



Government Accountability Committee

March 22, 2017
9:15 AM-12:15 PM
Morris Hall

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Accountability Committee

Start Date and Time: Wednesday, March 22, 2017 09:15 am
End Date and Time: Wednesday, March 22, 2017 12:15 pm
Location: Morris Hall (17 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

HB 11 Labor Organizations by Plakon
CS/HB 181 Natural Hazards by Appropriations Committee, Jacobs
HM 439 Regulation Freedom Amendment by Raulerson
CS/CS/HB 479 Government Accountability by Appropriations Committee, Oversight, Transparency & Administration Subcommittee, Metz
CS/HB 599 Public Works Projects by Oversight, Transparency & Administration Subcommittee, Williamson
CS/HB 601 Personal Delivery Devices by Transportation & Infrastructure Subcommittee, Williamson
HB 719 Municipal Conversion of Independent Special Districts by Roth
HB 7021 Local Government Ethics Reform by Public Integrity & Ethics Committee, Metz
HB 7023 Trust Funds/Creation/Local Government Lobbyist Registration Trust Fund by Public Integrity & Ethics Committee, Yarborough
HB 7041 Pub. Rec. and Meetings/Peer Review Panel/James & Esther King Biomedical Research Program & William G. "Bill" Bankhead, Jr., & David Coley Cancer Research Program by Oversight, Transparency & Administration Subcommittee, Pigman

NOTICE FINALIZED on 03/20/2017 4:19PM by Smith.Victoria

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 11 Labor Organizations
SPONSOR(S): Plakon
TIED BILLS: IDEN./SIM. BILLS: SB 1292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	10 Y, 3 N	Moore	Harrington
2) Government Accountability Committee		Moore <i>JM</i>	Williamson <i>Law</i>

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. The Public Employees Relations Commission (commission) is responsible for assisting in resolving disputes between public employees and public employers.

Current law 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. An employee organization that is authorized to represent public employees is known as a certified bargaining agent. An employee organization seeking to become a certified bargaining agent for a unit of public employees must register with and be certified by the commission. A registration granted to an employee organization is valid for one year and must be renewed annually. The renewal application must include a current annual financial report that contains specific information.

The bill requires an employee organization to include the following information in its annual financial report for each certified bargaining unit that the organization represents:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization; and
- The number of employees who are represented by the organization, specifying the number of members who pay dues and the number of members who do not pay dues.

If a registered employee organization does not submit this information for a certified bargaining unit it represents, the organization's certification for that unit is revoked. This provision does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers, correctional officers, or firefighters.

The bill also requires an employee organization that has been certified as the bargaining agent for a unit whose dues-paying membership is less than 50 percent of the employees eligible for representation in that unit to petition the commission for recertification as the exclusive representative of all employees in the unit within one month after the date on which the organization applies for registration renewal. The certification of an employee organization that does not comply with this requirement is revoked. This requirement does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers, correctional officers, or firefighters.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Collective bargaining is a constitutional right afforded to public employees¹ in Florida.² To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.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

An employee organization seeking to become a certified bargaining agent for a unit of public employees must register with and be certified by the commission. To register, the employee organization must submit an application to the commission that includes the following information:

- The name and address of the organization and of any parent organization or organization with which it is affiliated.
- The names and addresses of the principal officers and all representatives of the organization.
- The amount of the initiation fee and of the monthly dues that members must pay.

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.

- The current annual financial statement of the organization.
- The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached.
- A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin.
- A copy of the current constitution and bylaws of the employee organization.
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated.⁹

A registration granted to an employee organization is valid for one year and must be renewed annually.¹⁰ The renewal application must reflect any changes to the information provided to the commission in the preceding application and must also include a current annual financial report that contains the following information:

- Assets and liabilities at the beginning and end of the fiscal year.
- Receipts of any kind and the sources thereof.
- Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and each employee who, during such fiscal year, received more than \$10,000 in the aggregate from the employee organization and any other affiliated employee organization.
- Direct and indirect loans made to any officer, employee, or member that aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment.
- Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment.¹¹

After registering with the commission, an employee organization may begin the certification process. In order to be certified, an employee organization that is selected by a majority of the employees in an appropriate unit as their representative must first request recognition by the public employer.¹² If the public employer recognizes the employee organization as the collective bargaining representative for that unit, the employee organization must then petition the commission for certification.¹³ If the unit proposed by the employee organization is deemed appropriate, the commission must immediately certify the employee organization as the exclusive representative of all employees in the unit.¹⁴

However, if the employer refuses to recognize the employee organization, the employee organization must file a petition with the commission that is accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit, indicating that such employees desire to be represented by the employee organization.¹⁵ If the commission determines the petition to be sufficient, it must order an election by secret ballot to determine whether the employee organization will be certified.¹⁶ The petitioning employee organization is placed on the ballot along with any other registered employee organization that submits dated statements signed by at least 10 percent of the employees in the proposed unit, indicating their desire to be represented by that employee organization.¹⁷ When an employee organization is selected by a majority of the employees voting in an election, the commission must certify the employee organization as the exclusive collective bargaining representative of all employees in the unit.¹⁸

⁹ Section 447.305(1), F.S.

¹⁰ Section 447.305(2), F.S.

¹¹ *Id.*

¹² Section 447.307(1)(a), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 447.307(3)(a), F.S.

¹⁷ Section 447.307(2), F.S.

¹⁸ Section 447.307(3)(b), F.S.

Effect of Proposed Changes

The bill requires an employee organization to include the following information in its annual financial report for each certified bargaining unit that the organization represents:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization; and
- The number of employees who are represented by the organization, specifying the number of members who pay dues and the number of members who do not pay dues.

If a registered employee organization does not submit this information for a certified bargaining unit it represents, the organization's certification for that unit is revoked. This provision does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers as defined in s. 943.10(1), F.S.,¹⁹ correctional officers as defined in s. 943.10(2), F.S.,²⁰ or firefighters as defined in s. 633.102, F.S.²¹

The bill also requires an employee organization that has been certified as the bargaining agent for a unit whose dues-paying membership is less than 50 percent of the employees eligible for representation in that unit to petition the commission for recertification as the exclusive representative of all employees in the unit within one month after the date on which the organization applies for registration renewal. The certification of an employee organization that does not comply with this requirement is revoked. This requirement does not apply to an employee organization that represents, or seeks to represent, employees who are law enforcement officers, correctional officers, or firefighters.

B. SECTION DIRECTORY:

Section 1. amends s. 447.305, F.S., relating to registration of employee organizations.

Section 2. amends s. 447.307, F.S., relating to certification of employee organizations.

Section 3. 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.

¹⁹ Section 943.10(1), F.S., defines the term "law enforcement officer" to mean 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. The term 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.

²⁰ Section 943.10(2), F.S., defines the term "correctional officer" to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity that has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution. The term does not include any secretarial, clerical, or professionally trained personnel.

²¹ Section 633.102, F.S., defines the term "firefighter" to mean an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services under s. 633.408, F.S.

2. Expenditures:

The bill may have a negative fiscal impact on the commission if there is an increase in the number of certification petitions filed by employee organizations or if more elections must be held during the recertification process. According to the commission, the bill would require the commission to hire additional staff and would increase costs for supplies, travel expenses, and incidentals. The commission estimates that the fiscal impact would not exceed \$350,000.²²

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:

The bill may have an indeterminate negative fiscal impact on employee organizations if more elections must be held during the recertification process.²³

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

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 process by which employee organizations may register and become certified to represent a unit of employees in collective bargaining. The bill amends such registration and certification processes.

B. RULE-MAKING AUTHORITY:

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

²² Email correspondence with commission staff, March 7, 2017 (on file with the Oversight, Transparency & Administration Subcommittee).

²³ The costs of an election held during the certification process are borne equally by the parties, except as the commission may provide by rule. Section 447.307(3)(a)3., F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to labor organizations; amending s.
 3 447.305, F.S.; revising the information required to be
 4 included in an application for renewal of registration
 5 of an employee organization; amending s. 447.307,
 6 F.S.; providing for the revocation of certification
 7 under certain conditions; requiring certain employee
 8 organizations to recertify as bargaining agents;
 9 providing nonapplicability with respect to employee
 10 organizations that represent or seek to represent
 11 certain employees; providing an effective date.

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

14
 15 Section 1. Subsection (2) of section 447.305, Florida
 16 Statutes, is amended to read:

17 447.305 Registration of employee organization.—

18 (2) A registration granted to an employee organization
 19 pursuant to the provisions of this section shall run for 1 year
 20 from the date of issuance. A registration shall be renewed
 21 annually by filing application for renewal under oath with the
 22 commission, which application shall reflect any changes in the
 23 information provided to the commission in conjunction with the
 24 employee organization's preceding application for registration
 25 or previous renewal, whichever is applicable. Each application

26 for renewal of registration shall include a current annual
 27 financial report, signed by its president and treasurer or
 28 corresponding principal officers, containing the following
 29 information in such detail as may be necessary accurately to
 30 disclose its financial condition and operations for its
 31 preceding fiscal year and in such categories as the commission
 32 may prescribe:

33 (a) Assets and liabilities at the beginning and end of the
 34 fiscal year.+

35 (b) Receipts of any kind and the sources thereof.+

36 (c) Salary, allowances, and other direct or indirect
 37 disbursements, including reimbursed expenses, to each officer
 38 and also to each employee who, during such fiscal year, received
 39 more than \$10,000 in the aggregate from such employee
 40 organization and any other employee organization affiliated with
 41 it or with which it is affiliated or which is affiliated with
 42 the same national or international employee organization.+

43 (d) Direct and indirect loans made to any officer,
 44 employee, or member which aggregated more than \$250 during the
 45 fiscal year, together with a statement of the purpose, security,
 46 if any, and arrangements for repayment.+~~and~~

47 (e) Direct and indirect loans to any business enterprise,
 48 together with a statement of the purpose, security, if any, and
 49 arrangements for repayment.

50 (f) For each certified bargaining unit that the registered

51 employee organization represents, the number of employees:

52 1. In the bargaining unit who are eligible for
 53 representation by the employee organization.

54 2. Who are represented by the employee organization,
 55 specifying the number of members who pay dues and the number of
 56 members who do not pay dues.

57 Section 2. Subsection (5) is added to section 447.307,
 58 Florida Statutes, to read:

59 447.307 Certification of employee organization.—

60 (5) (a) If a registered employee organization does not
 61 submit the information required in s. 447.305(2) (f) for a
 62 certified bargaining unit it represents, the employee
 63 organization's certification for that unit is revoked.

64 (b) An employee organization that has been certified as
 65 the bargaining agent for a unit whose dues-paying membership is
 66 less than 50 percent of the employees eligible for
 67 representation in that unit must petition the commission
 68 pursuant to subsections (2) and (3) for recertification as the
 69 exclusive representative of all employees in the unit within 1
 70 month after the date on which the organization applies for
 71 renewal of registration pursuant to s. 447.305(2). The
 72 certification of an employee organization that does not comply
 73 with this paragraph is revoked.

74 (c) This subsection does not apply to an employee
 75 organization, however organized or constituted, which

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76 represents, or seeks to represent, employees who are law
77 enforcement officers as defined in s. 943.10(1), correctional
78 officers as defined in s. 943.10(2), or firefighters as defined
79 in s. 633.102.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 181 Natural Hazards
SPONSOR(S): Appropriations Committee, Jacobs
TIED BILLS: IDEN./SIM. **BILLS:** SB 464

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	14 Y, 0 N	Moore	Shugar
2) Appropriations Committee	28 Y, 1 N, As CS	Delaney	Leznoff
3) Government Accountability Committee		Moore <i>fel</i>	Williamson <i>haw</i>

SUMMARY ANALYSIS

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor and is responsible for carrying out the State's Emergency Management Act, which includes maintaining a comprehensive statewide emergency management program. DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies.

Each executive agency, each water management district (WMD), the Public Service Commission (PSC), the Fish and Wildlife Conservation Commission, and the Department of Military Affairs must designate a person within its agency as the emergency coordination officer (ECO). DEM's Bureau of Mitigation, ECOs, and representatives from private and public agencies with resources or expertise relevant to mitigation make up the State Hazard Mitigation Plan Advisory Team and are responsible for the progression and implementation of the state hazard mitigation plan (SHMP). SHMP addresses the following natural hazards: inland and coastal floods; tropical cyclones, hurricanes and tropical storms; severe storms and tornadoes; wildfires; droughts; extreme heat; winter storms and freezes; erosion; sinkholes, earthquakes, and landslides; tsunamis and rogue waves; and solar storms.

The bill creates a natural hazards interagency workgroup for the purpose of sharing information on current and potential impacts of natural hazards throughout the state; coordinating ongoing efforts of state agencies in addressing impacts of natural hazards; and collaborating on statewide initiatives to address natural hazards. The bill defines "natural hazards" to include extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The bill requires the director of DEM or designee to serve as the liaison to and coordinator of the workgroup. Each executive agency, each WMD, and the PSC must designate an agency liaison to the workgroup to provide information from the respective agency on the current and potential impacts of natural hazards to the agency, available agency resources to mitigate against natural hazards, and agency efforts to address the impacts of natural hazards. The bill also requires the workgroup to meet in person or by teleconference quarterly to share this information, leverage agency resources, coordinate ongoing efforts, and provide information for the annual progress report.

The bill requires DEM, on behalf of the workgroup, to prepare and submit an annual progress report to the Governor and Legislature beginning January 1, 2019, and requires the agency liaisons to ensure the report is posted on their respective agency websites.

The bill provides \$84,738 in recurring trust fund authority and \$4,046 of nonrecurring trust fund authority along with one full-time equivalent position to DEM.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Division of Emergency Management

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor as a separate budget entity.¹ The director of DEM is appointed by and serves at the pleasure of the Governor.² DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies.³ DEM is responsible for carrying out the State's Emergency Management Act,⁴ which includes maintaining a comprehensive statewide emergency management program.⁵

An emergency is any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.⁶ A natural emergency is an emergency caused by a natural event, including a hurricane, a storm, a flood, a severe wave action, a drought, or an earthquake.⁷

Emergency Coordination Officers

Each executive agency, each water management district (WMD), the Public Service Commission (PSC), the Fish and Wildlife Conservation Commission, and the Department of Military Affairs must select from within its agency a person to be designated as the emergency coordination officer (ECO) and an alternate.⁸ ECOs are responsible for coordinating with DEM on emergency preparedness issues, preparing and maintaining emergency preparedness and postdisaster response and recovery plans for their agency, maintaining rosters of personnel to assist in disaster operations, and coordinating appropriate training for agency personnel.⁹ In addition, ECOs are responsible for ensuring that each state agency and facility has a disaster preparedness plan that is coordinated with the applicable local emergency-management agency and approved by DEM.¹⁰

Natural Hazard Mitigation Planning

Comprehensive emergency management involves a cycle of phased, coordinated and mutually supporting activities conducted by each level of government before, during, and after an emergency. Mitigation efforts help to ensure that residents, visitors, and businesses are safe and secure from natural, technological, and man-made hazards by reducing risk and vulnerability beforehand. These efforts include: enhancing and maintaining a state hazard mitigation plan (SHMP), supporting the development and enhancement of local capabilities for hazard mitigation, increasing public and private sector awareness of and support for mitigation, reducing hazard vulnerability through scientific research and development, and reducing the vulnerabilities of infrastructure to natural and man-made hazards.¹¹

¹ Section 14.2016, F.S.

² *Id.*

³ *Id.*; s. 252.35(1), F.S.

⁴ Sections 252.31-252.60, F.S., are known as the "State Emergency Management Act."

⁵ Section 252.35, F.S.

⁶ Section 252.34(4), F.S.

⁷ Section 252.34(8), F.S.

⁸ Section 252.365(1), F.S.

⁹ Section 252.365(2), F.S.

¹⁰ Section 252.365(3), F.S.

¹¹ DEM, *The State of Florida 2014 Comprehensive Emergency Management Plan*,

<http://www.floridadisaster.org/documents/CEMP/2014/2014%20State%20CEMP%20Basic%20Plan.pdf> (last visited Feb. 16, 2017).

A state with an enhanced plan approved by the Federal Emergency Management Agency (FEMA) receives grant funds based on 20 percent of the total estimated eligible disaster assistance versus 15 percent for states with non-enhanced mitigation plans.¹² To receive FEMA approval of an enhanced mitigation plan, a state must demonstrate that it has developed a comprehensive mitigation program and is capable of managing increased funding to achieve its mitigation goals.¹³ The state and local mitigation plans must be updated and approved periodically to ensure continued eligibility for FEMA mitigation grants.¹⁴

DEM's Bureau of Mitigation, ECOs, and representatives from other private and public agencies with resources or expertise relevant to mitigation make up the SHMP Advisory Team and are responsible for the progression and implementation of Florida's enhanced SHMP.¹⁵ DEM's Bureau of Mitigation also assists all counties with the development and update of their multi-jurisdictional local mitigation strategies through training and technical assistance.

Florida's current enhanced SHMP was approved in August 2013, and addresses the following natural hazards: inland and coastal floods; tropical cyclones, including hurricanes and tropical storms; severe storms and tornadoes; wildfires; droughts; extreme heat; winter storms and freezes; erosion; sinkholes, earthquakes, and landslides; tsunamis and rogue waves; and solar storms.¹⁶

The SHMP is currently being updated for each hazard and is anticipated to be completed by mid-2017, for federal review and approval by August 2018.¹⁷

Effect of Proposed Changes

The bill creates s. 252.3655, F.S. It establishes a natural hazards interagency workgroup for the purpose of sharing information on current and potential impacts of natural hazards throughout the state, coordinating ongoing efforts of state agencies in addressing the impacts of natural hazards, and collaborating on statewide initiatives to address the impacts of natural hazards.

The bill provides that the term "natural hazards" includes, but is not limited to, extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The bill requires each executive branch agency, each WMD, and the PSC to select a person from within its agency to be designated as the agency liaison to the workgroup. The DEM director or designee serves as the liaison to and coordinator of the workgroup.

Each liaison must provide information from his or her respective agency on the current and potential impacts of natural hazards to the agency, agency resources available to mitigate against natural hazards, and efforts made by the agency to address the impacts of natural hazards. The workgroup must meet in person or by teleconference on a quarterly basis to share information, leverage agency

¹² FEMA, *Hazard Mitigation Planning Frequently Asked Questions*, <https://www.fema.gov/hazard-mitigation-planning-frequently-asked-questions> (last visited Feb. 15, 2017).

¹³ *Id.*

¹⁴ DEM, *The State of Florida 2014 Comprehensive Emergency Management Plan*, <http://www.floridadisaster.org/documents/CEMP/2014/2014%20State%20CEMP%20Basic%20Plan.pdf> (last visited Feb. 16, 2017).

¹⁵ DEM, *State of Florida Enhanced Hazard Mitigation Plan* (August 2013), <http://www.floridadisaster.org/Mitigation/State/documents/2013stateplan/Section%202%20Planning%20Process%20FINAL.pdf> (last visited Feb. 15, 2017).

¹⁶ DEM, *State of Florida Enhanced Mitigation Plan* (August 2013), <http://www.floridadisaster.org/Mitigation/State/Index.htm> (last visited Feb. 15, 2017).

¹⁷ 44 C.F.R. § 201.4(d); SHMPAT *Meeting Minutes* (December 2016), <http://www.floridadisaster.org/Mitigation/State/documents/12-2016%20SHMPAT%20Meeting%20Minutes.pdf> (last visited Feb. 17, 2017).

resources, coordinate ongoing efforts, and provide information for inclusion in the annual progress report.

On behalf of the workgroup, the bill requires DEM to prepare an annual progress report on the implementation of the SHMP, developed and submitted in accordance with 42 U.S.C. s. 5165¹⁸ and any implementing regulations, as it relates to natural hazards. At a minimum, the annual progress report must:

- Assess the relevance, level, and significance of current agency efforts to address the impacts of natural hazards; and
- Strategize and prioritize ongoing efforts to address the impacts of natural hazards.

By January 1, 2019, and annually thereafter, the workgroup must submit the annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition, each liaison is responsible for ensuring that the annual progress report is posted on each respective agency website.

B. SECTION DIRECTORY:

Section 1. Creates s. 252.3655, F.S., establishing a natural hazards interagency workgroup.

Section 2. Provides an appropriation for the 2017-2018 fiscal year.

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:

For the 2017-2018 fiscal year, the bill appropriates to DEM from the Grants and Donations Trust Fund the sums of \$84,738 in recurring funds and \$4,046 in nonrecurring funds. It also provides for one full-time equivalent (FTE) position with an associated salary rate of 47,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁸ Federal mitigation planning requirements.
STORAGE NAME: h0181d.GAC.DOCX
DATE: 3/21/2017

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:

Other Comments: DEM

According to DEM, the requirement for each agency to post the annual report on its website may confuse those trying to find the most current version of the report since a search could include every agency's website instead of a single, common source.¹⁹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 15, 2017, the Appropriations Committee adopted an amendment that provides an appropriation to DEM. DEM was provided one FTE with 47,000 of salary rate and \$84,738 in recurring trust fund authority and \$4,046 in nonrecurring trust fund authority to implement the provisions of the bill.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

¹⁹ DEM, *2017 Agency Legislative Bill Analysis for HB 181*, at p. 4, Jan. 13, 2017 (on file with the Natural Resources & Public Lands Subcommittee).

1 A bill to be entitled
 2 An act relating to natural hazards; creating s.
 3 252.3655, F.S.; creating an interagency workgroup to
 4 share information, coordinate ongoing efforts, and
 5 collaborate on initiatives relating to natural
 6 hazards; defining the term "natural hazards";
 7 requiring certain agencies to designate liaisons to
 8 the workgroup; designating the director of the
 9 Division of Emergency Management or his or her
 10 designee as the liaison to and coordinator of the
 11 workgroup; specifying duties and responsibilities of
 12 each liaison and the workgroup; requiring the division
 13 to prepare an annual report; specifying report
 14 requirements; requiring each agency liaison to ensure
 15 that the report is posted on his or her agency's
 16 website; requiring the workgroup to submit the report
 17 to the Governor and the Legislature; providing an
 18 appropriation and authorizing a position; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 252.3655, Florida Statutes, is created
 24 to read:
 25 252.3655 Natural hazards interagency workgroup.-

26 (1) (a) An interagency workgroup is created for the purpose
 27 of sharing information on the current and potential impacts of
 28 natural hazards throughout the state, coordinating the ongoing
 29 efforts of state agencies in addressing the impacts of natural
 30 hazards, and collaborating on statewide initiatives to address
 31 the impacts of natural hazards. As used in this section, the
 32 term "natural hazards" includes, but is not limited to, extreme
 33 heat, drought, wildfire, sea-level change, high tides, storm
 34 surge, saltwater intrusion, stormwater runoff, flash floods,
 35 inland flooding, and coastal flooding.

36 (b) Each agency within the executive branch of state
 37 government, each water management district, and the Florida
 38 Public Service Commission shall select from within such agency a
 39 person to be designated as the agency liaison to the workgroup.

40 (c) The director of the Division of Emergency Management
 41 or his or her designee shall serve as the liaison to and
 42 coordinator of the workgroup.

43 (d) Each liaison shall provide information from his or her
 44 respective agency on the current and potential impacts of
 45 natural hazards to his or her agency, agency resources available
 46 to mitigate against natural hazards, and efforts made by the
 47 agency to address the impacts of natural hazards.

48 (e) The workgroup shall meet in person or by
 49 teleconference on a quarterly basis to share information,
 50 leverage agency resources, coordinate ongoing efforts, and

51 provide information for inclusion in the annual progress report
 52 submitted pursuant to subsection (2).

53 (2)(a) On behalf of the workgroup, the Division of
 54 Emergency Management shall prepare an annual progress report on
 55 the implementation of the state's hazard mitigation plan,
 56 developed and submitted in accordance with 42 U.S.C. s. 5165 and
 57 any implementing regulations, as it relates to natural hazards.

58 At a minimum, the annual progress report must:

59 1. Assess the relevance, level, and significance of
 60 current agency efforts to address the impacts of natural
 61 hazards; and

62 2. Strategize and prioritize ongoing efforts to address
 63 the impacts of natural hazards.

64 (b) Each liaison is responsible for ensuring that the
 65 workgroup's annual progress report is posted on his or her
 66 agency's website.

67 (c) By January 1, 2019, and each year thereafter, the
 68 workgroup shall submit the annual progress report to the
 69 Governor, the President of the Senate, and the Speaker of the
 70 House of Representatives.

71 Section 2. For the 2017-2018 fiscal year, the sums of
 72 \$84,738 in recurring funds and \$4,046 in nonrecurring funds are
 73 appropriated from the Grants and Donations Trust Fund to the
 74 Division of Emergency Management, and one full-time equivalent
 75 position and associated salary rate of 47,000 are authorized for

CS/HB 181

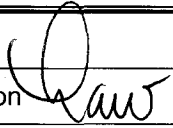

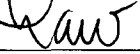
2017

76 | the purpose of implementing this act.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 439 Regulation Freedom Amendment
SPONSOR(S): Raulerson
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 5 N	Darden	Miller 
2) Government Accountability Committee		Darden 	Williamson 

SUMMARY ANALYSIS

Article V of the United States Constitution prescribes two methods for amending the Constitution. One method is for both houses of Congress, by two-thirds vote, to propose an amendment that becomes effective when ratified by three-fourths of the states. All 27 amendments to the Constitution were adopted through this procedure.

The other method, which has never been used, requires Congress to call a constitutional convention to propose amendments when two-thirds of the states apply for such a convention. These proposed amendments require approval of three-fourths of the states in order to be ratified.

HM 439 petitions the U.S. Congress to propose to the states an amendment to the U.S. Constitution that would require the House and Senate to adopt proposed federal regulations by majority vote if one quarter of either body objects to the proposed regulation.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This memorial 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

Methods of Amending the United States Constitution

Article V of the U.S. Constitution prescribes two methods for amending the Constitution. One method is for Congress to propose an amendment that is ratified by the states. All 27 amendments to the Constitution were adopted through this procedure. The other method, which has never been used, is for states to apply for a constitutional convention that proposes amendments.¹

Congressional Amendments

Congress, by a two-thirds vote in both houses, may propose a constitutional amendment in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the U.S. is responsible for administering the ratification process.² Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. s. 106b.³ The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each governor. The governors then formally submit the amendment to their state legislatures.⁴

When a state ratifies a proposed amendment, it sends a certified copy of the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states. The OFR verifies the ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the U.S. Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.⁵

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.⁶

Constitutional Convention Amendments

A constitutional amendment may also be proposed by a constitutional convention, commonly referred to as an "Article V convention," applied for by two-thirds of the state legislatures. While this method has never been used, organized groups promoted a convention to encourage Congress to submit amendments for ratification.⁷ If 34 states apply, Congress must call a convention to consider and propose amendments. These proposed amendments must be ratified by three-fourths of the states. Records of the Philadelphia Convention of 1787 indicate that the founders intended to balance Congress's amendatory power by providing the Article V convention method to empower the people to

¹ See *Constitutional Amendment Process*, U.S. National Archives and Records Administration, <https://www.archives.gov/federal-register/constitution> (last visited Feb. 17, 2017).

² 1 U.S.C. s. 106b.

³ *Constitutional Amendment Process*, *supra* note 1.

⁴ *Id.*

⁵ *Id.*

⁶ *6 Constitutional Amendments That Just Missed the Cut*, The Week, <http://theweek.com/articles/446233/6-constitutional-amendments-that-just-missed-cut> (last visited Feb. 17, 2017).

⁷ Thomas H. Neale, Cong. Research Serv., R42592, *The Article V Convention for Proposing Constitutional Amendments: Historical Perspectives for Congress* (Oct. 22, 2012).

propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.⁸

Though the specific procedures for an Article V convention are not specified in the Constitution, Congress has historically taken on broad responsibilities in connection with a convention by administering state applications, establishing procedures to summon a convention, setting the amount of time allotted to its deliberations, determining the number and selection process of its delegates, setting internal convention procedures, and providing arrangement for the formal transmission of any proposed amendments to the states.⁹

Federal Administrative Law¹⁰

The scope of the federal administrative state expanded greatly during the 20th century. In the 1930s, President Franklin Delano Roosevelt's New Deal programs designed to combat the Great Depression led to the creation of a wave of new administrative agencies such as the National Labor Relations Board,¹¹ the Securities and Exchange Commission,¹² the Social Security Administration,¹³ the Federal Communications Commission,¹⁴ and the Tennessee Valley Authority.¹⁵ In the 1970s, a wave of quality of life oriented regulations lead to the creation of the Environmental Protection Agency (EPA),¹⁶ the Occupational Safety and Health Administration (OSHA),¹⁷ and the Consumer Product Safety Commission (CPSC).¹⁸

Critics of this expansion of federal administrative authority charged that it jeopardized the separation of powers in the U.S. Constitution and created a "fourth branch" of government. In response to the criticisms of the expansion of administrative power in the 1930's, Congress passed the Administrative Procedure Act (APA) in 1946.¹⁹ The APA has been described as a "bill of rights" for the regulatory state. Administrative agencies must follow procedures established by the APA when exercising their rulemaking and adjudicatory powers.

Federal administrative agencies are controlled by the executive branch. The legislative branch has the power to create, abolish or modify the powers and structure of administrative agencies.²⁰ Laws passed by the legislative branch and actions taken by the executive branch are subject to review by the judicial branch. Federal administrative agencies have quasi-legislative (rulemaking) and quasi-judicial (adjudicatory) powers to assist them in carrying out their executive functions. The rule-making and adjudicatory powers of federal agencies are regulated by the APA.²¹

Administrative agencies adopt rules through the rulemaking procedures set forth in the APA. When adopting a new rule an agency must publish the proposed rule in the Federal Register, allow interested parties an opportunity to submit comments on the proposal, and incorporate in the final rule a concise general statement of the basis and purpose of the rule.²²

⁸ *Id.*

⁹ *Id.*

¹⁰ See generally Koch, C., et al. *Administrative Law: Cases and Material*, 7th ed., Ch. 1, part B.

¹¹ 29 U.S.C. s. 153.

¹² 15 U.S.C. s. 78d.

¹³ 42 U.S.C. s. 901.

¹⁴ 47 U.S.C. s. 151.

¹⁵ 16 U.S.C. s. 831.

¹⁶ Reorganization Plan No. 3 of 1970, 84 Stat. 2086-2089 (1970).

¹⁷ 29 U.S.C. s. 656.

¹⁸ 15 U.S.C. s. 2053.

¹⁹ 5 U.S.C. ss. 551-559.

²⁰ See art. I, s. 8, U.S. Const.

²¹ 5 U.S.C. ss. 553-554.

²² 5 U.S.C. s. 553.

Presently, the executive branch of the federal government is comprised of the following 15 cabinet departments,²³ in addition to independent agencies and government corporations:

- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Education
- Department of Energy
- Department of Health and Human Services
- Department of Homeland Security
- Department of Housing and Urban Development
- Department of the Interior
- Department of Justice
- Department of Labor
- Department of State
- Department of Transportation
- Department of the Treasury
- Department of Veterans Affairs

Regulations from the Executive in Need of Scrutiny (REINS) Act

Congress has made several attempts to curb executive agency powers. The Regulations from the Executive in Need of Scrutiny (REINS) Act was first introduced in 2015.²⁴ The REINS Act would require any federal agency promulgating a rule to classify the rule as a “major rule” or “non-major rule” when published. A rule is classified as a “major rule” if it was made under the Patient Protection and Affordable Care Act or determined by the Office of Management and Budget (OMB) to have:

- An annual economic effect of \$100 million or more;
- A major increase in costs or prices for consumers, business, or governments; or
- Significant adverse effects on the ability of domestic businesses to compete with foreign firms in domestic and export markets.²⁵

If a rule is classified as a “major rule,” it may not take effect unless approved by a joint resolution passed within 70 legislative days after the agency proposing the rule submits its report to Congress.

All other rules are classified as “non-major rules.” A non-major rule may be repealed under the terms of the REINS Act if a joint resolution is passed within 60 legislative days.

