator.

The bill provides that certain provisions of law do not apply to autonomous vehicles operating in autonomous mode if, in the event of a crash, the vehicle owner, or a person on behalf of the owner, promptly contacts law enforcement to report the crash. The bill also provides that provisions regarding unattended motor vehicles do not apply to autonomous vehicles operating in autonomous mode and requirements regarding passenger restraint only apply when a human person is physically present in the vehicle.

For autonomous vehicles operating in autonomous mode, the bill provides that the autonomous technology is deemed to be validly licensed.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Autonomous Vehicles

While there are multiple definitions for various levels of vehicle automation, the National Highway Traffic Safety Administration (NHTSA) has adopted the SAE International (SAE)[1] definition for automation, which divides vehicles into levels based on "who does what, when." Generally:

- At SAE Level 0, the human driver does everything;
- At SAE Level 1, an automated system on the vehicle can sometimes assist the human driver conduct some parts of the driving task;
- At SAE Level 2, an automated system on the vehicle can actually conduct some parts of the driving task, while the human continues to monitor the driving environment and performs the rest of the driving task;
- At SAE Level 3, an automated system can both actually conduct some parts of the driving task and monitor the driving environment in some instances, but the human driver must be ready to take back control when the automated system requests;
- At SAE Level 4, an automated system can conduct the driving task and monitor the driving environment, and the human need not take back control, but the automated system can operate only in certain environments and under certain conditions; and
- At SAE Level 5, the automated system can perform all driving tasks under all conditions that a human driver could perform.[2]

Federal Policy

In January 2016, the United States Department of Transportation (USDOT) Secretary announced new policy that updated the NHTSA's 2013 preliminary policy statement on autonomous vehicles. The announcement was made in conjunction with a commitment of "nearly $4 billion over the next 10 years to accelerate the development and adoption of safe vehicle automation."[3] The announcement also indicated that within the next six months NHTSA would propose guidance to the industry on establishing principles of safe operation for fully autonomous vehicles.[4]

In September 2016, the USDOT issued its model state policy on autonomous vehicles in order to assist in creating a consistent national framework rather than a patchwork of inconsistent laws and regulations. In developing the model policy, USDOT worked with "industry leaders, experts in the field, state governments, the traveling public, and safety advocates, among others."[5] The model state policy addresses issues such as autonomous vehicle testing by the manufacturer, who is considered the "driver" of an autonomous vehicle, registration and titling of autonomous vehicles, law enforcement considerations, and liability and insurance issues.[6]

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[1] SAE International is a global association of more than 128,000 engineers and related technical experts in the aerospace, automotive, and commercial-vehicle industries. http://www.sae.org/about/ (last visited March 14, 2017).
[2] SAE International website: https://www.sae.org/news/3544/ (last visited March 14, 2017).
[3] National Conference of State Legislatures, Autonomous Vehicles, Feb. 21, 2017, available at http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx (last visited March 14, 2017).
[4] *Id.*
[5] U.S. Department of Transportation, Message from Secretary of Transportation Anthony R. Foxx, available at https://www.transportation.gov/AV (last visited March 14, 2017).
[6] U.S. Department of Transportation, Federal Automated Vehicles Policy, September 2016, available at https://www.transportation.gov/sites/dot.gov/files/docs/AV%20policy%20guidance%20PDF.pdf (last visited March 14, 2017).

Florida Law

Autonomous Vehicles
Section 316.003(2), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. "Autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.[7]

Current law authorizes a person possessing a valid driver license to operate an autonomous vehicle in autonomous mode on Florida roads if the vehicle is equipped with autonomous technology.[8] For purposes of Ch. 316, F.S., a person is deemed to be operating an autonomous vehicle operating in autonomous mode when he or she causes the vehicle's autonomous technology to engage. This is regardless of whether he or she is physically present in the vehicle while it is operating in autonomous mode.[9]

The original manufacturer of a vehicle converted by a third party into an autonomous vehicle is not liable in, and has a defense to and must be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.[10]

Section 319.145, F.S., requires an autonomous vehicle registered in Florida[11] to meet federal standards and regulations for a motor vehicle. The autonomous vehicle must:

- Have a means inside the vehicle to visually indicate when the vehicle is operating in autonomous mode;
- Have a means to alert the vehicle operator if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle; and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.[12]

NHTSA regulations supersede s. 319.145, F.S., when the section is found to be in conflict with federal regulations.[13]

Driver Licensing
Section 322.03, F.S., generally requires drivers to be licensed and provides penalties for operating a motor vehicle without a valid driver license. However, the section does not address licensing of drivers operating autonomous vehicles operating in autonomous mode.

