



Government Accountability Committee

March 9, 2017
9:00 AM-10:30 AM
Morris Hall

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Accountability Committee

Start Date and Time: Thursday, March 09, 2017 09:00 am
End Date and Time: Thursday, March 09, 2017 10:30 am
Location: Morris Hall (17 HOB)
Duration: 1.50 hrs

Consideration of the following bill(s):

CS/HB 105 Vote-by-Mail Ballots by Oversight, Transparency & Administration Subcommittee, Cruz
HB 243 Pub. Rec./Nonsworn Investigative Personnel of OFR's Bureau of Financial Investigations by Raulerson
HR 281 Objecting to United Nations Security Council Resolution 2334 by Moskowitz, Fine
HB 299 Central Florida Expressway Authority by Goodson
CS/HB 335 Resource Recovery and Management by Natural Resources & Public Lands Subcommittee, Clemons
CS/HB 401 Notaries Public by Local, Federal & Veterans Affairs Subcommittee, Abruzzo
HB 7029 Department of Military Affairs Direct-support Organization by Local, Federal & Veterans Affairs Subcommittee, Baez
HB 7031 Department of Veterans' Affairs Direct-support Organization by Local, Federal & Veterans Affairs Subcommittee, Burgess
HB 7045 OGSR/Reports of Unclaimed Property by Oversight, Transparency & Administration Subcommittee, Raulerson

NOTICE FINALIZED on 03/07/2017 4:08PM by Smith.Victoria

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 105 Vote-By-Mail Ballots
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Cruz and others
TIED BILLS: IDEN./SIM. BILLS: SB 544, SB 954

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N, As CS	Toliver	Harrington
2) Government Accountability Committee		Toliver <i>HT</i>	Williamson <i>Raw</i>

SUMMARY ANALYSIS

Florida law allows an elector to cast a ballot by mail, called a vote-by-mail ballot. Once the elector has completed his or her ballot, the elector must sign a voter's certificate on the back of the return envelope. The voter's certificate requires the elector to affirm that the elector is a qualified, registered voter of the county and that the elector has not and will not vote more than one ballot in the election. The supervisor of elections (supervisor) and the county canvassing board use this signature to confirm that the person voting is the same elector in the registration records. If the elector omits his or her signature from the voter's certificate or the signature is determined to not match the registration records, the ballot is deemed illegal and will not be counted. However, if an elector omits his or her signature, he or she may, until 5 p.m. the day before the election, submit an affidavit to remedy the defective ballot and have it counted. There is no analogous process to cure a ballot when the signature does not match the signature on the registration records.

The bill requires the supervisor to notify each elector whose vote-by-mail ballot has been rejected of the existence of the process to cure the rejected ballot. It requires the supervisor to make a good faith effort to notify the elector before 5 p.m. the day before an election. The bill provides a cure for an elector who submits a vote-by-mail ballot that is rejected because of a difference between the signature on the voter's certificate or ballot affidavit and the registration books or precinct register. The cure provision allows an elector to cure the defect by submitting an affidavit in the same way as is currently allowed for unsigned vote-by-mail ballots. As such, the bill provides the elector may, until 5:00 p.m. on the day before the election, complete an affidavit to cure the vote-by-mail ballot. The bill also clarifies that when an elector's signature on a vote-by-mail ballot affidavit does not match the elector's signature in the registration books, the elector's identity can be confirmed with a copy of a current and valid photo identification. In addition, the bill expands the list of acceptable forms of identification for purposes of curing a vote-by-mail ballot to include a Florida driver license and a Florida identification card issued by the Department of Highway Safety and Motor Vehicles.

The bill may have an insignificant negative fiscal impact on the state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida law allows an elector to cast his or her ballot by mail.¹ Those ballots, termed "vote-by-mail ballots," are subject to specific requirements and procedures set in statute.² In brief, an elector may request a vote-by-mail ballot from his or her supervisor of elections (supervisor).³ Thereafter, the supervisor mails the elector a letter containing a ballot, instructions for completing the ballot,⁴ and a secrecy envelope for returning the ballot.⁵ Once the elector has completed the ballot and placed it in the secrecy envelope, the elector must complete a voter's certificate affixed to the back of the envelope.⁶ The voter's certificate reads as follows:

VOTER'S CERTIFICATE

I, _____, do solemnly swear or affirm that I am a qualified and registered voter of _____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot.

(Date)

(Voter's Signature)⁷

Upon receipt of the vote-by-mail ballot, the supervisor compares the signature on the voter's certificate to the signature of the elector in the registration books or the precinct register "to determine whether the elector is duly registered in the county."⁸ A vote-by-mail ballot is considered illegal if the voter's certificate does not include the signature of the elector, as shown by the registration records or the precinct register.⁹

If a vote-by-ballot is rejected as illegal, the supervisor must notify the elector that his or her ballot was rejected and provide the reason for the rejection.¹⁰ If the ballot was rejected due to a difference between the elector's signature on the voter's certificate or vote-by-mail affidavit and the signature in the registration books or precinct register, then the supervisor must mail a voter registration application to that elector for purposes of updating his or her signature.¹¹

¹ Section 101.62, F.S.

² See ss. 101.6105, 101.6106, 101.6107, 101.62, 101.64, 101.65, 101.655, 101.661, 101.662, 101.67, 101.68, 101.69, 101.6921, 101.6923, 101.6925, 101.694, 101.6951, 101.6952, 101.697, and 101.698, F.S.

³ Section 101.62, F.S.

⁴ Section 101.65, F.S.

⁵ Section 101.64(1), F.S.

⁶ *Id.*

⁷ The supervisor must create the secrecy envelope so that the voter's signature portion of the certificate crosses the seal of the envelope. Section 101.64(2), F.S.

⁸ Section 101.68(1), F.S. If the supervisor fails to compare the signatures, the county canvassing board will do so. Section 101.68(2)(c)1., F.S.

⁹ Section 101.68(2)(c)1., F.S.

¹⁰ Section 101.68(4)(a), F.S.