The House of Representatives passed the REINS Act on July 28, 2015, but the bill was not passed by the Senate.²⁶ The bill was reintroduced during the 115th Congress and approved by the House on January 5, 2017.²⁷ A companion measure is pending in the Senate.²⁸

²³ See 3 U.S.C. s. 19(d)(1) (list of Cabinet departments which may act as President if the President pro tempore of the Senate may not act as president).

²⁴ H.R. 427 and S. 226, 114th Cong. (2015).

²⁵ This determination by OMB would parallel Florida’s current requirement that agency rules exceeding a certain minimum financial or economic impact must first be ratified by the Legislature before such rules may take effect. See s. 120.541(3), F.S.

²⁶ See *Actions Overview H.R. 427 – 114th Congress (2015-2016)*, Congress.gov, <https://www.congress.gov/bill/114th-congress/house-bill/427/actions> (last visited Feb. 20, 2017).

²⁷ *Actions Overview H.R. 26 – 115th Congress (2017-2018)*, Congress.gov, <https://www.congress.gov/bill/115th-congress/house-bill/26/actions> (last visited Feb. 20, 2017).

²⁸ *Actions Overview S. 21 – 115th Congress (2017-2018)*, Congress.gov, <https://www.congress.gov/bill/115th-congress/senate-bill/21/actions> (last visited Feb. 20, 2017).

Effect of Proposed Changes

HM 439 petitions the U.S. Congress to propose to the states an amendment to the U.S. Constitution. Under the amendment, whenever one quarter of either the House of Representatives or the Senate objects to a proposed regulation, and transmits their written declaration of opposition to the President, a majority vote of the House and Senate would be required to adopt the proposed federal regulation.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

A memorial neither requires nor authorizes administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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House Memorial

A memorial to the Congress of the United States, urging Congress to propose to the states an amendment to the Constitution of the United States, for submission to the several states, which would require a federal regulation be adopted by a majority vote of both houses of Congress if opposed by a specified percentage of the membership of either house.

WHEREAS, the growth and abuse of federal regulatory authority threaten our constitutional liberties, including those guaranteed by the Bill of Rights in the First, Second, Fourth, and Fifth Amendments to the Constitution of the United States, and

WHEREAS, federal regulators must be more accountable to the elected representatives of the people and not immune from such accountability, and

WHEREAS, the Declaration of Independence decried the imposition of the central government of "absolute Tyranny over these States" that "erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance," and

WHEREAS, the states too often find themselves in a similar position today, and

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25 WHEREAS, the United States House of Representatives has
 26 passed with bipartisan support the Regulations from the
 27 Executive in Need of Scrutiny (REINS) Act of 2015, H.R. 427, to
 28 require that Congress approve major new federal regulations
 29 before they may take effect, and

30 WHEREAS, even if enacted, the law may be repealed or not
 31 enforced by a future Congress or the President, and

32 WHEREAS, an amendment to the United States Constitution
 33 does not require the President's approval and cannot be waived
 34 by a future Congress or the President, NOW, THEREFORE,

35
 36 Be It Resolved by the Legislature of the State of Florida:

37
 38 That the Florida Legislature respectfully petitions the
 39 Congress of the United States to propose to the states an
 40 amendment to the Constitution of the United States, for
 41 submission to the several states for ratification, entitled the
 42 "Regulation Freedom Amendment," as follows:

43
 44 "Whenever one-quarter of the Members of the United
 45 States House or the United States Senate transmit to
 46 the President their written declaration of opposition
 47 to a proposed federal regulation, it shall require a
 48 majority vote of the House and Senate to adopt that
 49 regulation."

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51 BE IT FURTHER RESOLVED that copies of this memorial be
52 dispatched to the President of the United States, to the
53 President of the United States Senate, to the Speaker of the
54 United States House of Representatives, and to each member of
55 the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 479 Government Accountability
SPONSOR(S): Appropriations Committee, Oversight, Transparency & Administration Subcommittee; Metz
TIED BILLS: IDEN./SIM. BILLS: CS/SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N, As CS	Moore	Harrington
2) Appropriations Committee	23 Y, 2 N, As CS	Keith	Leznoff
3) Government Accountability Committee		Moore <i>AM</i>	Williamson <i>Raw</i>

SUMMARY ANALYSIS

Various statutes ensure government accountability of state and local governments. The bill makes changes to some of these statutes. Specifically, the bill:

- Specifies that the Governor or Commissioner of Education, or designee, may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements;
- Provides definitions for the terms "abuse," "fraud," and "waste;"
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, the Guardian Ad Litem program, local governmental entities, charter schools, school districts, Florida College System institutions, and state universities to establish and maintain internal controls;
- Requires counties, municipalities, and water management districts to maintain certain budget documents on their websites for specified timeframes;
- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature of any clerk not meeting workload performance standards;
- Revises the monthly financial statement requirements for water management districts;
- Revises the composition of auditor selection committees;
- Requires completion of an annual financial audit of the Florida Virtual School;
- Requires a local governmental entity, district school board, charter school, charter technical career center, Florida College System board of trustees, or university board of trustees to respond to audit recommendations under certain circumstances;
- Requires an independent certified public accountant conducting an audit of a local governmental entity to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements;
- Limits to \$150 the amount that may be reimbursed per day for travel lodging expenses for certain employees under certain circumstances;
- Codifies the statewide travel management system in law and requires certain public entities to report public officer and employee travel information in the system; and
- Prohibits a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard.

The bill may have an indeterminate but likely insignificant negative fiscal impact on state and local governments. See Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Auditing

Auditor General

Present Situation

The position of Auditor General is established by Art. III, s. 2 of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.¹ The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.² At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and may not have less than 10 years' experience in an accounting or auditing related field.³

The Auditor General must conduct audits, examinations, or reviews of government programs⁴ as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee.⁵ The Auditor General conducts operational and performance audits on public records and information technology systems and also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.⁶

Various provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.⁷ The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee an annual report by December 1. The report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.⁸ In addition, the Auditor General must transmit recommendations at other times during the year when the information would be timely and useful to the Legislature.⁹

The annual report for the Auditor General for November 1, 2015, through October 31, 2016, contained the following recommendation:¹⁰

The Legislature should consider amending applicable Florida Statutes to establish in law the responsibility of each State and local government for the establishment and maintenance of management systems and internal controls designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.42(2), F.S.

⁴ Section 11.45(7), F.S.

⁵ Section 11.45(2)(d)-(f), F.S.

⁶ Section 11.45(7)(b), F.S.

⁷ Section 11.45(7)(f), F.S.

⁸ Section 11.45(7)(h), F.S.

⁹ *Id.*

¹⁰ A copy of the report can be found online at: <http://www.myflorida.com/audgen/pages/annualrpt.htm> (last visited February 10, 2017).

practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

Section 11.45, F.S., defines the types of audits the Auditor General may conduct. That section requires certain state and local governmental audits to be conducted and specifies the frequency with which the audits must occur. The Auditor General also may conduct other audits he or she determines to be appropriate.

Following notification by the Auditor General, the Department of Financial Services (DFS), or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with applicable auditing and financial requirements,¹¹ the Legislative Auditing Committee may schedule a hearing to determine whether the entity should be subject to further state action. For purposes of s. 11.45, F.S., the term “local governmental entity” means a county agency, municipality, or special district as defined in s. 189.012, F.S.,¹² but does not include any housing authority established under ch. 421, F.S.

The Auditor General is also required to annually transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and DFS a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts (WMDs) that have failed to comply with certain transparency requirements.

Effect of the Bill

The bill authorizes the Governor or his or her designee, and the Commissioner of Education or his or her designee, to notify the Legislative Auditing Committee that a local governmental entity, district school board, charter school, or charter technical career center has failed to comply with applicable auditing, financial reporting, bond issuance notification, or bond verification provisions or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill creates the following definitions:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill amends the definition for “local governmental entity” for purposes of s. 11.45, F.S., to include tourist development council and county tourism promotion agency.

The bill exempts WMDs from being subject to audits of local governmental entities conducted pursuant to s. 11.45(2)(j), F.S. The bill authorizes the Auditor General to conduct audits or other engagements of

¹¹ Section 11.45, F.S., governs certain audits to be conducted by the Auditor General. Section 218.32(1), F.S., requires annual financial reports from local governmental entities. Section 218.38, F.S., requires notice of bond issuance and contains verification requirements. Section 218.503(3), F.S., requires certain entities to disclose a financial emergency and provide certain information concerning a financial emergency.

¹² Section 189.012(6), F.S., defines a “special district” to mean a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

tourist development councils and county tourism promotion agencies. The bill also makes conforming changes to the Auditor General's reporting requirement.

The bill amends the list of entities that must be included in the Auditor General report concerning entities that fail to comply with transparency requirements in s. 11.45, F.S., to add local governmental entities and remove WMDs.

Florida Single Audit Act

Present Situation

The Florida Single Audit Act, codified in s. 215.97, F.S., is designed to

- Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects;
- Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities;
- Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities;
- Provide for identification of state financial assistance transactions in the state accounting records and recipient organization records;
- Promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and
- Ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities.

Pursuant to the Florida Single Audit Act, certain entities that meet the "audit threshold" requirements are subject to a state single audit or a project-specific audit. Currently, the "audit threshold" requires each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity to have a state single audit, or a project-specific audit, for such fiscal year. Every two years, the Auditor General, after consulting with the Executive Office of the Governor, DFS, and all state awarding agencies, is required to review the threshold amount for requiring audits and may adjust the threshold amount.¹³

Effect of the Bill

The bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every two years to "periodically," however, the term "periodically" is not defined. The bill also authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in its annual report.

Annual Financial Audit Reports

Present Situation

If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, an entity meeting certain requirements must have an annual financial audit of its accounts and records completed within nine months after the end of its fiscal year by an independent certified public accountant.¹⁴ Section 218.39, F.S., specifies the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and take certain steps to determine whether the entity should be subject to further state action.¹⁵

¹³ Section 215.97(2)(a), F.S.

¹⁴ Section 218.39(1), F.S.

¹⁵ Section 11.40(2), F.S.

Effect of the Bill

The bill provides that if an audit report contains a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after delivery of the audit report to the governing body, must indicate during a regularly scheduled public meeting whether it intends to take a corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it must explain its decision at the public meeting.

Local Governmental Entity Annual Financial Reports

Present Situation

Section 218.32, F.S., requires local governmental entities that are required to provide for an audit under s. 218.39, F.S., to submit an audit report and annual financial report to DFS within 45 days after completion of the audit report, but no later than nine months after the end of the fiscal year. The annual financial report must be signed by the chair of the governing body and the chief financial officer of the local governmental entity. The law also specifies the information that must be included in the report.

In addition, DFS is required to file a verified report with the Governor, Legislature, Auditor General, and Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.¹⁶

Effect of the Bill

The bill requires an independent certified public accountant conducting an audit of a local governmental entity pursuant to s. 218.39, F.S., to determine, as part of the audit, whether the entity's annual financial report is in agreement with the entity's audited financial statements. If the audited financial statements are not in agreement with the annual financial report, the bill requires the accountant to specify in the audit report the significant differences that exist between the audited financial statements and the annual financial report.

The bill also authorizes DFS, in preparing the verified report, to request additional information from the local governmental entity. Any additional information requested must be provided to DFS within 45 days after the request. If the local governmental entity does not comply with the request, DFS must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

Auditor Selection Procedures

Present Situation

Section 218.391, F.S., outlines the process that each local governmental entity, district school board, charter school, or charter technical career center must follow in selecting an auditor to conduct the annual financial audit of the entity required by s. 218.39, F.S. Each entity is required to establish an audit committee to assist the governing body in selecting the auditor. Each noncharter county's audit committee must consist of each of its officers elected pursuant to the State Constitution and one member of the board of county commissioners or its designee. The audit committee must publicly announce requests for proposals for the audit services. The law specifies the factors that must be considered in selecting the auditor and the procedures for negotiating for compensation.

Effect of the Bill

The bill requires every county's audit committee to consist of each county officer elected pursuant to the State Constitution or the county charter, or their respective designees, and one member of the board of county commissioners or its designee. The bill requires the audit committee for a municipality, special district, district school board, charter school, or charter technical career center to consist of at

least three members, one of whom must be a member of the governing body of the entity. That member must serve as the audit committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee.

The Florida Virtual School

Present Situation

The Florida Virtual School was created to develop and deliver online and distance learning education.¹⁷ The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education (SBE) that must address:

- The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global;
- The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology;
- The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year;
- A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General;
- Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.¹⁸

The Auditor General must conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global.¹⁹ The scope of the audit must include, but is not limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The law specifies that the final report on the audit must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.²⁰

Effect of the Bill

The bill eliminates the requirement for the Auditor General to conduct an operational audit and submit a report to the presiding officers by January 31, 2014.

The bill creates a new requirement for the Florida Virtual School to have an annual financial audit of its accounts and records conducted by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with rules adopted by the Auditor General and must prepare an audit report in accordance with such rules. The audit report must include a written statement by the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. The independent auditor must submit the audit report to the board of trustees and the Auditor General no later than nine months after the end of the preceding fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the SBE by requiring a copy of the audit report to be submitted with the board of trustees' annual statement.

¹⁷ Section 1002.37(1)(a), F.S.

¹⁸ Section 1002.37(6), F.S.

¹⁹ Section 1002.37(11), F.S.

²⁰ *Id.*

Required Audits of Certain Educational Institutions

Present Situation

School districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education (SBE) and state universities under the supervision of the Board of Governors (BOG) are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees is required to conduct an audit overview during a public meeting.²¹

Effect of the Bill

The bill provides that if an audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the district school board, the Florida College System institution board of trustees, or the university board of trustees must indicate during a regularly scheduled public meeting whether it intends to take corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it must explain its decision at the public meeting.

Internal Controls to Prevent and Detect Fraud, Waste, and Abuse

Present Situation

State Agencies and the Judicial Branch

Section 215.86, F.S., requires each state agency and the judicial branch as defined in s. 216.011, F.S., to establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. It requires accounting systems and procedures to be designed to fulfill the requirements of generally accepted accounting principles.

Local Governmental Entities

Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of DFS to assure the use of proper accounting and fiscal management by such units. Such rules must include a uniform classification of accounts.

Charter Schools

Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to creating charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law provides that the governing body of a charter school is responsible for:

- Ensuring that the charter school has retained a certified public accountant or auditor to perform its annual audit;
- Reviewing and approving the audit report;
- Establishing a corrective plan, if necessary;
- Monitoring a financial recovery plan to ensure compliance; and
- Participating in governance training approved by the Department of Education, which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.²²

School Districts, Florida College System Institutions, and State Universities

Current law requires the financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the SBE to be prepared and

²¹ Section 1010.30(2), F.S.

²² Section 1002.33(9)(j), F.S.

maintained as prescribed by law and rules of the SBE. The financial records and accounts of each state university under the supervision of the BOG must be prepared and maintained as prescribed by law and rules of the BOG. Rules of the SBE and rules of the BOG must incorporate the requirements of law and accounting principles generally accepted in the United States and must include a uniform classification of accounts. Each state university must annually file with the BOG financial statements prepared in conformity with these requirements. The BOG's rules must prescribe the filing deadline for the financial statements. The required financial accounts and reports must include provisions that are unique to K-12 school districts, Florida College System institutions, and state universities.²³

Justice Administrative Commission

The Justice Administrative Commission (Commission) is created in s. 43.16, F.S. As one of its duties, the Commission is charged with maintaining a central state office for administrative services and assistance on behalf of state attorneys and public defenders, the capital collateral regional counsel, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.²⁴ Additionally, the Commission records and submits certain documents prepared by a state attorney, public defender, or criminal conflict and civil regional counsel or the Guardian Ad Litem Program, including necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans.²⁵

Effect of the Bill

The bill requires state agencies, the judicial branch, local governmental entities, charter schools, school districts, Florida College System institutions, state universities, the Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to:

- Prevent and detect fraud, waste, and abuse, as defined in s. 11.45(1), F.S.;
- Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices;
- Support economical and efficient operations;
- Ensure reliability of financial records and reports; and
- Safeguard assets.

The bill also authorizes a district school board to retain an internal auditor to determine the adequacy of internal controls described above.

Online Posting of Governmental Budgets

Counties and Municipalities

Present Situation

Counties²⁶ and municipalities²⁷ are required to post their tentative budgets on their websites two days prior to consideration of the budget at a public hearing. The final budget of a county or municipality must be posted on its website within 30 days after adoption. An amendment to a budget must be posted to the website within five days of adoption.²⁸ Current law does not specify how long these documents must remain available on the website.

²³ Section 1010.01, F.S.

²⁴ Section 43.16(5)(a), F.S.

²⁵ Section 43.16(5)(b), F.S.

²⁶ Section 129.03, F.S.

²⁷ Section 166.241, F.S.

²⁸ Sections 129.06(2)(f)2., 166.241(5), and 189.016(7), F.S.

Effect of the Bill

The bill requires a tentative budget to remain on a county's or municipality's website for at least 45 days. The bill also requires a final budget to remain on the entity's website for at least two years. Finally, the bill requires an adopted amendment to a budget to remain on the website for at least two years.

Water Management Districts

Present Situation

Chapter 373, F.S., governs Florida's water resource management and authorizes the creation of WMDs, which are given taxing authority. A WMD is defined as "any flood control, resource management, or water management district" operating under the authority of chapter 373, F.S.²⁹ There are five WMDs in Florida: Northwest Florida, Suwanee River, St. Johns River, Southwest Florida, and South Florida.³⁰ Section 373.536, F.S., governs the budget process for WMDs and requires a WMD's tentative budget to be posted on the WMD's website at least two days before budget hearings are conducted. The law requires a WMD's final adopted budget to be posted on the WMD's official website within 30 days after adoption.

Effect of the Bill

The bill requires a WMD's tentative budget to remain on the WMD's website for at least 45 days and requires the final adopted budget to remain on the website for at least two years.

Other Provisions

Florida Clerks of Court Operations Corporation

Present Situation

Currently, s. 28.35, F.S., requires the Florida Clerks of Court Operations Corporation (corporation) to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation must develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation must identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation must notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

Effect of the Bill

The bill requires the corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

Public Employee Travel Expenses

Present Situation

Section 112.061, F.S., establishes the rates of per diem and subsistence allowance for travel by public officers and employees. When traveling to a convention or conference or to conduct bona fide state business, a traveler is authorized to receive \$80 per diem. However, if actual expenses exceed \$80,

²⁹ Section 373.019(23), F.S.

³⁰ Section 373.069(1), F.S.

the traveler may receive \$6 for breakfast, \$11 for lunch, \$19 for dinner, and the actual expenses for lodging at a single-occupancy rate.

The 2016-17 implementing bill created a limit on the amount of actual expenses for lodging that may be reimbursed under certain circumstances. The bill provided that when an employee of a state agency or the judicial branch is attending a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch, the reimbursement for lodging expenses may not exceed \$150 per day. However, an employee may expend his or her own funds for any lodging expenses in excess of the limit. This limit is in effect until July 1, 2017.

Effect of the Bill

The bill codifies the implementing bill's \$150 per day limit on lodging expenses in s. 112.061, F.S.

Statewide Travel Management System

Present Situation

Section 112.061(2)(a), F.S., defines the term "agency or public agency" to mean any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law.

Proviso in specific appropriation 1965A of ch. 2016-66, L.O.F., provided \$1,800,000 in recurring General Revenue Funding to the Executive Office of the Governor (EOG) to acquire a statewide travel management system (system). EOG was required to undertake a competitive procurement for the system pursuant to s. 287.057, F.S. Additionally, \$2,800,000 in nonrecurring General Revenue Funding was provided to executive branch state agencies and the judicial branch for the implementation of the system.

The system was required to be able to electronically: interface with the Florida Accounting Information Resource Subsystem (FLAIR) and the Personnel Information System; generate uniform travel authorization request and travel voucher forms pursuant to s. 112.061, F.S.; and receive approvals for travel. The system was also required to include search features that query travel information by specific criteria. Proviso also required EOG and the Legislature to have access to the system for purposes of generating reports on all travel completed by executive branch state agencies and the judicial branch.

Effect of the Bill

The bill codifies the definitions and requirements pertaining to the system in s. 112.061, F.S. Additionally, the bill will now require all agencies, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government to report public officer and employee travel information in the system.

Transparency in Government Spending

Present Situation

The Transparency Florida Act (Act), codified in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. It also requires certain budget information, certain contract information, and minimum functionality standards to be readily available online. In pertinent part, s. 215.985(11), F.S., requires each WMD to provide a monthly financial statement to its governing board and make the statement available for public access on its website.

Effect of the Bill

The bill requires a WMD's monthly financial statement to be in the form and manner prescribed by DFS and requires each WMD to make the monthly financial statement available to the public on its website.

Reasonable Opportunity to be Heard at Public Meetings

Present Situation

Section 286.0114, F.S., requires, with certain exceptions, that members of the public be provided a reasonable opportunity to be heard before a board or commission. The law describes a general public comment process and allows entities to prescribe how public comment is made and create certain reasonable limitations.

Effect of the Bill

The bill specifies that a board or commission may not require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting.

Statement of Legislative Findings

The bill specifies that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property.

B. SECTION DIRECTORY:

Section 1 amends s. 11.40, F.S., relating to the Legislative Auditing Committee.

Section 2 amends s. 11.45, F.S., relating to definitions; duties; authorities; reports; and rules of the Auditor General.

Section 3 amends s. 28.35, F.S., relating to the Florida Clerks of Court Operations Corporation.

Section 4 amends s. 43.16, F.S., relating to the Justice Administrative Commission.

Section 5 amends s. 112.061, F.S., relating to per diem and travel expenses of public officers, employees, and authorized persons; codifying the Statewide Travel Management System and requirements for its use.

Section 6 amends s. 129.03, F.S., relating to preparation and adoption of county budgets.

Section 7 amends s. 129.06, F.S., relating to execution and amendment of county budgets.

Section 8 amends s. 166.241, F.S., relating to fiscal years, budgets, and budget amendments for municipalities.

Section 9 amends s. 215.86, F.S., relating to management systems and controls for state agencies and the judicial branch.

Section 10 amends s. 215.97, F.S., relating to the Florida Single Audit Act.

Section 11 amends s. 215.985, F.S., relating to transparency in government spending.

Section 12 amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.

Section 13 amends s. 218.33, F.S., relating to local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.

Section 14 amends s. 218.39, F.S., relating to annual financial audit reports.

Section 15 amends s. 218.391, F.S., relating to auditor selection procedures.

Section 16 amends s. 286.0114, F.S., relating to public meetings; reasonable opportunity to be heard; attorney fees.

Section 17 amends s. 373.536, F.S., relating to water management district budgets.

Section 18 amends s. 1001.42, F.S., relating to powers and duties of district school boards.

Section 19 amends s. 1002.33, F.S., relating to charter schools.

Section 20 amends s. 1002.37, F.S., relating to the Florida Virtual School.

Section 21 amends s. 1010.01, F.S., relating to uniform records and accounts.

Section 22 amends s. 1010.30, F.S., relating to audits required.

Section 23 amends s. 218.503, F.S., relating to determination of financial emergency.

Section 24 amends s. 1002.455, F.S., conforming a cross-reference.

Section 25 specifies that the act fulfills an important state interest.

Section 26 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:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate but likely insignificant negative fiscal impact on state agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities because it requires them to establish specified internal controls. This requirement may require additional time and expense to create the internal controls.

The bill may have an indeterminate but likely insignificant negative fiscal impact on any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority,

district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law, related to any additional workload of reporting public officer and employee travel information in the Statewide Travel Management System.

The bill may have an indeterminate positive fiscal impact on state agencies and the judicial branch because it limits to \$150 the amount that may be reimbursed per day for employee travel lodging expenses under certain circumstances.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments to establish and maintain specified internal controls and requires the reporting of certain travel information in the statewide travel management system. An exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. An exception also may apply because similarly situated persons are all required to comply and the bill specifies that it serves an important state interest.

2. Other:

Other Comments: Single-Subject Requirement

Article III, s. 6 of the State Constitution provides, in relevant part, that “[e]very law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.” In interpreting this provision, the Florida Supreme Court has stated, “[a]n act may be as broad as the Legislature chooses, provided the matters included in the act have a natural or logical connection.”³¹

The title of the bill is “Government Accountability” and it contains many provisions related to governmental auditing and reporting requirements. Section 13 of the bill amends s. 286.0114, F.S., to prohibit a board or commission from requiring a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being given the opportunity to be heard at a meeting. It is unclear whether a reviewing court would conclude that this provision has a “natural or logical connection” with government accountability.

B. RULE-MAKING AUTHORITY:

The bill requires DFS to specify the form and manner for the submission of WMD monthly financial statements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 23, 2017, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature of any clerk not meeting workload performance standards;
- Revises the composition of auditor selection committees;
- Requires completion of an annual financial audit of the Florida Virtual School; and

³¹ *Chenoweth v. Kemp*, 396 So. 2d 1122 (Fla. 1981).

- Limits to \$150 the amount that may be reimbursed per day for state agency and judicial branch employee lodging expenses for travel under certain circumstances.

On March 15, 2017, the Appropriations Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarify the definition of “fraud” to include “intentional” omissions;
- Codify the definitions and requirements pertaining to the statewide travel management system in s. 112.061, F.S. Additionally, the bill will now require any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law to report public officer and employee travel information in the system.

This analysis is drafted to the committee substitute as approved by the Appropriations Committee.

26 controls; amending s. 112.061, F.S.; revising certain
 27 lodging rates for the purpose of reimbursement to
 28 specified employees; authorizing an employee to expend
 29 his or her funds for certain lodging expenses;
 30 defining the term "statewide travel management
 31 system"; requiring agencies and the judicial branch to
 32 report certain travel information of public officers
 33 and employees in the statewide travel management
 34 system; requiring executive branch state agencies and
 35 the judicial branch to use the statewide travel
 36 management system for certain purposes; amending ss.
 37 129.03, 129.06, and 166.241, F.S.; requiring counties
 38 and municipalities to maintain certain budget
 39 documents on the entities' websites for a specified
 40 period; amending s. 215.86, F.S.; revising the
 41 purposes for which management systems and internal
 42 controls must be established and maintained by each
 43 state agency and the judicial branch; amending s.
 44 215.97, F.S.; revising certain audit threshold
 45 requirements; amending s. 215.985, F.S.; revising the
 46 requirements for a monthly financial statement
 47 provided by a water management district; amending s.
 48 218.32, F.S.; revising the requirements of the annual
 49 financial audit report of a local governmental entity;
 50 authorizing the Department of Financial Services to

51 request additional information from a local
 52 governmental entity; requiring a local governmental
 53 entity to respond to such requests within a specified
 54 timeframe; requiring the department to notify the
 55 Legislative Auditing Committee of noncompliance;
 56 amending s. 218.33, F.S.; requiring local governmental
 57 entities to establish and maintain internal controls
 58 to achieve specified purposes; amending s. 218.39,
 59 F.S.; requiring an audited entity to respond to audit
 60 recommendations under specified circumstances;
 61 amending s. 218.391, F.S.; revising membership for the
 62 audit committee; prohibiting an audit committee member
 63 from being an employee, a chief executive officer, or
 64 a chief financial officer of the respective
 65 governmental entity; amending s. 286.0114, F.S.;
 66 prohibiting a board or commission from requiring an
 67 advance copy of testimony or comments from a member of
 68 the public as a precondition to being given the
 69 opportunity to be heard at a public meeting; amending
 70 s. 373.536, F.S.; deleting obsolete language;
 71 requiring water management districts to maintain
 72 certain budget documents on the districts' websites
 73 for a specified period; amending s. 1001.42, F.S.;
 74 authorizing additional internal audits as directed by
 75 the district school board; amending s. 1002.33, F.S.;

76 revising the responsibilities of the governing board
 77 of a charter school to include the establishment and
 78 maintenance of internal controls; removing obsolete
 79 provisions; amending s. 1002.37, F.S.; requiring
 80 completion of an annual financial audit of the Florida
 81 Virtual School; specifying audit requirements;
 82 requiring an audit report to be submitted to the board
 83 of trustees of the Florida Virtual School and the
 84 Auditor General; deleting obsolete provisions;
 85 amending s. 1010.01, F.S.; requiring each school
 86 district, Florida College System institution, and
 87 state university to establish and maintain certain
 88 internal controls; amending s. 1010.30, F.S.;

89 requiring a district school board, Florida College
 90 System institution board of trustees, or university
 91 board of trustees to respond to audit recommendations
 92 under certain circumstances; amending ss. 218.503 and
 93 1002.455, F.S.; conforming provisions and cross-
 94 references to changes made by the act; declaring that
 95 the act fulfills an important state interest;
 96 providing an effective date.

97
 98 Be It Enacted by the Legislature of the State of Florida:

99
 100 Section 1. Subsection (2) of section 11.40, Florida

101 Statutes, is amended to read:

102 11.40 Legislative Auditing Committee.—

103 (2) Following notification by the Auditor General, the
 104 Department of Financial Services, ~~or~~ the Division of Bond
 105 Finance of the State Board of Administration, the Governor or
 106 his or her designee, or the Commissioner of Education or his or
 107 her designee of the failure of a local governmental entity,
 108 district school board, charter school, or charter technical
 109 career center to comply with the applicable provisions within s.
 110 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the
 111 Legislative Auditing Committee may schedule a hearing to
 112 determine if the entity should be subject to further state
 113 action. If the committee determines that the entity should be
 114 subject to further state action, the committee shall:

115 (a) In the case of a local governmental entity or district
 116 school board, direct the Department of Revenue and the
 117 Department of Financial Services to withhold any funds not
 118 pledged for bond debt service satisfaction which are payable to
 119 such entity until the entity complies with the law. The
 120 committee shall specify the date that such action must ~~shall~~
 121 begin, and the directive must be received by the Department of
 122 Revenue and the Department of Financial Services 30 days before
 123 the date of the distribution mandated by law. The Department of
 124 Revenue and the Department of Financial Services may implement
 125 ~~the provisions of~~ this paragraph.

126 (b) In the case of a special district created by:
 127 1. A special act, notify the President of the Senate, the
 128 Speaker of the House of Representatives, the standing committees
 129 of the Senate and the House of Representatives charged with
 130 special district oversight as determined by the presiding
 131 officers of each respective chamber, the legislators who
 132 represent a portion of the geographical jurisdiction of the
 133 special district, and the Department of Economic Opportunity
 134 that the special district has failed to comply with the law.
 135 Upon receipt of notification, the Department of Economic
 136 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
 137 If the special district remains in noncompliance after the
 138 process set forth in s. 189.0651, or if a public hearing is not
 139 held, the Legislative Auditing Committee may request the
 140 department to proceed pursuant to s. 189.067(3).
 141 2. A local ordinance, notify the chair or equivalent of
 142 the local general-purpose government pursuant to s. 189.0652 and
 143 the Department of Economic Opportunity that the special district
 144 has failed to comply with the law. Upon receipt of notification,
 145 the department shall proceed pursuant to s. 189.062 or s.
 146 189.067. If the special district remains in noncompliance after
 147 the process set forth in s. 189.0652, or if a public hearing is
 148 not held, the Legislative Auditing Committee may request the
 149 department to proceed pursuant to s. 189.067(3).
 150 3. Any manner other than a special act or local ordinance,

151 notify the Department of Economic Opportunity that the special
 152 district has failed to comply with the law. Upon receipt of
 153 notification, the department shall proceed pursuant to s.
 154 189.062 or s. 189.067(3).

155 (c) In the case of a charter school or charter technical
 156 career center, notify the appropriate sponsoring entity, which
 157 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

158 Section 2. Subsection (1), paragraph (j) of subsection
 159 (2), paragraph (u) of subsection (3), and paragraph (i) of
 160 subsection (7) of section 11.45, Florida Statutes, are amended,
 161 and paragraph (x) is added to subsection (3) of that section to
 162 read:

163 11.45 Definitions; duties; authorities; reports; rules.—

164 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

165 (a) "Abuse" means behavior that is deficient or improper
 166 when compared with behavior that a prudent person would consider
 167 a reasonable and necessary operational practice given the facts
 168 and circumstances. The term includes the misuse of authority or
 169 position for personal gain.

170 ~~(b)(a)~~ "Audit" means a financial audit, operational audit,
 171 or performance audit.