Proposed Changes
The bill amends s. 316.85, F.S., relating to the operation of autonomous vehicles. In addition to operating an autonomous vehicle, the bill authorizes a person to engage autonomous technology to operate an autonomous vehicle in autonomous mode on Florida roads if the vehicle is equipped with autonomous technology.

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[7] Autonomous technology does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator. Section 316.003(2), F.S.
[8] Section 316.85(1), F.S.
[9] Section 316.85(2), F.S.
[10] Section 316.86, F.S.
[11] Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.
[12] Section 319.145(1), F.S.
[13] Section 319.145(2), F.S.

For purposes of determining compliance with all of the state's applicable traffic and motor vehicle laws, autonomous technology is deemed to be the operator of an autonomous vehicle operating in autonomous mode, regardless of whether a human person is physically present in the vehicle while the vehicle is operating in such mode. The state's traffic or motor vehicle laws do not prohibit autonomous technology from being deemed the operator of an autonomous vehicle operating in autonomous mode and do not require a licensed human operator to operate an autonomous vehicle, except as provided in s. 319.145(1), F.S.[14] As such, the bill no longer requires a person operating an autonomous vehicle or engaging autonomous technology to possess a valid driver license to operate or engage autonomous technology to operate an autonomous vehicle in autonomous mode.

When an autonomous vehicle is operating in autonomous mode, the autonomous technology is deemed to be validly licensed[15] to operate a motor vehicle and to satisfy all examinations and physical acts required of a human operator.

The bill specifies that the following provisions do not apply to autonomous vehicles operating in autonomous mode if, in the event of a crash involving the vehicle, the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts law enforcement to report the crash:

- Section 316.062, F.S., relating to the duty to give information and render aid;
- Section 316.063, F.S., relating to duty upon damaging unattended vehicle or property; and
- Section 316.065, F.S., relating to crash reports.

In addition, the bill also specifies that provisions in current law relating to unattended motor vehicles[16] do not apply to autonomous vehicles operating in autonomous mode and governing child restraint requirements[17] and seat belt usage[18] only apply to a human person physically present in a motor vehicle.

The bill amends s. 319.145(1)(a), F.S., clarifying that regardless of whether a human operator is physically present in an autonomous vehicle, the vehicle must have a system to safely alert a human operator physically present in the vehicle if an autonomous technology failure is detected while the autonomous technology is engaged. When the alert is given, the system must:

- If a human operator is physically present in the vehicle, require the human operator to take control of the autonomous vehicle; or
- If a human operator does not or is not able to take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

The bill creates s. 322.03(5), F.S., providing that notwithstanding any other provision of law to the contrary, for autonomous vehicles operating in autonomous mode, the autonomous technology is deemed to be validly licensed.

Finally, the bill conforms a cross-reference.

B. SECTION DIRECTORY:

Section 1 amends s. 316.85, F.S., relating to the operation of autonomous vehicles.

Section 2 amends s. 319.145, F.S., relating to autonomous vehicles.

Section 3 amends s. 322.03, F.S., providing that drivers must be licensed.

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[14] Section 319.145(1), F.S., requires autonomous vehicles to meet certain standards.
[15] Section 322.03, F.S., requires drivers to be licensed.
[16] Section 316.1975, F.S.
[17] Section 316.613, F.S.
[18] Section 316.614, F.S.

Section 4 amends s. 322.15, F.S., conforming a cross reference.

Section 5 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could increase testing and research of autonomous vehicles in Florida.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided that for autonomous vehicles operating in autonomous mode the autonomous technology is deemed to be validly licensed.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

A bill to be entitled

An act relating to autonomous vehicles; amending s. 316.85, F.S.; authorizing a person to engage autonomous technology to operate an autonomous vehicle in autonomous mode; providing that autonomous technology is deemed the operator of an autonomous vehicle operating in autonomous mode for purposes of determining compliance with traffic and motor vehicle laws; providing construction and applicability with respect to specific statutory provisions; amending s. 319.145, F.S.; conforming provisions to changes made by the act; amending s. 322.03, F.S.; providing that autonomous technology is deemed to be validly licensed under certain circumstances; amending s. 322.15, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws.—

(1) A person ~~who possesses a valid driver license~~ may operate an autonomous vehicle, or may engage autonomous

technology to operate an autonomous vehicle in autonomous mode, on roads in this state if the vehicle is equipped with autonomous technology~~,~~ as defined in s. 316.003.