¹¹ *Id.*

The Florida Election Code¹² allows an elector voting by mail to update his or her signature for verification purposes at any time before the county canvassing board begins canvassing the ballots. After canvassing begins, an elector may not update his or her signature for this purpose.¹³ County canvassing boards may begin canvassing vote-by-ballots 15 days before the election but must begin canvassing those ballots by noon the day after the election.¹⁴

An elector's vote-by-mail ballot may be invalidated based upon two deficiencies in signing the voter's certificate: signature omission and signature mismatch. If an elector's signature is omitted from the certificate,¹⁵ the elector may cure the illegal ballot.¹⁶ If, by 5 p.m. on the day before the election, the elector completes a vote-by-mail affidavit¹⁷ and provides identification¹⁸ to the supervisor, the ballot will be legitimized and counted.¹⁹ However, no analogous cure process exists when the supervisor or the county canvassing board determines that the signature on the voter's certificate does not match the signature on record for that elector. In that circumstance, the ballot is deemed illegal.²⁰

Recent Litigation

The United States District Court for the Northern District of Florida declared "Florida's statutory scheme as it relates to mismatched-signature [vote-by-mail] ballots" unconstitutional.²¹ The plaintiffs in the case, the Florida Democratic Party, sought an injunction enjoining the state "and anyone under their supervision from rejecting mismatch-signature ballots without first affording those voters an opportunity to cure in the same election cycle."²² The court granted the injunction noting that Florida's statutory scheme threatens the constitutional right of each voter to cast his or her vote and have it counted "by subjecting vote-by-mail voters to an unreasonable risk that their ballot will be tossed without any opportunity to cure, let alone any form of notice."²³ The court therefore ordered "mismatched-signature ballots to be cured in precisely the same fashion as currently provided for non-signature ballots."²⁴ To that end, the court ordered the Secretary of State to give each supervisor an altered affidavit that includes references to vote-by-mail voters whose ballots have been invalidated because of a signature mismatch. On December 12, 2016, the court issued an order staying the case until May 5, 2017.

Effect of the Bill

The bill provides a cure for an elector who submits a vote-by-mail ballot that is rejected because of a difference between the signature on the voter's certificate or ballot affidavit and the registration books

¹² Section 97.011, F.S. Chapters 97-106, F.S., inclusive are known and may be cited as "The Florida Election Code."

¹³ Section 98.077(4), F.S.; *see also* s. 97.055(1)(b), F.S.

¹⁴ Section 101.68(2)(a), F.S.; *see also* s. 98.077, F.S., requiring each supervisor to publish a notice in each year in which a general election occurs specifying how an elector can update his or her voter registration signature in a newspaper in the county.

¹⁵ The instructions accompanying the vote-by-mail ballot warn the elector that a signature is required for the ballot to be counted. "In order for your vote-by-mail ballot to be counted, you must sign your name on the line above (Voter's Signature)." Section 101.65, F.S.

¹⁶ Section 101.68(4), F.S.; *see also* s. 98.077(4), F.S., an elector may not update his or her signature for purposes of verifying a vote-by-mail ballot once the canvassing of vote-by mail ballots begins.

¹⁷ The form of the affidavit is prescribed by statute, s. 101.68(4)(c), F.S., and the Department of State, Division of Elections, has created a standardized form for the affidavit, DS-DE-139. The Department of State and each supervisor are required to post the affidavit online and accept the elector's affidavit and identification by mail, fax, or email. Section 101.68(4)(d), F.S.

¹⁸ Section 101.68(4)(c), F.S. Current acceptable forms of identification include the following: United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; a Florida license to carry a concealed weapon or firearm; or an employee identification card issued by any branch, department, agency, or entity of the Federal Government, the state, a county, or a municipality; or identification that shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

¹⁹ Section 101.68(4)(b), F.S.

²⁰ Section 101.68(2)(c)1., F.S.

²¹ *Fla. Democratic Party v. Detzner*, 4:16cv607-MW/CAS (N.D. Fla. 2016).

²² *Id.* at 9.

²³ *Id.*

²⁴ *Id.* at 29.

or precinct register. The cure provision allows an elector to cure the defect by submitting an affidavit in the same way as is currently allowed for unsigned vote-by-mail ballots. As such, the elector may, until 5 p.m. on the day before the election, complete an affidavit to cure the vote-by-mail ballot. The bill also requires the supervisor to notify each elector whose vote-by-mail ballot has been rejected of the process to cure the rejected ballot. The bill requires the supervisor to make a good faith effort to notify the elector that his or her ballot has been rejected before 5 p.m. on the day before an election.

The bill provides that when an elector's signature on a vote-by-mail ballot affidavit does not match the elector's signature in the registration books, the elector's identity can be confirmed with a copy of a current and valid photo identification. In addition, the bill expands the types of photo identification cards that may be used to cure a vote-by-mail ballot to include a Florida driver license and a Florida identification card issued by the Department of Highway Safety and Motor Vehicles.

B. SECTION DIRECTORY:

Section 1 amends s. 101.68, F.S., relating to vote-by-mail ballots.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may cause a minimal fiscal impact to the Department of State, Division of Elections, because the division may need to alter form DS-DE-139, the Omitted Signature Affidavit for Vote-By-Mail Ballots, or the division may need to create a second affidavit. In addition, each supervisor and the Division of Elections are required to place the affidavit online; as such, there might be a minimal fiscal impact associated with replacing the current affidavit with the updated affidavit.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the State Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 16, 2017, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably with a committee substitute. The strike-all amendment requires the supervisor to notify each elector whose vote-by-mail ballot has been rejected of the process to cure the rejected ballot. It requires the supervisor to make a good faith effort to notify the elector before 5 p.m. on the day before an election. It provides a procedure for when a signature on an affidavit does not match the elector's signature in the registration books to allow the supervisor to verify the voter's identity with current and valid photo identification. In addition, the amendment specifies that a Florida driver license or Florida identification card are acceptable forms of identification for purposes of curing a vote-by-mail ballot.

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 vote-by-mail ballots; amending s.
 3 101.68, F.S.; requiring the supervisor of elections to
 4 notify each elector whose vote-by-mail ballot has been
 5 rejected as illegal of the process to cure such
 6 ballot; requiring the supervisor of elections to make
 7 a good faith effort to notify the elector within a
 8 specified time; requiring the supervisor to allow
 9 submission of an affidavit to cure specified signature
 10 discrepancies; providing procedures to be used by the
 11 supervisor of elections in verifying an elector's
 12 signature; revising vote-by-mail ballot affidavit
 13 instructions; providing an effective date.