172 ~~(c)(b)~~ "County agency" means a board of county
 173 commissioners or other legislative and governing body of a
 174 county, however styled, including that of a consolidated or
 175 metropolitan government, a clerk of the circuit court, a

176 separate or ex officio clerk of the county court, a sheriff, a
 177 property appraiser, a tax collector, a supervisor of elections,
 178 or any other officer in whom any portion of the fiscal duties of
 179 a body or officer expressly stated in this paragraph are ~~the~~
 180 ~~above are under law~~ separately placed by law.

181 (d)~~(e)~~ "Financial audit" means an examination of financial
 182 statements in order to express an opinion on the fairness with
 183 which they are presented in conformity with generally accepted
 184 accounting principles and an examination to determine whether
 185 operations are properly conducted in accordance with legal and
 186 regulatory requirements. Financial audits must be conducted in
 187 accordance with auditing standards generally accepted in the
 188 United States and government auditing standards as adopted by
 189 the Board of Accountancy. When applicable, the scope of
 190 financial audits must ~~shall~~ encompass the additional activities
 191 necessary to establish compliance with the Single Audit Act
 192 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
 193 applicable federal law.

194 (e) "Fraud" means obtaining something of value through
 195 willful misrepresentation, including, but not limited to, the
 196 intentional misstatements or intentional omissions of amounts or
 197 disclosures in financial statements to deceive users of
 198 financial statements, theft of an entity's assets, bribery, or
 199 the use of one's position for personal enrichment through the
 200 deliberate misuse or misapplication of an organization's

201 resources.

202 (f)~~(d)~~ "Governmental entity" means a state agency, a
 203 county agency, or any other entity, however styled, that
 204 independently exercises any type of state or local governmental
 205 function.

206 (g)~~(e)~~ "Local governmental entity" means a county agency,
 207 municipality, tourist development council, county tourism
 208 promotion agency, or special district as defined in s. 189.012.
 209 The term,~~but~~ does not include any housing authority established
 210 under chapter 421.

211 (h)~~(f)~~ "Management letter" means a statement of the
 212 auditor's comments and recommendations.

213 (i)~~(g)~~ "Operational audit" means an audit whose purpose is
 214 to evaluate management's performance in establishing and
 215 maintaining internal controls, including controls designed to
 216 prevent and detect fraud, waste, and abuse, and in administering
 217 assigned responsibilities in accordance with applicable laws,
 218 administrative rules, contracts, grant agreements, and other
 219 guidelines. Operational audits must be conducted in accordance
 220 with government auditing standards. Such audits examine internal
 221 controls that are designed and placed in operation to promote
 222 and encourage the achievement of management's control objectives
 223 in the categories of compliance, economic and efficient
 224 operations, reliability of financial records and reports, and
 225 safeguarding of assets, and identify weaknesses in those

226 internal controls.

227 (j)~~(h)~~ "Performance audit" means an examination of a
 228 program, activity, or function of a governmental entity,
 229 conducted in accordance with applicable government auditing
 230 standards or auditing and evaluation standards of other
 231 appropriate authoritative bodies. The term includes an
 232 examination of issues related to:

- 233 1. Economy, efficiency, or effectiveness of the program.
- 234 2. Structure or design of the program to accomplish its
 235 goals and objectives.
- 236 3. Adequacy of the program to meet the needs identified by
 237 the Legislature or governing body.
- 238 4. Alternative methods of providing program services or
 239 products.
- 240 5. Goals, objectives, and performance measures used by the
 241 agency to monitor and report program accomplishments.
- 242 6. The accuracy or adequacy of public documents, reports,
 243 or requests prepared under the program by state agencies.
- 244 7. Compliance of the program with appropriate policies,
 245 rules, or laws.
- 246 8. Any other issues related to governmental entities as
 247 directed by the Legislative Auditing Committee.

248 (k)~~(i)~~ "Political subdivision" means a separate agency or
 249 unit of local government created or established by law and
 250 includes, but is not limited to, the following and the officers

251 thereof: authority, board, branch, bureau, city, commission,
 252 consolidated government, county, department, district,
 253 institution, metropolitan government, municipality, office,
 254 officer, public corporation, town, or village.

255 (1)~~(j)~~ "State agency" means a separate agency or unit of
 256 state government created or established by law and includes, but
 257 is not limited to, the following and the officers thereof:
 258 authority, board, branch, bureau, commission, department,
 259 division, institution, office, officer, or public corporation,
 260 as the case may be, except any such agency or unit within the
 261 legislative branch of state government other than the Florida
 262 Public Service Commission.

263 (m) "Waste" means the act of using or expending resources
 264 unreasonably, carelessly, extravagantly, or for no useful
 265 purpose.

266 (2) DUTIES.—The Auditor General shall:

267 (j) Conduct audits of local governmental entities when
 268 determined to be necessary by the Auditor General, when directed
 269 by the Legislative Auditing Committee, or when otherwise
 270 required by law. No later than 18 months after the release of
 271 the audit report, the Auditor General shall perform such
 272 appropriate followup procedures as he or she deems necessary to
 273 determine the audited entity's progress in addressing the
 274 findings and recommendations contained within the Auditor
 275 General's previous report. The Auditor General shall notify each

276 member of the audited entity's governing body and the
 277 Legislative Auditing Committee of the results of his or her
 278 determination. For purposes of this paragraph, local
 279 governmental entities do not include water management districts.

280
 281 The Auditor General shall perform his or her duties
 282 independently but under the general policies established by the
 283 Legislative Auditing Committee. This subsection does not limit
 284 the Auditor General's discretionary authority to conduct other
 285 audits or engagements of governmental entities as authorized in
 286 subsection (3).

287 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 288 Auditor General may, pursuant to his or her own authority, or at
 289 the direction of the Legislative Auditing Committee, conduct
 290 audits or other engagements as determined appropriate by the
 291 Auditor General of:

292 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

293 (x) Tourist development councils and county tourism
 294 promotion agencies.

295 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

296 (i) The Auditor General shall annually transmit by July
 297 15, to the President of the Senate, the Speaker of the House of
 298 Representatives, and the Department of Financial Services, a
 299 list of all school districts, charter schools, charter technical
 300 career centers, Florida College System institutions, state

301 universities, and local governmental entities ~~water management~~
 302 ~~districts~~ that have failed to comply with the transparency
 303 requirements as identified in the audit reports reviewed
 304 pursuant to paragraph (b) and those conducted pursuant to
 305 subsection (2).

306 Section 3. Paragraph (d) of subsection (2) of section
 307 28.35, Florida Statutes, is amended to read:

308 28.35 Florida Clerks of Court Operations Corporation.—

309 (2) The duties of the corporation shall include the
 310 following:

311 (d) Developing and certifying a uniform system of workload
 312 measures and applicable workload standards for court-related
 313 functions as developed by the corporation and clerk workload
 314 performance in meeting the workload performance standards. These
 315 workload measures and workload performance standards shall be
 316 designed to facilitate an objective determination of the
 317 performance of each clerk in accordance with minimum standards
 318 for fiscal management, operational efficiency, and effective
 319 collection of fines, fees, service charges, and court costs. The
 320 corporation shall develop the workload measures and workload
 321 performance standards in consultation with the Legislature. When
 322 the corporation finds a clerk has not met the workload
 323 performance standards, the corporation shall identify the nature
 324 of each deficiency and any corrective action recommended and
 325 taken by the affected clerk of the court. For quarterly periods

326 ending on the last day of March, June, September, and December
 327 of each year, the corporation shall notify the Legislature of
 328 any clerk not meeting workload performance standards and provide
 329 a copy of any corrective action plans. Such notifications shall
 330 be submitted no later than 45 days after the end of the
 331 preceding quarterly period. As used in this subsection, the
 332 term:

333 1. "Workload measures" means the measurement of the
 334 activities and frequency of the work required for the clerk to
 335 adequately perform the court-related duties of the office as
 336 defined by the membership of the Florida Clerks of Court
 337 Operations Corporation.

338 2. "Workload performance standards" means the standards
 339 developed to measure the timeliness and effectiveness of the
 340 activities that are accomplished by the clerk in the performance
 341 of the court-related duties of the office as defined by the
 342 membership of the Florida Clerks of Court Operations
 343 Corporation.

344 Section 4. Subsections (6) and (7) of section 43.16,
 345 Florida Statutes, are renumbered as subsections (7) and (8),
 346 respectively, and a new subsection (6) is added to that section
 347 to read:

348 43.16 Justice Administrative Commission; membership,
 349 powers and duties.—

350 (6) The commission, each state attorney, each public

351 | defender, the criminal conflict and civil regional counsel, the
 352 | capital collateral regional counsel, and the Guardian Ad Litem
 353 | Program shall establish and maintain internal controls designed
 354 | to:

355 | (a) Prevent and detect fraud, waste, and abuse as defined
 356 | in s. 11.45(1).

357 | (b) Promote and encourage compliance with applicable laws,
 358 | rules, contracts, grant agreements, and best practices.

359 | (c) Support economical and efficient operations.

360 | (d) Ensure reliability of financial records and reports.

361 | (e) Safeguard assets.

362 | Section 5. Subsection (6) of section 112.061, Florida
 363 | Statutes, is amended, and subsection (16) is added to that
 364 | section, to read:

365 | 112.061 Per diem and travel expenses of public officers,
 366 | employees, and authorized persons.—

367 | (6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.—For
 368 | purposes of reimbursement rates and methods of calculation, per
 369 | diem and subsistence allowances are provided as follows:

370 | (a) All travelers shall be allowed for subsistence when
 371 | traveling to a convention or conference or when traveling within
 372 | or outside the state in order to conduct bona fide state
 373 | business, which convention, conference, or business serves a
 374 | direct and lawful public purpose with relation to the public
 375 | agency served by the person attending such meeting or conducting

376 such business, either of the following for each day of such
377 travel at the option of the traveler:

- 378 1. Eighty dollars per diem; or
- 379 2. If actual expenses exceed \$80, the amounts permitted in
380 paragraph (b) for subsistence, plus actual expenses for lodging
381 at a single-occupancy rate, except as provided in paragraph (c),
382 to be substantiated by paid bills therefor.

383
384 When lodging or meals are provided at a state institution, the
385 traveler shall be reimbursed only for the actual expenses of
386 such lodging or meals, not to exceed the maximum provided for in
387 this subsection.

388 (b) All travelers shall be allowed the following amounts
389 for subsistence while on Class C travel on official business as
390 provided in paragraph (5) (b):

- 391 1. Breakfast.....\$6
- 392 2. Lunch.....\$11
- 393 3. Dinner.....\$19

394 (c) Actual expenses for lodging associated with the
395 attendance of an employee of a state agency or the judicial
396 branch at a meeting, conference, or convention organized or
397 sponsored in whole or in part by a state agency or the judicial
398 branch may not exceed \$150 per day. However, an employee may
399 expend his or her own funds for any lodging expenses that exceed
400 \$150 per day.

401 (d)~~(e)~~ No one, whether traveling out of state or in state,
 402 shall be reimbursed for any meal or lodging included in a
 403 convention or conference registration fee paid by the state.

404 (16) STATEWIDE TRAVEL MANAGEMENT SYSTEM.—

405 (a) For purposes of this subsection, "statewide travel
 406 management system" means the system acquired by the Executive
 407 Office of the Governor to:

408 1. Standardize and automate agency travel management;

409 2. Allow for travel planning and approval, expense
 410 reporting, and reimbursement; and

411 3. Allow a person to query travel information by public
 412 employee or officer name and position title, purpose of travel,
 413 dates and location of travel, mode of travel, confirmation of
 414 agency head or designee authorization if required, and total
 415 travel cost.

416 (b) All agencies and the judicial branch must report
 417 public officer and employee travel information in the statewide
 418 travel management system, including, but not limited to, officer
 419 or employee name and position title, purpose of travel, dates
 420 and location of travel, mode of travel, confirmation of agency
 421 head or designee authorization if required, and total travel
 422 cost. At a minimum, such information must be reported in the
 423 statewide travel management system on a monthly basis.

424 (c) All executive branch state agencies and the judicial
 425 branch must use the statewide travel management system for

426 purposes of travel authorization and reimbursement.

427 Section 6. Paragraph (c) of subsection (3) of section
428 129.03, Florida Statutes, is amended to read:

429 129.03 Preparation and adoption of budget.—

430 (3) The county budget officer, after tentatively
431 ascertaining the proposed fiscal policies of the board for the
432 next fiscal year, shall prepare and present to the board a
433 tentative budget for the next fiscal year for each of the funds
434 provided in this chapter, including all estimated receipts,
435 taxes to be levied, and balances expected to be brought forward
436 and all estimated expenditures, reserves, and balances to be
437 carried over at the end of the year.

438 (c) The board shall hold public hearings to adopt
439 tentative and final budgets pursuant to s. 200.065. The hearings
440 shall be primarily for the purpose of hearing requests and
441 complaints from the public regarding the budgets and the
442 proposed tax levies and for explaining the budget and any
443 proposed or adopted amendments. The tentative budget must be
444 posted on the county's official website at least 2 days before
445 the public hearing to consider such budget and must remain on
446 the website for at least 45 days. The final budget must be
447 posted on the website within 30 days after adoption and must
448 remain on the website for at least 2 years. The tentative
449 budgets, adopted tentative budgets, and final budgets shall be
450 filed in the office of the county auditor as a public record.

451 Sufficient reference in words and figures to identify the
 452 particular transactions must ~~shall~~ be made in the minutes of the
 453 board to record its actions with reference to the budgets.

454 Section 7. Paragraph (f) of subsection (2) of section
 455 129.06, Florida Statutes, is amended to read:

456 129.06 Execution and amendment of budget.-

457 (2) The board at any time within a fiscal year may amend a
 458 budget for that year, and may within the first 60 days of a
 459 fiscal year amend the budget for the prior fiscal year, as
 460 follows:

461 (f) Unless otherwise prohibited by law, if an amendment to
 462 a budget is required for a purpose not specifically authorized
 463 in paragraphs (a)-(e), the amendment may be authorized by
 464 resolution or ordinance of the board of county commissioners
 465 adopted following a public hearing.

466 1. The public hearing must be advertised at least 2 days,
 467 but not more than 5 days, before the date of the hearing. The
 468 advertisement must appear in a newspaper of paid general
 469 circulation and must identify the name of the taxing authority,
 470 the date, place, and time of the hearing, and the purpose of the
 471 hearing. The advertisement must also identify each budgetary
 472 fund to be amended, the source of the funds, the use of the
 473 funds, and the total amount of each fund's appropriations.

474 2. If the board amends the budget pursuant to this
 475 paragraph, the adopted amendment must be posted on the county's

476 official website within 5 days after adoption and must remain on
 477 the website for at least 2 years.

478 Section 8. Subsections (3) and (5) of section 166.241,
 479 Florida Statutes, are amended to read:

480 166.241 Fiscal years, budgets, and budget amendments.—

481 (3) The tentative budget must be posted on the
 482 municipality's official website at least 2 days before the
 483 budget hearing, held pursuant to s. 200.065 or other law, to
 484 consider such budget and must remain on the website for at least
 485 45 days. The final adopted budget must be posted on the
 486 municipality's official website within 30 days after adoption
 487 and must remain on the website for at least 2 years. If the
 488 municipality does not operate an official website, the
 489 municipality must, within a reasonable period of time as
 490 established by the county or counties in which the municipality
 491 is located, transmit the tentative budget and final budget to
 492 the manager or administrator of such county or counties who
 493 shall post the budgets on the county's website.

494 (5) If the governing body of a municipality amends the
 495 budget pursuant to paragraph (4)(c), the adopted amendment must
 496 be posted on the official website of the municipality within 5
 497 days after adoption and must remain on the website for at least
 498 2 years. If the municipality does not operate an official
 499 website, the municipality must, within a reasonable period of
 500 time as established by the county or counties in which the

501 municipality is located, transmit the adopted amendment to the
 502 manager or administrator of such county or counties who shall
 503 post the adopted amendment on the county's website.

504 Section 9. Section 215.86, Florida Statutes, is amended to
 505 read:

506 215.86 Management systems and controls.—Each state agency
 507 and the judicial branch as defined in s. 216.011 shall establish
 508 and maintain management systems and internal controls designed
 509 to:

510 (1) Prevent and detect fraud, waste, and abuse as defined
 511 in s. 11.45(1). ~~that~~

512 (2) Promote and encourage compliance with applicable laws,
 513 rules, contracts, and grant agreements.†

514 (3) Support economical and ~~economic,~~ efficient, and
 515 effective operations.†

516 (4) Ensure reliability of financial records and reports.†

517 (5) Safeguard and ~~safeguarding of~~ assets. Accounting
 518 systems and procedures shall be designed to fulfill the
 519 requirements of generally accepted accounting principles.

520 Section 10. Paragraph (a) of subsection (2) of section
 521 215.97, Florida Statutes, is amended to read:

522 215.97 Florida Single Audit Act.—

523 (2) As used in this section, the term:

524 (a) "Audit threshold" means the threshold amount used to
 525 determine when a state single audit or project-specific audit of

526 a nonstate entity shall be conducted in accordance with this
 527 section. Each nonstate entity that expends a total amount of
 528 state financial assistance equal to or in excess of \$750,000 in
 529 any fiscal year of such nonstate entity shall be required to
 530 have a state single audit~~7~~ or a project-specific audit~~7~~ for such
 531 fiscal year in accordance with the requirements of this section.
 532 ~~Every 2 years the Auditor General,~~ After consulting with the
 533 Executive Office of the Governor, the Department of Financial
 534 Services, and all state awarding agencies, the Auditor General
 535 shall periodically review the threshold amount for requiring
 536 audits under this section and may recommend any appropriate
 537 statutory change to revise the threshold amount in the annual
 538 report submitted pursuant to s. 11.45(7)(h) to the Legislature
 539 ~~adjust such threshold amount consistent with the purposes of~~
 540 ~~this section.~~

541 Section 11. Subsection (11) of section 215.985, Florida
 542 Statutes, is amended to read:

543 215.985 Transparency in government spending.—

544 (11) Each water management district shall provide a
 545 monthly financial statement in the form and manner prescribed by
 546 the Department of Financial Services to the district's its
 547 governing board and make such monthly financial statement
 548 available for public access on its website.

549 Section 12. Paragraph (d) of subsection (1) and subsection
 550 (2) of section 218.32, Florida Statutes, are amended to read:

551 218.32 Annual financial reports; local governmental
 552 entities.—
 553 (1)
 554 (d) Each local governmental entity that is required to
 555 provide for an audit under s. 218.39(1) must submit a copy of
 556 the audit report and annual financial report to the department
 557 within 45 days after the completion of the audit report but no
 558 later than 9 months after the end of the fiscal year. In
 559 conducting an audit of a local governmental entity pursuant to
 560 s. 218.39, an independent certified public accountant shall
 561 determine whether the entity's annual financial report is in
 562 agreement with the audited financial statements. If the audited
 563 financial statements are not in agreement with the annual
 564 financial report, the accountant shall specify and explain the
 565 significant differences that exist between the audited financial
 566 statements and the annual financial report.
 567 (2) The department shall annually by December 1 file a
 568 verified report with the Governor, the Legislature, the Auditor
 569 General, and the Special District Accountability Program of the
 570 Department of Economic Opportunity showing the revenues, both
 571 locally derived and derived from intergovernmental transfers,
 572 and the expenditures of each local governmental entity, regional
 573 planning council, local government finance commission, and
 574 municipal power corporation that is required to submit an annual
 575 financial report. In preparing the verified report, the

576 department may request additional information from the local
 577 governmental entity. The information requested must be provided
 578 to the department within 45 days after the request. If the local
 579 governmental entity does not comply with the request, the
 580 department shall notify the Legislative Auditing Committee,
 581 which may take action pursuant to s. 11.40(2). The report must
 582 include, but is not limited to:

583 (a) The total revenues and expenditures of each local
 584 governmental entity that is a component unit included in the
 585 annual financial report of the reporting entity.

586 (b) The amount of outstanding long-term debt by each local
 587 governmental entity. For purposes of this paragraph, the term
 588 "long-term debt" means any agreement or series of agreements to
 589 pay money, which, at inception, contemplate terms of payment
 590 exceeding 1 year in duration.

591 Section 13. Subsection (3) of section 218.33, Florida
 592 Statutes, is renumbered as subsection (4), and a new subsection
 593 (3) is added to that section to read:

594 218.33 Local governmental entities; establishment of
 595 uniform fiscal years and accounting practices and procedures.—

596 (3) Each local governmental entity shall establish and
 597 maintain internal controls designed to:

598 (a) Prevent and detect fraud, waste, and abuse as defined
 599 in s. 11.45(1).

600 (b) Promote and encourage compliance with applicable laws,

601 rules, contracts, grant agreements, and best practices.

602 (c) Support economical and efficient operations.

603 (d) Ensure reliability of financial records and reports.

604 (e) Safeguard assets.

605 Section 14. Subsections (8) through (12) of section
 606 218.39, Florida Statutes, are renumbered as subsections (9)
 607 through (13), respectively, and a new subsection (8) is added to
 608 that section to read:

609 218.39 Annual financial audit reports.—

610 (8) If the audit report includes a recommendation that was
 611 included in the preceding financial audit report but remains
 612 unaddressed, the governing body of the audited entity, within 60
 613 days after the delivery of the audit report to the governing
 614 body, shall indicate during a regularly scheduled public meeting
 615 whether it intends to take corrective action, the intended
 616 corrective action, and the timeframe for the corrective action.
 617 If the governing body indicates that it does not intend to take
 618 corrective action, it must explain its decision at the public
 619 meeting.

620 Section 15. Subsection (2) of section 218.391, Florida
 621 Statutes, is amended to read:

622 218.391 Auditor selection procedures.—

623 (2) The governing body of a ~~charter~~ county, municipality,
 624 special district, district school board, charter school, or
 625 charter technical career center shall establish an audit

626 committee.

627 (a) The audit committee for a county ~~Each noncharter~~
 628 ~~county shall establish an audit committee that,~~ at a minimum,
 629 shall consist of each of the county officers elected pursuant to
 630 the county charter or s. 1(d), Art. VIII of the State
 631 Constitution, or their respective designees ~~a designee,~~ and one
 632 member of the board of county commissioners or its designee.

633 (b) The audit committee for a municipality, special
 634 district, district school board, charter school, or charter
 635 technical career center shall consist of at least three members.
 636 One member of the audit committee must be a member of the
 637 governing body of an entity specified in this paragraph, who
 638 shall also serve as the chair of the committee.

639 (c) An employee, chief executive officer, or chief
 640 financial officer of the county, municipality, special district,
 641 district school board, charter school, or charter technical
 642 career center may not serve as a member of an audit committee
 643 established under this subsection.

644 (d) The primary purpose of the audit committee is to
 645 assist the governing body in selecting an auditor to conduct the
 646 annual financial audit required in s. 218.39; however, the audit
 647 committee may serve other audit oversight purposes as determined
 648 by the entity's governing body. The public may ~~shall~~ not be
 649 excluded from the proceedings under this section.

650 Section 16. Subsection (2) of section 286.0114, Florida

651 Statutes, is amended to read:

652 286.0114 Public meetings; reasonable opportunity to be
653 heard; attorney fees.—

654 (2) Members of the public shall be given a reasonable
655 opportunity to be heard on a proposition before a board or
656 commission. The opportunity to be heard need not occur at the
657 same meeting at which the board or commission takes official
658 action on the proposition if the opportunity occurs at a meeting
659 that is during the decisionmaking process and is within
660 reasonable proximity in time before the meeting at which the
661 board or commission takes the official action. A board or
662 commission may not require a member of the public to provide an
663 advance written copy of his or her testimony or comments as a
664 condition of being given the opportunity to be heard at a
665 meeting. This section does not prohibit a board or commission
666 from maintaining orderly conduct or proper decorum in a public
667 meeting. The opportunity to be heard is subject to rules or
668 policies adopted by the board or commission, as provided in
669 subsection (4).

670 Section 17. Paragraph (e) of subsection (4), paragraph (d)
671 of subsection (5), and paragraph (d) of subsection (6) of
672 section 373.536, Florida Statutes, are amended to read:

673 373.536 District budget and hearing thereon.—

674 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

675 (e) ~~By September 1, 2012,~~ Each district shall provide a

676 monthly financial statement in the form and manner prescribed by
 677 the Department of Financial Services to the district's governing
 678 board and make such monthly financial statement available for
 679 public access on its website.

680 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
 681 APPROVAL.—

682 (d) Each district shall, by August 1 of each year, submit
 683 for review a tentative budget and a description of any
 684 significant changes from the preliminary budget submitted to the
 685 Legislature pursuant to s. 373.535 to the Governor, the
 686 President of the Senate, the Speaker of the House of
 687 Representatives, the chairs of all legislative committees and
 688 subcommittees having substantive or fiscal jurisdiction over
 689 water management districts, as determined by the President of
 690 the Senate or the Speaker of the House of Representatives, as
 691 applicable, the secretary of the department, and the governing
 692 body of each county in which the district has jurisdiction or
 693 derives any funds for the operations of the district. The
 694 tentative budget must be posted on the district's official
 695 website at least 2 days before budget hearings held pursuant to
 696 s. 200.065 or other law and must remain on the website for at
 697 least 45 days.

698 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 699 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

700 (d) The final adopted budget must be posted on the water

701 management district's official website within 30 days after
 702 adoption and must remain on the website for at least 2 years.

703 Section 18. Paragraph (1) of subsection (12) of section
 704 1001.42, Florida Statutes, is amended to read:

705 1001.42 Powers and duties of district school board.—The
 706 district school board, acting as a board, shall exercise all
 707 powers and perform all duties listed below:

708 (12) FINANCE.—Take steps to assure students adequate
 709 educational facilities through the financial procedure
 710 authorized in chapters 1010 and 1011 and as prescribed below:

711 (1) *Internal auditor.*—May employ an internal auditor to
 712 perform ongoing financial verification of the financial records
 713 of the school district and such other audits and reviews as the
 714 district school board directs for the purpose of determining:

715 1. The adequacy of internal controls designed to prevent
 716 and detect fraud, waste, and abuse as defined in s. 11.45(1).

717 2. Compliance with applicable laws, rules, contracts,
 718 grant agreements, district school board-approved policies, and
 719 best practices.

720 3. The efficiency of operations.

721 4. The reliability of financial records and reports.

722 5. The safeguarding of assets.

723

724 The internal auditor shall report directly to the district
 725 school board or its designee.

726 Section 19. Paragraph (j) of subsection (9) of section
 727 1002.33, Florida Statutes, is amended to read:
 728 1002.33 Charter schools.—
 729 (9) CHARTER SCHOOL REQUIREMENTS.—
 730 (j) The governing body of the charter school shall be
 731 responsible for:
 732 1. Establishing and maintaining internal controls designed
 733 to:
 734 a. Prevent and detect fraud, waste, and abuse as defined
 735 in s. 11.45(1).
 736 b. Promote and encourage compliance with applicable laws,
 737 rules, contracts, grant agreements, and best practices.
 738 c. Support economical and efficient operations.
 739 d. Ensure reliability of financial records and reports.
 740 e. Safeguard assets.
 741 ~~2.1-~~ Ensuring that the charter school has retained the
 742 services of a certified public accountant or auditor for the
 743 annual financial audit, pursuant to s. 1002.345(2), who shall
 744 submit the report to the governing body.
 745 ~~3.2-~~ Reviewing and approving the audit report, including
 746 audit findings and recommendations for the financial recovery
 747 plan.
 748 ~~4.a.3.a-~~ Performing the duties in s. 1002.345, including
 749 monitoring a corrective action plan.
 750 b. Monitoring a financial recovery plan in order to ensure

751 compliance.

752 ~~5.4~~ Participating in governance training approved by the
 753 department which must include government in the sunshine,
 754 conflicts of interest, ethics, and financial responsibility.

755 Section 20. Subsections (6) through (10) of section
 756 1002.37, Florida Statutes, are renumbered as subsections (7)
 757 through (11), respectively, a new subsection (6) is added to
 758 that section, and present subsections (6) and (11) of that
 759 section are amended, to read:

760 1002.37 The Florida Virtual School.-

761 (6) The Florida Virtual School shall have an annual
 762 financial audit of its accounts and records conducted by an
 763 independent auditor who is a certified public accountant
 764 licensed under chapter 473. The independent auditor shall
 765 conduct the audit in accordance with rules adopted by the
 766 Auditor General pursuant to s. 11.45 and, upon completion of the
 767 audit, shall prepare an audit report in accordance with such
 768 rules. The audit report must include a written statement by the
 769 board of trustees describing corrective action to be taken in
 770 response to each of the recommendations of the independent
 771 auditor included in the audit report. The independent auditor
 772 shall submit the audit report to the board of trustees and the
 773 Auditor General no later than 9 months after the end of the
 774 preceding fiscal year.

775 (7)~~(6)~~ The board of trustees shall annually submit to the

776 Governor, the Legislature, the Commissioner of Education, and
 777 the State Board of Education the audit report prepared pursuant
 778 to subsection (6) and a complete and detailed report setting
 779 forth:

780 (a) The operations and accomplishments of the Florida
 781 Virtual School within the state and those occurring outside the
 782 state as Florida Virtual School Global.

783 (b) The marketing and operational plan for the Florida
 784 Virtual School and Florida Virtual School Global, including
 785 recommendations regarding methods for improving the delivery of
 786 education through the Internet and other distance learning
 787 technology.

788 (c) The assets and liabilities of the Florida Virtual
 789 School and Florida Virtual School Global at the end of the
 790 fiscal year.

791 ~~(d) A copy of an annual financial audit of the accounts~~
 792 ~~and records of the Florida Virtual School and Florida Virtual~~
 793 ~~School Global, conducted by an independent certified public~~
 794 ~~accountant and performed in accordance with rules adopted by the~~
 795 ~~Auditor General.~~

796 (d)(e) Recommendations regarding the unit cost of
 797 providing services to students through the Florida Virtual
 798 School and Florida Virtual School Global. In order to most
 799 effectively develop public policy regarding any future funding
 800 of the Florida Virtual School, it is imperative that the cost of

801 the program is accurately identified. The identified cost of the
 802 program must be based on reliable data.

803 (e)~~(f)~~ Recommendations regarding an accountability
 804 mechanism to assess the effectiveness of the services provided
 805 by the Florida Virtual School and Florida Virtual School Global.

806 ~~(11) The Auditor General shall conduct an operational
 807 audit of the Florida Virtual School, including Florida Virtual
 808 School Global. The scope of the audit shall include, but not be
 809 limited to, the administration of responsibilities relating to
 810 personnel; procurement and contracting; revenue production;
 811 school funds, including internal funds; student enrollment
 812 records; franchise agreements; information technology
 813 utilization, assets, and security; performance measures and
 814 standards; and accountability. The final report on the audit
 815 shall be submitted to the President of the Senate and the
 816 Speaker of the House of Representatives no later than January
 817 31, 2014.~~

818 Section 21. Subsection (5) is added to section 1010.01,
 819 Florida Statutes, to read:

820 1010.01 Uniform records and accounts.—

821 (5) Each school district, Florida College System
 822 institution, and state university shall establish and maintain
 823 internal controls designed to:

824 (a) Prevent and detect fraud, waste, and abuse as defined
 825 in s. 11.45(1).

826 (b) Promote and encourage compliance with applicable laws,
 827 rules, contracts, grant agreements, and best practices.

828 (c) Support economical and efficient operations.

829 (d) Ensure reliability of financial records and reports.

830 (e) Safeguard assets.

831 Section 22. Subsection (2) of section 1010.30, Florida
 832 Statutes, is amended to read:

833 1010.30 Audits required.—

834 (2) If a school district, Florida College System
 835 institution, or university audit report includes a
 836 recommendation that was included in the preceding financial
 837 audit report but remains unaddressed ~~an audit contains a~~
 838 ~~significant finding~~, the district school board, the Florida
 839 College System institution board of trustees, or the university
 840 board of trustees, within 60 days after the delivery of the
 841 audit report to the school district, Florida College System
 842 institution, or university, shall indicate ~~conduct an audit~~
 843 ~~overview~~ during a regularly scheduled public meeting whether it
 844 intends to take corrective action, the intended corrective
 845 action, and the timeframe for the corrective action. If the
 846 district school board, Florida College System institution board
 847 of trustees, or university board of trustees indicates that it
 848 does not intend to take corrective action, it shall explain its
 849 decision at the public meeting.