(2) For purposes of determining compliance with all applicable traffic and motor vehicle laws of this state ~~chapter~~, unless the context otherwise requires, autonomous technology ~~a person~~ shall be deemed to be the operator of an autonomous vehicle operating in autonomous mode ~~when the person causes the vehicle's autonomous technology to engage~~, regardless of whether a human ~~the~~ person is physically present in the vehicle while the vehicle is operating in autonomous mode.

(a) A traffic or motor vehicle law of this state does not prohibit autonomous technology from being deemed the operator of an autonomous vehicle operating in autonomous mode and does not require a licensed human operator to operate an autonomous vehicle, except as provided in s. 319.145(1).

(b) When an autonomous vehicle is operating in autonomous mode, the autonomous technology shall be deemed to be validly licensed as required by s. 322.03 to operate a motor vehicle and to satisfy all examinations and physical acts required of a human operator.

(c) Sections 316.062, 316.063, and 316.065 do not apply to an autonomous vehicle operating in autonomous mode if, in the event of a crash involving the vehicle, the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts law

enforcement to report the crash.

(d) Section 316.1975 does not apply to an autonomous vehicle operating in autonomous mode.

(e) Sections 316.613 and 316.614 apply only to a human person physically present in a motor vehicle.

Section 2. Paragraph (a) of subsection (1) of section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must ~~continue to~~ meet applicable federal standards and regulations for such motor vehicle. Regardless of whether a human operator is physically present in the vehicle, the vehicle must:

(a) Have a system to safely alert a human ~~the~~ operator physically present in the vehicle if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

1. If a human operator is physically present in the vehicle, require the human operator to take control of the autonomous vehicle; or

2. If a human ~~the~~ operator does not, or is not able to, take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

Section 3. Subsections (5) and (6) of section 322.03, Florida Statutes, are renumbered as subsections (6) and (7),

respectively, and a new subsection (5) is added to that section to read:

322.03 Drivers must be licensed; penalties.—

(5) Notwithstanding any other provision of law to the contrary, when an autonomous vehicle as defined in s. 316.003 is operating in autonomous mode, the autonomous technology as defined in s. 316.003 shall be deemed to be validly licensed as required by this section.

Section 4. Subsection (3) of section 322.15, Florida Statutes, is amended to read:

322.15 License to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.—

(3) In relation to violations of subsection (1) or s. 322.03(6) ~~322.03(5)~~, persons who cannot supply proof of a valid driver license for the reason that the license was suspended for failure to comply with that citation shall be issued a suspension clearance by the clerk of the court for that citation upon payment of the applicable penalty and fee for that citation. If proof of a valid driver license is not provided to the clerk of the court within 30 days, the person's driver license shall again be suspended for failure to comply.

Section 5. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1141 State Employment
SPONSOR(S): Yarborough
TIED BILLS: **IDEN./SIM. BILLS:** SB 1310

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	11 Y, 0 N	Whittaker	Harrington
2) Government Accountability Committee		Whittaker	Williamson

SUMMARY ANALYSIS

The Florida State Employees' Charitable Campaign (FSECC) is an annual charitable fundraising drive administered by the Department of Management Services. It is the only authorized charitable fundraising drive directed toward state employees within work areas during works hours, and for which the state will provide a payroll deduction. State officer and employee participation is completely voluntary. A state officer or employee choosing to donate during an FSECC fundraising drive must specifically designate a participating organization as the recipient of the officer's or employee's contribution. Participation in the FSECC is limited to nonprofit charitable organizations that meet certain criteria.

The bill eliminates the FSECC and provides that no organization, entity, or person may intentionally solicit a state employee through any means for fundraising or business purposes within work areas during work hours. However, it does not prohibit state-approved communications by entities that the state has contracted to provide employee benefits or services.

The bill may have a positive fiscal impact on the state and does not appear to have a fiscal impact on local governments. *See* Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida State Employees' Charitable Campaign (FSECC) is an annual charitable fundraising drive administered by the Department of Management Services (DMS).[1] It is the only authorized charitable fundraising drive directed toward state employees within work areas during works hours. During an FSECC fundraising drive, a state officer or employee may contribute to various participating charitable organizations.[2] A state officer or employee choosing to donate during an FSECC fundraising drive must specifically designate a participating organization as the recipient of the contribution.[3] Participation is completely voluntary.[4] Employees can contribute through payroll deduction, a one-time gift, or both.[5]

Participation in the FSECC is limited to a nonprofit charitable organization that has as its principal mission public health and welfare, education, environmental restoration and conservation, civil and human rights, or the relief of human suffering and poverty.[6]