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

16
 17 Section 1. Paragraphs (a), (b), and (d) of subsection (4)
 18 of section 101.68, Florida Statutes, are amended to read:

19 101.68 Canvassing of vote-by-mail ballot.—

20 (4) (a) The supervisor of elections shall, on behalf of the
 21 county canvassing board, notify each elector whose ballot was
 22 rejected as illegal, ~~and~~ provide the specific reason the ballot
 23 was rejected, and, if the ballot can be cured pursuant to this
 24 subsection, notify each elector of the process to cure the
 25 rejected ballot. The supervisor shall make a good faith effort

26 | to notify the elector before 5 p.m. on the day before an
 27 | election. The supervisor shall mail a voter registration
 28 | application to the elector to be completed indicating the
 29 | elector's current signature if the elector's ballot was rejected
 30 | due to a difference between the elector's signature on the
 31 | voter's certificate or vote-by-mail ballot affidavit and the
 32 | elector's signature in the registration books or precinct
 33 | register. This section does not prohibit the supervisor from
 34 | providing additional methods for updating an elector's
 35 | signature.

36 | (b) Until 5 p.m. on the day before an election, the
 37 | supervisor shall allow an elector who has returned a vote-by-
 38 | mail ballot that does not include the elector's signature, or
 39 | that was rejected due to a difference between the elector's
 40 | signature on the voter's certificate or vote-by-mail ballot
 41 | affidavit and the elector's signature in the registration books
 42 | or precinct register, to complete and submit an affidavit in
 43 | order to cure the ~~unsigned~~ vote-by-mail ballot. A vote-by-mail
 44 | ballot may only be counted if:

45 | 1. The signature on the voter's certificate or the
 46 | affidavit matches the elector's signature in the registration
 47 | books or precinct register. However, in the case of an
 48 | affidavit, the supporting identification listed in subparagraph
 49 | (d)3. must also confirm the identity of the elector; or

50 | 2. The affidavit contains a signature that does not match

51 the elector's signature in the registration books or precinct
 52 register, but the elector has submitted current and valid
 53 identification pursuant to sub-subparagraph (d)3.a. which
 54 confirms the identity of the elector.

55 (d) Instructions must accompany the vote-by-mail ballot
 56 affidavit in substantially the following form:

57 READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE
 58 AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR
 59 BALLOT NOT TO COUNT.

60 1. In order to ensure that your vote-by-mail ballot will
 61 be counted, your affidavit should be completed and returned as
 62 soon as possible so that it can reach the supervisor of
 63 elections of the county in which your precinct is located no
 64 later than 5 p.m. on the 2nd day before the election.

65 2. You must sign your name on the line above (Voter's
 66 Signature).

67 3. You must make a copy of one of the following forms of
 68 identification:

69 a. Current and valid identification that includes your
 70 name and photograph: Florida driver license; Florida
 71 identification card issued by the Department of Highway Safety
 72 and Motor Vehicles; United States passport; debit or credit
 73 card; military identification; student identification;
 74 retirement center identification; neighborhood association
 75 identification; public assistance identification; veteran health

76 identification card issued by the United States Department of
 77 Veterans Affairs; a Florida license to carry a concealed weapon
 78 or firearm; or an employee identification card issued by any
 79 branch, department, agency, or entity of the Federal Government,
 80 the state, a county, or a municipality; or

81 b. Identification that shows your name and current
 82 residence address: current utility bill, bank statement,
 83 government check, paycheck, or government document (excluding
 84 voter identification card).

85 4. Place the envelope bearing the affidavit into a mailing
 86 envelope addressed to the supervisor. Insert a copy of your
 87 identification in the mailing envelope. Mail, deliver, or have
 88 delivered the completed affidavit along with the copy of your
 89 identification to your county supervisor of elections. Be sure
 90 there is sufficient postage if mailed and that the supervisor's
 91 address is correct.

92 5. Alternatively, you may fax or e-mail your completed
 93 affidavit and a copy of your identification to the supervisor of
 94 elections. If e-mailing, please provide these documents as
 95 attachments.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 243 Pub. Rec./Nonsworn Investigative Personnel of OFR's Bureau of Financial Investigations
SPONSOR(S): Raulerson and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 248

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

SUMMARY ANALYSIS

The Bureau of Financial Investigations (bureau) within the Office of Financial Regulation is authorized to conduct investigations within or outside the state as it deems necessary to aid in the enforcement of laws related to the regulation of Florida's financial services industry. The bureau maintains investigators throughout the state and participates in joint investigations with local, state, and federal law enforcement agencies.

The bill creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative employees of the bureau whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory violations. The bill also exempts from public record requirements the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such employees. In addition, the names and locations of schools and day care facilities attended by the children of such employees are exempt.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

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

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Art. I, s. 24(a). The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² 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

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁴

Exemptions for Agency Personnel Identification and Location Information

Current law provides public record exemptions for personal identification and location information of certain current or former agency personnel and their spouses and children.⁵ Categories of personnel covered by these exemptions include, but are not limited to, law enforcement officers, justices and judges, code enforcement officers, investigators or inspectors of the Department of Business and Professional Regulation, and county tax collectors.

Although the types of exempt information vary, the following information is exempt⁶ from public record requirements for all personnel listed above:

- Home addresses and telephone numbers⁷ of the named personnel;

¹ Section 24(c), Art. I of the State Constitution.

² See s. 119.15, F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 119.15(3), F.S.

⁵ See s. 119.071(4)(d), F.S.

⁶ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature designates as *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 (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 2004); and *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, the record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See 85-62 Fla. Op. Att'y Gen. (1985).

- Home addresses, telephone numbers, and places of employment of the spouses and their children; and
- Names and locations of schools and day care facilities attended by their children.

If exempt information is held by an agency that is not the employer of the protected personnel, he or she must submit a written request to the non-employing agency to maintain the public record exemption.⁸

Office of Financial Regulation: Bureau of Financial Investigations

The Office of Financial Regulation (OFR) has regulatory oversight of state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, money services businesses, consumer finance companies, debt collectors, and other financial service entities. Through its Bureau of Financial Investigations (bureau), OFR has the authority to conduct investigations within or outside the state as it deems necessary to aid in the enforcement of laws related to the regulation of these entities.⁹ The bureau maintains investigators throughout the state and participates in joint investigations with local, state, and federal law enforcement agencies.