850 Section 23. Subsection (3) of section 218.503, Florida

851 Statutes, is amended to read:
 852 218.503 Determination of financial emergency.—
 853 (3) Upon notification that one or more of the conditions
 854 in subsection (1) have occurred or will occur if action is not
 855 taken to assist the local governmental entity or district school
 856 board, the Governor or his or her designee shall contact the
 857 local governmental entity or the Commissioner of Education or
 858 his or her designee shall contact the district school board, as
 859 appropriate, to determine what actions have been taken by the
 860 local governmental entity or the district school board to
 861 resolve or prevent the condition. The information requested must
 862 be provided within 45 days after the date of the request. If the
 863 local governmental entity or the district school board does not
 864 comply with the request, the Governor or his or her designee or
 865 the Commissioner of Education or his or her designee shall
 866 notify ~~the members of~~ the Legislative Auditing Committee, which
 867 ~~who~~ may take action pursuant to s. 11.40(2) ~~11.40~~. The Governor
 868 or the Commissioner of Education, as appropriate, shall
 869 determine whether the local governmental entity or the district
 870 school board needs state assistance to resolve or prevent the
 871 condition. If state assistance is needed, the local governmental
 872 entity or district school board is considered to be in a state
 873 of financial emergency. The Governor or the Commissioner of
 874 Education, as appropriate, has the authority to implement
 875 measures as set forth in ss. 218.50-218.504 to assist the local

876 governmental entity or district school board in resolving the
 877 financial emergency. Such measures may include, but are not
 878 limited to:

879 (a) Requiring approval of the local governmental entity's
 880 budget by the Governor or approval of the district school
 881 board's budget by the Commissioner of Education.

882 (b) Authorizing a state loan to a local governmental
 883 entity and providing for repayment of same.

884 (c) Prohibiting a local governmental entity or district
 885 school board from issuing bonds, notes, certificates of
 886 indebtedness, or any other form of debt until such time as it is
 887 no longer subject to this section.

888 (d) Making such inspections and reviews of records,
 889 information, reports, and assets of the local governmental
 890 entity or district school board as are needed. The appropriate
 891 local officials shall cooperate in such inspections and reviews.

892 (e) Consulting with officials and auditors of the local
 893 governmental entity or the district school board and the
 894 appropriate state officials regarding any steps necessary to
 895 bring the books of account, accounting systems, financial
 896 procedures, and reports into compliance with state requirements.

897 (f) Providing technical assistance to the local
 898 governmental entity or the district school board.

899 (g)1. Establishing a financial emergency board to oversee
 900 the activities of the local governmental entity or the district

901 school board. If a financial emergency board is established for
 902 a local governmental entity, the Governor shall appoint board
 903 members and select a chair. If a financial emergency board is
 904 established for a district school board, the State Board of
 905 Education shall appoint board members and select a chair. The
 906 financial emergency board shall adopt such rules as are
 907 necessary for conducting board business. The board may:

908 a. Make such reviews of records, reports, and assets of
 909 the local governmental entity or the district school board as
 910 are needed.

911 b. Consult with officials and auditors of the local
 912 governmental entity or the district school board and the
 913 appropriate state officials regarding any steps necessary to
 914 bring the books of account, accounting systems, financial
 915 procedures, and reports of the local governmental entity or the
 916 district school board into compliance with state requirements.

917 c. Review the operations, management, efficiency,
 918 productivity, and financing of functions and operations of the
 919 local governmental entity or the district school board.

920 d. Consult with other governmental entities for the
 921 consolidation of all administrative direction and support
 922 services, including, but not limited to, services for asset
 923 sales, economic and community development, building inspections,
 924 parks and recreation, facilities management, engineering and
 925 construction, insurance coverage, risk management, planning and

926 zoning, information systems, fleet management, and purchasing.

927 2. The recommendations and reports made by the financial
 928 emergency board must be submitted to the Governor for local
 929 governmental entities or to the Commissioner of Education and
 930 the State Board of Education for district school boards for
 931 appropriate action.

932 (h) Requiring and approving a plan, to be prepared by
 933 officials of the local governmental entity or the district
 934 school board in consultation with the appropriate state
 935 officials, prescribing actions that will cause the local
 936 governmental entity or district school board to no longer be
 937 subject to this section. The plan must include, but need not be
 938 limited to:

939 1. Provision for payment in full of obligations outlined
 940 in subsection (1), designated as priority items, which are
 941 currently due or will come due.

942 2. Establishment of priority budgeting or zero-based
 943 budgeting in order to eliminate items that are not affordable.

944 3. The prohibition of a level of operations which can be
 945 sustained only with nonrecurring revenues.

946 4. Provisions implementing the consolidation, sourcing, or
 947 discontinuance of all administrative direction and support
 948 services, including, but not limited to, services for asset
 949 sales, economic and community development, building inspections,
 950 parks and recreation, facilities management, engineering and

951 construction, insurance coverage, risk management, planning and
 952 zoning, information systems, fleet management, and purchasing.

953 Section 24. Subsection (2) of section 1002.455, Florida
 954 Statutes, is amended to read:

955 1002.455 Student eligibility for K-12 virtual
 956 instruction.—

957 (2) A student is eligible to participate in virtual
 958 instruction if:

959 (a) The student spent the prior school year in attendance
 960 at a public school in the state and was enrolled and reported by
 961 the school district for funding during October and February for
 962 purposes of the Florida Education Finance Program surveys;

963 (b) The student is a dependent child of a member of the
 964 United States Armed Forces who was transferred within the last
 965 12 months to this state from another state or from a foreign
 966 country pursuant to a permanent change of station order;

967 (c) The student was enrolled during the prior school year
 968 in a virtual instruction program under s. 1002.45 or a full-time
 969 Florida Virtual School program under s. 1002.37(9)(a)
 970 ~~1002.37(8)(a)~~;

971 (d) The student has a sibling who is currently enrolled in
 972 a virtual instruction program and the sibling was enrolled in
 973 that program at the end of the prior school year;

974 (e) The student is eligible to enter kindergarten or first
 975 grade; or

976 (f) The student is eligible to enter grades 2 through 5
 977 and is enrolled full-time in a school district virtual
 978 instruction program, virtual charter school, or the Florida
 979 Virtual School.

980 Section 25. The Legislature finds that a proper and
 981 legitimate state purpose is served when internal controls are
 982 established to prevent and detect fraud, waste, and abuse and to
 983 safeguard and account for government funds and property.
 984 Therefore, the Legislature determines and declares that this act
 985 fulfills an important state interest.

986 Section 26. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Accountability
 2 Committee

3 Representative Metz offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove lines 620-649 and insert:

7 Section 15. Subsection (2) of section 218.391, Florida
 8 Statutes, is amended, and subsections (9), (10), (11), and (12)
 9 are added to that section, to read:

10 218.391 Auditor selection procedures.—

11 (2) The governing body of a ~~charter~~ county, municipality,
 12 special district, district school board, charter school, or
 13 charter technical career center shall establish an audit
 14 committee. Each noncharter county shall establish an audit
 15 committee that, at a minimum, shall consist of each of the
 16 county officers elected pursuant to s. 1(d), Art. VIII of the



Amendment No. 1

17 State Constitution, or a designee, and one member of the board
18 of county commissioners or its designee.

19 (a) The audit committee for a county ~~Each noncharter~~
20 ~~county shall establish an audit committee that,~~ at a minimum,
21 shall consist of each of the county officers elected pursuant to
22 the county charter or s. 1(d), Art. VIII of the State
23 Constitution, or their respective designees a designee, and one
24 member of the board of county commissioners or its designee.

25 (b) The audit committee for a municipality, special
26 district, district school board, charter school, or charter
27 technical career center shall consist of at least three members.
28 One member of the audit committee must be a member of the
29 governing body of an entity specified in this paragraph, who
30 shall also serve as the chair of the committee.

31 (c) An employee, chief executive officer, or chief
32 financial officer of the county, municipality, special district,
33 district school board, charter school, or charter technical
34 career center may not serve as a member of an audit committee
35 established under this subsection.

36 (d) The primary purpose of the audit committee is to
37 assist the governing body in selecting an auditor to conduct the
38 annual financial audit required in s. 218.39; however, the audit
39 committee may serve other audit oversight purposes as determined
40 by the entity's governing body. The public shall not be excluded
41 from the proceedings under this section.



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42 (9) For each audit required by s. 218.39, the auditor
43 shall include in the management letter prepared pursuant to s.
44 218.39(4) the following information:

45 (a) The date the entity's governing body approved the
46 selection of the auditor and the date the entity and the auditor
47 executed the most recent contract pursuant to subsection (7);

48 (b) The first fiscal year for which the auditor conducted
49 the audit under the most recently executed contract pursuant to
50 subsection (7); and

51 (c) The contract period, including renewals, and
52 conditions under which the contract may be terminated or
53 renewed.

54 (10) On each occasion that an entity contracts with an
55 auditor to conduct an audit pursuant to s. 218.39, an affidavit
56 shall be executed by the chair of the entity's governing body in
57 a format prescribed in accordance with rules adopted by the
58 Auditor General, affirming that the auditor was selected in
59 compliance with the requirements of subsections (3) through (6).
60 The affidavit must accompany the entity's first audit report
61 prepared by the auditor under the most recently executed
62 contract pursuant to subsection (7). The affidavit shall include
63 the following information:

64 (a) The date the entity's governing body approved the
65 selection of the auditor;



Amendment No. 1

66 (b) The first fiscal year for which the auditor conducted
67 the audit; and

68 (c) The contract period, including renewals, and
69 conditions under which the contract may be terminated or
70 renewed.

71 (11) If the entity fails to select the auditor in
72 accordance with the requirements of subsections (3) through (6),
73 the entity shall re-perform the auditor selection process in
74 accordance with this section to select an auditor to conduct
75 audits for subsequent fiscal years if the original audit was
76 performed under a multiyear contract.

77 (a) If re-performing the auditor selection process in
78 accordance with this section would preclude the entity from
79 timely completing the annual financial audit required by s.
80 218.39, the entity shall re-perform the auditor selection
81 process in accordance with this section for the subsequent
82 annual financial audit. A multiyear contract entered into
83 between an entity and an auditor after the effective date of
84 this act may not prohibit or restrict an entity from complying
85 with the section.

86 (b) If the entity fails to re-perform the auditor
87 selection process pursuant to this subsection, the Legislative
88 Auditing Committee shall determine whether the entity should be
89 subject to state action pursuant to s. 11.40(2).



Amendment No. 1

90 (12) If the entity fails to provide the Auditor General
91 with the affidavit required by subsection (10), the Auditor
92 General shall request that the entity provide the affidavit.
93 The affidavit must be provided within 45 days after the date of
94 the request. If the entity does not comply with the Auditor
95 General's request, the Legislative Auditing Committee shall
96 determine whether the entity should be subject to state action
97 pursuant to s. 11.40(2).

98
99 -----
100 **T I T L E A M E N D M E N T**

101 Remove line 65 and insert:

102 governmental entity; requiring an auditor to include
103 certain information in a management letter; requiring the
104 chair of a governmental entity's governing body to submit
105 an affidavit containing certain information when the entity
106 contracts with an auditor to conduct an audit; providing
107 requirements and procedures for selecting an auditor;
108 requiring the Legislative Auditing Committee to determine
109 whether a governmental entity should be subject to state
110 action under certain circumstances; amending s. 286.0114,
111 F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 599 Public Works Projects
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Williamson and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	13 Y, 0 N, As CS	Moore	Harrington
2) Local, Federal & Veterans Affairs Subcommittee	9 Y, 5 N	Darden	Miller
3) Government Accountability Committee		Moore <i>AM</i>	Williamson <i>Raw</i>

SUMMARY ANALYSIS

Contracts for construction services that are projected to cost more than a specified threshold must be competitively awarded. Specifically, state contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid. Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the estimated cost exceeds \$300,000. The solicitation of competitive bids or proposals must be publicly advertised in the Florida Administrative Register.

The bill creates s. 255.0992, F.S., relating to public works projects. The bill defines the terms "political subdivision" and "public works project." It prohibits the state or a political subdivision, except when required by state or federal law, from requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

In addition, the bill provides that the state or a political subdivision that contracts for a public works project may not prohibit a contractor, subcontractor, or material supplier or carrier from submitting a bid on the project or being awarded the relevant contract if such individual is otherwise qualified to do the work described. This provision does not apply to vendors that have been convicted of a public entity crime or have been found to have committed discrimination.

The bill's prohibitions apply only to public works projects of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation.

The bill does not apply to contracts executed by the Department of Transportation under ch. 337, F.S.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Labor and Wage Laws

The National Labor Relations Act of 1935¹ and the Labor Management Relations Act of 1947² constitute a comprehensive scheme of regulations guaranteeing employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.

The Fair Labor Standards Act (FLSA or act) establishes a federal minimum wage, which is the lowest hourly wage that can be paid in the United States.³ A state may set the rate higher than the federal minimum, but not lower.⁴ The act also requires employers to pay time and a half to their employees for overtime hours worked,⁵ and establishes standards for recordkeeping⁶ and child labor.⁷ Over 135 million workers are covered under the act,⁸ most, but not all, jobs are covered by the FLSA. In addition, some jobs covered by the act are considered "exempt" from the FLSA overtime requirements.⁹

On February 12, 2014, President Obama signed Executive Order 13658, which establishes a minimum wage for certain federal contractors.¹⁰ The Executive Order requires parties who contract with the federal government to pay workers performing work on or in connection with covered federal contracts at least \$10.10 per hour beginning January 1, 2015. Beginning January 1, 2016, and annually thereafter, such workers must be paid an amount determined by the Secretary of Labor in accordance with the Executive Order. The order stated that "[r]aising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs."¹¹ The Executive Order hourly minimum wage in effect from January 1, 2017, through December 31, 2017, is \$10.20.¹²

The Davis-Bacon Act¹³ applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and

¹ 29 U.S.C. ss. 151-169 (encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection).

² 29 U.S.C. ss. 141-197 (prescribing the rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce).

³ 29 U.S.C. s. 206.

⁴ 29 U.S.C. s. 218(a).

⁵ 29 U.S.C. s. 207(a)(1).

⁶ 29 U.S.C. s. 211.

⁷ 29 U.S.C. s. 212.

⁸ United States Department of Labor, *Wage and Hour Division: Resources for Workers*, <http://www.dol.gov/whd/workers.htm> (last visited Feb. 24, 2017).

⁹ 29 U.S.C. s. 213; United States Department of Labor, *Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)*, www.dol.gov/whd/regs/compliance/whdfs14.pdf (last visited Feb. 24, 2017).

¹⁰ Exec. Order 13658, 79 Fed. Reg. 9851 (Feb. 12, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors> (last visited Mar. 11, 2017).

¹¹ *Id.*

¹² 81 Fed. Reg. 64513 (Sept. 20, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-09-20/pdf/2016-22515.pdf> (last visited Mar. 11, 2017).

¹³ Davis-Bacon Act, 40 U.S.C. s. 3141-3148.

decorating) of public buildings or public works.¹⁴ Contractors and subcontractors subject to the Davis-Bacon Act are required to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, as determined by the Department of Labor.¹⁵ The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts.¹⁶ Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are referred to as Davis-Bacon “related Acts.”¹⁷ The “related Acts” include provisions that require the prevailing wage provisions of the Davis-Bacon Act to apply to most federally assisted construction.¹⁸

State Labor and Wage Regulations

The State Constitution protects the right for workers to collectively bargain, including public sector employees.¹⁹ It provides, in pertinent part, that “[t]he right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” The Florida Supreme Court has held that public employees maintain the same rights to collectively bargain as do private employees.²⁰

In addition, the State Constitution provides that “[a]ll working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.”²¹ Employers must pay employees no less than the minimum wage for all hours worked in Florida.²² The current state minimum wage is \$8.10 per hour,²³ which is higher than the federal rate.²⁴

Procurement of Construction Services

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The Department of Management Services is responsible for establishing by rule the following:

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertising for and receiving bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Procedures for entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.²⁵

¹⁴ United States Department of Labor, *Wage and Hour Division: Davis-Bacon and Related Acts*, <http://www.dol.gov/whd/govcontracts/dbra.htm> (last visited Feb. 24, 2017).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ United States Department of Labor, *Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)*, <http://www.dol.gov/whd/regs/compliance/whdfs66.pdf> (last visited Feb. 24, 2017). Examples of “related Acts” are the Federal Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

¹⁸ *Id.*

¹⁹ Art. I, s. 6, FLA. CONST.

²⁰ See *Hillsborough Cnty. Gov’tl Emps. Ass’n, Inc. v. Hillsborough Cnty. Aviation Auth.*, 522 So. 2d 358 (Fla. 1988); *City of Tallahassee v. Public Employees Relations Comm’n*, 410 So. 2d 487 (Fla. 1981); *Dade Cnty. Classroom Teachers Ass’n v. Legislature of Fla.*, 269 So. 2d 684 (Fla. 1972).

²¹ Art. X, s. 24(a), FLA. CONST.

²² Art. X, s. 24(c), FLA. CONST.

²³ Department of Economic Opportunity, *Display Posters and Required Notices*, <http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notice> (last visited Feb. 24, 2017).

²⁴ The federal minimum wage is \$7.25 per hour. For more information about federal minimum wage provisions, see <http://www.dol.gov/whd/minimumwage.htm> (last visited Feb. 24, 2017).

²⁵ Section 255.29, F.S.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.²⁶ A county, municipality, special district, or other political subdivision seeking to construct or improve a public building must competitively bid the project if the estimated cost is in excess of \$300,000.²⁷

Section 255.0525, F.S., requires the solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 to be publicly advertised in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening. If the cost of the construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening, and at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the bid opening.²⁸

Florida law provides a preference for the employment of state residents in construction contracts funded with state funds. Such contracts must contain a provision requiring the contractor to give preference to employing state residents to perform the work if such residents have substantially equal qualifications²⁹ to those of non-residents.³⁰ If a construction contract is funded by local funds, the contract may, but is not required to, contain such a provision.³¹ In addition, a contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.³²

For a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

- The contractor's maintaining an office or place of business within a particular local jurisdiction;
- The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or
- The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.³³

Several counties and municipalities have adopted ordinances requiring companies bidding on contracts to pay their employees a "living wage,"³⁴ while others have adopted ordinances requiring apprenticeship programs.³⁵

Department of Transportation Construction Projects

Chapter 337, F.S., governs contracting by the Department of Transportation (DOT). Any person who wants to bid for a construction contract in excess of \$250,000 must be certified by DOT as qualified.³⁶ Certification is also required to bid on road, bridge, or public transportation construction projects of more than \$250,000.³⁷ The purpose of certification is to ensure professional and financial competence

²⁶ See s. 255.0525, F.S.; see also chapters 60D-5.002 and 60D-5.0073, F.A.C.

²⁷ Section 255.20(1), F.S. For electrical work, local governments must competitively bid projects estimated to cost more than \$75,000.

²⁸ For counties, municipalities, and political subdivisions, similar publishing provisions apply. See Section 255.0525(2), F.S.

²⁹ Section 255.099(1)(a), F.S., defines substantially equal qualifications as the "qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons."

³⁰ Section 255.099(1), F.S.

³¹ *Id.*

³² Section 255.099(1)(b), F.S.

³³ Section 255.0991(2), F.S.

³⁴ See, e.g., Broward County Code of Ordinances s. 26-102, Palm Beach County Code of Ordinances s. 2-147 to 2-250.1, Miami-Dade County Code of Ordinances s. 2-8.9.

³⁵ See Charlie Frago, *St. Pete council approves mandatory apprentice program for city projects*, Tampa Bay Times (May 7, 2015), available at <http://www.tampabay.com/news/localgovernment/st-pete-council-approves-mandatory-apprentice-program-for-city-projects/2228783> (last visited Mar. 11, 2017).

³⁶ Section 337.14(1), F.S. and ch. 14-22, F.A.C.

³⁷ Section 337.14(2), F.S.

relating to the performance of construction contracts by evaluating bidders “with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification.”³⁸

Effect of Proposed Changes

The bill creates s. 255.0992, F.S., relating to public works projects. It defines the following terms:

- “Political subdivision” means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works.
- “Public works project” means an activity of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation and which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.

The bill provides that except as required by federal or state law, the state or any political subdivision that contracts for a public works project may not require a contractor, subcontractor, or material supplier or carrier engaged in the project to:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

In addition, the bill provides that the state or any political subdivision that contracts for a public works project may not prohibit any contractor, subcontractor, or material supplier or carrier from submitting a bid on the project or being awarded the relevant contract if such individual is able to perform the work described and is qualified, licensed, or certified as required by state law. The bill specifies that this provision does not apply to vendors listed in ss. 287.133³⁹ and 287.134, F.S.⁴⁰

The bill does not apply to contracts executed by DOT under ch. 337, F.S.

B. SECTION DIRECTORY:

Section 1. creates s. 255.0992, F.S., relating to public works projects.

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

³⁸ Section 337.14(1), F.S.

³⁹ Section 287.133, F.S., prohibits a vendor that has been convicted of a public entity crime from being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with the state, any of its departments or agencies, or any political subdivision.

⁴⁰ Section 287.134, F.S., prohibits an entity that has been found by a court to have committed discrimination based on race, gender, national origin, disability, or religion from being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with the state or any department or agency of the state.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state revenues.

2. Expenditures:

The bill does not appear to impact state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides rulemaking authority nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 8, 2017, the Oversight, Transparency & Administration Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Revised the definition of “public works project” so that it only includes activities of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation; and
- Clarified that although the state or a political subdivision that contracts for a public works project may not prohibit any contractor, subcontractor, or material supplier or carrier from submitting a bid or being awarded the contract if such individual is qualified and able to perform the work, this provision does not apply to vendors listed in ss. 287.133 and 287.134, F.S.

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

1 A bill to be entitled
 2 An act relating to public works projects; creating s.
 3 255.0992, F.S.; providing definitions; prohibiting the
 4 state and political subdivisions that contract for
 5 public works projects from imposing restrictive
 6 conditions on certain contractors, subcontractors, or
 7 material suppliers or carriers; prohibiting the state
 8 and political subdivisions from restricting qualified
 9 bidders from submitting bids or being awarded
 10 contracts; providing applicability; providing an
 11 effective date.

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

14
 15 Section 1. Section 255.0992, Florida Statutes, is created
 16 to read:

17 255.0992 Public works projects; prohibited governmental
 18 actions.-

19 (1) As used in this section, the term:

20 (a) "Political subdivision" means a separate agency or
 21 unit of local government created or established by law or
 22 ordinance and the officers thereof. The term includes, but is
 23 not limited to, a county; a city, town, or other municipality;
 24 or a department, commission, authority, school district, taxing
 25 district, water management district, board, public corporation,

26 institution of higher education, or other public agency or body
 27 thereof authorized to expend public funds for construction,
 28 maintenance, repair, or improvement of public works.

29 (b) "Public works project" means an activity of which 50
 30 percent or more of the cost will be paid from state-appropriated
 31 funds that were appropriated at the time of the competitive
 32 solicitation and which consists of the construction,
 33 maintenance, repair, renovation, remodeling, or improvement of a
 34 building, road, street, sewer, storm drain, water system, site
 35 development, irrigation system, reclamation project, gas or
 36 electrical distribution system, gas or electrical substation, or
 37 other facility, project, or portion thereof that is owned in
 38 whole or in part by any political subdivision.

39 (2) (a) Except as required by federal or state law, the
 40 state or any political subdivision that contracts for a public
 41 works project may not require that a contractor, subcontractor,
 42 or material supplier or carrier engaged in such project:

43 1. Pay employees a predetermined amount of wages or
 44 prescribe any wage rate;

45 2. Provide employees a specified type, amount, or rate of
 46 employee benefits;

47 3. Control, limit, or expand staffing; or

48 4. Recruit, train, or hire employees from a designated,
 49 restricted, or single source.

50 (b) The state or any political subdivision that contracts

51 for a public works project may not prohibit any contractor,
52 subcontractor, or material supplier or carrier able to perform
53 such work who is qualified, licensed, or certified as required
54 by state law to perform such work from submitting a bid on the
55 public works project or being awarded any contract, subcontract,
56 material order, or carrying order. This paragraph does not apply
57 to vendors listed under ss. 287.133 and 287.134.

58 (3) This section does not apply to contracts executed
59 under chapter 337.

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



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Government Accountability
Committee

Representative Williamson offered the following:

Amendment (with title amendment)

Remove lines 55-56 and insert:
public works project. This paragraph does not apply

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

Remove lines 9-10 and insert:
bidders from submitting bids; providing applicability;
providing an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 601 Personal Delivery Devices
SPONSOR(S): Transportation & Infrastructure Subcommittee; Williamson and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 460

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Banner	Miller
3) Government Accountability Committee		Johnson	Williamson

SUMMARY ANALYSIS

Personal delivery devices (PDDs) are low mass, low speed, electronic devices traveling on sidewalks using mapping, navigation, and obstacle avoidance technology. These devices are equipped with cameras, sensors and other technology to allow the devices to be operated with or without the active control or monitoring of an operator. PDDs are designed to be a low cost, low emissions method of delivery for goods and property.

The bill defines “personal delivery device” and “personal delivery device operator” and provides that PDDs are not motor vehicles or vehicles for purposes of traffic control, registration, and financial responsibility.

The bill provides minimum operating requirements for PDDs including limiting their operation to sidewalks and crosswalks, identification requirements, brake requirements, operator requirements, and insurance requirements. The bill authorizes, subject to local government regulation, the operation of PDDs on municipal and county sidewalks, but prohibits them on certain state-owned trails.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Personal Delivery Devices

Personal delivery devices (PDDs) are low mass, low speed devices traveling on sidewalks using mapping, navigation, and obstacle avoidance technology. These devices are equipped with cameras and sensors and are monitored by a remote operator. PDDs are designed to be a low cost, low-emissions method of delivery.¹ PDDs are currently being tested in various communities in the United States and Europe. At least one other state, Virginia, has enacted legislation authorizing the use of PDDs on its sidewalks.

Currently, Florida law does not contain any provisions regarding the operation of PDDs.

Florida Traffic and Motor Vehicle Laws

Chapter 316, F.S., is the Florida Uniform Traffic Control Law,² the purpose of which is to make uniform traffic laws apply throughout the state and its counties and uniform traffic ordinances to apply in all municipalities.³ Section 316.008, F.S., provides the powers of local authorities relating to traffic regulation. Specifically, s. 316.008(7), F.S., authorizes a county or municipality to enact ordinances to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

Chapter 320, F.S., relates to motor vehicle licenses. It provides motor vehicle registration requirements and requires certain documents for motor vehicle registration, including proof of certain automobile insurance.⁴ For purposes of chapter 320, F.S., the term "motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on Florida roads, used to transport persons or property, and propelled by power other than muscular power. It does not include traction engines, road rollers, special mobile equipment,⁵ vehicles that run only upon a track, bicycles, swamp buggies, or mopeds.⁶

Chapter 324, F.S., which is the Financial Responsibility Law of 1955,⁷ addresses motor vehicle financial responsibility. Its purpose is to recognize the existing privilege to own or operate a motor vehicle on the public streets and highways of Florida when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security requirements for such owners or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. It provides that the operator of a motor

¹ Starship Technologies Frequently Asked Questions (On file with Transportation & Infrastructure Subcommittee).

² Section 316.001, F.S.

³ Section 316.002, F.S.

⁴ Section 320.02, F.S.

⁵ Section 316.003(71), F.S., defines the term "special mobile equipment" to mean any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. It does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

⁶ Section 320.01(1)(a), F.S.

⁷ Section 324.251, F.S.

vehicle involved in a crash or convicted of certain traffic offenses must respond for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his or her future exercise of such privileges.⁸

For purposes of chapter 324, F.S., the term “motor vehicle” means every self-propelled vehicle that is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle that is propelled by electric power obtained from overhead wires but not operated upon rails. It does not include a bicycle or moped. In addition, the term may not include any motor vehicle as defined in s. 627.732(3), F.S., when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, F.S., inclusive, unless the provisions of s. 324.051, F.S., apply, and in such case, the applicable proof of insurance provisions of s. 320.02, F.S., apply.⁹

Section 324.022(2)(a), F.S., also defines the term “motor vehicle” as it relates to financial responsibility for property damage. It provides that a motor vehicle is any self-propelled vehicle that has four or more wheels and that is of a type designed and required to be licensed for use on Florida highways, and any trailer or semitrailer designed for use with such vehicle. It does not include a mobile home; a motor vehicle that is used in mass transit and designed to transport more than five passengers, exclusive of the operator of the motor vehicle, and that is owned by a municipality, transit authority, or political subdivision of the state; a school bus; or a vehicle providing for-hire transportation that is subject to the provisions of s. 324.031, F.S.

Proposed Changes

For purposes of the Florida Uniform Traffic Control Law, the bill defines the term “personal delivery devices” and “personal delivery device operator.” A personal delivery device is an electronically powered device that:

- Is operated on sidewalks and crosswalks and intended primarily to transport property;
- Weighs less than 80 pounds, excluding cargo;
- Has a maximum speed of 10 miles per hour; and
- Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

A PDD is not considered a vehicle unless expressly defined by law as such.

A personal delivery device operator is an entity or its agent¹⁰ that exercises direct physical control or monitoring of the navigation system and operation of a PDD. A PDD operator is not an entity or person who requests the services of a PDD for the purpose of transporting property or an entity or person who only arranges for and dispatches the requested services of a PDD.

The bill amends s. 316.008(7), F.S., to provide that a PDD may be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law. This does not restrict a county or municipality from otherwise adopting regulations for the safe operation of PDDs. It prohibits the use of PDDs on the Florida Shared-Use Nonmotorized Trail Network (SunTrail)¹¹ or components of the Florida Greenways and Trails System.¹²

The bill creates s. 316.2070, F.S., relating to PDDs. It provides that notwithstanding any provision of law to the contrary, a PDD may operate on sidewalks and crosswalks subject to s. 316.008(7)(b), F.S.

⁸ Section 324.011, F.S.

⁹ Section 324.021(1), F.S.

¹⁰ The term “agent” means a person charged by the entity with the responsibility for navigating and operating the personal delivery device.

¹¹ SunTrail is created in s. 339.81, F.S.

¹² The Florida Greenways and Trails System is created in Ch. 260, F.S.

PDDs operating on sidewalks and crosswalks have all the rights and duties applicable to a pedestrian under the same circumstances, except that PDDs must not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on sidewalks and crosswalks.

The bill requires PDDs to obey all official traffic and pedestrian control signals and devices; include a plate or marker identifying the name and contact information of the PDD operator and a unique identifying number; and be equipped with a braking system that, when active or engaged, enables the PDD to come to a controlled stop. A PDD may not operate on a public highway, except to the extent necessary to cross a crosswalk; operate on a sidewalk or crosswalk unless the PDD operator is actively controlling or monitoring the navigation and operation of the PDD; or transport hazardous materials.¹³

The bill requires PDD operators to maintain an insurance policy, on behalf of itself and its agents, that provides general liability coverage of at least \$100,000 for damages arising from the combined operations of PDDs under the entity's or agent's control.

The bill amends s. 320.01(1)(a), F.S., to provide that PDDs are not motor vehicles for purposes of motor vehicle licensing. It also creates s. 320.02(19), F.S., to provide that PDDs are not required to satisfy the motor vehicle registration and insurance requirements of s. 320.02, F.S. The bill amends ss. 324.021(1) and 324.022(2)(a), F.S., to provide that PDDs are not motor vehicles for purposes of the Motor Vehicle Financial Responsibility Law.

Finally, the bill makes conforming changes.

B. SECTION DIRECTORY:

Section 1 amends s. 316.003, F.S., relating to definitions.

Section 2 amends s. 316.008, F.S., relating to powers of local authorities.

Section 3 creates s. 316.2070, F.S., relating to PDDs.

Section 4 amends s. 320.01, F.S., relating to definitions.

Section 5 amends s. 320.02, F.S., relating to registration requirements and application for registration.