DMS must procure a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations.[7] A FSECC steering committee[8] is established to assist it in oversight, development, and administration of the FSECC.[9]

On December 5, 2016, the secretary of DMS notified state agencies that the campaign was being suspended because it had only raised approximately $282,000, which was its lowest amount in the campaign's history.[10] During its 36 year history, the FSECC raised over $94 million.[11]

Effect of the Bill

The bill eliminates the FSECC. The bill also prohibits an organization, entity, or person from intentionally soliciting a state employee through any means for fundraising or business purposes within work areas during work hours. However, it does not prohibit state-approved communications by entities that the state has contracted to provide employee benefits or services.

B. SECTION DIRECTORY:

Section 1. Repeals s. 110.181, F.S., relating to the FSECC.

Section 2. Creates s. 110.182, F.S., prohibiting solicitation of state employees.

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[1] Section 110.181(1)(a), F.S.
[2] *Id.*
[3] Section 110.181(1)(b), F.S.
[4] *Id.*
[5] Section 110.181(1)(a), F.S.
[6] Section 110.181(1)(c), F.S.
[7] Section 110.181(2)(a), F.S.
[8] The FSECC steering committee has seven members appointed by the administration commission, and two members appointed by the secretary of DMS from among applicants submitted from other agencies or departments. The committee members serve staggered terms and meet at the call of the secretary. Members serve without compensation, but are entitled to receive reimbursement for travel and per diem expenses. Section 110.181(4), F.S.
[9] *Id.*
[10] *State scraps Solix contract, suspends charity campaign*, Tallahassee Democrat, December 8, 2016, available at http://www.tallahassee.com/story/news/2016/12/08/state-suspends-beleagured-fsecc/95139288/ (last visited March 14, 2017).
[11] Department of Management Services, *Donor Frequently Asked Questions*, question 1, page 2, available at http://www.dms.myflorida.com/content/download/128373/798921/FAQ-Donor-2016.pdf (last visited March 7, 2017).

Section 3. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact on DMS because the department would no longer be required to procure the services of a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations for the FSECC.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to state employment; repealing s. 110.181, F.S., relating to Florida State Employees' Charitable Campaign; creating s. 110.182, F.S.; prohibiting an organization, entity, or person from intentionally soliciting state employees for fundraising or business purposes within specified areas during specified times; providing an exemption for certain state-approved communications; providing an effective date.

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

Section 1. Section 110.181, Florida Statutes, is repealed.

Section 2. Section 110.182, Florida Statutes, is created to read:

110.182 Solicitation of state employees prohibited.—An organization, entity, or person may not intentionally solicit a state employee through any means for fundraising or business purposes within work areas during work hours. This section does not prohibit state-approved communications by entities with whom the state has contracted to provide employee benefits or services.

Section 3. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7035 PCB OTA 17-01 OGSR/Nonpublished Reports and Data/Dept. of Citrus
SPONSOR(S): Oversight, Transparency & Administration Subcommittee, Roth
TIED BILLS: **IDEN./SIM. BILLS:** SB 7014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	13 Y, 1 N	Whittaker	Harrington
1) Agriculture & Property Rights Subcommittee	14 Y, 0 N	Thompson	Smith
2) Government Accountability Committee		Whittaker	Williamson

SUMMARY ANALYSIS

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

The Department of Citrus prepares and disseminates important information to citrus growers, handlers, shippers, processors, and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products. The Department of Citrus also conducts or causes studies to be conducted concerning citrus fruit, citrus fruit juices, and the products and byproducts of the fruit.

Current law provides that any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus are confidential and exempt from public record requirements.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

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

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

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created[5] then a public necessity statement and a two-thirds vote for passage are not required.

Department of Citrus Research

The Department of Citrus prepares and disseminates important information to citrus growers, handlers, shippers, processors, and industry-related and interested persons and organizations relating to department activities and the production, handling, shipping, processing, and marketing of citrus fruit and processed citrus products.

Current law governing citrus research requires the Department of Citrus to conduct or cause to be conducted:

- A thorough and comprehensive study of citrus fruit and citrus fruit juices;
    - With respect to the quality and maturity of fruit and the fruit juices, including proper effort to assemble data and arrive at a proper standard of quality, grade, and maturity with reference to its texture, stability, and general marketability and so far as possible reduce such findings to specific and readily understood chemical, mathematical, or descriptive terms; and
    - With respect to the nutritional and other value or values of such fruit and the fruit juices;
- Such study and research as is necessary to provide all the information and data required to be disseminated pursuant to law; and
- Any research related to disease and crop efficiency that would advance the purposes of the state's citrus industry and commercialization related to advancing such research.[6]

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[1] Section 119.15, F.S.
[2] Section 119.15(3), F.S.
[3] Section 119.15(6)(b), F.S.
[4] Section 24(c), Art. I of the State Constitution.
[5] An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.
[6] Section 601.13, F.S.