According to OFR, there have been multiple documented instances in which the agency's investigative personnel and their families have been threatened and exposed to potential harm stemming from their investigative work. Such instances include:

- A person associated with an investigation appearing one evening at an investigator's former residence, where his young children still resided;
- An investigator's name appearing on a credible hit list found by U.S. Marshals during the search of a suspect's home; and
- Investigators finding notes indicating that suspects hired private investigators to collect personal background information about the OFR investigators.¹⁰

Effect of the Bill

The bill amends s. 119.071, F.S., to exempt from public record requirements the home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative employees of the bureau whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory violations. The bill also exempts from public record requirements the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such employees. In addition, the names and locations of schools and day care facilities attended by the children of such employees are exempt.

The bill provides a public necessity statement as required by the State Constitution, specifying that it is a public necessity to protect the identifying and location information for these employees and their families because they may become targets for revenge perpetrated by people who have been investigated.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

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

⁷ The term "telephone numbers" includes home, personal cellular, and personal pager telephone numbers, and telephone numbers associated with personal communications devices. *See* s. 119.071(4)(d)1., F.S.

⁸ Section 119.071(4)(d)3., F.S.

⁹ *Id.*

¹⁰ Information provided by OFR, January 13, 2017 (on file with the Oversight, Transparency & Administration Subcommittee).

Section 2 provides a public necessity statement.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. In addition, agencies could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for the identification and location information of current or former nonsworn investigative employees of the bureau whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory violations. The identification and location information of such employees' spouses and children is also exempt. The public record exemption protects the information to prevent such employees and their families from becoming targets for revenge perpetrated by people who have been investigated. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for the personal identifying and
 5 location information of certain nonsworn investigative
 6 personnel of the Office of Financial Regulation and
 7 the names and personal identifying and location
 8 information of the spouses and children of such
 9 personnel; providing for future review and repeal of
 10 the exemption; providing a statement of public
 11 necessity; providing an effective date.

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

14
 15 Section 1. Paragraph (d) of subsection (4) of section
 16 119.071, Florida Statutes, is amended to read:

17 119.071 General exemptions from inspection or copying of
 18 public records.—

19 (4) AGENCY PERSONNEL INFORMATION.—

20 (d)1. For purposes of this paragraph, the term "telephone
 21 numbers" includes home telephone numbers, personal cellular
 22 telephone numbers, personal pager telephone numbers, and
 23 telephone numbers associated with personal communications
 24 devices.

25 2.a.(I) The home addresses, telephone numbers, social

26 security numbers, dates of birth, and photographs of active or
 27 former sworn or civilian law enforcement personnel, including
 28 correctional and correctional probation officers, personnel of
 29 the Department of Children and Families whose duties include the
 30 investigation of abuse, neglect, exploitation, fraud, theft, or
 31 other criminal activities, personnel of the Department of Health
 32 whose duties are to support the investigation of child abuse or
 33 neglect, and personnel of the Department of Revenue or local
 34 governments whose responsibilities include revenue collection
 35 and enforcement or child support enforcement; the home
 36 addresses, telephone numbers, social security numbers,
 37 photographs, dates of birth, and places of employment of the
 38 spouses and children of such personnel; and the names and
 39 locations of schools and day care facilities attended by the
 40 children of such personnel are exempt from s. 119.07(1).

41 (II) The names of the spouses and children of active or
 42 former sworn or civilian law enforcement personnel and the other
 43 specified agency personnel identified in sub-sub-subparagraph
 44 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 45 State Constitution.

46 (III) Sub-sub-subparagraph (II) is subject to the Open
 47 Government Sunset Review Act in accordance with s. 119.15, and
 48 shall stand repealed on October 2, 2018, unless reviewed and
 49 saved from repeal through reenactment by the Legislature.

50 (IV) The home addresses, telephone numbers, dates of

51 | birth, and photographs of current or former nonsworn
 52 | investigative personnel of the Department of Financial Services
 53 | whose duties include the investigation of fraud, theft, workers'
 54 | compensation coverage requirements and compliance, other related
 55 | criminal activities, or state regulatory requirement violations;
 56 | the names, home addresses, telephone numbers, dates of birth,
 57 | and places of employment of the spouses and children of such
 58 | personnel; and the names and locations of schools and day care
 59 | facilities attended by the children of such personnel are exempt
 60 | from s. 119.07(1) and s. 24(a), Art. I of the State
 61 | Constitution. This sub-sub-subparagraph is subject to the Open
 62 | Government Sunset Review Act in accordance with s. 119.15 and
 63 | shall stand repealed on October 2, 2021, unless reviewed and
 64 | saved from repeal through reenactment by the Legislature.

65 | (V) The home addresses, telephone numbers, dates of birth,
 66 | and photographs of current or former nonsworn investigative
 67 | personnel of the Office of Financial Regulation's Bureau of
 68 | Financial Investigations whose duties include the investigation
 69 | of fraud, theft, other related criminal activities, or state
 70 | regulatory requirement violations; the names, home addresses,
 71 | telephone numbers, dates of birth, and places of employment of
 72 | the spouses and children of such personnel; and the names and
 73 | locations of schools and day care facilities attended by the
 74 | children of such personnel are exempt from s. 119.07(1) and s.
 75 | 24(a), Art. I of the State Constitution. This sub-sub-

76 subparagraph is subject to the Open Government Sunset Review Act
 77 in accordance with s. 119.15 and shall stand repealed on October
 78 2, 2022, unless reviewed and saved from repeal through
 79 reenactment by the Legislature.

80 b. The home addresses, telephone numbers, dates of birth,
 81 and photographs of firefighters certified in compliance with s.
 82 633.408; the home addresses, telephone numbers, photographs,
 83 dates of birth, and places of employment of the spouses and
 84 children of such firefighters; and the names and locations of
 85 schools and day care facilities attended by the children of such
 86 firefighters are exempt from s. 119.07(1).