Section 6 amends s. 324.021, F.S., relating to definitions and minimum insurance requirements.

Section 7 amends s. 324.022, F.S., relating to financial responsibility for property damage.

Sections 8 through 11 amend ss. 316.2128, 316.545, 316.613, and 655.960, F.S., conforming cross-references.

Section 12 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹³ Section 316.003(28), F.S., defines "hazardous material" as "any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(13)."

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private businesses may see a reduction in delivery costs associated with the use of personal delivery devices.

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:

The bill does not appear to contain any enforcement provisions. Therefore, it is unclear what would happen if a PDD operator violates any of the provisions contained in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Defined "personal delivery device" and "personal delivery device operator".
- Provided that PDDs are not motor vehicles for the purposes of traffic control, motor vehicle licenses, and motor vehicle financial responsibility.
- Authorized the use of PDDs on sidewalks, subject to local government regulation, and prohibited their use on the SunTrail and the Florida Greenways and Trails System.
- Provided guidelines for operating PDDs.
- Provided minimum insurance requirements for PDDs.

- Provided that PDDs do not need to register as motor vehicles and meet certain motor vehicle insurance requirements.

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

1 A bill to be entitled
 2 An act relating to personal delivery devices; amending
 3 s. 316.003, F.S.; revising and providing definitions;
 4 amending s. 316.008, F.S.; authorizing operation of
 5 personal delivery devices within a county or
 6 municipality under certain circumstances; providing
 7 construction; providing exceptions; creating s.
 8 316.2070, F.S.; providing requirements for the
 9 operation of such devices; requiring specified
 10 insurance coverage; amending ss. 320.01, 324.021, and
 11 324.022, F.S.; excluding such devices from the
 12 definition of the term "motor vehicle"; amending s.
 13 320.02, F.S.; exempting such devices from certain
 14 registration and insurance requirements; amending ss.
 15 316.2128, 316.545, 316.613, and 655.960, F.S.;
 16 conforming cross-references; providing an effective
 17 date.

18
 19 Be It Enacted by the Legislature of the State of Florida:
 20

21 Section 1. Subsections (51) through (97) of section
 22 316.003, Florida Statutes, are renumbered as subsections (53)
 23 through (99), respectively, present subsections (40), (55), and
 24 (95) are amended, and new subsections (51) and (52) are added to
 25 that section, to read:

26 316.003 Definitions.—The following words and phrases, when
 27 used in this chapter, shall have the meanings respectively
 28 ascribed to them in this section, except where the context
 29 otherwise requires:

30 (40) MOTOR VEHICLE.—Except when used in s. 316.1001, a
 31 self-propelled vehicle not operated upon rails or guideway, but
 32 not including any bicycle, motorized scooter, electric personal
 33 assistive mobility device, personal delivery device, swamp
 34 buggy, or moped. For purposes of s. 316.1001, "motor vehicle"
 35 has the same meaning as provided in s. 320.01(1)(a).

36 (51) PERSONAL DELIVERY DEVICE.—An electrically powered
 37 device that:

38 (a) Is operated on sidewalks and crosswalks and intended
 39 primarily for transporting property;

40 (b) Weighs less than 80 pounds, excluding cargo;

41 (c) Has a maximum speed of 10 miles per hour; and

42 (d) Is equipped with technology to allow for operation of
 43 the device with or without the active control or monitoring of a
 44 natural person.

45
 46 A personal delivery device is not considered a vehicle unless
 47 expressly defined by law as a vehicle.

48 (52) PERSONAL DELIVERY DEVICE OPERATOR.—An entity or its
 49 agent that exercises direct physical control over or monitoring
 50 of the navigation system and operation of a personal delivery

51 device. For the purposes of this subsection, the term "agent"
 52 means a person charged by the entity with the responsibility of
 53 navigating and operating the personal delivery device. The term
 54 "personal delivery device operator" does not include an entity
 55 or person who requests the services of a personal delivery
 56 device for the purpose of transporting property or an entity or
 57 person who only arranges for and dispatches the requested
 58 services of a personal delivery device.

59 ~~(57)~~~~(55)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
 60 provided in paragraph (79) (b) ~~(77) (b)~~, any privately owned way
 61 or place used for vehicular travel by the owner and those having
 62 express or implied permission from the owner, but not by other
 63 persons.

64 ~~(97)~~~~(95)~~ VEHICLE.—Every device in, upon, or by which any
 65 person or property is or may be transported or drawn upon a
 66 highway, except personal delivery devices and devices used
 67 exclusively upon stationary rails or tracks.

68 Section 2. Subsection (7) of section 316.008, Florida
 69 Statutes, is amended to read:

70 316.008 Powers of local authorities.—

71 (7) (a) A county or municipality may enact an ordinance to
 72 permit, control, or regulate the operation of vehicles, golf
 73 carts, mopeds, motorized scooters, and electric personal
 74 assistive mobility devices on sidewalks or sidewalk areas when
 75 such use is permissible under federal law. The ordinance must

76 restrict such vehicles or devices to a maximum speed of 15 miles
 77 per hour in such areas.

78 (b)1. Except as provided in subparagraph 2., a personal
 79 delivery device may be operated on sidewalks and crosswalks
 80 within a county or municipality when such use is permissible
 81 under federal law. This paragraph does not restrict a county or
 82 municipality from otherwise adopting regulations for the safe
 83 operation of personal delivery devices.

84 2. A personal delivery device may not be operated on the
 85 Florida Shared-Use Nonmotorized Trail Network created under s.
 86 339.81 or components of the Florida Greenways and Trails System
 87 created under chapter 260.

88 Section 3. Section 316.2070, Florida Statutes, is created
 89 to read:

90 316.2070 Personal delivery devices.—

91 (1) Notwithstanding any provision of law to the contrary,
 92 a personal delivery device may operate on sidewalks and
 93 crosswalks, subject to s. 316.008(7)(b). A personal delivery
 94 device operating on a sidewalk or crosswalk has all the rights
 95 and duties applicable to a pedestrian under the same
 96 circumstances, except that the personal delivery device must not
 97 unreasonably interfere with pedestrians or traffic and must
 98 yield the right-of-way to pedestrians on the sidewalk or
 99 crosswalk.

100 (2) A personal delivery device must:

101 (a) Obey all official traffic and pedestrian control
 102 signals and devices.

103 (b) Include a plate or marker that has a unique
 104 identifying device number and identifies the name and contact
 105 information of the personal delivery device operator.

106 (c) Be equipped with a braking system that, when active or
 107 engaged, enables the personal delivery device to come to a
 108 controlled stop.

109 (3) A personal delivery device may not:

110 (a) Operate on a public highway except to the extent
 111 necessary to cross a crosswalk.

112 (b) Operate on a sidewalk or crosswalk unless the personal
 113 delivery device operator is actively controlling or monitoring
 114 the navigation and operation of the personal delivery device.

115 (c) Transport hazardous materials as defined in s.
 116 316.003.

117 (4) A personal delivery device operator must maintain an
 118 insurance policy, on behalf of itself and its agents, that
 119 provides general liability coverage of at least \$100,000 for
 120 damages arising from the combined operations of personal
 121 delivery devices under the entity's or agent's control.

122 Section 4. Paragraph (a) of subsection (1) of section
 123 320.01, Florida Statutes, is amended to read:

124 320.01 Definitions, general.—As used in the Florida
 125 Statutes, except as otherwise provided, the term:

126 (1) "Motor vehicle" means:
 127 (a) An automobile, motorcycle, truck, trailer,
 128 semitrailer, truck tractor and semitrailer combination, or any
 129 other vehicle operated on the roads of this state, used to
 130 transport persons or property, and propelled by power other than
 131 muscular power, but the term does not include traction engines,
 132 road rollers, personal delivery devices as defined in s.
 133 316.003, special mobile equipment as defined in s. 316.003,
 134 vehicles that run only upon a track, bicycles, swamp buggies, or
 135 mopeds.

136 Section 5. Subsection (19) is added to section 320.02,
 137 Florida Statutes, to read:

138 320.02 Registration required; application for
 139 registration; forms.—

140 (19) A personal delivery device as defined in s. 316.003
 141 is not required to satisfy the registration and insurance
 142 requirements of this section.

143 Section 6. Subsection (1) of section 324.021, Florida
 144 Statutes, is amended to read:

145 324.021 Definitions; minimum insurance required.—The
 146 following words and phrases when used in this chapter shall, for
 147 the purpose of this chapter, have the meanings respectively
 148 ascribed to them in this section, except in those instances
 149 where the context clearly indicates a different meaning:

150 (1) MOTOR VEHICLE.—Every self-propelled vehicle that ~~which~~

151 is designed and required to be licensed for use upon a highway,
 152 including trailers and semitrailers designed for use with such
 153 vehicles, except traction engines, road rollers, farm tractors,
 154 power shovels, and well drillers, and every vehicle that ~~which~~
 155 is propelled by electric power obtained from overhead wires but
 156 not operated upon rails, but not including any personal delivery
 157 device as defined in s. 316.003, bicycle, or moped. However, the
 158 term "motor vehicle" does ~~shall~~ not include a any motor vehicle
 159 as defined in s. 627.732(3) when the owner of such vehicle has
 160 complied with the requirements of ss. 627.730-627.7405,
 161 inclusive, unless the provisions of s. 324.051 apply; and, in
 162 such case, the applicable proof of insurance provisions of s.
 163 320.02 apply.

164 Section 7. Paragraph (a) of subsection (2) of section
 165 324.022, Florida Statutes, is amended to read:

166 324.022 Financial responsibility for property damage.—

167 (2) As used in this section, the term:

168 (a) "Motor vehicle" means any self-propelled vehicle that
 169 has four or more wheels and that is of a type designed and
 170 required to be licensed for use on the highways of this state,
 171 and any trailer or semitrailer designed for use with such
 172 vehicle. The term does not include:

173 1. A mobile home.

174 2. A motor vehicle that is used in mass transit and
 175 designed to transport more than five passengers, exclusive of

176 the operator of the motor vehicle, and that is owned by a
 177 municipality, transit authority, or political subdivision of the
 178 state.

179 3. A school bus as defined in s. 1006.25.

180 4. A vehicle providing for-hire transportation that is
 181 subject to the provisions of s. 324.031. A taxicab shall
 182 maintain security as required under s. 324.032(1).

183 5. A personal delivery device as defined in s. 316.003.

184 Section 8. Subsection (1) of section 316.2128, Florida
 185 Statutes, is amended to read:

186 316.2128 Operation of motorized scooters and miniature
 187 motorcycles; requirements for sales.—

188 (1) A person who engages in the business of, serves in the
 189 capacity of, or acts as a commercial seller of motorized
 190 scooters or miniature motorcycles in this state must prominently
 191 display at his or her place of business a notice that such
 192 vehicles are not legal to operate on public roads, may not be
 193 registered as motor vehicles, and may not be operated on
 194 sidewalks unless authorized by an ordinance enacted pursuant to
 195 s. 316.008(7)(a) ~~316.008(7)~~ or s. 316.212(8). The required
 196 notice must also appear in all forms of advertising offering
 197 motorized scooters or miniature motorcycles for sale. The notice
 198 and a copy of this section must also be provided to a consumer
 199 prior to the consumer's purchasing or becoming obligated to
 200 purchase a motorized scooter or a miniature motorcycle.

201 Section 9. Paragraph (b) of subsection (2) of section
 202 316.545, Florida Statutes, is amended to read:

203 316.545 Weight and load unlawful; special fuel and motor
 204 fuel tax enforcement; inspection; penalty; review.-

205 (2)

206 (b) The officer or inspector shall inspect the license
 207 plate or registration certificate of the commercial vehicle to
 208 determine whether its gross weight is in compliance with the
 209 declared gross vehicle weight. If its gross weight exceeds the
 210 declared weight, the penalty shall be 5 cents per pound on the
 211 difference between such weights. In those cases when the
 212 commercial vehicle is being operated over the highways of the
 213 state with an expired registration or with no registration from
 214 this or any other jurisdiction or is not registered under the
 215 applicable provisions of chapter 320, the penalty herein shall
 216 apply on the basis of 5 cents per pound on that scaled weight
 217 which exceeds 35,000 pounds on laden truck tractor-semitrailer
 218 combinations or tandem trailer truck combinations, 10,000 pounds
 219 on laden straight trucks or straight truck-trailer combinations,
 220 or 10,000 pounds on any unladen commercial motor vehicle. A
 221 driver of a commercial motor vehicle entering the state at a
 222 designated port-of-entry location, as defined in s. 316.003
 223 ~~316.003(54)~~, or operating on designated routes to a port-of-
 224 entry location, who obtains a temporary registration permit
 225 shall be assessed a penalty limited to the difference between

226 its gross weight and the declared gross vehicle weight at 5
 227 cents per pound. If the license plate or registration has not
 228 been expired for more than 90 days, the penalty imposed under
 229 this paragraph may not exceed \$1,000. In the case of special
 230 mobile equipment, which qualifies for the license tax provided
 231 for in s. 320.08(5)(b), being operated on the highways of the
 232 state with an expired registration or otherwise not properly
 233 registered under the applicable provisions of chapter 320, a
 234 penalty of \$75 shall apply in addition to any other penalty
 235 which may apply in accordance with this chapter. A vehicle found
 236 in violation of this section may be detained until the owner or
 237 operator produces evidence that the vehicle has been properly
 238 registered. Any costs incurred by the retention of the vehicle
 239 shall be the sole responsibility of the owner. A person who has
 240 been assessed a penalty pursuant to this paragraph for failure
 241 to have a valid vehicle registration certificate pursuant to the
 242 provisions of chapter 320 is not subject to the delinquent fee
 243 authorized in s. 320.07 if such person obtains a valid
 244 registration certificate within 10 working days after such
 245 penalty was assessed.

246 Section 10. Paragraph (a) of subsection (2) of section
 247 316.613, Florida Statutes, is amended to read:

248 316.613 Child restraint requirements.—

249 (2) As used in this section, the term "motor vehicle"
 250 means a motor vehicle as defined in s. 316.003 that is operated

251 on the roadways, streets, and highways of the state. The term
 252 does not include:

253 (a) A school bus as defined in s. 316.003 ~~316.003(68)~~.

254 Section 11. Subsection (1) of section 655.960, Florida
 255 Statutes, is amended to read:

256 655.960 Definitions; ss. 655.960-655.965.—As used in this
 257 section and ss. 655.961-655.965, unless the context otherwise
 258 requires:

259 (1) "Access area" means any paved walkway or sidewalk
 260 which is within 50 feet of any automated teller machine. The
 261 term does not include any street or highway open to the use of
 262 the public, as defined in s. 316.003(79)(a) or (b)
 263 ~~316.003(77)(a) or (b)~~, including any adjacent sidewalk, as
 264 defined in s. 316.003.

265 Section 12. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 719 Municipal Conversion of Independent Special Districts
SPONSOR(S): Roth
TIED BILLS: IDEN./SIM. BILLS: SB 422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Banner	Miller
2) Government Accountability Committee		Banner <i>(initials)</i>	Williamson <i>(signature)</i>

SUMMARY ANALYSIS

Special districts are units of local government created to provide a variety of services, such as mosquito control, children’s services, fire control and rescue, or drainage control. Special districts are governed generally by the Uniform Special District Accountability Act.

Independent special districts have their own governing structure, their governing board members often are elected by the voters within the district, and their budgets are not subject to local government veto. Independent special districts may petition to incorporate the district as a municipality provided the district meets certain criteria prescribed in law.

The bill adds to the required criteria that the district have at least 1,500 persons in counties with a population of 75,000 or less, or 5,000 persons in counties with a population of more than 75,000, as is required for all proposed municipal incorporations.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

A “special district” is a local unit of special purpose government within a limited boundary, created by special law, special act, local ordinance, or by rule of the Governor and Cabinet.¹ Special districts are created to provide a variety of services, such as mosquito control,² children’s services,³ fire control and rescue,⁴ or drainage control.⁵

An “independent special district” is characterized by having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality.⁶ Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

Special districts are governed generally by ch. 189, F.S, the Uniform Special District Accountability Act (Act). The Act addresses provisions governing special districts, such as formation, governance, administration, supervision, merger, and dissolution of special districts, unless otherwise expressly provided in law.

Current law requires independent special district charters to contain provisions related to the:⁷

- Purpose of the district.
- Powers, functions, and duties of the district regarding taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, tax deeds and certificates, and contractual agreements.
- Methods for establishing the district.
- Method for amending the charter of the district.
- Membership and organization of the governing body, including administrative duties and maximum compensation of the members.
- Applicable financial disclosure, noticing and reporting requirements.
- Procedures and requirements for issuing bonds, if applicable.
- Procedures for conducting district elections or referenda required and the qualifications of an elector of the district.
- Millage rate, if applicable.
- Method for collecting non-ad valorem assessments, fees, or service charges.
- Planning requirements.
- Geographic boundary limitations.

Current law does not provide for specific parameters of the charter provisions, such as the length of time before the governing body must be turned over and elected by the members of the district. As such, independent special districts identifying as stewardship districts tend to allow for a longer time

¹ Section 189.012(6), F.S.

² See s. 388.021, F.S.

³ See s. 125.901, F.S.

⁴ See ch. 191, F.S.

⁵ See ch. 298, F.S.

⁶ Section 189.012(3), F.S.

⁷ Section 189.031(3), F.S.

before mandatory election of the governing body members to allow for development of residential areas and occupancy of units.

Section 165.0615, F.S., allows the qualified electors of an independent special district to file a petition to incorporate the district as a municipality, provided the independent special district meets all of the following criteria:

- It was created by a special act of the Legislature.
- It is designated as an improvement district and created pursuant to ch. 298, F.S., or is designated as a stewardship district and created pursuant to s. 189.031, F.S.
- Its governing board is elected and agrees to the conversion.
- It provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities.
- No portion of the district is located within the jurisdictional limits of a municipality.

The petition must include signatures of at least 40 percent of the qualified electors of the district and must be submitted no later than one year after the state of the qualified elector-initiated municipal conversion proceeding.⁸ Following the verification and approval of the petition by the supervisor of elections, the governing body of the district must prepare and approve by resolution a proposed elector-initiated combined conversion and incorporation plan.⁹ Section 165.0615(4)(e), F.S., requires the inclusion of a feasibility study,¹⁰ including standards for total population,¹¹ average population density,¹² and minimum distance from boundaries of an existing municipality within the county.¹³

Communities proposing to incorporate as a municipality are required to have a total population, as determined in the latest official state census, special census, or estimate of population, of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.¹⁴ Additionally, the proposed area of incorporation must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.¹⁵ Independent special districts are currently exempt from these requirements if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the total population and average population density requirements once fully developed.¹⁶

A municipal incorporation plan takes effect only upon approval of a referendum by a majority vote of the qualified electors residing within the limits of the proposed municipality.¹⁷

As of February 2017, there are 54 improvement districts and seven stewardship districts that have the potential to meet all criteria of s. 165.0615, F.S.¹⁸

In 2014, the Palm Beach County Commission approved the development of Minto West, a 4,500-home community located within the Seminole Improvement District in the western portion of the county.¹⁹

⁸ Section 165.0615(2)(a), F.S.

⁹ Section 165.0615(4), F.S.

¹⁰ Section 165.041(1)(b), F.S., outlines the required components of a feasibility study for the purpose of municipal incorporation.

¹¹ Section 165.061(1)(b), F.S.

¹² Section 165.061(1)(c), F.S.

¹³ Section 165.061(1)(d), F.S.

¹⁴ Section 165.061(1)(b), F.S.

¹⁵ Section 165.061(1)(c), F.S.

¹⁶ Section 165.0615(4)(e), F.S.

¹⁷ Section 165.0615(15), F.S.

¹⁸ Florida Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited February 23, 2017).

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Approximately 18 months later, prior to the commencement of construction, the developer petitioned for municipal incorporation as Westlake. At the time of the petition, the Palm Beach County Supervisor of Elections indicated there were five registered voters in the area proposed for municipal conversion.²⁰ As a result, the petition required two signatures and the referendum required three affirmative votes.

Effect of Proposed Changes

The bill amends s. 165.0615, F.S., to require an independent special district to meet minimum population requirements prior to commencing a municipal conversion proceeding.

B. SECTION DIRECTORY:

Section 1. Amends s. 165.0615, F.S., to require that an independent special district meet minimum population requirements prior to commencing a municipal conversion proceeding.

Section 2. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

A municipal conversion of a special district will result in a new city that is constitutionally-authorized to levy ad valorem taxes of up to 10 mills.²¹ Municipalities also may raise revenues via various other mechanisms such as special assessments, impact fees, user fees or service charges, licenses and permits, public service taxes, and communication services taxes. This additional local government may fiscally impact other area local governments in numerous ways. For example, counties may no longer be able to assess certain taxes and fees within the incorporated area, and state-shared revenue

¹⁹ Joe Capozzi, *Minto West OK'd by Palm Beach County commission after 10-hour meeting*, Palm Beach Post (October 29, 2014), <http://www.mypalmbeachpost.com/news/local-govt--politics/minto-west-palm-beach-county-commission-after-hour-meeting/5bGQ7v3CuYuYQruF0wlCXM/> (last visited March 4, 2017).

²⁰ Andy Reid and Skyler Swisher, *Tallahassee power play paved the way for possible city of Westlake*, Sun-Sentinel (April 15, 2016), <http://www.sun-sentinel.com/local/palm-beach/fl-westlake-new-city-proposal-20160415-story.html> (last visited March 4, 2017).

²¹ See s. 9(b), Art. VII of the State Constitution.

sources, to the extent that these funds are distributed proportionally, may decrease for the county and existing municipalities.²²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the 2016 Florida Population Estimate, there are 29 counties with total populations less than 75,000 and 38 counties with total populations of 75,000 or greater.²³ A majority of the improvement districts (44 of 54) and stewardship districts (5 of 7) have boundaries that are limited to a single county. Based on the total county populations:

- Six improvement districts and one stewardship district are in counties with a total population less than 75,000.
- Thirty-eight improvement districts and four stewardship districts are in counties with a total population of 75,000 or greater.

The remaining 10 improvement districts and two stewardship districts contain a portion of two different counties within its boundary lines. Based on the total county populations:

- Four improvement districts are comprised of two counties both with a total population of less than 75,000.
- Two improvement districts and two stewardship districts are comprised of two counties both with a total population of 75,000 or greater.
- Four improvement districts are comprised of two counties in which one has a total population less than 75,000 and the other a total population of 75,000 or greater.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

²² Specifically, a newly created municipality will impact the amount of funds that existing municipalities receive in the two major state shared revenue programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing. The county government within which the new municipality is formed will realize fiscal impacts in two state shared revenue programs: Local Government Half-Cent Sales Tax and County Revenue Sharing.

²³ Office of Economic and Demographic Research, *Florida Population Estimates for Counties and Municipalities: April 1, 2016*, available at <http://edr.state.fl.us/Content/population-demographics/data/> (last visited February 23, 2017).

1 A bill to be entitled
 2 An act relating to municipal conversion of independent
 3 special districts; amending s. 165.0615, F.S.; adding
 4 a minimum population standard for qualified electors
 5 of an independent special district to commence a
 6 certain municipal conversion proceeding; providing an
 7 effective date.

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

10
 11 Section 1. Subsection (1) of section 165.0615, Florida
 12 Statutes, is amended to read:

13 165.0615 Municipal conversion of independent special
 14 districts upon elector-initiated and approved referendum.—

15 (1) The qualified electors of an independent special
 16 district may commence a municipal conversion proceeding by
 17 filing a petition with the governing body of the independent
 18 special district proposed to be converted if the district meets
 19 all of the following criteria:

20 (a) It was created by special act of the Legislature.

21 (b) It is designated as an improvement district and
 22 created pursuant to chapter 298 or is designated as a
 23 stewardship district and created pursuant to s. 189.031.

24 (c) Its governing board is elected.

25 (d) Its governing board agrees to the conversion.

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26 (e) It provides at least four of the following municipal
27 services: water, sewer, solid waste, drainage, roads,
28 transportation, public works, fire and rescue, street lighting,
29 parks and recreation, or library or cultural facilities.

30 (f) No portion of the district is located within the
31 jurisdictional limits of a municipality.

32 (g) It meets the minimum population standards provided in
33 s. 165.061(1)(b).

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7021 PCB PIE 17-03 Local Government Ethics Reform
SPONSOR(S): Public Integrity & Ethics Committee, Metz
TIED BILLS: HB 7023 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Public Integrity & Ethics Committee	18 Y, 0 N	Kiner	Rubottom
1) Appropriations Committee	27 Y, 0 N	Delaney	Leznoff
2) Government Accountability Committee		Moore <i>AM</i>	Williamson <i>Raw</i>

SUMMARY ANALYSIS

The bill makes numerous changes to Florida's Code of Ethics for Public Officers and Employees (Code) as it relates to local government officers, employees, and lobbyists. Specifically, the bill:

- Requires city commissioners serving municipalities with \$5 million or more in total revenue, and candidates for such offices, to file a full and public disclosure of their financial interests in lieu of the less detailed form of disclosure required under current law;
- Corrects an oversight with respect to the Code's prohibition on conflicting employment or contractual relationships;
- Requires special district governing board members to annually complete four hours of ethics training, a requirement that mirrors the current law applicable to constitutional officers and elected municipal officers;
- Requires local officers that must abstain from voting on a measure due to a conflict of interest to disclose the conflict prior to participating in the measure;
- Adds school districts to the list of governmental entities that must withhold salary-related payments from employees for failure to timely file a disclosure of financial interests;
- Requires a person who wishes to lobby certain local governmental entities to register as a lobbyist with the Commission on Ethics (Commission); and
- Expands the duties of the Commission relating to rendering advisory opinions.

The bill has a projected fiscal impact on the state of approximately \$465,702.72 in fiscal year 2017-18 to develop a system to track and publish lobbyist registrations online. However, no additional appropriation is necessary as the Commission has sufficient carryforward funds to cover any such costs until revenue from fees begin to be received on October 1, 2018. In addition, there is an indeterminate fiscal impact on local governments and the private sector. See the Fiscal Analysis section for further detail.

The bill has an effective date of July 1, 2017. Section 9 becomes effective October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Code of Ethics for Public Officers and Employees (Code) is set forth in part III, chapter 112, F.S. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law.¹ While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.²

The Code contains provisions that establish standards for the conduct of elected and appointed officials and government employees including, but not limited to, the following:

- Prohibited actions or conduct – including prohibitions on the solicitation or acceptance of gifts, unauthorized compensation, misuse of public position, disclosure or use of certain information, and solicitation or acceptance of honoraria;
- Prohibited employment and business relationships – including prohibitions on dual public employment, doing business with one's agency, as well as conflicting employment or contractual relationships;
- Misuse of public position;
- Anti-nepotism;
- Post-office holding/post-employment restrictions;
- Voting conflicts of interest;
- Ethics training; and
- Financial disclosure.

These Code provisions apply not only to officials and employees of state entities, but also to local government officers and employees.

Full and Public Disclosure of Financial Interests (Sections 1, 5, and 7)

Current Law

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests.³ Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.⁴

Pursuant to the Constitution, the term "full and public disclosure of financial interests" means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.⁵ The disclosure must be accompanied by either a sworn statement with this information or a copy of the reporting individual's most recent federal income tax return.⁶

¹ S. 112.311(1), F.S.

² S. 112.311(4), F.S.

³ FLA CONST., art. II, ss. 8(a) and 8(i)(2).

⁴ FLA CONST., art. II, s. 8(a)

⁵ FLA. CONST., art. II, s. 8(i)(1), (2).

⁶ *Id.*

Pursuant to general law, the Commission on Ethics (Commission) has created by rule CE Form 6 to be used to make the required full and public financial disclosure.⁷

According to the Commission, and as articulated on the form, individuals holding the following positions must file CE Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.⁸

Reporting individuals are required to file CE Form 6 annually with the Commission by July 1.⁹ Additionally, candidates for a constitutional office are required to make a full and public disclosure of their financial interests at the time of qualifying.¹⁰

While elected city commissioners may have similar authority and spending power as county commissioners and other public officers that are required to file CE Form 6, state law only requires city commissioners to file CE Form 1, which is a less detailed form of financial disclosure.¹¹ Elected municipal officers, and candidates for such offices, must file this form at the time of qualifying and annually by July 1.¹²

Florida law requires municipalities to annually submit a financial report to the Department of Financial Services (DFS).¹³ DFS in turn verifies the data and publishes a report on its website showing, among other things, municipal revenues,¹⁴ expenditures, and long-term debt.¹⁵

Effect of Proposed Changes

The bill requires a city commissioner serving a municipality that has \$5 million or more in total revenue to file the more detailed CE Form 6 annually, beginning with the 2017 filing year. The bill also requires a candidate for city commission for a municipality that has \$5 million or more in total revenue to file a CE Form 6 with his or her qualifying papers. For purposes of these requirements, whether a municipality has \$5 million or more in total revenue will be determined based on the municipality's annual financial report filed with DFS for the fiscal year immediately prior to the year the financial disclosure covers.

Based on data provided by DFS, the number of municipalities that reported \$5 million or more in total revenue in recent years was as follows:

- FY 2013 (October 1, 2012 – September 30, 2013) – 254
- FY 2014 (October 1, 2013 – September 30, 2014) – 253

⁷ S. 112.3144(5), F.S.; *see also* Rule 34-8.002, F.A.C.

⁸ Rule 34-8.003, F.A.C.

⁹ Rule 34-8.002, F.A.C.

¹⁰ S. 99.061(5), F.S.

¹¹ S. 112.3145(3), F.S.; *see also* Rule 34-8.202, F.A.C.

¹² Rule 34-8.202, F.A.C.

¹³ S. 218.32(1), F.S.

¹⁴ According to DFS, for purposes of the annual financial reporting requirement, “revenue” includes ad valorem taxes; local option taxes; utility service taxes; local business taxes, permits, fees and special assessments; federal, state and local grants; state revenue sharing; service charges; court filing fees, fines and forfeitures; interest and dividends; increase in fair value of investments; rents and royalties; sale of surplus materials; contributions and donations; settlements; other miscellaneous revenues.

¹⁵ S. 218.32(2), F.S.

- FY 2015 (October 1, 2014 – through September 30, 2015) – 257

Conflicting Employment or Contractual Relationships (Section 2)

Current Law

The Code prohibits a public officer or agency employee from having an employment or contractual relationship with a business entity or agency that is subject to the regulation of, or is doing business with, his or her agency.¹⁶ The law further prohibits a public officer or agency employee from having an employment or a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.¹⁷

However, the Code does contain exceptions to these prohibitions relating to special taxing districts and drainage districts;¹⁸ legislative bodies where regulatory power resides in another agency or is strictly through enactment of laws or ordinances;¹⁹ and lawful or required practice in particular profession or occupation.²⁰ The Code also contains several exemptions to these prohibitions related to:

- Appointed advisory board members;²¹
- When business transactions in a county or municipality are transacted under a rotation system;²²
- When business is awarded under a system of sealed, competitive bidding and certain criteria are met;²³
- Purchases or sales for legal advertising, utilities service, or passage on a common carrier;²⁴

¹⁶ S. 112.313(7), F.S.

¹⁷ *Id.*

¹⁸ “When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict *per se*. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.” S. 112.313(7)(a)1., F.S.

¹⁹ “When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.” S. 112.313(7)(a)2., F.S.

²⁰ “This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.” S. 112.313(7)(b), F.S.

²¹ “The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person.” S.112.313(12), F.S.

²² “Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.” S.112.313(12)(a), F.S.

²³ “The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and: (1) the official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder; (2) the official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and (3) the official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.” S.112.313(12)(b), F.S.

²⁴ S. 112.313(12)(c), F.S.