In addition, the Department of Citrus must:

- Provide suitable and sufficient laboratory facilities and equipment for the purpose of conducting thorough and comprehensive study and research to determine all possible new and further uses for citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured, as well as to determine and develop new and profitable methods and instruments of distribution;
- Carry on, or cause to be carried on, suitable experiments in an effort to prove the commercial value of each, and determine and develop new and further use for citrus fruit and citrus fruit juices or the products and byproducts into which the same can be converted or manufactured;
- Carry on or cause to be carried on suitable experiments in an effort to prove the commercial value of any and all new profitable methods and instruments of distribution of citrus fruit and citrus fruit juices and the products and byproducts into which the same can be converted or manufactured;
- Carry on or cause to be carried on an economic and marketing research program relating to citrus fruits and products or byproducts;
- Enter into any mutually satisfactory contracts or agreements with any person, firm, institution, corporation, or business unit or , as well as any state or federal agency, that the department deems wise, necessary, and expedient to administer chapter 601, F.S.;
- Incur and pay such expenses and obligations necessary in connection with and required for the proper carrying out of the provisions of chapter 601, F.S.; and

Public Record Exemption under Review

In 2012, the Legislature created a public record exemption for the Department of Citrus to provide that any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus are confidential and exempt[7] from public record requirements.[8]

The 2012 public necessity statement for the exemption provided that:

> In order to conduct or cause to be conducted studies or research related to citrus fruit, citrus fruit juices, and the products and byproducts thereof, the Department of Citrus must achieve the cooperation of the citrus industry in the state to obtain access to samples of such citrus fruit, citrus fruit juices, and the products and byproducts thereof, trade secrets, and proprietary business information. Unless the Department of Citrus can assure the citrus industry that any nonpublished reports or data related to such studies or research will not be disclosed until the analysis of such data and until the reports of such studies or research are complete and approved for publication, a chilling effect will arise that reduces access by the Department of Citrus to the necessary samples and information provided by the citrus industry, thereby undermining the validity and value of such studies and research.[9]

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reenacted by the Legislature.[10]

During the 2016 interim, subcommittee staff met with staff from the Department of Citrus as part of the Open Government Sunset Review process. Department of Citrus staff indicated that the exemption is

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

[8] Chapter 2012-183, L.O.F.; codified as s. 601.10(8)(c), F.S.

[9] Section 2, ch. 2012-183, L.O.F.

[10] Section 610.10(8)(c), F.S.

critical to the department and its ability to obtain samples and conduct necessary research for the citrus industry. According to the department, repeal of the exemption would negatively affect the department's ability to receive samples and cooperation from the industry. As such, the department recommended reenactment of the exemption without changes.

Effect of the Bill

The bill removes the repeal date thereby reenacting the public record exemption for nonpublished reports and data related to studies or research conducted, caused to be conducted, or funded by the Department of Citrus.

B. SECTION DIRECTORY:

Section 1. Amends s. 601.10, F.S., to save from repeal the public record exemption for certain information held by the Department of Citrus.

Section 2. Provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 601.10, F.S., which provides an exemption from public record requirements for nonpublished reports or data related to certain studies or research conducted, caused to be conducted, or funded by the Department of Citrus; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (c) of subsection (8) of section 601.10, Florida Statutes, is amended to read:

601.10 Powers of the Department of Citrus.—The department shall have and shall exercise such general and specific powers as are delegated to it by this chapter and other statutes of the state, which powers shall include, but are not limited to, the following:

(8)

(c) Any nonpublished reports or data related to studies or research conducted, caused to be conducted, or funded by the department under s. 601.13 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This paragraph is subject to the Open Government Sunset Review Act in~~

~~accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7067 PCB OTA 17-04 A Review Under the Open Government Sunset Review Act
SPONSOR(S): Oversight, Transparency & Administration Subcommittee, Rommel
TIED BILLS: **IDEN./SIM. BILLS:** SPB 7024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	11 Y, 0 N	Toliver	Harrington
1) Government Accountability Committee		Toliver	Williamson

SUMMARY ANALYSIS

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

Title insurers and title insurance agencies are required to submit to the Office of Insurance Regulation (OIR), by May 31 of each year, data identified by OIR as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. Current law provides that proprietary business information provided to OIR by a title insurance agency or insurer is confidential and exempt from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law. The bill also narrows the definition of proprietary business information to limit the types of financial information that may be protected.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

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

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

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created[5] then a public necessity statement and a two-thirds vote for passage are not required.