87 c. The home addresses, dates of birth, and telephone
 88 numbers of current or former justices of the Supreme Court,
 89 district court of appeal judges, circuit court judges, and
 90 county court judges; the home addresses, telephone numbers,
 91 dates of birth, and places of employment of the spouses and
 92 children of current or former justices and judges; and the names
 93 and locations of schools and day care facilities attended by the
 94 children of current or former justices and judges are exempt
 95 from s. 119.07(1).

96 d.(I) The home addresses, telephone numbers, social
 97 security numbers, dates of birth, and photographs of current or
 98 former state attorneys, assistant state attorneys, statewide
 99 prosecutors, or assistant statewide prosecutors; the home
 100 addresses, telephone numbers, social security numbers,

101 | photographs, dates of birth, and places of employment of the
 102 | spouses and children of current or former state attorneys,
 103 | assistant state attorneys, statewide prosecutors, or assistant
 104 | statewide prosecutors; and the names and locations of schools
 105 | and day care facilities attended by the children of current or
 106 | former state attorneys, assistant state attorneys, statewide
 107 | prosecutors, or assistant statewide prosecutors are exempt from
 108 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

109 | (II) The names of the spouses and children of current or
 110 | former state attorneys, assistant state attorneys, statewide
 111 | prosecutors, or assistant statewide prosecutors are exempt from
 112 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

113 | (III) Sub-sub-subparagraph (II) is subject to the Open
 114 | Government Sunset Review Act in accordance with s. 119.15, and
 115 | shall stand repealed on October 2, 2018, unless reviewed and
 116 | saved from repeal through reenactment by the Legislature.

117 | e. The home addresses, dates of birth, and telephone
 118 | numbers of general magistrates, special magistrates, judges of
 119 | compensation claims, administrative law judges of the Division
 120 | of Administrative Hearings, and child support enforcement
 121 | hearing officers; the home addresses, telephone numbers, dates
 122 | of birth, and places of employment of the spouses and children
 123 | of general magistrates, special magistrates, judges of
 124 | compensation claims, administrative law judges of the Division
 125 | of Administrative Hearings, and child support enforcement

126 hearing officers; and the names and locations of schools and day
 127 care facilities attended by the children of general magistrates,
 128 special magistrates, judges of compensation claims,
 129 administrative law judges of the Division of Administrative
 130 Hearings, and child support enforcement hearing officers are
 131 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 132 Constitution if the general magistrate, special magistrate,
 133 judge of compensation claims, administrative law judge of the
 134 Division of Administrative Hearings, or child support hearing
 135 officer provides a written statement that the general
 136 magistrate, special magistrate, judge of compensation claims,
 137 administrative law judge of the Division of Administrative
 138 Hearings, or child support hearing officer has made reasonable
 139 efforts to protect such information from being accessible
 140 through other means available to the public.

141 f. The home addresses, telephone numbers, dates of birth,
 142 and photographs of current or former human resource, labor
 143 relations, or employee relations directors, assistant directors,
 144 managers, or assistant managers of any local government agency
 145 or water management district whose duties include hiring and
 146 firing employees, labor contract negotiation, administration, or
 147 other personnel-related duties; the names, home addresses,
 148 telephone numbers, dates of birth, and places of employment of
 149 the spouses and children of such personnel; and the names and
 150 locations of schools and day care facilities attended by the

151 children of such personnel are exempt from s. 119.07(1) and s.
 152 24(a), Art. I of the State Constitution.

153 g. The home addresses, telephone numbers, dates of birth,
 154 and photographs of current or former code enforcement officers;
 155 the names, home addresses, telephone numbers, dates of birth,
 156 and places of employment of the spouses and children of such
 157 personnel; and the names and locations of schools and day care
 158 facilities attended by the children of such personnel are exempt
 159 from s. 119.07(1) and s. 24(a), Art. I of the State
 160 Constitution.

161 h. The home addresses, telephone numbers, places of
 162 employment, dates of birth, and photographs of current or former
 163 guardians ad litem, as defined in s. 39.820; the names, home
 164 addresses, telephone numbers, dates of birth, and places of
 165 employment of the spouses and children of such persons; and the
 166 names and locations of schools and day care facilities attended
 167 by the children of such persons are exempt from s. 119.07(1) and
 168 s. 24(a), Art. I of the State Constitution, if the guardian ad
 169 litem provides a written statement that the guardian ad litem
 170 has made reasonable efforts to protect such information from
 171 being accessible through other means available to the public.

172 i. The home addresses, telephone numbers, dates of birth,
 173 and photographs of current or former juvenile probation
 174 officers, juvenile probation supervisors, detention
 175 superintendents, assistant detention superintendents, juvenile

176 justice detention officers I and II, juvenile justice detention
 177 officer supervisors, juvenile justice residential officers,
 178 juvenile justice residential officer supervisors I and II,
 179 juvenile justice counselors, juvenile justice counselor
 180 supervisors, human services counselor administrators, senior
 181 human services counselor administrators, rehabilitation
 182 therapists, and social services counselors of the Department of
 183 Juvenile Justice; the names, home addresses, telephone numbers,
 184 dates of birth, and places of employment of spouses and children
 185 of such personnel; and the names and locations of schools and
 186 day care facilities attended by the children of such personnel
 187 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 188 Constitution.

189 j.(I) The home addresses, telephone numbers, dates of
 190 birth, and photographs of current or former public defenders,
 191 assistant public defenders, criminal conflict and civil regional
 192 counsel, and assistant criminal conflict and civil regional
 193 counsel; the home addresses, telephone numbers, dates of birth,
 194 and places of employment of the spouses and children of such
 195 defenders or counsel; and the names and locations of schools and
 196 day care facilities attended by the children of such defenders
 197 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 198 the State Constitution.

199 (II) The names of the spouses and children of the
 200 specified agency personnel identified in sub-sub-subparagraph

201 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 202 State Constitution. This sub-sub-subparagraph is subject to the
 203 Open Government Sunset Review Act in accordance with s. 119.15
 204 and shall stand repealed on October 2, 2019, unless reviewed and
 205 saved from repeal through reenactment by the Legislature.