- Emergency purchases that must be made to protect public health, safety, or welfare;²⁵
- When the business entity involved is the only source of supply within the political subdivision and there is full disclosure by the officer or employee;²⁶
- When the aggregate of such transactions does not exceed \$500 in a calendar year;²⁷
- When business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks;²⁸
- When the public officer or employee purchases in a private capacity goods or services from an entity regulated by, or doing business with, his or her agency, at a price and under terms available to similarly situated members of the general public;²⁹ and
- When the elected public officer is employed by a tax exempt organization contracting with his or her agency and the officer's employment is not directly or indirectly compensated as a result of such contract or business relationship and the officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer. In addition, the officer must abstain from voting on any matter that may come before the agency involving the officer's employer, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and file the required written memorandum.³⁰

In its annual reports to the Legislature for the past several years, the Commission has recommended that the law be amended. Specifically, the Commission has advised that, under the law, a public officer or agency employee may create a fictitious legal entity and subsequently use the entity to enter into an employment or contractual relationship that would be prohibited if the public officer or agency employee acted as an individual.³¹

Effect of Proposed Changes

The bill provides that if a public officer or employee of an agency holds a material interest in a business entity or is an officer, a director, or a member who manages such an entity, a contractual relationship held by the business entity is deemed to be held by the public officer or employee. As such, if a public officer or employee holds a material interest in a business entity other than a publicly traded entity, or is an officer, a director, or a member who manages such an entity, it would be a violation of the Code for the business entity to have a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

The bill uses the current law definition of "material interest," which means "direct or indirect ownership of more than five percent of the total assets or capital stock of any business entity."³² For purposes of the definition, indirect ownership does not include ownership by a spouse or minor child.³³

²⁵ S. 112.313(12)(d), F.S.

²⁶ S. 112.313(12)(e), F.S.

²⁷ S. 112.313(12)(f), F.S.

²⁸ S. 112.313(12)(g), F.S.

²⁹ S. 112.313(12)(i), (j), F.S.

³⁰ S. 112.313(15), F.S.

³¹ Florida Commission on Ethics 2017 Legislative Proposals.

³² S. 112.312(15), F.S.

³³ *Id.*

Mandatory Annual Ethics Training (Sections 3, 5, 6, and 7)

Current Law

Current Florida law requires “constitutional officers” and elected municipal officers to annually complete four hours of ethics training that, at a minimum, addresses s. 8, Art. II of the State Constitution, the Code, and Florida law on public records and public meetings.³⁴

Pursuant to the Code, the term “constitutional officer” includes the following officers: the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer (CFO), the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.³⁵

Each officer that is subject to the annual ethics training requirement must certify on his or her disclosure of financial interests reporting form that he or she has completed the required training.³⁶ However, the Commission does not collect any information on the provider(s) of such training.

Although special district³⁷ governing board members are covered by the Code’s provisions, state law does not require these individuals to receive annual ethics training.³⁸

Additionally, the Code requires the Commission to adopt rules establishing minimum course content for the portion of an ethics training class that addresses the constitutional ethics provisions and the Code.³⁹ The Commission’s current rule⁴⁰ requires course content to include one or more of the following subjects:

- Doing business with one's own agency;
- Conflicting employment or contractual relationships;
- Misuse of position;
- Disclosure or use of certain information;
- Gifts and honoraria, including solicitation and acceptance of gifts, and unauthorized compensation;
- Post-officeholding restrictions;
- Restrictions on the employment of relatives;
- Voting conflicts when the constitutional officer is a member of a collegial body and votes in his or her official capacity;
- Financial disclosure requirements, including the automatic fine and appeal process;
- Commission procedures on ethics complaints and referrals; and
- The importance of and process for obtaining advisory opinions rendered by the Commission.

³⁴ S. 112.3142(2), F.S.

³⁵ S. 112.3142(1), F.S.

³⁶ SS. 112.3144(1) and 112.3145(4), F.S.

³⁷ Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.”

³⁸ See s. 112.3142(1), F.S.

³⁹ S. 112.3142(2)(c), F.S.

⁴⁰ Rule 34-7.025., F.A.C.

Effect of Proposed Changes

Beginning January 1, 2018, the bill requires special district governing board members (elected and appointed) and water management district board members to receive the same annual ethics training currently required for constitutional officers and elected municipal officers.

In addition, beginning January 1, 2018, the bill requires each officer subject to the annual ethics training requirement to provide the training provider's name on his or her annual financial disclosure form.

Finally, the bill repeals the statutory requirement that the Commission adopt a rule on minimum course content, and instead codifies the Commission's current rule in statute.

Voting Conflicts of Interest (Section 4)

Current Law

Florida law prohibits a county officer, municipal officer, or other local public officer from voting on any measure that would inure to his or her special private gain or loss;⁴¹ which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.⁴²

In such cases, the officer is required, prior to the vote being taken, to publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting.⁴³

While the law prohibits the officer from voting on the measure, the officer is not prohibited from participating in the measure and is not explicitly required to disclose his or her conflict prior to his or her participation.

The term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.⁴⁴

⁴¹ The term "special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer or his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer or his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer or his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered. S. 112.3143(1)(d), F.S.

⁴² S. 112.3143(3)(a), F.S.

⁴³ *Id.*

⁴⁴ S. 112.3143(1)(b), F.S.

Effect of Proposed Changes

The bill clarifies that the voting conflict prohibition that currently applies to county, municipal, and other local public officers also applies to governing board members of a special district or school district. The bill also requires a county officer, municipal officer, other local public officer, or governing board member of a special district or school district who must abstain from voting on a measure due to a conflict of interest to disclose the conflict prior to participating on the measure.

Collection Methods for Unpaid Financial Disclosure Fines (Section 8)

Current Law

The Code authorizes the Commission to withhold wages and seek garnishment in order to collect unpaid financial disclosure fines.⁴⁵ Prior to referring such a fine to DFS, the Commission must attempt to determine whether the filer is a current public officer or employee.⁴⁶ If the person is currently a public officer or employee, the Commission may notify the CFO or the governing body of the appropriate county, municipality, or special district of the total amount of the fine owed to the Commission by the individual.⁴⁷ After receipt and verification of the notice from the Commission, the CFO or the appropriate governing body is required to begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment.⁴⁸ The withheld payments must be remitted to the Commission until the fine is satisfied.⁴⁹ Additionally, the CFO or appropriate governing body may retain an amount from each withheld payment to cover administrative costs incurred to comply with these requirements.⁵⁰

In the event that the Commission determines the individual owing a fine is no longer a public officer or employee or if the Commission is unable to make such a determination, the Commission must wait for six months after the order becomes final.⁵¹ After that period of time, the Commission may seek garnishment.⁵² Additionally, the Commission may refer the unpaid fine to a collection agency.⁵³ The collection agency may utilize any collection methods provided by law.⁵⁴ The statute of limitations for an unpaid financial disclosure fine is 20 years.⁵⁵ Once recovered, previously unpaid financial disclosure fines are deposited into general revenue.⁵⁶

Effect of Proposed Changes

The bill expressly requires school districts to withhold public salary-related payments after receiving notice from the Commission that an employee has an unpaid financial disclosure fine, including an amount to cover any administrative costs incurred by the school district to comply with the requirement.

⁴⁵ S. 112.31455(2), F.S.

⁴⁶ S. 112.31455(1), F.S.

⁴⁷ *Id.*

⁴⁸ S. 112.31455(1)(a), F.S.

⁴⁹ *Id.*

⁵⁰ S. 112.31455(2)(b), F.S.

⁵¹ S. 112.31455(2), F.S.

⁵² *Id.*

⁵³ S. 112.31455(3), F.S.

⁵⁴ *Id.*

⁵⁵ S. 112.31455(4), F.S.

⁵⁶ S. 112.3144(5)(e), F.S.

Lobbying Before Governmental Entities (Sections 9 and 10)

Current Law

Florida law requires a person who wishes to lobby the executive branch to register as a lobbyist with the Commission prior to lobbying.⁵⁷ Similarly, the Florida Legislature, by rule, requires a lobbyist who wishes to lobby either house of the Legislature to register with the Lobbyist Registration Office in the Office of Legislative Services.⁵⁸ In addition to these registration requirements, lobbying firms must file quarterly compensation reports for each quarter in which at least one of their lobbyists was registered to represent a principal.⁵⁹

As of February 2017, there were over 1,300 lobbyists registered to lobby the executive branch on behalf of over 3,300 principals, representing over 8,900 total registrations.⁶⁰ As of February 2017, there were over 1,800 lobbyists registered to lobby the Legislature on behalf of over 3,600 principals, representing over 10,000 total registrations.⁶¹ In total, there were over 150 lobbyists registered to lobby only the executive branch, over 600 registered to lobby only the Legislature, and over 1,200 registered to lobby both the executive branch and the Legislature.⁶² Currently, the executive branch has 1.5 FTEs to administer registrations, including oath authorizations, and compensation reports. The Legislature has 2 FTEs to administer registrations and compensation reports.

Each lobbyist registration program has a dedicated trust fund whereby registration fees must be used to administer the program. The executive branch lobbyist registration fee is \$25 per principal, although by statute, the fee may be up to \$40 per principal.⁶³ The Legislature's annual lobbyist registration fee is \$50 for the first registration and \$20 for each additional registration. If a lobbyist is registering before only one chamber, the annual fee is \$25 for the first registration and \$10 for each additional registration. As of February 2017, the Executive Branch Lobbyist Registration Trust Fund had \$1,135,123 in cash on hand, while the Legislative Lobbyist Registration Trust Fund had \$1,379,440 in cash on hand.

Executive Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	595,084	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265
Revenues Collected	182,600	201,525	201,025	189,515	194,175	205,025	201,825	230,530	261,830	254,250
Disbursements	145,927	99,333	101,893	120,800	151,668	147,206	151,432	222,400	355,210	216,183
Excess (Deficiency) of Revenue over Disbursements	36,673	102,192	99,132	68,715	42,507	57,819	50,393	8,130	(93,380)	38,067
Ending Cash Balance	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265	1,005,333
Legislative Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	792,074	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775
Revenues Collected	254,137	252,435	256,746	245,680	246,545	260,580	247,845	265,830	278,600	283,355
Disbursements	248,277	211,862	205,650	198,563	189,606	136,959	134,877	225,998	317,905	223,197
Excess (Deficiency) of Revenue over Disbursements	5,860	40,573	51,096	47,117	56,938	123,621	112,968	39,832	(39,305)	60,158
Ending Cash Balance	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775	1,290,933

⁵⁷ S. 112.3215(3), F.S.

⁵⁸ Joint Rule 1.1(1).

⁵⁹ SS. 11.045(3)(a)1. and 112.3215(5)(a)1., F.S.

⁶⁰ See statistics on registered lobbyists on the Florida Lobbyist Registration & Compensation website at www.floridalobbyist.gov (last viewed 2/24/2017).

⁶¹ *Id.*

⁶² *Id.*

⁶³ Rule 34-12.200(2), F.A.C., implementing s. 112.3215(4), F.S.

During the 2016 Organization Session, the Florida House of Representatives adopted its rules for the 2016 – 2018 term. Rule 17.1(h) requires lobbyists to disclose the issues upon which they intend to lobby the House, while Rule 17.1(i) requires disclosure of public entity lobbying contracts. As of February 2017, over 1,100 lobbyists have disclosed over 22,000 issues on behalf of over 2,300 principals, while over 350 public entity lobbying contracts have been submitted by over 70 lobbying firms. The Public Integrity & Ethics Committee has one full-time staff member to assist with issue and contract disclosures.

As of 2014, Florida law requires a lobbyist who wishes to lobby before one of Florida's five water management districts to register as a lobbyist with said district.⁶⁴ The law requires the applicable water management district to make lobbyist registrations available to the public, including on its website if the district maintains one.⁶⁵ To administer the registration process, each water management district is authorized to charge a registration fee of up to \$40 per principal.⁶⁶ The Southwest Florida Water Management District developed its lobbyist registration system database in-house and administers each of the other four water management district lobbyist registration programs at no charge to the water management district or registered lobbyist(s).

Florida has 67 counties, more than 400 municipalities, and over 1,500 special districts. While the Code provides minimum standards of conduct and disclosure for officers and employees covered under the Code, local governments have authority to enact ordinances providing for more stringent standards – provided these ordinances do not conflict with the Code's provisions.⁶⁷ At least 13 counties⁶⁸ have ordinances requiring lobbyists to register, report compensation, or both. An informal staff review uncovered at least 26 municipalities with ordinances requiring lobbyists to register with the municipality prior to lobbying. However, the total number of counties, municipalities, and special districts that require lobbyist registration is unknown.

Effect of Proposed Changes

The bill repeals the provisions in current law regarding the registration requirements for lobbyists wishing to lobby water management districts.

Beginning October 1, 2018, the bill requires a person to electronically register as a lobbyist with the Commission prior to lobbying a "governmental entity." Under the bill's provisions, a "governmental entity," includes a county, municipality, water management district, school district, hospital district, children's services district, expressway authority, port authority, or special district.

The bill also provides definitions for the terms "lobby," "lobbies," "lobbying," and "lobbyist." Pursuant to the bill's provisions, the terms "lobby," "lobbies," and "lobbying" mean seeking, on behalf of another person, to influence a governmental entity with respect to a decision of the entity in an area of policy or procurement or an attempt to obtain the goodwill of an official or employee of a governmental entity. The terms do not include making application for or seeking approval of an application for a license, permit, or waiver of a regulation so long as the issuance or granting of such application does not require legislative discretion.

⁶⁴ S. 112.3261(2), F.S.

⁶⁵ S. 112.3261(3), F.S.

⁶⁶ S. 112.3261(5), F.S.

⁶⁷ S. 112.326, F.S.

⁶⁸ Alachua, Broward, Collier, Duval, Hillsborough, Lake, Lee, Leon, Miami-Dade, Orange, Palm Beach, Pinellas, and St. Lucie counties.

The term “lobbyist” means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of such person or governmental entity. The term does not include a person who:

- Represents a client in a judicial proceeding or in a formal administrative proceeding before a governmental entity.
- Is an employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.
- Is a confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.
- Lobbies to procure a contract that is less than \$20,000 or a contract procured pursuant to s. 287.056, F.S., which governs state purchasing agreements and state term contracts.

The term “principal” means the person, firm, corporation, or other entity that has employed or retained a lobbyist.

The bill requires a lobbyist to disclose his or her name, email address, and business address; the name and business address of each registered principal; and the name of each governmental entity he or she lobbies or intends to lobby on behalf of each principal. The bill also requires the lobbyist to disclose any direct or indirect business association, partnership, or financial relationship with an official or employee of a governmental entity he or she lobbies or intends to lobby.

The initial lobbyist registration is due upon being retained to lobby and may be renewed on a calendar-year basis. After the initial registration, a lobbyist must provide a statement signed by the principal or the principal’s representative stating he or she is authorized to represent the principal and designating the principal’s main type of business. Any changes to the registration information must be disclosed within 15 days. A lobbyist must promptly notify the Commission in writing upon termination of representation of a principal.

The bill requires the Commission to establish an annual lobbyist registration fee that may not exceed \$40 per principal. The Commission must also publish a directory of all lobbyist registrations on its website. In addition, the bill authorizes the Commission to adopt rules to establish procedures to govern the registration system, including the adoption of forms and exchange of information with local governmental entities.

The bill also requires a governmental entity to ascertain whether a lobbyist has registered and prohibits a governmental entity from knowingly authorizing an unregistered lobbyist to lobby the entity.

If the Commission receives a first complaint against a lobbyist alleging he or she has violated the registration requirement, or receives any complaint against a lobbyist prior to January 1, 2020, the bill requires the Commission to issue a warning letter to the lobbyist directing him or her to consult the obligations of lobbyists under the registration requirements. The Commission must then dismiss the complaint. On or after January 1, 2020, if the Commission finds that a lobbyist has violated the registration requirement, the bill provides for a civil penalty not to exceed \$500 for a first violation. A second or subsequent violation committed within 12 months after a first violation has occurred will subject the lobbyist to a civil penalty between \$200 and \$1000 or a one-year suspension from lobbying any governmental entity associated with the violation. A governmental entity may impose additional civil penalties not to exceed \$500 per violation and may suspend the lobbyist from lobbying on its behalf for up to two years.

By January 1, 2018, the bill requires each governmental entity that has an ordinance or rule placing more stringent obligations with respect to lobbyist registration, reporting, or other lobbyist conduct to forward to the Commission a copy of such ordinance and any associated form that has been designated to facilitate compliance with such ordinance or rule. Beginning January 1, 2019, the bill

requires each governmental entity to conform its registration system, if any, to accommodate regular receipt of lobbyist registration data from the Commission. This data exchange will assist each governmental entity in retaining whatever more stringent standards it has in place.

Commission on Ethics Advisory Opinions (Sections 10 and 11)

Current Law

Florida law requires the Commission to render a binding advisory opinion to any public officer, candidate for public office, or public employee who is in doubt about the applicability and interpretation of the State Constitution's ethics provisions or the provisions of the Code to himself or herself in a particular context.⁶⁹

Since 2010, the Commission has issued the following numbers of advisory opinions:

- CY 2016 – 15 opinions (13 by local officers, employees, or local government attorneys)
- CY 2015 – 15 opinions (12 by local officers, employees, or local government attorneys)
- CY 2014 – 32 opinions (12 by local officers, employees, or local government attorneys)
- CY 2013 – 26 opinions (19 by local officers, employees, or local government attorneys)
- CY 2012 – 23 opinions (15 by local officers, employees, or local government attorneys)
- CY 2011 – 24 opinions (24 by local officers, employees, or local government attorneys)
- CY 2010 – 25 opinions (21 by local officers, employees, or local government attorneys)

Effect of Proposed Changes

The bill expands the Commission's duty to render advisory opinions to include the application of the bill's provisions. The bill authorizes a person to request an advisory opinion from the Commission and provides that an opinion rendered by the Commission is binding on the conduct of the person who sought the opinion, unless material facts were omitted or misstated in the request.

B. SECTION DIRECTORY:

Section 1 amends s. 99.061, F.S., relating to the method of qualifying for nomination or election to federal, state, county, or district office.

Section 2 amends s. 112.313, F.S., relating to standards of conduct for public officers, employees of agencies, and local government attorneys.

Section 3 amends s. 112.3142, F.S., relating to ethics training for specified constitutional officers and elected municipal officers.

Section 4 amends s. 112.3143, F.S., relating to voting conflicts.

Section 5 amends s. 112.3144, F.S., relating to full and public disclosure of financial interests.

Section 6 amends s. 112.3145, F.S., relating to disclosure of financial interests and clients represented before agencies.

Section 7 provides that certain changes made by the bill relating to financial disclosure apply to disclosures filed for the 2017 calendar year and all subsequent calendar years.

Section 8 amends s. 112.31455, F.S., relating to collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.

⁶⁹ S. 112.322(3), F.S.
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Section 9 repeals s. 112.3261, F.S., relating to lobbying before certain government entities.

Section 10 creates s. 112.32612, F.S., relating to lobbying before governmental entities.

Section 11 expands the duties of the Commission relating to rendering advisory opinions.

Section 12 specifies that the act fulfills an important state interest.

Section 13 provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill requires the Commission to establish an annual registration fee, effective October 1, 2018, to administer the local government lobbyist registration system. Pursuant to the bill's provisions, the registration fee may not exceed \$40 per principal. The revenue generated from annual registrations will be used to administer the registration program, including the payment of salaries and other expenses.

2. Expenditures:

The bill requires elected municipal officers serving municipalities with \$5 million or more in total revenue to file CE Form 6 in lieu of the currently required CE Form 1. The expense to the Commission associated with mailing these individuals a CE Form 6 instead of a CE Form 1 is indeterminate, but likely insignificant and can be absorbed by current resources.

The bill requires a lobbyist to register with the Commission prior to lobbying certain local governmental entities, effective October 1, 2018. The Commission is required to make these registrations public on its website. Expenses associated with administering the registration process will not be incurred until fiscal year 2018-19. However, the Office of Legislative Information Technology Services projects the cost to develop an online system, to track and report such registrations, is approximately \$465,702.72, the bulk of which will be expended in fiscal year 2017-18. The Commission has sufficient carryforward funds to cover any such expenses until revenues from fees are received.

The bill also requires the Commission to render advisory opinions regarding the Code and its application to any public officer, candidate for public office, or public employee as a result of the bill's provisions. The fiscal impact to the Commission of this requirement is indeterminate, but likely insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

By January 1, 2018, the bill requires each local governmental entity that has an ordinance or rule placing more stringent obligations with respect to lobbyist registration, reporting, or other lobbyist conduct to forward to the Commission a copy of such ordinance and any associated form that has been designated to facilitate compliance with such ordinance or rule. By January 1, 2019, the bill requires each local governmental entity to conform its registration system, if any, to accommodate regular receipt of lobbyist registration data from the Commission. This data exchange will assist

each local governmental entity in retaining whatever more stringent standards it has in place. The fiscal impact on local governments with respect to these provisions is indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's provisions require a person who wishes to lobby certain local governmental entities to register with the Commission. The bill also requires the Commission to establish an annual lobbyist registration fee, up to \$40 for each principal represented. The extent to which a lobbyist or lobbying firm will pass the registration costs on to principals, some of which may be private sector entities, is unknown, but likely insignificant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments with ordinances or rules placing more stringent obligations with respect to lobbyist registration, reporting, or other lobbyist conduct to forward to the Commission a copy of such ordinance and any associated form that has been designated to facilitate compliance with such ordinance or rule. By January 1, 2019, the bill also requires each local governmental entity to conform its registration system, if any, to accommodate regular receipt of lobbyist registration data from the Commission. An exemption may apply if the bill results in an insignificant fiscal impact to county and municipal governments. In addition, an exception may apply because the bill includes legislative findings that the bill fulfills an important state interest and the bill applies to all persons similarly situated.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Commission to establish an annual lobbyist registration fee that does not exceed \$40 for each principal represented. The bill also authorizes the Commission to adopt rules to establish procedures to govern the electronic registration of lobbyists, including the adoption of forms and the exchange of information with local governmental entities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Tuesday, February 14, 2017, the Public Integrity & Ethics Committee adopted a strike-all amendment to PCB PIE 17-03 and subsequently reported the bill favorably as amended. The strike-all amendment made several revisions to PCB PIE 17-03, including the following:

- Revised the phrases "each candidate for an elected municipal office" and "elected municipal officer" to "each candidate for the governing body of a municipality" and "every member of the governing board of a municipality," respectively, to ensure the provision only captures city commissioners and not other elected municipal officers.
- Revised the phrase "municipality that had \$5 million or more in total revenue as determined by the most recent annual financial report submitted to DFS in accordance with s. 218.32" to

“municipality that had \$5 million or more in total revenue as determined by the annual financial report submitted to DFS in accordance with s. 218.32 for the fiscal year ending prior to the year the disclosure covers.”

- Broaden the scope of the provision requiring elected special district governing board members to complete 4 hours of annual ethics training to also include appointed special district governing board members and water management district board members.
- Revised the provision on providing ethics training information to only require the training provider's name in lieu of requiring the training provider's name and the date the training was completed.
- Removed the provision allowing the general counsel of an agency or entity having an officer subject to the ethics training requirement to provide ethics training provider information on behalf of the officer.
- Revised the provision requiring a lobbyist who wishes to lobby a governmental entity to register as a lobbyist with the Commission by:
 - Requiring electronic registration.
 - Including all special districts and not just independent special districts in the definition of “governmental entity”.
 - Providing the term “lobby” or “lobbies” does not include making application for or seeking approval of an application for a license, permit, or waiver of a regulation so long as the issuance or granting of such application does not require legislative discretion.
 - Requiring a lobbyist to provide his or her email address upon registering.
 - Requiring the Commission to make local government lobbyist registration available on the Internet rather than specifying the information must be available on the Commission's website.
 - Requiring the Commission to issue a warning letter and dismiss a first complaint or any complaint received before January 1, 2020, for a lobbyist's failure to register.
 - Revising the term “fine” to “civil penalty.”
 - Revises the civil penalty for a second or subsequent violation from “not to exceed \$1,000” to “not less than \$200 and not greater than \$1,000.”
 - Authorizing, but not requiring, governmental entities to impose additional civil penalties for a second or subsequent violation.
 - Authorizing a person who is unsure whether he or she is required to register as a lobbyist to request a binding advisory opinion from the Commission.

1 A bill to be entitled
 2 An act relating to local government ethics reform;
 3 amending s. 99.061, F.S.; requiring certain candidates
 4 for the governing body of a municipality to file a
 5 full and public financial disclosure upon qualifying;
 6 amending s. 112.313, F.S.; providing that contractual
 7 relationships held by business entities are deemed
 8 held by public officers or employees in certain
 9 situations; amending s. 112.3142, F.S.; requiring
 10 certain ethics training for governing board members of
 11 special districts and water management districts;
 12 authorizing certain continuing education to satisfy
 13 the ethics training requirement; deleting a
 14 requirement that the Commission on Ethics adopt
 15 certain rules relating to ethics training class course
 16 content; providing course content requirements;
 17 encouraging training providers to seek accreditation;
 18 amending s. 112.3143, F.S.; prohibiting governing
 19 board members of special districts or school districts
 20 from voting in an official capacity on specified
 21 matters; prohibiting county, municipal, or other local
 22 public officers or governing board members of special
 23 districts or school districts from participating in
 24 specified matters; amending s. 112.3144, F.S.;
 25 requiring certain governing board members of

26 municipalities to file a full and public disclosure of
 27 financial interests; providing disclosure
 28 requirements; amending s. 112.3145, F.S.; providing
 29 disclosure requirements; providing applicability;
 30 amending s. 112.31455, F.S.; applying provisions
 31 relating to collecting unpaid fines for failing to
 32 file such disclosures to school districts; providing
 33 for the future repeal of s. 112.3261, F.S., relating
 34 to registration and reporting for lobbying water
 35 management districts; creating s. 112.32612, F.S.;
 36 providing definitions; requiring lobbyists to register
 37 with the commission before lobbying governmental
 38 entities; providing registration requirements;
 39 providing responsibilities of the commission;
 40 providing civil penalties; authorizing the suspension
 41 of certain lobbyists; providing responsibilities of
 42 the governmental entity; authorizing the commission to
 43 adopt rules; requiring the commission to render
 44 advisory opinions under certain conditions; declaring
 45 that the act fulfills an important state interest;
 46 providing effective dates.

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Subsection (5) of section 99.061, Florida

51 Statutes, is amended to read:

52 99.061 Method of qualifying for nomination or election to
53 federal, state, county, municipal, or district office.-

54 (5) At the time of qualifying for office, each candidate
55 for the governing body of a municipality that had \$5 million or
56 more in total revenue as determined by the annual financial
57 report submitted to the Department of Financial Services in
58 accordance with s. 218.32 for the fiscal year ending prior to
59 the year the disclosure covers or a constitutional office shall
60 file a full and public disclosure of financial interests
61 pursuant to s. 8, Art. II of the State Constitution, which must
62 be verified under oath or affirmation pursuant to s.
63 92.525(1)(a), and a candidate for any other office, ~~including~~
64 ~~local elective office~~, shall file a statement of financial
65 interests pursuant to s. 112.3145.

66 Section 2. Subsection (7) of section 112.313, Florida
67 Statutes, is amended to read:

68 112.313 Standards of conduct for public officers,
69 employees of agencies, and local government attorneys.-

70 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.-

71 (a) A ~~No~~ public officer or employee of an agency may not
72 ~~shall~~ have or hold any employment or contractual relationship
73 with any business entity or any agency that ~~which~~ is subject to
74 the regulation of, or is doing business with, an agency of which
75 he or she is an officer or employee, excluding those

76 organizations and their officers who, when acting in their
 77 official capacity, enter into or negotiate a collective
 78 bargaining contract with the state or any municipality, county,
 79 or other political subdivision of the state; and ~~nor shall~~ an
 80 officer or employee of an agency may not have or hold any
 81 employment or contractual relationship that will create a
 82 continuing or frequently recurring conflict between his or her
 83 private interests and the performance of his or her public
 84 duties or that would impede the full and faithful discharge of
 85 his or her public duties. For purposes of this subsection, if a
 86 public officer or employee of an agency holds a material
 87 interest in a business entity other than a publicly traded
 88 entity, or is an officer, a director, or a member who manages
 89 such an entity, any contractual relationship held by the
 90 business entity is deemed to be held by the public officer or
 91 employee of the agency.

92 1. When the agency referred to is a ~~that certain kind of~~
 93 special tax district created by general or special law and is
 94 limited specifically to constructing, maintaining, managing, and
 95 financing improvements in the land area over which the agency
 96 has jurisdiction, or when the agency has been organized pursuant
 97 to chapter 298, ~~then~~ employment with, or entering into a
 98 contractual relationship with, such a business entity by a
 99 public officer or employee of such an agency is ~~shall~~ not ~~be~~
 100 prohibited by this subsection or ~~be~~ deemed a conflict per se.

101 However, conduct by such officer or employee that is prohibited
 102 by, or otherwise frustrates the intent of, this section must
 103 ~~shall~~ be deemed a conflict of interest in violation of the
 104 standards of conduct set forth by this section.

105 2. When the agency referred to is a legislative body and
 106 the regulatory power over the business entity resides in another
 107 agency, or when the regulatory power that ~~which~~ the legislative
 108 body exercises over the business entity or agency is strictly
 109 through the enactment of laws or ordinances, ~~then~~ employment or
 110 a contractual relationship with such a business entity by a
 111 public officer or employee of a legislative body is ~~shall~~ not be
 112 prohibited by this subsection or ~~be~~ deemed a conflict.

113 (b) This subsection does ~~shall~~ not prohibit a public
 114 officer or employee from practicing in a particular profession
 115 or occupation when such practice by persons holding such public
 116 office or employment is required or permitted by law or
 117 ordinance.

118 Section 3. Subsection (2) of section 112.3142, Florida
 119 Statutes, is amended to read:

120 112.3142 Ethics training for specified constitutional
 121 officers, ~~and~~ elected municipal officers, and members of a
 122 governing board of a special district or water management
 123 district.-

124 (2) (a) All constitutional officers must complete 4 hours
 125 of ethics training each calendar year which addresses, at a

126 minimum, s. 8, Art. II of the State Constitution, the Code of
 127 Ethics for Public Officers and Employees, and the public records
 128 and public meetings laws of this state. ~~This requirement may be~~
 129 ~~satisfied by completion of a continuing legal education class or~~
 130 ~~other continuing professional education class, seminar, or~~
 131 ~~presentation if the required subjects are covered.~~

132 (b) ~~Beginning January 1, 2015,~~ All elected municipal
 133 officers must complete 4 hours of ethics training each calendar
 134 year which addresses, at a minimum, s. 8, Art. II of the State
 135 Constitution, the Code of Ethics for Public Officers and
 136 Employees, and the public records and public meetings laws of
 137 this state. ~~This requirement may be satisfied by completion of a~~
 138 ~~continuing legal education class or other continuing~~
 139 ~~professional education class, seminar, or presentation if the~~
 140 ~~required subjects are covered.~~

141 (c) Beginning January 1, 2018, all members of the
 142 governing board of a special district or water management
 143 district must complete 4 hours of ethics training each calendar
 144 year which addresses, at a minimum, s. 8, Art. II of the State
 145 Constitution, the Code of Ethics for Public Officers and
 146 Employees, and the public records and public meetings laws of
 147 this state.

148 (d) The requirements specified in paragraphs (a), (b), and
 149 (c) may be satisfied by completion of a continuing legal
 150 education class or other continuing professional education

151 class, seminar, or presentation if the required subjects are
 152 covered.

153 (e) ~~The commission shall adopt rules establishing minimum~~
 154 Course content for the portion of an ethics training class which
 155 addresses s. 8, Art. II of the State Constitution and the Code
 156 of Ethics for Public Officers and Employees must include one or
 157 more of the following:

- 158 1. Doing business with one's own agency;
- 159 2. Conflicting employment or contractual relationships;
- 160 3. Misuse of position;
- 161 4. Disclosure or use of certain information;
- 162 5. Gifts and honoraria, including solicitation and
 163 acceptance of gifts, and unauthorized compensation;
- 164 6. Post-officeholding restrictions;
- 165 7. Restrictions on the employment of relatives;
- 166 8. Voting conflicts if the officer is a member of a
 167 collegial body and votes in his or her official capacity;
- 168 9. Financial disclosure requirements, including the
 169 automatic fine and appeal process;
- 170 10. Commission procedures on ethics complaints and
 171 referrals; and
- 172 11. The importance of and process for obtaining advisory
 173 opinions rendered by the commission.