Title Insurance

Title insurance insures owners of real property or others having an interest in real property against loss by encumbrance, defective title, invalidity, or adverse claim to title.[6] Title insurance is a policy issued by a title insurer that, after performing a search of title, represents the state of that title and insures the accuracy of its search against claims of title defects. It is usually secured by the purchaser of property or an entity that is loaning money on a mortgage. Purchasers of real property and lenders utilize title insurance to protect themselves against claims by others that they are the rightful owner of the property.

Title Insurance Regulation

Under current law, two entities provide regulatory oversight of the title insurance industry: the Department of Financial Services (DFS),[7] which regulates title agents, and the Office of Insurance Regulation (OIR),[8] which regulates title insurers, including licensing and promulgation of rates. Rates and premiums charged by title insurers are specified by rule by the Financial Services Commission

[1] Section 119.15, F.S.
[2] Section 119.15(3), F.S.
[3] Section 119.15(6)(b), F.S.
[4] Section 24(c), Art. I, FLA. CONST.
[5] An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.
[6] Section 624.608, F.S.
[7] Section 20.121, F.S.
[8] Section 20.121(3)(a)1., F.S.

(FSC).[9] Title insurers may deviate from the proscribed rates by petitioning OIR for an order authorizing a specific deviation from the adopted premium.[10]

Title Insurers and Title Agencies Data Submission

Title insurers, their direct or retail businesses in the state, and title agencies are required to submit to OIR, on or before May 31 of each year, revenue, loss, and expense data for the most recently concluded year that are determined necessary to assist in the analysis of premium rates, title search costs, and the condition of the Florida title insurance industry.[11] The FSC has adopted rules[12] regarding the collection and analysis of the data.[13] Failure to timely submit the required data to OIR constitutes grounds for DFS to take disciplinary action against the license or appointment of the title insurance agent or agency.[14] Possible sanctions include suspension or revocation of a license or appointment.[15]

Public Record Exemption under Review

In 2012, the Legislature created a public record exemption for proprietary business information provided to OIR by a title insurance agency or insurer.[16] The information is confidential and exempt[17] from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information.[18] However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.[19]

The exemption defines "proprietary business information" as information that:

- Is owned or controlled by a title insurance agency or insurer requesting confidentiality under this section;
- Is intended to be and is treated by the title insurance agency or insurer as private in that the disclosure of the information would cause harm to the business operations of the title insurance agency or insurer;
- Has not been publicly disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement, providing that the information may be released to the public; and
- Concerns business plans, internal auditing controls and reports of internal auditors, reports of external auditors for privately held companies, trade secrets as defined in s. 688.002, F.S., or financial information, including, but not limited to, revenue data, loss expense data, gross receipts, taxes paid, capital investment, customer identification, and employee wages.

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[9] Section 627.782, F.S.
[10] Section 627.783, F.S.
[11] Section 627.782(8), F.S.
[12] Section 627.782(8), F.S.
[13] *See* Fla. Admin. Rule 69O-186.013; *see also* 2017 Title Agencies Data Call, available at http://www.floir.com/siteDocuments/FloridaTitleAgencyTemplate.pdf (last visited 3/3/17).
[14] Section 626.8437(11), F.S.
[15] *Id.*
[16] Chapter 2012-207, L.O.F.; codified as s. 626.84195, F.S.
[17] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. (*See* Attorney General Opinion 85-62, August 1, 1985).
[18] Section 626.84195(2), F.S.
[19] *Id.*

The 2012 public necessity statement for the exemption provides that:[20]

> Without this exemption, title insurance agencies and title insurers, whose records are generally not required to be open to the public, might refrain from providing accurate and unbiased data, thus impairing [OIRs] ability to set fair and adequate title insurance rates. Proprietary business information derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can derive economic value from its disclosure or use. [OIR], in performing its lawful duties and responsibilities, may need to obtain information from the proprietary business information. Without an exemption from public records requirements for proprietary business information provided to [OIR], such information becomes a public record when received and must be divulged upon request. Divulgence of any proprietary business information under the public records law would destroy the value of that property to the proprietor, causing a financial loss not only to the proprietor but also to the residents of this state due to the loss of reliable financial data necessary for fair and adequate rate regulation. Release of proprietary business information would give business competitors an unfair advantage and weaken the position in the marketplace of the proprietor that owns or controls the proprietary business information.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reviewed and saved from repeal by the Legislature.[21]