206 k. The home addresses, telephone numbers, and photographs
 207 of current or former investigators or inspectors of the
 208 Department of Business and Professional Regulation; the names,
 209 home addresses, telephone numbers, and places of employment of
 210 the spouses and children of such current or former investigators
 211 and inspectors; and the names and locations of schools and day
 212 care facilities attended by the children of such current or
 213 former investigators and inspectors are exempt from s. 119.07(1)
 214 and s. 24(a), Art. I of the State Constitution if the
 215 investigator or inspector has made reasonable efforts to protect
 216 such information from being accessible through other means
 217 available to the public. This sub-subparagraph is subject to the
 218 Open Government Sunset Review Act in accordance with s. 119.15
 219 and shall stand repealed on October 2, 2017, unless reviewed and
 220 saved from repeal through reenactment by the Legislature.

221 l. The home addresses and telephone numbers of county tax
 222 collectors; the names, home addresses, telephone numbers, and
 223 places of employment of the spouses and children of such tax
 224 collectors; and the names and locations of schools and day care
 225 facilities attended by the children of such tax collectors are

226 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 227 Constitution if the county tax collector has made reasonable
 228 efforts to protect such information from being accessible
 229 through other means available to the public. This sub-
 230 subparagraph is subject to the Open Government Sunset Review Act
 231 in accordance with s. 119.15 and shall stand repealed on October
 232 2, 2017, unless reviewed and saved from repeal through
 233 reenactment by the Legislature.

234 m. The home addresses, telephone numbers, dates of birth,
 235 and photographs of current or former personnel of the Department
 236 of Health whose duties include, or result in, the determination
 237 or adjudication of eligibility for social security disability
 238 benefits, the investigation or prosecution of complaints filed
 239 against health care practitioners, or the inspection of health
 240 care practitioners or health care facilities licensed by the
 241 Department of Health; the names, home addresses, telephone
 242 numbers, dates of birth, and places of employment of the spouses
 243 and children of such personnel; and the names and locations of
 244 schools and day care facilities attended by the children of such
 245 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 246 the State Constitution if the personnel have made reasonable
 247 efforts to protect such information from being accessible
 248 through other means available to the public. This sub-
 249 subparagraph is subject to the Open Government Sunset Review Act
 250 in accordance with s. 119.15 and shall stand repealed on October

251 2, 2019, unless reviewed and saved from repeal through
 252 reenactment by the Legislature.

253 n. The home addresses, telephone numbers, dates of birth,
 254 and photographs of current or former impaired practitioner
 255 consultants who are retained by an agency or current or former
 256 employees of an impaired practitioner consultant whose duties
 257 result in a determination of a person's skill and safety to
 258 practice a licensed profession; the names, home addresses,
 259 telephone numbers, dates of birth, and places of employment of
 260 the spouses and children of such consultants or their employees;
 261 and the names and locations of schools and day care facilities
 262 attended by the children of such consultants or employees are
 263 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 264 Constitution if a consultant or employee has made reasonable
 265 efforts to protect such information from being accessible
 266 through other means available to the public. This sub-
 267 subparagraph is subject to the Open Government Sunset Review Act
 268 in accordance with s. 119.15 and shall stand repealed on October
 269 2, 2020, unless reviewed and saved from repeal through
 270 reenactment by the Legislature.

271 o. The home addresses, telephone numbers, dates of birth,
 272 and photographs of current or former emergency medical
 273 technicians or paramedics certified under chapter 401; the
 274 names, home addresses, telephone numbers, dates of birth, and
 275 places of employment of the spouses and children of such

276 emergency medical technicians or paramedics; and the names and
 277 locations of schools and day care facilities attended by the
 278 children of such emergency medical technicians or paramedics are
 279 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 280 Constitution if the emergency medical technicians or paramedics
 281 have made reasonable efforts to protect such information from
 282 being accessible through other means available to the public.
 283 This sub-subparagraph is subject to the Open Government Sunset
 284 Review Act in accordance with s. 119.15 and shall stand repealed
 285 on October 2, 2021, unless reviewed and saved from repeal
 286 through reenactment by the Legislature.

287 p. The home addresses, telephone numbers, dates of birth,
 288 and photographs of current or former personnel employed in an
 289 agency's office of inspector general or internal audit
 290 department whose duties include auditing or investigating waste,
 291 fraud, abuse, theft, exploitation, or other activities that
 292 could lead to criminal prosecution or administrative discipline;
 293 the names, home addresses, telephone numbers, dates of birth,
 294 and places of employment of spouses and children of such
 295 personnel; and the names and locations of schools and day care
 296 facilities attended by the children of such personnel are exempt
 297 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 298 if the personnel have made reasonable efforts to protect such
 299 information from being accessible through other means available
 300 to the public. This sub-subparagraph is subject to the Open

301 Government Sunset Review Act in accordance with s. 119.15 and
 302 shall stand repealed on October 2, 2021, unless reviewed and
 303 saved from repeal through reenactment by the Legislature.

304 3. An agency that is the custodian of the information
 305 specified in subparagraph 2. and that is not the employer of the
 306 officer, employee, justice, judge, or other person specified in
 307 subparagraph 2. shall maintain the exempt status of that
 308 information only if the officer, employee, justice, judge, other
 309 person, or employing agency of the designated employee submits a
 310 written request for maintenance of the exemption to the
 311 custodial agency.

312 4. The exemptions in this paragraph apply to information
 313 held by an agency before, on, or after the effective date of the
 314 exemption.

315 5. Except as otherwise expressly provided in this
 316 paragraph, this paragraph is subject to the Open Government
 317 Sunset Review Act in accordance with s. 119.15, and shall stand
 318 repealed on October 2, 2017, unless reviewed and saved from
 319 repeal through reenactment by the Legislature.