174 (f) Training providers are encouraged to seek
 175 accreditation from any applicable licensing body for courses

176 offered pursuant to this subsection.

177 (g)~~(d)~~ The Legislature intends that a constitutional
 178 officer, ~~or~~ elected municipal officer, or member of the
 179 governing board of a special district or water management
 180 district who is required to complete ethics training pursuant to
 181 this section receive the required training as close as possible
 182 to the date that he or she assumes office. A constitutional
 183 officer, ~~or~~ elected municipal officer, or member of the
 184 governing board of a special district or water management
 185 district assuming a new office or new term of office on or
 186 before March 31 must complete the annual training on or before
 187 December 31 of the year in which the term of office began. A
 188 constitutional officer, ~~or~~ elected municipal officer, or member
 189 of the governing board of a special district or water management
 190 district assuming a new office or new term of office after March
 191 31 is not required to complete ethics training for the calendar
 192 year in which the term of office began.

193 Section 4. Subsections (3) and (4) of section 112.3143,
 194 Florida Statutes, are amended to read:

195 112.3143 Voting conflicts.—

196 (3)(a) A ~~No~~ county, municipal, or other local public
 197 officer or governing board member of a special district or
 198 school district may not ~~shall~~ vote in an official capacity upon
 199 any measure which would inure to his or her special private gain
 200 or loss; which he or she knows would inure to the special

201 private gain or loss of any principal by whom he or she is
 202 retained or to the parent organization or subsidiary of a
 203 corporate principal by which he or she is retained, other than
 204 an agency as defined in s. 112.312(2); or which he or she knows
 205 would inure to the special private gain or loss of a relative or
 206 business associate of the public officer or board member. Such
 207 public officer or board member shall, prior to the vote being
 208 taken, publicly state to the assembly the nature of the
 209 officer's or member's interest in the matter from which he or
 210 she is abstaining from voting and, within 15 days after the vote
 211 occurs, disclose the nature of his or her interest as a public
 212 record in a memorandum filed with the person responsible for
 213 recording the minutes of the meeting, who shall incorporate the
 214 memorandum in the minutes.

215 (b) However, a commissioner of a community redevelopment
 216 agency created or designated pursuant to s. 163.356 or s.
 217 163.357, or an officer of an independent special tax district
 218 elected on a one-acre, one-vote basis, is not prohibited from
 219 voting, when voting in said capacity.

220 (4) A county, municipal, other local public officer,
 221 governing board member of a special district or school district,
 222 or ~~no~~ appointed public officer, may not ~~shall~~ participate in any
 223 matter which would inure to the officer's or member's special
 224 private gain or loss; which the officer or member knows would
 225 inure to the special private gain or loss of any principal by

226 | whom he or she is retained or to the parent organization or
227 | subsidiary of a corporate principal by which he or she is
228 | retained; or which he or she knows would inure to the special
229 | private gain or loss of a relative or business associate of the
230 | public officer or board member, without first disclosing the
231 | nature of his or her interest in the matter.

232 | (a) Such disclosure, indicating the nature of the
233 | conflict, shall be made in a written memorandum filed with the
234 | person responsible for recording the minutes of the meeting,
235 | prior to the meeting in which consideration of the matter will
236 | take place, and shall be incorporated into the minutes. Any such
237 | memorandum shall become a public record upon filing, shall
238 | immediately be provided to the other members of the agency, and
239 | shall be read publicly at the next meeting held subsequent to
240 | the filing of this written memorandum.

241 | (b) In the event that disclosure has not been made prior
242 | to the meeting or that any conflict is unknown prior to the
243 | meeting, the disclosure shall be made orally at the meeting when
244 | it becomes known that a conflict exists. A written memorandum
245 | disclosing the nature of the conflict shall then be filed within
246 | 15 days after the oral disclosure with the person responsible
247 | for recording the minutes of the meeting and shall be
248 | incorporated into the minutes of the meeting at which the oral
249 | disclosure was made. Any such memorandum shall become a public
250 | record upon filing, shall immediately be provided to the other

251 members of the agency, and shall be read publicly at the next
 252 meeting held subsequent to the filing of this written
 253 memorandum.

254 (c) For purposes of this subsection, the term
 255 "participate" means any attempt to influence the decision by
 256 oral or written communication, whether made by the officer or
 257 member or at the officer's or member's direction.

258 Section 5. Subsections (1) and (2) and paragraph (c) of
 259 subsection (8) of section 112.3144, Florida Statutes, are
 260 amended to read:

261 112.3144 Full and public disclosure of financial
 262 interests.-

263 (1) In addition to officers specified in s. 8, Art. II of
 264 the State Constitution or any other state law, a member of the
 265 governing board of a municipality that had \$5 million or more in
 266 total revenue as determined by the annual financial report
 267 submitted to the Department of Financial Services in accordance
 268 with s. 218.32 for the fiscal year ending prior to the year the
 269 disclosure covers is required to file a full and public
 270 disclosure of financial interests. An officer or a member who is
 271 required by s. 8, Art. II of the State Constitution to file a
 272 full and public disclosure of ~~his or her~~ financial interests for
 273 any calendar or fiscal year shall file that disclosure with the
 274 Florida Commission on Ethics. Additionally, ~~beginning January 1,~~
 275 2015, An officer or a member who is required to complete annual

276 ethics training pursuant to s. 112.3142 must certify on his or
 277 her full and public disclosure of financial interests that he or
 278 she has completed the required training. Additionally, beginning
 279 January 1, 2018, an officer or a member who is required to
 280 complete annual ethics training pursuant to s. 112.3142 must
 281 provide the name of the training provider on his or her full and
 282 public disclosure of financial interests.

283 (2) An officer or a member ~~person~~ who is required,
 284 ~~pursuant to s. 8, Art. II of the State Constitution,~~ to file a
 285 full and public disclosure of financial interests and who has
 286 filed a full and public disclosure of financial interests for
 287 any calendar or fiscal year ~~is shall~~ not be required to file a
 288 statement of financial interests pursuant to s. 112.3145(2) and
 289 (3) for the same year or for any part thereof notwithstanding
 290 any requirement of this part. If an incumbent in an elective
 291 office has filed the full and public disclosure of financial
 292 interests to qualify for election to the same office or if a
 293 candidate for office holds another office subject to the annual
 294 filing requirement, the qualifying officer shall forward an
 295 electronic copy of the full and public disclosure of financial
 296 interests to the commission no later than July 1. The electronic
 297 copy of the full and public disclosure of financial interests
 298 satisfies the annual disclosure requirement of this section. A
 299 candidate who does not qualify until after the annual full and
 300 public disclosure of financial interests has been filed pursuant

301 to this section shall file a copy of his or her disclosure with
 302 the officer before whom he or she qualifies.

303 (8)

304 (c) For purposes of this section, an error or omission is
 305 immaterial, inconsequential, or de minimis if the original
 306 filing provided sufficient information for the public to
 307 identify potential conflicts of interest. However, failure to
 308 certify completion of annual ethics training required under s.
 309 112.3142 or provide the name of the training provider does not
 310 constitute an immaterial, inconsequential, or de minimis error
 311 or omission.

312 Section 6. Subsection (4) and paragraph (c) of subsection
 313 (10) of section 112.3145, Florida Statutes, are amended to read:

314 112.3145 Disclosure of financial interests and clients
 315 represented before agencies.—

316 (4) Beginning January 1, 2015, an officer who is required
 317 to complete annual ethics training pursuant to s. 112.3142 must
 318 certify on his or her statement of financial interests that he
 319 or she has completed the required training. Additionally,
 320 beginning January 1, 2018, an officer or a member who is
 321 required to complete annual ethics training pursuant to s.
 322 112.3142 must provide the name of the training provider on his
 323 or her statement of financial interests.

324 (10)

325 (c) For purposes of this section, an error or omission is

326 immaterial, inconsequential, or de minimis if the original
 327 filing provided sufficient information for the public to
 328 identify potential conflicts of interest. However, failure to
 329 certify completion of annual ethics training required under s.
 330 112.3142 or provide the name of the training provider does not
 331 constitute an immaterial, inconsequential, or de minimis error
 332 or omission.

333 Section 7. The amendments made to ss. 112.3144 and
 334 112.3145, Florida Statutes, by this act apply to disclosures
 335 filed for the 2017 calendar year and all subsequent calendar
 336 years.

337 Section 8. Subsection (1) of section 112.31455, Florida
 338 Statutes, is amended to read:

339 112.31455 Collection methods for unpaid automatic fines
 340 for failure to timely file disclosure of financial interests.-

341 (1) Before referring any unpaid fine accrued pursuant to
 342 s. 112.3144(5) or s. 112.3145(7) to the Department of Financial
 343 Services, the commission shall attempt to determine whether the
 344 individual owing such a fine is a current public officer or
 345 current public employee. If so, the commission may notify the
 346 Chief Financial Officer or the governing body of the appropriate
 347 county, municipality, school district, or special district of
 348 the total amount of any fine owed to the commission by such
 349 individual.

350 (a) After receipt and verification of the notice from the

351 commission, the Chief Financial Officer or the governing body of
 352 the county, municipality, school district, or special district
 353 shall begin withholding the lesser of 10 percent or the maximum
 354 amount allowed under federal law from any salary-related
 355 payment. The withheld payments shall be remitted to the
 356 commission until the fine is satisfied.

357 (b) The Chief Financial Officer or the governing body of
 358 the county, municipality, school district, or special district
 359 may retain an amount of each withheld payment, as provided in s.
 360 77.0305, to cover the administrative costs incurred under this
 361 section.

362 Section 9. Effective October 1, 2018, section 112.3261,
 363 Florida Statutes, is repealed.

364 Section 10. Section 112.32612, Florida Statutes, is
 365 created to read:

366 112.32612 Lobbying before governmental entities.-

367 (1) As used in this section, the term:

368 (a) "Governmental entity" or "entity" means a water
 369 management district created in s. 373.069 and operating under
 370 the authority of chapter 373, a hospital district, a children's
 371 services district, an expressway authority as the term
 372 "authority" is defined in s. 348.0002, a port authority as
 373 defined in s. 315.02, a county, a municipality, a school
 374 district, or a special district.

375 (b) "Lobbies," "Lobby," or "Lobbying" means seeking, on

376 behalf of another person, to influence a governmental entity
 377 with respect to a decision of the entity in an area of policy or
 378 procurement or an attempt to obtain the goodwill of an official
 379 or employee of a governmental entity. The term does not include
 380 making application for or seeking approval of an application for
 381 a license, permit, or waiver of a regulation so long as the
 382 issuance or granting of such application does not require
 383 legislative discretion.

384 (c) "Lobbyist" means a person who is employed and receives
 385 payment, or who contracts for economic consideration, for the
 386 purpose of lobbying, or a person who is principally employed for
 387 governmental affairs by another person or governmental entity to
 388 lobby on behalf of such person or governmental entity. The term
 389 does not include a person who:

390 1. Represents a client in a judicial proceeding or in a
 391 formal administrative proceeding before a governmental entity.

392 2. Is an employee of an agency or of a legislative or
 393 judicial branch entity acting in the normal course of his or her
 394 duties.

395 3. Is a confidential informant who is providing, or wishes
 396 to provide, confidential information to be used for law
 397 enforcement purposes.

398 4. Lobbies to procure a contract which is less than
 399 \$20,000 or a contract pursuant s. 287.056.

400 (d) "Principal" has the same meaning as in s. 112.3215.

401 (2) Beginning October 1, 2018, a person may not lobby a
 402 governmental entity until such person has electronically
 403 registered as a lobbyist with the commission in the local
 404 government lobbyist registration system. Such initial
 405 registration shall be due upon being retained to lobby and may
 406 be renewed thereafter on a calendar-year basis. After initial
 407 registration, the lobbyist shall provide a statement signed by
 408 the principal or the principal's representative stating that he
 409 or she is authorized to represent the principal and designating
 410 the principal's main type of business pursuant to a
 411 classification system approved by the commission. Any changes to
 412 the information required by this subsection must be disclosed
 413 within 15 days by the lobbyist updating his or her registration.
 414 A person required to register as a lobbyist under this
 415 subsection must register through the electronic system and
 416 disclose in his or her registration:

417 (a) Name, email address, and business address.
 418 (b) Name and business address of each principal.
 419 (c) Name of each governmental entity lobbied or intended
 420 to be lobbied on behalf of the principal.
 421 (d) Any direct or indirect business association,
 422 partnership, or financial relationship with an official or
 423 employee of a governmental entity lobbied or intended to be
 424 lobbied on behalf of the principal.

425 (3) The annual lobbyist registration fee shall be

426 established by the commission by rule and may not exceed \$40 for
 427 each principal represented.

428 (4) The commission shall publish a lobbyist directory of
 429 all lobbyist registrations on its website.

430 (5) A lobbyist shall promptly provide a written statement
 431 to the commission canceling the designation of a principal in
 432 his or her registration upon termination of such representation.
 433 The commission may cancel a lobbyist's designation of a
 434 principal upon the principal's notification that the lobbyist is
 435 no longer authorized to represent the principal.

436 (6) A governmental entity must ascertain whether a
 437 lobbyist has registered pursuant to this section. A governmental
 438 entity may not knowingly authorize an unregistered lobbyist to
 439 lobby the entity.

440 (7) (a) Upon a first complaint to the commission alleging a
 441 violation of subsection (2) against a lobbyist, or upon any
 442 complaint against a lobbyist received before January 1, 2020,
 443 the commission shall, within 30 days after receipt of the
 444 complaint, issue a warning letter to the lobbyist directing him
 445 or her to consult the obligations of lobbyists under this
 446 section and then dismiss the complaint.

447 (b) On or after January 1, 2020, notwithstanding the civil
 448 penalties in s. 112.317, a lobbyist found by the commission to
 449 have violated subsection (2) is subject to:

450 1. For a first violation, a civil penalty not to exceed

451 \$500.

452 2. For a second or subsequent violation committed within
 453 12 months after the commission determines that a first violation
 454 has been committed, a civil penalty of at least \$200 but not
 455 more than \$1000 or a 1-year suspension from lobbying any
 456 governmental entity associated with the violation. A
 457 governmental entity may impose additional civil penalties not to
 458 exceed \$500 per violation, and, notwithstanding paragraph (c),
 459 may suspend the lobbyist from lobbying on its behalf for up to 2
 460 years.

461 (c) The civil penalties and suspensions provided in this
 462 subsection shall be applied on a per principal basis with
 463 suspensions affecting only those principals for whom
 464 unregistered lobbying occurred.

465 (8) By January 1, 2018, a governmental entity's governing
 466 body, or the entity's designee, shall notify the commission of
 467 any ordinance or rule that imposes additional or more stringent
 468 obligations with respect to lobbyist registration, reporting, or
 469 other conduct, and shall forward to the commission a copy of any
 470 associated form that has been established to facilitate
 471 compliance with such ordinance or rule. Beginning January 1,
 472 2019, a governmental entity shall conform its registration
 473 system, if any, to accommodate regular digital distribution of
 474 registration data from the commission so that initial
 475 registration of a lobbyist pursuant to subsection (2) is

476 accomplished without having to supply the lobbyist and principal
 477 information to more than one registration system. The commission
 478 shall cooperate to the extent reasonably practicable to assure
 479 such coordination of information.

480 (9) The commission may adopt rules to establish procedures
 481 to govern the local government lobbyist registration system,
 482 including the adoption of forms, exchange of information with
 483 local governmental entities, and establishment of an annual
 484 lobbyist registration fee.

485 (10) A person, when in doubt about the applicability and
 486 interpretation of this section, may submit in writing to the
 487 commission the facts of the situation with a request for an
 488 advisory opinion to establish a standard of duty. An advisory
 489 opinion shall be rendered by the commission and, until amended
 490 or revoked, is binding on the conduct of the person who sought
 491 the opinion, unless material facts were omitted or misstated in
 492 the request.

493 Section 11. As provided in s. 112.322(3), Florida
 494 Statutes, the Commission on Ethics shall render advisory
 495 opinions to any public officer, candidate for public office, or
 496 public employee regarding the application of part III of chapter
 497 112, Florida Statutes, including sections 1 through 9 of this
 498 act.

499 Section 12. The Legislature finds that a proper and
 500 legitimate state purpose is served when mechanisms are

501 | established to secure and sustain the public's trust in public
502 | officers. Therefore, the Legislature determines and declares
503 | that this act fulfills an important state interest.

504 | Section 13. Except as otherwise expressly provided in this
505 | act, this act shall take effect July 1, 2017.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Accountability
 2 Committee

3 Representative Metz offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (7) of section 112.313, Florida
 8 Statutes, is amended to read:

9 112.313 Standards of conduct for public officers,
 10 employees of agencies, and local government attorneys.—

11 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

12 (a) A ~~No~~ public officer or employee of an agency may not
 13 ~~shall~~ have or hold any employment or contractual relationship
 14 with any business entity or any agency that ~~which~~ is subject to
 15 the regulation of, or is doing business with, an agency of which
 16 he or she is an officer or employee, excluding those



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17 organizations and their officers who, when acting in their
18 official capacity, enter into or negotiate a collective
19 bargaining contract with the state or any municipality, county,
20 or other political subdivision of the state; and ~~nor shall~~ an
21 officer or employee of an agency may not have or hold any
22 employment or contractual relationship that will create a
23 continuing or frequently recurring conflict between his or her
24 private interests and the performance of his or her public
25 duties or that would impede the full and faithful discharge of
26 his or her public duties. For purposes of this subsection, if a
27 public officer or employee of an agency holds a material
28 interest in a business entity other than a publicly traded
29 entity, or is an officer, a director, or a member who manages
30 such an entity, contractual relationships held by the business
31 entity are deemed to be held by the public officer or employee.

32 1. When the agency referred to is a ~~that certain kind of~~
33 special tax district created by general or special law and is
34 limited specifically to constructing, maintaining, managing, and
35 financing improvements in the land area over which the agency
36 has jurisdiction, or when the agency has been organized pursuant
37 to chapter 298, ~~then~~ employment with, or entering into a
38 contractual relationship with, such a business entity by a
39 public officer or employee of such an agency is ~~shall~~ not ~~be~~
40 prohibited by this subsection or ~~be~~ deemed a conflict per se.
41 However, conduct by such officer or employee that is prohibited

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42 by, or otherwise frustrates the intent of, this section must
43 ~~shall~~ be deemed a conflict of interest in violation of the
44 standards of conduct set forth by this section.

45 2. When the agency referred to is a legislative body and
46 the regulatory power over the business entity resides in another
47 agency, or when the regulatory power that ~~which~~ the legislative
48 body exercises over the business entity or agency is strictly
49 through the enactment of laws or ordinances, ~~then~~ employment or
50 a contractual relationship with such a business entity by a
51 public officer or employee of a legislative body is ~~shall~~ not ~~be~~
52 prohibited by this subsection or ~~be~~ deemed a conflict.

53 (b) This subsection does ~~shall~~ not prohibit a public
54 officer or employee from practicing in a particular profession
55 or occupation when such practice by persons holding such public
56 office or employment is required or permitted by law or
57 ordinance.

58 Section 2. Subsection (2) of section 112.3142, Florida
59 Statutes, is amended to read:

60 112.3142 Ethics training for specified constitutional
61 officers, ~~and~~ elected municipal officers, and members of a
62 governing board of a special district or water management
63 district.—

64 (2) (a) All constitutional officers must complete 4 hours
65 of ethics training each calendar year which addresses, at a
66 minimum, s. 8, Art. II of the State Constitution, the Code of



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67 Ethics for Public Officers and Employees, and the public records
68 and public meetings laws of this state. ~~This requirement may be~~
69 ~~satisfied by completion of a continuing legal education class or~~
70 ~~other continuing professional education class, seminar, or~~
71 ~~presentation if the required subjects are covered.~~

72 (b) ~~Beginning January 1, 2015,~~ All elected municipal
73 officers must complete 4 hours of ethics training each calendar
74 year which addresses, at a minimum, s. 8, Art. II of the State
75 Constitution, the Code of Ethics for Public Officers and
76 Employees, and the public records and public meetings laws of
77 this state. ~~This requirement may be satisfied by completion of a~~
78 ~~continuing legal education class or other continuing~~
79 ~~professional education class, seminar, or presentation if the~~
80 ~~required subjects are covered.~~

81 (c) Beginning January 1, 2018, all members of the
82 governing board of a special district or water management
83 district must complete 4 hours of ethics training each calendar
84 year which addresses, at a minimum, s. 8, Art. II of the State
85 Constitution, the Code of Ethics for Public Officers and
86 Employees, and the public records and public meetings laws of
87 this state.

88 (d) The requirements specified in paragraphs (a), (b), and
89 (c) may be satisfied by completion of a continuing legal
90 education class or other continuing professional education



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91 class, seminar, or presentation if the required subjects are
92 covered.

93 (e) ~~The commission shall adopt rules establishing minimum~~
94 Course content for the portion of an ethics training class which
95 addresses s. 8, Art. II of the State Constitution and the Code
96 of Ethics for Public Officers and Employees must include one or
97 more of the following:

98 1. Doing business with one's own agency;

99 2. Conflicting employment or contractual relationships;

100 3. Misuse of position;

101 4. Disclosure or use of certain information;

102 5. Gifts and honoraria, including solicitation and
103 acceptance of gifts, and unauthorized compensation;

104 6. Post-officeholding restrictions;

105 7. Restrictions on the employment of relatives;

106 8. Voting conflicts if the officer is a member of a
107 collegial body and votes in his or her official capacity;

108 9. Financial disclosure requirements, including the
109 automatic fine and appeal process;

110 10. Commission procedures on ethics complaints and
111 referrals; and

112 11. The importance of and process for obtaining advisory
113 opinions rendered by the commission.



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114 (f) Training providers are encouraged to seek
115 accreditation from any applicable licensing body for courses
116 offered pursuant to this subsection.

117 (g) ~~(d)~~ The Legislature intends that a constitutional
118 officer, ~~or~~ elected municipal officer, or member of the
119 governing board of a special district or water management
120 district who is required to complete ethics training pursuant to
121 this section receive the required training as close as possible
122 to the date that he or she assumes office. A constitutional
123 officer, ~~or~~ elected municipal officer, or member of the
124 governing board of a special district or water management
125 district assuming a new office or new term of office on or
126 before March 31 must complete the annual training on or before
127 December 31 of the year in which the term of office began. A
128 constitutional officer, ~~or~~ elected municipal officer, or member
129 of the governing board of a special district or water management
130 district assuming a new office or new term of office after March
131 31 is not required to complete ethics training for the calendar
132 year in which the term of office began.

133 Section 3. Subsections (3) and (4) of section 112.3143,
134 Florida Statutes, are amended to read:

135 112.3143 Voting conflicts.—

136 (3) (a) A ~~Ne~~ county, municipal, or other local public
137 officer or governing board member of a special district or
138 school district may not ~~shall~~ vote in an official capacity upon



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139 any measure which would inure to his or her special private gain
140 or loss; which he or she knows would inure to the special
141 private gain or loss of any principal by whom he or she is
142 retained or to the parent organization or subsidiary of a
143 corporate principal by which he or she is retained, other than
144 an agency as defined in s. 112.312(2); or which he or she knows
145 would inure to the special private gain or loss of a relative or
146 business associate of the public officer or board member. Such
147 public officer or board member shall, prior to the vote being
148 taken, publicly state to the assembly the nature of the
149 officer's or member's interest in the matter from which he or
150 she is abstaining from voting and, within 15 days after the vote
151 occurs, disclose the nature of his or her interest as a public
152 record in a memorandum filed with the person responsible for
153 recording the minutes of the meeting, who shall incorporate the
154 memorandum in the minutes.

155 (b) However, a commissioner of a community redevelopment
156 agency created or designated pursuant to s. 163.356 or s.
157 163.357, or an officer of an independent special tax district
158 elected on a one-acre, one-vote basis, is not prohibited from
159 voting, when voting in said capacity.

160 (4) A county, municipal, other local public officer,
161 governing board member of a special district or school district,
162 or ~~Ne~~ appointed public officer, may not ~~shall~~ participate in any
163 matter which would inure to the officer's or member's special

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164 private gain or loss; which the officer or member knows would
165 inure to the special private gain or loss of any principal by
166 whom he or she is retained or to the parent organization or
167 subsidiary of a corporate principal by which he or she is
168 retained; or which he or she knows would inure to the special
169 private gain or loss of a relative or business associate of the
170 public officer or board member, without first disclosing the
171 nature of his or her interest in the matter.

172 (a) Such disclosure, indicating the nature of the
173 conflict, shall be made in a written memorandum filed with the
174 person responsible for recording the minutes of the meeting,
175 prior to the meeting in which consideration of the matter will
176 take place, and shall be incorporated into the minutes. Any such
177 memorandum shall become a public record upon filing, shall
178 immediately be provided to the other members of the agency, and
179 shall be read publicly at the next meeting held subsequent to
180 the filing of this written memorandum.

181 (b) In the event that disclosure has not been made prior
182 to the meeting or that any conflict is unknown prior to the
183 meeting, the disclosure shall be made orally at the meeting when
184 it becomes known that a conflict exists. A written memorandum
185 disclosing the nature of the conflict shall then be filed within
186 15 days after the oral disclosure with the person responsible
187 for recording the minutes of the meeting and shall be
188 incorporated into the minutes of the meeting at which the oral



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189 disclosure was made. Any such memorandum shall become a public
190 record upon filing, shall immediately be provided to the other
191 members of the agency, and shall be read publicly at the next
192 meeting held subsequent to the filing of this written
193 memorandum.

194 (c) For purposes of this subsection, the term
195 "participate" means any attempt to influence the decision by
196 oral or written communication, whether made by the officer or
197 member or at the officer's or member's direction.

198 Section 4. Subsections (1) and (2) and paragraph (c) of
199 subsection (8) of section 112.3144, Florida Statutes, are
200 amended to read:

201 112.3144 Full and public disclosure of financial
202 interests.-

203 (1) (a) An officer or a member who is required by ~~s. 8,~~
204 ~~Art. II of the State Constitution~~ to file a full and public
205 disclosure of ~~his or her~~ financial interests for any calendar or
206 fiscal year shall file that disclosure with the ~~Florida~~
207 Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~
208 ~~an officer who is required to complete annual ethics training~~
209 ~~pursuant to s. 112.3142 must certify on his or her full and~~
210 ~~public disclosure of financial interests that he or she has~~
211 ~~completed the required training.~~

212 (b) Each member of the governing body of a municipality
213 that had \$10 million or more in total revenue for the three



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214 consecutive fiscal years ending prior to the year the disclosure
215 covers shall file a full and public disclosure of financial
216 interests with the Commission on Ethics. Each member of the
217 governing body of such municipality shall continue to file a
218 full and public disclosure until the municipality has less than
219 \$10 million in total revenue for three consecutive fiscal years.
220 For purposes of this paragraph, the verified report the
221 Department of Financial Services files with the Commission on
222 Ethics in accordance with s. 218.32(3) shall be the sole basis
223 to determine whether a municipality has \$10 million or more in
224 total revenue, except that a municipality that has not had its
225 annual financial report certified in accordance with s. 218.32
226 on or before November 30 of the year in which it is due shall be
227 considered to have \$10 million or more in total revenue for such
228 year. If a report not certified by the Department of Financial
229 Services is subsequently certified, the certified report shall
230 be used in any disclosure period beginning after the report is
231 certified.

232 (c) An officer or a member who is required to complete
233 annual ethics training pursuant to s. 112.3142 must certify on
234 his or her full and public disclosure of financial interests
235 that he or she has completed the required training.
236 Additionally, beginning January 1, 2018, an officer or a member
237 who is required to complete annual ethics training pursuant to



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238 s. 112.3142 must provide the name of the training provider on
239 his or her full and public disclosure of financial interests.

240 (2) An officer or a member ~~person~~ who is required,
241 ~~pursuant to s. 8, Art. II of the State Constitution,~~ to file a
242 full and public disclosure of financial interests and who has
243 filed a full and public disclosure of financial interests for
244 any calendar or fiscal year is ~~shall~~ not ~~be~~ required to file a
245 statement of financial interests pursuant to s. 112.3145(2) and
246 (3) for the same year or for any part thereof notwithstanding
247 any requirement of this part. If an incumbent in an elective
248 office has filed the full and public disclosure of financial
249 interests to qualify for election to the same office or if a
250 candidate for office holds another office subject to the annual
251 filing requirement, the qualifying officer shall forward an
252 electronic copy of the full and public disclosure of financial
253 interests to the commission no later than July 1. The electronic
254 copy of the full and public disclosure of financial interests
255 satisfies the annual disclosure requirement of this section. A
256 candidate who does not qualify until after the annual full and
257 public disclosure of financial interests has been filed pursuant
258 to this section shall file a copy of his or her disclosure with
259 the officer before whom he or she qualifies.

260 (8)

261 (c) For purposes of this section, an error or omission is
262 immaterial, inconsequential, or de minimis if the original



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263 filing provided sufficient information for the public to
264 identify potential conflicts of interest. However, failure to
265 certify completion of annual ethics training required under s.
266 112.3142 or provide the name of the training provider does not
267 constitute an immaterial, inconsequential, or de minimis error
268 or omission.

269 Section 5. Subsection (4) and paragraph (c) of subsection
270 (10) of section 112.3145, Florida Statutes, are amended to read:

271 112.3145 Disclosure of financial interests and clients
272 represented before agencies.—

273 (4) Beginning January 1, 2015, an officer who is required
274 to complete annual ethics training pursuant to s. 112.3142 must
275 certify on his or her statement of financial interests that he
276 or she has completed the required training. Beginning January 1,
277 2018, an officer or a member who is required to complete annual
278 ethics training pursuant to s. 112.3142 must provide the name of
279 the training provider on his or her statement of financial
280 interests.

281 (10)

282 (c) For purposes of this section, an error or omission is
283 immaterial, inconsequential, or de minimis if the original
284 filing provided sufficient information for the public to
285 identify potential conflicts of interest. However, failure to
286 certify completion of annual ethics training required under s.
287 112.3142 or provide the name of the training provider does not



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288 constitute an immaterial, inconsequential, or de minimis error
289 or omission.

290 Section 6. The amendments made to ss. 112.3144 and
291 112.3145, Florida Statutes, by this act apply to disclosures
292 filed for the 2017 calendar year and all subsequent calendar
293 years.

294 Section 7. Subsection (1) of section 112.31455, Florida
295 Statutes, is amended to read:

296 112.31455 Collection methods for unpaid automatic fines
297 for failure to timely file disclosure of financial interests.—

298 (1) Before referring any unpaid fine accrued pursuant to
299 s. 112.3144(5) or s. 112.3145(7) to the Department of Financial
300 Services, the commission shall attempt to determine whether the
301 individual owing such a fine is a current public officer or
302 current public employee. If so, the commission may notify the
303 Chief Financial Officer or the governing body of the appropriate
304 county, municipality, school district, or special district of
305 the total amount of any fine owed to the commission by such
306 individual.

307 (a) After receipt and verification of the notice from the
308 commission, the Chief Financial Officer or the governing body of
309 the county, municipality, school district, or special district
310 shall begin withholding the lesser of 10 percent or the maximum
311 amount allowed under federal law from any salary-related



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312 payment. The withheld payments shall be remitted to the
313 commission until the fine is satisfied.

314 (b) The Chief Financial Officer or the governing body of
315 the county, municipality, school district, or special district
316 may retain an amount of each withheld payment, as provided in s.
317 77.0305, to cover the administrative costs incurred under this
318 section.

319 Section 8. Effective October 1, 2018, paragraph (b) of
320 subsection (2) of section 112.3148, Florida Statutes, is amended
321 to read:

322 112.3148 Reporting and prohibited receipt of gifts by
323 individuals filing full or limited public disclosure of
324 financial interests and by procurement employees.-

325 (2) As used in this section:

326 (b)1. "Lobbyist" means any natural person who, for
327 compensation, seeks, or sought during the preceding 12 months,
328 to influence the governmental decisionmaking of a reporting
329 individual or procurement employee or his or her agency or
330 seeks, or sought during the preceding 12 months, to encourage
331 the passage, defeat, or modification of any proposal or
332 recommendation by the reporting individual or procurement
333 employee or his or her agency.