During the 2016 interim, subcommittee staff consulted with OIR staff as part of the Open Government Sunset Review process. OIR staff indicated that the exemption was necessary to encourage candid participation in OIR data collection efforts and recommended reenactment of the exemption. If the exemption was to lapse, OIR staff believes that title insurers and title agencies would be hesitant to submit information to OIR for fear that their competitors would gain access to sensitive business information. OIR staff indicated that it does not collect "customer identification" and therefore would not object to that term being removed as an example of "financial information" within the exemption.

Effect of the Bill

The bill removes the repeal date thereby reenacting the public record exemption for proprietary business information provided to OIR by a title insurance agency or insurer in response to OIR's data collection efforts. The bill narrows the definition of proprietary business information to limit the types of financial information that may be protected. It removes the reference to "customer identification" as such information does not appear to be "financial information" and to better mirror information OIR collects.

B. SECTION DIRECTORY:

Section 1 amends s. 626.84195, F.S., relating to the confidentiality of information supplied by title insurance agencies and insurers to OIR.

Section 2 provides an effective date of October 1, 2017.

[20] Chapter 2012-207, s. 2, L.O.F.
[21] Section 626.84195(3), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 626.84195, F.S.; revising the definition of the term "proprietary business information" as used in an exemption from public record requirements relating to information provided by title insurance agencies and insurers to the Office of Insurance Regulation; removing the scheduled repeal of an exemption; providing an effective date.

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

Section 1. Section 626.84195, Florida Statutes, is amended to read:

626.84195 Confidentiality of information supplied by title insurance agencies and insurers.—

(1) As used in this section, the term "proprietary business information" means information that:

(a) Is owned or controlled by a title insurance agency or insurer requesting confidentiality under this section;

(b) Is intended to be and is treated by the title insurance agency or insurer as private in that the disclosure of the information would cause harm to the business operations of the title insurance agency or insurer;

(c) Has not been publicly disclosed ~~unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement, providing that the information may be released to the public~~; and

(d) Concerns:

1. Business plans;

2. Internal auditing controls and reports of internal auditors;

3. Reports of external auditors for privately held companies;

4. Trade secrets, as defined in s. 688.002; or

5. Financial information, including~~, but not limited to,~~ revenue data, loss expense data, gross receipts, taxes paid, capital investment, ~~customer identification,~~ and employee wages.

(2) Proprietary business information provided to the office by a title insurance agency or insurer is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industrywide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.

~~(3) This section is subject to the Open Government Sunset~~

~~Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAC 17-02 Collective Bargaining Impasses
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Harrington	Williamson

SUMMARY ANALYSIS

Collective bargaining is a constitutional right afforded to public employees in Florida. Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.

When the public employer is the state, current law specifies that if there are unresolved issues when the Governor submits his recommended budget, an impasse is declared by law in all collective bargaining negotiations. After a declaration of impasse, the parties must proceed directly to the Legislature for resolution. The presiding officers must appoint a joint select committee to review the positions of the parties and return a report no later than 10 days before the start of the legislative session. During session, the Legislature is required to issue a final resolution pursuant to the public interest and the interest of the public employees involved.

The bill revises the timeline for the Legislature's resolution of impasse in collective bargaining negotiations between public employees and the state. Specifically, the bill requires the parties at impasse to notify the Legislature of all unresolved issues by the first day of the regular session, rather than five days after an impasse has been declared. The bill requires the presiding officers to appoint a committee to review the positions of the parties at impasse. The committee must conduct a public hearing regarding the issues at impasse no later than the 14th day of session. The bill eliminates the requirement for the committee to send a report to the presiding officers concerning a recommended resolution.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Collective bargaining is a constitutional right afforded to public employees[1] in Florida.[2] To implement this constitutional provision, the Legislature has enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.[3] Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.[4] The Public Employees Relations Commission (commission) is responsible for assisting in resolving disputes between public employees and public employers.[5]

Chapter 447, F.S., specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented.[6] An employee organization is defined as a "labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer."[7] An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.[8]

Collective bargaining consists of a series of negotiations between a public employer's chief executive officer[9] and the selected bargaining agent for the employee organization regarding the terms and conditions of employment.[10] Any collective bargaining agreement that is reached must be in writing and

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[1] The term "public employee" means any person employed by a public employer except:
(a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
(b) Persons holding positions by appointment or employment in the organized militia.
(c) Individuals acting as negotiating representatives for employer authorities.
(d) Persons who are designated by the Public Employees Relations Commission (commission) as managerial or confidential employees pursuant to specific criteria.
(e) Persons holding positions of employment with the Florida Legislature.
(f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
(g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
1. Federal license requirement.
2. Federal autonomy regarding investigation and disciplining of appointees.
3. Frequent transfers due to harvesting conditions.
(h) Persons employed by the commission.
(i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.
The term "public employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203, F.S.