320 Section 2. The Legislature finds that it is a public
 321 necessity to exempt from public records requirements the home
 322 addresses, telephone numbers, dates of birth, and photographs of
 323 current or former nonsworn investigative personnel of the Office
 324 of Financial Regulation's Bureau of Financial Investigations
 325 whose duties include the investigation of fraud, theft, other

326 related criminal activities, or state regulatory requirement
 327 violations; the names, home addresses, telephone numbers, dates
 328 of birth, and places of employment of the spouses and children
 329 of such personnel; and the names and locations of schools and
 330 day care facilities attended by the children of such personnel.
 331 The efforts of such personnel can lead to arrests and
 332 prosecutions for crimes up to and including first degree felony
 333 violations and can also result in the loss of commerce and
 334 property, the assessment of monetary fines, or the suspension or
 335 loss of professional licenses. The office has documented
 336 multiple compelling instances of such personnel being threatened
 337 and fearing repercussions as a result of carrying out their
 338 duties. These threats have included weapons being brandished,
 339 verbal threats made to harm them or their family members,
 340 harassment, and intimidation. The Legislature finds that the
 341 release of such personal identifying and location information
 342 might place these nonsworn investigative personnel of the office
 343 and their family members in danger of physical and emotional
 344 harm from disgruntled individuals who have contentious reactions
 345 to actions taken by such personnel, or whose business or
 346 professional practices have come under the scrutiny of such
 347 personnel. The Legislature further finds that the harm that may
 348 result from the release of such personal identifying and
 349 location information outweighs any public benefit that may be
 350 derived from the disclosure of the information.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 281 Objecting to United Nations Security Council Resolution 2334
SPONSOR(S): Moskowitz, Fine and others
TIED BILLS: IDEN./SIM. **BILLS:** SR 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N	Renner	Miller
2) Government Accountability Committee		Renner	Williamson

SUMMARY ANALYSIS

After being the first country to recognize Israel as a state in 1948, United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests.

In regards to the Israeli-Palestinian conflict, official U.S. policy continues to favor a two-state solution to address core Israeli security demands as well as Palestinian aspirations for national self-determination.

As one of the five permanent members of the United Nations Security Council that can veto resolutions, the United States routinely vetoed resolutions negatively pertaining to Israel, oftentimes being the lone veto.

On December 23, 2016, the Security Council adopted Resolution 2334, which, among other matters, stated that Israel's settlement activity constitutes a flagrant violation of international law, has no legal validity, and is a major obstacle to the vision of two states living side-by-side in peace and security. In explaining its abstention vote, the United States stated that it has been a long-standing position of this nation that settlements undermined Israel's security and eroded prospects for peace and stability.

HR 281 pronounces that the Florida House of Representatives opposes and requests the repeal or fundamental alteration of United Nations Security Council Resolution 2334 so that the resolution:

- Is no longer one sided and anti-Israel.
- Authorizes all final-status issues toward a two-state solution to be resolved through direct, bilateral negotiations between the parties involved.

Copies of the resolution will be sent to the President of the United States, the President and Secretary of the U.S. Senate, the Speaker and Clerk of the U.S. House of Representatives, and the Israeli Embassy in Washington, D.C., for transmission to the proper authorities of the State of Israel.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

United States-Israel relations

After Israel's founding in 1948, the United States was the first country to recognize the State of Israel.¹ The United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. The shared democratic values and religious affinities of the two countries have contributed to the bilateral ties.²

Israel's security concerns influence U.S. policy considerations regarding the Middle East, "and Congress actively provides oversight of executive branch dealings with Israel and other actors in the region."³ In 2016, a new U.S.-Israel memorandum of understanding will provide Israel with \$38 billion (\$3.8 billion per year) in military assistance from fiscal year (FY) 2019 to FY 2028.⁴ This will allow Israel to update its fighter aircraft fleet, increase its missile defense, and acquire other defense capabilities needed to meet its threat environment.

In regards to the Israeli-Palestinian conflict, official U.S. policy continues to favor a two-state solution to "address core Israeli security demands as well as Palestinian aspirations for national self-determination."⁵ The U.S., together with the European Union and the United Nations, continues to advocate for Israeli-Palestinian talks in order to broker a peace deal.

United Nations

Founded in 1945, the United Nations is an international organization made up of 193 member states. The organization has a mission to take action on issues such as peace and security, climate change, sustainable development, human rights, disarmament, terrorism, humanitarian and health emergencies, gender equality, governance, food production, and other issues.⁶ As stated in its Charter, the purposes of the United Nations include maintaining international peace and security; suppressing acts of aggression; developing international relations based on respect for the equal rights and self-determination of all peoples; achieving international co-operation to resolve economic, social, and humanitarian problems; and respecting the principle of sovereign equality among its members.⁷

The United Nations Charter was ratified by China, France, the Soviet Union, the United Kingdom, the United States, and a majority of other signatories.⁸

¹ U.S. Department of State, *U.S. Relations with Israel*, available at <https://www.state.gov/r/pa/ei/bgn/3581.htm> (last visited January 30, 2017).

² Congressional Research Service report, *Israel: Background and U.S. Relations*, October 28, 2016, available at <https://webcache.googleusercontent.com/search?q=cache:kCSNhsZzquUJ:https://fas.org/sgp/crs/mideast/RL33476.pdf+&cd=1&hl=en&ct=clnk&gl=us> (last visited February 3, 2017).

³ *Id.*

⁴ The White House Fact Sheet on *Memorandum of Understanding Reached with Israel*, September 14, 2016, available at <https://obamawhitehouse.archives.gov/the-press-office/2016/09/14/fact-sheet-memorandum-understanding-reached-israel> (last visited February 2, 2017).

⁵ *Supra* note 2

⁶ United Nations *Overview*, available at <http://www.un.org/en/sections/about-un/overview/index.html> (last visited January 31, 2017).

⁷ Charter of the United Nations, ch. I, art. 1, ss. 1-3, art. 2, s. 1, at <http://www.un.org/en/sections/un-charter/chapter-i/index.html> (last visited February 14, 2017).

⁸ United Nations *History of the United Nations*, available at <http://www.un.org/en/sections/history/history-united-nations/index.html> (last visited January 31, 2017).

The United Nations consists of six principal organs:⁹

- General Assembly – Main deliberative policymaking and representative organ that consists of all 193 member states.
- Security Council – Has primary responsibility, under the Charter, for the maintenance of international peace and security.
- Economic and Social Council – Principal body for coordination, policy review, policy dialogue and recommendations on economic, social, and environmental issues.
- Trusteeship Council – Suspended since 1994.
- International Court of Justice – Primary judicial organ
- Secretariat – Provides studies, information, and facilities needed by the United Nations.

Security Council

The primary responsibility of the Security Council is to maintain international peace and security. The Council has 15 members, five of which are permanent members: China, France, the Russian Federation, the United Kingdom, and the United States. The permanent members can veto any substantive Security Council resolution, regardless of the level of international support the resolution has.