334 2. With respect to an agency that is a governmental entity
335 as defined in s. 112.3262 ~~has established by rule, ordinance, or~~
336 ~~law a registration process for persons seeking to influence~~

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337 ~~decisionmaking or to encourage the passage, defeat, or~~
338 ~~modification of any proposal or recommendation by such agency or~~
339 ~~an employee or official of the agency, the term "lobbyist"~~
340 includes only a person who is required to be registered as a
341 lobbyist in accordance with s. 112.3262 ~~such rule, ordinance, or~~
342 ~~law~~ or who was during the preceding 12 months required to be
343 registered as a lobbyist in accordance with such ~~rule,~~
344 ~~ordinance, or law. At a minimum, such a registration system must~~
345 ~~require the registration of, or must designate, persons as~~
346 ~~"lobbyists" who engage in the same activities as require~~
347 ~~registration to lobby the Legislature pursuant to s. 11.045.~~

348 Section 9. Effective October 1, 2018, section 112.3261,
349 Florida Statutes, is repealed.

350 Section 10. Subsection (3) of section 218.32, Florida
351 Statutes, is renumbered as subsection (4), respectively, and
352 subsection (3) is added to that section, to read:

353 218.32 Annual financial reports; local governmental
354 entities.—

355 (3) The department shall annually by December 1 file a
356 verified report with the Legislature and Commission on Ethics
357 showing the total revenues for each municipality in each of the
358 three prior fiscal years and whether the municipality filed
359 timely its annual financial report in accordance with s. 218.32.
360 The report shall also indicate each municipality having no
361 certified annual financial report in each such year.

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362 Section 11. Section 112.3262, Florida Statutes, is created
363 to read:

364 112.3262 Lobbying before governmental entities.-

365 (1) As used in this section, the term:

366 (a) "Governmental entity" or "entity" means a water
367 management district created in s. 373.069 and operating under
368 the authority of chapter 373, a hospital district, a children's
369 services district, an expressway authority as the term
370 "authority" is defined in s. 348.0002, a port authority as
371 defined in s. 315.02, a county, a municipality, a school
372 district, or a special district.

373 (b) "Lobbying" means seeking, on behalf of another person,
374 to influence a governmental entity with respect to a decision of
375 the entity in an area of policy or procurement or an attempt to
376 obtain the goodwill of an official or employee of a governmental
377 entity. The term does not include representing a client in any
378 stage of applying for or seeking approval of an application for
379 a license, permit, or waiver of a regulation or other
380 administrative action, or opposition to such action, provided
381 such action does not require legislative discretion and is
382 subject to judicial review by petitioning for writ of
383 certiorari.

384 (c) "Lobbyist" means a person who is employed and receives
385 payment, or who contracts for economic consideration, for the
386 purpose of lobbying, or a person who is principally employed for

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387 governmental affairs by another person or governmental entity to
388 lobby on behalf of such person or governmental entity. The term
389 does not include a person who:

390 1. Represents a client in a judicial proceeding or in a
391 formal administrative proceeding before a governmental entity.

392 2. Is an officer or employee of an agency acting in the
393 normal course of his or her duties.

394 3. Consults under contract with the governmental entity
395 and who communicates with the entity's governing body or
396 governing body employee regarding issues related to the scope of
397 services in their contract.

398 4. Is an employee, officer, or board member of a
399 homeowner's association, condominium association, or
400 neighborhood association when addressing, in his or her capacity
401 as an employee, officer, or board member of such association, an
402 issue impacting the association or its members.

403 5. Is a confidential informant who is providing, or wishes
404 to provide, confidential information to be used for law
405 enforcement purposes.

406 6. Is an expert witness who is retained or employed by an
407 employer, principal, or client to provide only scientific,
408 technical, or other specialized information provided in agenda
409 materials or testimony only in public hearings, so long as the
410 expert identifies the employer, principal, or client at the
411 hearing.

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412 7. Seeks to procure a contract which is less than \$20,000
413 or a contract pursuant s. 287.056.

414 (d) "Principal" has the same meaning as in s. 112.3215.

415 (e) "Principally employed for governmental affairs" means
416 that one of the principal or most significant responsibilities
417 of the employee to the employer is overseeing the employer's
418 various relationships with government or representing the
419 employer in its contacts with government.

420 (2) The Commission on Ethics shall create a Local
421 Government Lobbyist Registration System to register lobbyists
422 who wish to lobby governmental entities in accordance with this
423 section. Beginning October 1, 2018, any governmental entity rule
424 or ordinance that requires lobbyist registration is hereby
425 preempted and replaced by the registration system established by
426 this section. However, in accordance with s. 112.326, a
427 governmental entity may adopt a rule or ordinance to regulate
428 lobbyist conduct and may require compensation reporting,
429 disclosure of contacts made with an officer or employee of a
430 governmental entity, or any other activity related to lobbyist
431 conduct, other than registration. No governmental entity may
432 charge any fee for registration of lobbyists and principals and
433 no other fee may be charged in the enforcement of lobbyist
434 regulation except as may be reasonable and necessary to cover
435 the cost of such enforcement.



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436 (3) Beginning October 1, 2018, a person may not lobby a
437 governmental entity until such person has electronically
438 registered as a lobbyist with the commission. Such initial
439 registration shall be due upon being retained to lobby and is
440 renewable annually on the anniversary of the registration or in
441 the month of the lobbyist's birth as selected at the time of
442 registration. The commission shall request authorization from
443 the principal using the principal's name, business address,
444 email address, and telephone number to confirm that the
445 registrant is authorized to represent the principal. The
446 principal or principal's representative shall identify and
447 designate its main business pursuant to the North American
448 Industry Classification System (NAICS) six digit numerical code
449 that most accurately describes the principal's main business.
450 Registration is not complete until the commission receives the
451 principal's authorization and the registration fee. Any changes
452 to the information required by this subsection must be disclosed
453 within 15 days by the lobbyist updating his or her registration.
454 The commission may require separate registration submissions for
455 each county and multi-county governmental entity provided each
456 submission may include, without additional fee, any governmental
457 entity in the county for which the submission is made. A person
458 required to register as a lobbyist under this subsection must
459 register through the electronic system and must attest to the
460 following:

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461 (a) Full legal name, birth month, email address, telephone
462 number and business address.

463 (b) Name, email address, telephone number and business
464 address of each principal.

465 (c) Name of each governmental entity lobbied or intended
466 to be lobbied on behalf of the principal.

467 (d) Any direct or indirect business association,
468 partnership, or financial relationship with an official or
469 employee of a governmental entity lobbied or intended to be
470 lobbied on behalf of the principal.

471 (4) The annual lobbyist registration fee shall be
472 established by the commission by rule, not to exceed \$20 for
473 each principal represented for one county and governmental
474 entities therein or one multi-county governmental entity and not
475 more than \$5 for each additional county or multi-county
476 governmental entity.

477 (5) The commission shall publish a lobbyist directory of
478 all lobbyist registrations on the Internet.

479 (6) A lobbyist shall promptly provide a written statement
480 to the commission canceling the designation of a principal in
481 his or her registration upon termination of such representation.
482 The commission may cancel a lobbyist's designation of a
483 principal upon the principal's notification that the lobbyist is
484 no longer authorized to represent the principal.



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485 (7) A governmental entity must use reasonable efforts to
486 ascertain whether a lobbyist has registered pursuant to this
487 section. A governmental entity may not knowingly authorize an
488 unregistered lobbyist to lobby the entity.

489 (8) (a) Except as provided in subsection (9), the
490 commission shall investigate every sworn complaint that is filed
491 with it alleging that a person covered by this section has
492 failed to register or who has knowingly submitted false
493 information in any registration required in this section.

494 (b) If the commission finds no probable cause to believe
495 that a violation of this section occurred, it shall dismiss the
496 complaint and send a copy of the complaint, findings, and
497 summary to the complainant and the alleged violator. If the
498 commission finds probable cause to believe that a violation
499 occurred, it shall report the results of its investigation to
500 the Governor and send a copy of the report to the alleged
501 violator by certified mail. Upon request submitted to the
502 Governor in writing, any person whom the commission finds
503 probable cause to believe has violated any provision of this
504 section shall be entitled to a public hearing. Such person shall
505 be deemed to have waived the right to a public hearing if the
506 request is not received within 14 days following the mailing of
507 the probable cause notification. However, the Governor may
508 require a public hearing and may conduct such further
509 investigation as it deems necessary.

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510 (c) If the Governor finds that a violation occurred, the
511 Governor may reprimand the violator, censure the violator, or
512 asses a civil penalty in accordance with this section.

513 (d) Upon discovery of violations of this section, a
514 governmental entity or any person may file a sworn complaint
515 with the commission.

516 (9) (a) Upon a first complaint to the commission alleging a
517 violation of subsection (3) against a lobbyist, or upon any
518 complaint against a lobbyist received before January 1, 2020,
519 the commission shall, within 30 days after receipt of the
520 complaint, issue a warning letter to the lobbyist directing him
521 or her to consult the obligations of lobbyists under this
522 section and then dismiss the complaint.

523 (b) On or after January 1, 2020, notwithstanding the civil
524 penalties in s. 112.317, a lobbyist found by the commission to
525 have violated subsection (3) is subject to:

526 1. For a first violation, a civil penalty not to exceed
527 \$500.

528 2. For a second or subsequent violation committed within
529 12 months after the Governor determines that a first violation
530 has been committed, a civil penalty of at least \$200 but not
531 more than \$1000 or a 1-year suspension from lobbying any
532 governmental entity associated with the violation. A
533 governmental entity may impose additional civil penalties not to
534 exceed \$500 per violation, and, notwithstanding paragraph (c),



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535 may suspend the lobbyist from lobbying the governmental entity
536 and its agencies on behalf of any principal for up to 2 years.

537 (c) The civil penalties and suspensions provided in this
538 subsection shall be applied on a per principal basis with
539 suspensions affecting only those principals for whom
540 unregistered lobbying occurred.

541 (10) By January 1, 2018, a governmental entity's governing
542 body, or the entity's designee, shall notify the commission of
543 any ordinance or rule that imposes additional or more stringent
544 obligations with respect to lobbyist compensation reporting, or
545 other conduct, and shall forward to the commission a copy of any
546 associated form that has been established to facilitate
547 compliance with such ordinance or rule. Beginning January 1,
548 2019, each governmental entity is encouraged to conform its
549 registration system, if any, to accommodate regular digital
550 distribution of registration data from the commission so that
551 initial registration of a lobbyist pursuant to subsection (3) is
552 accomplished without having to supply the lobbyist and principal
553 information to more than one registration system. The commission
554 shall cooperate to the extent reasonably practicable to assure
555 such coordination of information.

556 (11) The commission may adopt rules to establish
557 procedures to administer the local government lobbyist
558 registration system, including the staggering of registration
559 renewal dates based on the lobbyist's birth month or anniversary



Amendment No.

560 date of a registration at the option of the lobbyist, the
561 adoption of forms, method of registering specific entities
562 lobbied, exchange of information with local governmental
563 entities, and the establishment of fees authorized in this
564 section.

565 (12) A person, when in doubt about the applicability and
566 interpretation of this section, may submit in writing to the
567 commission the facts of the situation with a request for an
568 advisory opinion to establish a standard of duty. An advisory
569 opinion shall be rendered by the commission and, until amended
570 or revoked, is binding on the conduct of the person who sought
571 the opinion, unless material facts were omitted or misstated in
572 the request.

573 Section 12. The Legislature finds that a proper and
574 legitimate state purpose is served when mechanisms are
575 established to secure and sustain the public's trust in public
576 officers and employees. Therefore, the Legislature determines
577 and declares that this act fulfills an important state interest.

578 Section 13. Except as otherwise expressly provided in this
579 act, this act shall take effect July 1, 2017.

580

581 -----

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

583 Remove lines 3-45 and insert:



Amendment No.

584 amending s. 112.313, F.S.; providing that contractual
585 relationships held by business entities are deemed held by
586 public officers or employees in certain situations; amending s.
587 112.3142, F.S.; requiring certain ethics training for governing
588 board members of special districts and water management
589 districts; authorizing certain continuing education to satisfy
590 the ethics training requirement; deleting a requirement that the
591 Commission on Ethics adopt certain rules relating to ethics
592 training class course content; providing course content
593 requirements; encouraging training providers to seek
594 accreditation; amending s. 112.3143, F.S.; prohibiting governing
595 board members of special districts or school districts from
596 voting in an official capacity on specified matters; prohibiting
597 county, municipal, or other local public officers or governing
598 board members of special districts or school districts from
599 participating in specified matters; amending s. 112.3144, F.S.;
600 requiring certain governing board members of municipalities to
601 file a full and public disclosure of financial interests;
602 providing disclosure requirements; amending s. 112.3145, F.S.;
603 providing disclosure requirements; providing applicability;
604 amending s. 112.31455, F.S.; applying provisions relating to
605 collecting unpaid fines for failing to file such disclosures to
606 school districts; amending s. 112.3148, F.S., to conform to
607 requirements of the local government lobbyist registration
608 requirement, effective October 1, 2018; providing for the future

358643 - HB 7021 - GAC strike-all amendment (Metz).docx

Published On: 3/21/2017 5:30:54 PM



Amendment No.

609 removal of local government authority to enact a rule or
610 ordinance requiring lobbyists to register with the local
611 government; providing for the future repeal of s. 112.3261,
612 F.S., relating to registration and reporting for lobbying water
613 management districts; creating s. 112.3262, F.S.; providing
614 definitions; requiring lobbyists to register with the commission
615 before lobbying governmental entities; providing registration
616 requirements; providing responsibilities of the commission;
617 providing responsibilities of the Governor; providing civil
618 penalties; authorizing the suspension of certain lobbyists;
619 providing responsibilities of the governmental entity;
620 authorizing the commission to adopt rules; declaring that the
621 act fulfills an important state interest;
622

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Accountability
2 Committee

3 Representative Slosberg offered the following:

4
5 **Amendment to Amendment (358643) by Representative Metz**
6 **(with title amendment)**

7 Between lines 6 and 7 of the amendment, insert:

8 Section 1. Subsection (3) is added to section 104.047,
9 Florida Statutes, to read:

10 104.047 Vote-by-mail ballots and voting; violations.-

11 (3) Any candidate, person acting on behalf of a candidate,
12 or member of a political committee, group, or organization who
13 is present in the residence of an elector while he or she marks
14 or designates a choice on the ballot for the purpose of
15 intimidating the elector or soliciting the elector's vote is

Amendment No.

16 guilty of a felony of the third degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18

19

20

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

21

Remove line 584 of the amendment and insert:

22

amending s. 104.047, F.S.; prohibiting certain persons

23

from being present in the residence of an elector

24

while he or she marks or designates a choice on the

25

ballot for the purpose of soliciting the elector's

26

vote; providing a criminal penalty; amending s.

27

112.313, F.S.; providing that contractual

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7023 PCB PIE 17-04 Trust Funds/Creation/Local Government Lobbyist Registration Trust Fund
SPONSOR(S): Public Integrity & Ethics Committee, Yarborough
TIED BILLS: HB 7021 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Public Integrity & Ethics Committee	18 Y, 0 N	Kiner	Rubottom
1) Appropriations Committee	27 Y, 0 N	Delaney	Leznoff
2) Government Accountability Committee		Moore <i>AM</i>	Williamson <i>Raw</i>

SUMMARY ANALYSIS

The Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature. The Constitution also requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature specifies a shorter time period or an exception applies.

Current law requires a person who wishes to lobby the executive branch to register as a lobbyist with the Commission on Ethics (Commission) and pay a registration fee. Similarly, the Florida Legislature, by rule, requires a lobbyist who wishes to lobby either house of the Legislature to register with the Lobbyist Registration Office in the Office of Legislative Services and pay a registration fee.

House Bill 7021, which is linked with this bill, requires a person who wishes to lobby a local governmental entity to register electronically as a lobbyist with the Commission. That bill requires the Commission to establish an annual lobbyist registration fee by rule, which may not exceed \$40 for each principal represented.

The bill creates the Local Government Lobbyist Registration Trust Fund within the Commission. The trust fund's purpose is to administer the local government lobbyist registration system created by HB 7021, including the payment of salaries and expenses. The bill requires annual lobbyist registration fees collected pursuant to the local government lobbyist registration program to be deposited into the trust fund.

In accordance with the Florida Constitution, the bill requires the trust fund to terminate on July 1, 2021, unless the trust fund is terminated sooner. Prior to its termination, the trust fund must be reviewed to determine whether it should terminate or be re-created.

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

The bill becomes effective on the same date that HB 7021 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

A bill proposing to create a trust fund must be passed by three-fifths of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Trust Fund Creation and Termination

Article III, s. 19(f)(1) of the Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature.

Article III, s. 19(f)(2) of the Florida Constitution requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law, the Legislature may set a shorter time period for which any trust fund is authorized. However, Article III, s. 19(f)(3) of the Florida Constitution provides various exceptions to the four-year termination requirement for certain types of trust funds.

Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated, the agency responsible for administration of the trust fund and the Governor (for executive branch trust funds) or the Chief Justice (for judicial branch trust funds) must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created. The recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.¹

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund must be deposited into the General Revenue Fund. The agency or Chief Justice must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer must close out and remove the trust fund from the various state financial systems. No appropriation or budget amendment may be construed to authorize any encumbrance of funds from a trust fund after the date on which the trust fund is terminated or is judicially determined to be invalid.²

State Lobbyist Registration Systems

Florida law requires a person who wishes to lobby the executive branch to register as a lobbyist with the Commission on Ethics (Commission).³ Similarly, the Florida Legislature, by rule, requires a lobbyist who wishes to lobby either house of the Legislature to register with the Lobbyist Registration Office in the Office of Legislative Services.⁴ In addition to these registration requirements, lobbying firms must file quarterly compensation reports for each quarter in which at least one of their lobbyists was registered to represent a principal.⁵

As of February 2017, there were over 1,300 lobbyists registered to lobby the executive branch on behalf of over 3,300 principals, representing over 8,900 total registrations.⁶ As of February 2017, there were over 1,800 lobbyists registered to lobby the Legislature on behalf of over 3,600 principals,

¹ S. 215.3206(1), F.S.

² S. 215.3206(2), F.S.

³ S. 112.3215(3), F.S.

⁴ Joint Rule 1.1(1).

⁵ SS. 11.045(3)(a)1. and 112.3215(5)(a)1., F.S.

⁶ See statistics on registered lobbyists on the Florida Lobbyist Registration & Compensation website at www.floridalobbyist.gov (last viewed 2/24/2017).

representing over 10,000 total registrations.⁷ In total, there were over 150 lobbyists registered to lobby only the executive branch, over 600 registered to lobby only the Legislature, and over 1,200 registered to lobby both the executive branch and the Legislature.⁸ Currently, the executive branch has 1.5 FTEs to administer registrations, including oath authorizations, and compensation reports. The Legislature has 2 FTEs to administer registrations and compensation reports.

Each lobbyist registration program has a dedicated trust fund whereby registration fees must be used to administer the program. The executive branch lobbyist registration fee is \$25 per principal, although by statute, the fee may be up to \$40 per principal.⁹ The Legislature's annual lobbyist registration fee is \$50 for the first registration and \$20 for each additional registration. If a lobbyist is registering before only one chamber, the annual fee is \$25 for the first registration and \$10 for each additional registration. As of February 2017, the Executive Branch Lobbyist Registration Trust Fund had \$1,135,123 in cash on hand, while the Legislative Lobbyist Registration Trust Fund had \$1,379,440 in cash on hand.

Executive Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	595,084	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265
Revenues Collected	182,600	201,525	201,025	189,515	194,175	205,025	201,825	230,530	261,830	254,250
Disbursements	145,927	99,333	101,893	120,800	151,668	147,206	151,432	222,400	355,210	216,183
Excess (Deficiency) of Revenue over Disbursements	36,673	102,192	99,132	68,715	42,507	57,819	50,393	8,130	(93,380)	38,067
Ending Cash Balance	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265	1,005,333
Legislative Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	792,074	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775
Revenues Collected	254,137	252,435	256,746	245,680	246,545	260,580	247,845	265,830	278,600	283,355
Disbursements	248,277	211,862	205,650	198,563	189,606	136,959	134,877	225,998	317,905	223,197
Excess (Deficiency) of Revenue over Disbursements	5,860	40,573	51,096	47,117	56,938	123,621	112,968	39,832	(39,305)	60,158
Ending Cash Balance	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775	1,290,933

House Bill 7021 (2017)

House Bill 7021 requires a person who wishes to lobby a local governmental entity to register electronically as a lobbyist with the Commission. The bill requires the Commission to establish an annual lobbyist registration fee by rule, which may not exceed \$40 for each principal represented.

Effect of Proposed Changes

The bill, which is linked to the passage of HB 7021, creates the Local Government Lobbyist Registration Trust Fund (trust fund) within the Commission. The trust fund's purpose is to fund the administration of the local government lobbyist registration system created by HB 7021, including the payment of salaries and other expenses. The bill requires annual lobbyist registration fees collected pursuant to the local government lobbyist registration program to be deposited into the trust fund. The bill also specifies that the trust fund is not subject to any service charges under ch. 215, F.S., which requires specified service charges to be appropriated from all revenue deposited in certain trust funds.

⁷ *Id.*

⁸ *Id.*

⁹ Rule 34-12.200, F.A.C., implementing s. 112.3215(4), F.S.

The bill requires the trust fund to terminate on July 1, 2021, unless the trust fund is terminated sooner. Before the scheduled termination, the bill requires the trust fund to be reviewed as provided in s. 215.3206(1) and (2), F.S. These provisions of law would require the Commission on Ethics to review the trust fund and recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.

The bill specifies that it becomes effective on the same date that HB 7021 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. The bill also specifies that it may only take effect if it is enacted by a three-fifths vote of the membership of each house of the Legislature.

B. SECTION DIRECTORY:

Section 1 creates s. 112.32613, F.S., relating to the creation of the Local Government Lobbyist Registration Trust Fund.

Section 2 provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Stand Alone Bill

Article III, s. 19(f)(1) of the Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature.

Trust Fund Termination

Article III, s. 19(f)(2) of the Florida Constitution requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. The bill requires the trust fund to terminate on July 1, 2021, unless terminated sooner.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to trust funds; creating s. 112.32613,
 3 F.S.; creating the Local Government Lobbyist
 4 Registration Trust Fund within the Commission on
 5 Ethics; providing for the purpose of the trust fund
 6 and sources of funds; providing for the future
 7 legislative review and termination or re-creation of
 8 the trust fund; providing a contingent effective date.

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

11
 12 Section 1. Section 112.32613, Florida Statutes, is created
 13 to read:

14 112.32613 Local Government Lobbyist Registration Trust
 15 Fund.—

16 (1) The Local Government Lobbyist Registration Trust Fund
 17 is created within the Commission on Ethics to fund any office,
 18 including the payment of salaries and other expenses,
 19 established to administer the local government lobbyist
 20 registration system in s. 112.32612. The trust fund is not
 21 subject to any service charges under chapter 215. Annual
 22 lobbyist registration fees collected pursuant to s. 112.32612
 23 shall be deposited into the trust fund.

24 (2) In accordance with s. 19(f)(2), Art. III of the State
 25 Constitution, the trust fund shall, unless terminated sooner, be

26 terminated on July 1, 2021. Before its scheduled termination,
27 the trust fund shall be reviewed as provided in s. 215.3206(1)
28 and (2).

29 Section 2. This act shall take effect on the same date
30 that HB 7021 or similar legislation takes effect, if such
31 legislation is adopted in the same legislative session or an
32 extension thereof and becomes a law, and only if this act is
33 enacted by a three-fifths vote of the membership of each house
34 of the Legislature.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Government Accountability
2 Committee

3 Representative Yarborough offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 12-22 and insert:

7 Section 1. Section 112.3263, Florida Statutes, is created
8 to read:

9 112.3263 Local Government Lobbyist Registration Trust
10 Fund.—

11 (1) The Local Government Lobbyist Registration Trust Fund
12 is created within the Commission on Ethics to fund any office,
13 including the payment of salaries and other expenses,
14 established to administer the local government lobbyist
15 registration system in s. 112.3262. The trust fund is not



Amendment No. 1

16 subject to any service charges under chapter 215. Annual
17 lobbyist registration fees collected pursuant to s. 112.3262

18
19 -----

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

21 Remove line 2 and insert:

22 An act relating to trust funds; creating s. 112.3263,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7041 PCB OTA 17-02 Pub. Rec. and Meetings/Peer Review Panel/James & Esther King Biomedical Research Program & William G. "Bill" Bankhead, Jr., & David Coley Cancer Research Program

SPONSOR(S): Oversight, Transparency & Administration Subcommittee, Pigman

TIED BILLS: **IDEN./SIM. BILLS:** SB 7004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Toliver	Harrington
1) Health & Human Services Committee	16 Y, 0 N	Siples	Calamas
2) Government Accountability Committee		Toliver <i>HT</i>	Williamson <i>AW</i>

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 James and Esther King Biomedical Research Program (King Program) was created to provide an annual and perpetual source of funding to support research initiatives that address the healthcare problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) was created to advance progress towards cures for cancer through grants awarded by the program. Both programs award competitive grants and fellowships for biomedical research. The grants are awarded based on criteria and standards developed by the Biomedical Research Advisory Council and are reviewed by independent peer review panels.

Current law provides that when the peer review panels convene to evaluate grant or fellowship applications submitted to the King Program or the Bankhead-Coley Program, the portion of the meeting in which applications for biomedical research grants are discussed, is exempt from public meeting requirements. In addition, any records generated relating to research grant applications or the review of those applications, except final recommendations, are confidential and exempt from public record requirements. Information held confidential and exempt may be disclosed with the express written consent of the individual to whom the information pertains or the individual's legal guardian or by court order.

The bill reenacts the public meeting and public record exemptions, 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 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 created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

James and Esther King and Bankhead-Coley Research Programs

The James and Esther King Biomedical Research Program (King Program) is established within the Florida Department of Health (DOH) and is funded by the proceeds of the Lawton Chiles Endowment Fund, cigarette surcharge, and the General Revenue Fund.⁶ The purpose of the King Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the healthcare problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.⁷ The funds appropriated to the King Program are used to award research grants and fellowships.⁸

The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) is established within DOH and is funded by an annual appropriation from the General Revenue Fund.⁹ The purpose of the Bankhead-Coley Program is to advance progress towards cures for cancer and cancer-related illnesses through grants awarded through a peer-reviewed process.¹⁰

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 215.5602(1) and (12), F.S.

⁷ Section 215.5602(1), F.S.

⁸ Section 215.5602(2), F.S.

⁹ Sections 381.922(5) and 215.5602(12), F.S.

¹⁰ Section 381.922(1), F.S.

Research grants and fellowships are awarded based on criteria and standards developed by the Biomedical Research Advisory Council (Council),¹¹ an entity created within DOH.¹² Each grant or fellowship application is evaluated by a peer review panel to ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit.¹³ The peer review panel reviews the content of each proposal and establishes a scientific priority score.¹⁴ The score must be considered in the review process by the Council¹⁵ which then makes recommendations to the State Surgeon General as to what grants or fellowships should be awarded.¹⁶ The Council and peer review panels are directed to establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest.¹⁷

Public Record and Public Meeting Exemptions under Review

In 2012, the Legislature created a public meeting exemption for portions of meetings of peer review panels under the King and Bankhead-Coley Programs.¹⁸ The Legislature also created a public record exemption that provides that any research grant applications provided to the panel¹⁹ or any records generated by the panel relating to the review of those applications, except final recommendations,²⁰ are confidential and exempt²¹ from public record requirements. The information may only be disclosed with the express written consent of the individual to whom the information pertains or the individual's legal guardian or by court order.²²

The 2012 public necessity statement for the exemptions provides that:²³

The research grant applications contain information of a confidential nature, including ideas and processes, the disclosure of which could injure the affected researcher. Maintaining confidentiality is a hallmark of scientific peer review when awarding grants, is practiced by the National Science Foundation and the National Institutes of Health, and allows for candid exchanges between reviewers critiquing proposals. The Legislature further finds that closing access to meetings of scientific peer review panels in which biomedical research applications are discussed serves a public good by ensuring that decisions are based upon merit without bias or undue influence. Further, the Legislature finds that records generated during meetings of the peer review panels related to the review of applications for biomedical research grants must be protected for the same reasons that justify the closing of such meetings.

Pursuant to the Open Government Sunset Review Act, the exemptions will repeal on October 2, 2017, unless reenacted by the Legislature.²⁴

¹¹ Section 215.5602(4)(f), F.S.

¹² Section 215.5602(3), F.S.

¹³ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁴ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁵ Sections 215.5602(6) and 381.922(3)(b), F.S.

¹⁶ Section 215.5602(5)(b) and 381.922(3)(a), F.S.

¹⁷ Sections 215.5602(7) and 381.922(3)(c), F.S.

¹⁸ Sections 215.56021(1) and 318.92201(1), F.S.; *see also* ch. 2012-15, L.O.F.

¹⁹ Sections 215.56021(3) and 318.92201(3), F.S.

²⁰ Sections 215.56021(2) and 381.92201(2), F.S.

²¹ 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).

²² Sections 215.56021(4) and 381.92201(4), F.S.

²³ Chapter 2012-15, L.O.F.

During the 2016 interim, subcommittee staff sent DOH a questionnaire as part of its review under the Open Government Sunset Review Act. DOH recommended reenactment of the exemptions as is, noting that "[g]rant applications contain novel research ideas, can be considered intellectual property, and should not be made available."²⁵ The department also explained that "[p]eer review exemptions for meetings and records are supported by the Biomedical Research Advisory Council and the Alzheimer's Disease Research Grant Advisory Board."²⁶

Effect of the Bill

The bill removes the repeal date thereby reenacting the public meeting exemption for portions of a meeting of a peer review panel in which applications for biomedical research grants are discussed. The bill also reenacts the public record exemptions for research grant applications provided to a peer review panel and any records generated by the panel relating to the review of those applications, except final recommendations.

In 2012, the public meeting and public record exemptions were cross published in two different statutes. The bill repeals the duplicative provision from law. As such, the repeal of the duplicative provision does not have a substantive effect.²⁷

B. SECTION DIRECTORY:

Section 1 repeals a duplicative statute.

Section 2 amends s. 381.92201, F.S., to save from repeal the public meeting and public record exemptions for peer review panels under the King and Bankhead-Coley Programs.

Section 3 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.

²⁴ Sections 215.56021(5) and 381.92201(5), F.S.

²⁵ Open Government Sunset Review of ss. 215.56021 and 381.92201, F.S., relating to Peer Review Panels, questionnaire by House and Senate Staff, August 10, 2016, at question 11 (on file with the Oversight, Transparency & Administration Subcommittee).

²⁶ *Id.* at question 12.

²⁷ DOH confirmed in the questionnaire that one section of law would be sufficient to cover both the King and Bankhead-Coley Programs as both "statutory provisions are the same." *Id.* at question 9.

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.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; repealing s. 215.56021, F.S., which
 4 provides an exemption from public records and public
 5 meeting requirements for certain records generated by,
 6 and meetings of, a peer review panel under the James
 7 and Esther King Biomedical Research Program and the
 8 William G. "Bill" Bankhead, Jr., and David Coley
 9 Cancer Research Program; amending s. 381.92201, F.S.,
 10 which provides an exemption from public records and
 11 public meeting requirements for certain records
 12 generated by, and meetings of, a peer review panel
 13 under the James and Esther King Biomedical Research
 14 Program and the William G. "Bill" Bankhead, Jr., and
 15 David Coley Cancer Research Program; removing the
 16 scheduled repeal of the exemption; providing an
 17 effective date.

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

20
 21 Section 1. Section 215.56021, Florida Statutes, is
 22 repealed.

23 Section 2. Subsection (5) of section 381.92201, Florida
 24 Statutes, is amended to read:

25 381.92201 Exemptions from public records and public

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26 meetings requirements; peer review panels.-

27 ~~(5) Subsections (1), (2), (3), and (4) are subject to the~~
28 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
29 ~~and shall stand repealed on October 2, 2017, unless reviewed and~~
30 ~~saved from repeal through reenactment by the Legislature.~~

31 Section 3. This act shall take effect October 1, 2017.