[2] Art. I, s. 6, FLA. CONST.

[3] Section 447.201, F.S.

[4] Section 447.301(2), F.S.

[5] Section 447.201(3), F.S.

[6] Section 447.301(2), F.S.

[7] Section 447.203(11), F.S.

[8] Section 447.203(12), F.S.

[9] Section 447.203(9), F.S., defines the term "chief executive officer" as the Governor for the state and for all other public employees, the person selected or appointed that is responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer.

[10] Section 447.203(14), F.S.

signed by both parties. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.[11]

Impasse

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, an impasse is declared. When the public employer is the state, either party may declare impasse. However, if there are unresolved issues when the Governor submits the recommended budget, an impasse is declared by law in all collective bargaining negotiations. Absent written approval from the President of the Senate and the Speaker of the House of Representatives, the Governor must submit a recommended budget at least 30 days before the start of the scheduled legislative session.[12]

After a declaration of impasse, the parties must proceed directly to the Legislature for resolution. Section 447.403(5)(a), F.S., requires parties at impasse to send unresolved issues to the presiding officers within five days of the declaration of impasse. The presiding officers must appoint a joint select committee to review the positions of the parties and return a report no later than 10 days before the start of the legislative session. During session, the Legislature is required to issue a final resolution pursuant to the public interest and the interest of the public employees involved.[13]

2018 Impasse Timelines

Chapter 2016-218, L.O.F., set January 9, 2018, as the date to convene the 2018 Regular Session. As such, the joint select committee on collective bargaining must meet during the last two weeks of December 2017, depending on when the Governor submits his recommended budget. The report from the committee must be submitted no later than December 30, 2017.

Effect of Proposed Changes

The bill revises the timeline for the Legislature's resolution of impasses in collective bargaining negotiations between public employees and the state. The bill requires the parties at impasse to notify the Legislature as to unresolved issues by the first day of session, rather than five days after an impasse has been declared. The bill requires the presiding officers to appoint a committee, rather than requiring the appointment of a joint select committee, to review the positions of the parties at impasse. The committee must conduct a public hearing regarding the issues at impasse no later than the 14th day of session. The bill eliminates the requirement for the committee to send a report to the presiding officers concerning a recommended resolution.

B. SECTION DIRECTORY:

Section 1. amends s. 447.403, F.S., to revise notice requirements for issues at impasse.

Section 2. provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have an impact on state government revenues.

2. Expenditures:

   The bill does not appear to have an impact on state government expenditures.

[11] Section 447.309(5), F.S.
[12] Section 216.162(1), F.S.
[13] Section 447.403(4)(c)-(e), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have an impact on local government revenues.

2. Expenditures:

   The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   Constitutional Right to Collective Bargaining
   Article I, s. 6 of the Florida Constitution provides that "[t]he right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." Chapter 447, F.S., provides the procedural guidelines to resolve collective bargaining impasse between the state and the bargaining agent for the employee organization. The bill amends the timelines for resolving impasses between public employees and the state.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to collective bargaining impasses; amending s. 447.403, F.S.; revising notice requirements for issues at impasse; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) of section 447.403, Florida Statutes, is amended to read:

447.403 Resolution of impasses.—

(5)(a) By the first day of the regular session of the Legislature ~~Within 5 days after the beginning of the impasse period in accordance with s. 216.163(6)~~, each party shall notify the President of the Senate and the Speaker of the House of Representatives as to all unresolved issues. Upon receipt of the notification, the presiding officers shall appoint a ~~joint select~~ committee to review the position of the parties relating to ~~and render a recommended resolution of~~ all issues ~~remaining~~ at impasse. No later than the 14th day of the regular session of the Legislature, the committee shall conduct a public hearing to take testimony regarding the issues at impasse ~~The recommended resolution shall be returned by the joint select committee to the presiding officers not later than 10 days prior to the date upon which the legislative session is scheduled to commence~~.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

During the legislative session, the Legislature shall take action in accordance with this section.

Section 2. This act shall take effect July 1, 2017.

V