United Nations Security Council Resolutions

The United States has long stood in the minority in defending Israel, particularly when it comes to Security Council Resolutions. Oftentimes, the United States has been the one veto, including in the following resolutions:¹⁰

- **1995**
 - Calling upon Israel to refrain from East Jerusalem settlement activities.
- **1997**
 - Calling upon Israel to refrain from East Jerusalem settlement activities.
 - Demanding Israel's immediate cessation of construction at Jabal Abu Ghneim in East Jerusalem.
- **2001**
 - On the withdrawal of Israeli forces from Palestinian controlled territory and condemning acts of terror against civilians.
 - On establishing a UN observer force to protect Palestinian civilians.
- **2002**
 - On the killing by Israeli forces of several United Nations employees and the destruction of the World Food Programme warehouse.
- **2003**
 - On the security wall built by Israel in the West Bank.
 - On the Israeli decision to "remove" Palestinian Authority leader Yasser Arafat.
- **2004**
 - On the demand to Israel to halt all military operations in northern Gaza and withdraw from the area.
 - On the condemnation of the killing of Ahmed Yassin, the leader of the Islamic Resistance Movement *Hamas*.
- **2006**
 - On the Israeli military operations in Gaza, the Palestinian rocket fire into Israel, the call for immediate withdrawal of Israeli forces from the Gaza Strip and a cessation of violence from both parties in the conflict.

⁹ United Nations *Main Organs*, available at <http://www.un.org/en/sections/about-un/main-organs/index.html> (last visited February 1, 2017).

¹⁰ Global Policy Forum on *Subjects of UN Security Council Vetoes*, available at: <https://www.globalpolicy.org/component/content/article/102/40069.html> (last visited February 2, 2017).

- On the demand for the unconditional release of an Israeli soldier captured earlier as well as Israel's immediate withdrawal from Gaza and the release of dozens of Palestinian officials detained by Israel.
- **2011**
 - Condemning Israeli settlements established since 1967 as illegal.

U.S. House of Representatives Concurrent Resolution 165

On November 29, 2016, the U.S. House of Representatives passed Concurrent Resolution 165,¹¹ which expressed the sense of Congress that:¹²

- Sustainable peace agreement between Israel and the Palestinians will come only through direct bilateral negotiations between the parties;
- Any widespread international recognition of a unilateral declaration of Palestinian statehood outside of the context of such a peace agreement would cause severe harm to the peace process and would likely trigger the implementation of penalties under provisions of the Consolidated Appropriations Act, 2016 regarding limitations on assistance to support a Palestinian state and uses of funds for assistance for the West Bank and Gaza;
- Efforts by outside bodies, including the United Nations Security Council, to impose an agreement are likely to set back the cause of peace; and
- The U.S. government should continue to oppose and veto Security Council resolutions that seek to impose solutions to final status issues or that are one-sided and anti-Israel, and should continue to support and facilitate the resumption of negotiations without preconditions toward a sustainable peace agreement.

United Nations Security Council Resolution 2334

On December 23, 2016, the United Nations Security Council adopted Resolution 2334. The resolution passed in a 14-0 vote. Four members with Security Council veto power, China, France, Russia, and the United Kingdom, voted for the resolution. The United States abstained.

The resolution stated that Israel's settlement activity constitutes a flagrant violation of international law, has no legal validity, and is a major obstacle to the vision of two states living side-by-side in peace and security. Furthermore, the resolution stated that it would not recognize any changes to the June 4, 1967 lines, including with regard to Jerusalem, other than those agreed by the two sides through negotiations. The resolution also called on all parties "to continue to exert collective efforts to launch credible negotiations on all final-status issues in the Middle East peace process."¹³

In explaining the abstention vote, the United States stated that it has been a long-standing position of the United States that settlements undermined Israel's security and eroded prospects for peace and stability.¹⁴

Effect of the Resolution

HR 281 pronounces that the Florida House of Representatives opposes and requests the repeal or fundamental alteration of United Nations Security Council Resolution 2334 so that the resolution:

- Is no longer one sided and anti-Israel.
- Authorizes all final-status issues toward a two-state solution to be resolved through direct, bilateral negotiations between the parties involved.

¹¹ Expressing the sense of Congress and reaffirming longstanding United States policy in support of a direct bilaterally negotiated settlement of the Israeli-Palestinian conflict and opposition to United Nations Security Council resolutions imposing a solution to the conflict, H.Con.Res. 165, 114th Cong. (Nov. 29, 2016).

¹² Congress.gov site on *House Concurrent Resolution 165*, available at: <https://www.congress.gov/bill/114th-congress/house-concurrent-resolution/165> (last visited January 31, 2017).

¹³ United Nations Security Council Resolution 2334 press release, December 23, 2016, available at: <https://www.un.org/press/en/2016/sc12657.doc.htm> (last visited February 3, 2017).

¹⁴ *Id.*

Copies of the resolution will be sent to the President of the United States, the President and Secretary of the U.S. Senate, the Speaker and Clerk of the U.S. House of Representatives, and the Israeli Embassy in Washington, D.C., for transmission to the proper authorities of the State of Israel.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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House Resolution

A resolution opposing United Nations Security Council Resolution 2334 and requesting its repeal or fundamental alteration.

WHEREAS, the United States has long supported a negotiated settlement leading to a sustainable two-state solution with the democratic, Jewish state of Israel and a demilitarized, democratic Palestinian state living side-by-side in peace and security, and

WHEREAS, since 1993, the United States has facilitated direct, bilateral negotiations between both parties toward achieving a two-state solution and ending all outstanding claims, and

WHEREAS, it is the long-standing policy of the United States that a peaceful resolution to the Israeli-Palestinian conflict will only come through direct, bilateral negotiations between the two parties, and

WHEREAS, it was the long-standing position of the United States to oppose and, if necessary, veto United Nations Security Council resolutions dictating additional binding parameters on the peace process, and

WHEREAS, it was also the long-standing position of the United States to oppose and, if necessary, veto one-sided or anti-Israel United Nations Security Council resolutions, and

26 WHEREAS, the United States has stood in the minority
 27 internationally over successive administrations in defending
 28 Israel in international forums, including vetoing one-sided
 29 resolutions in 1995, 1997, 2001, 2002, 2003, 2004, 2006, and
 30 2011 before the United Nations Security Council, and

31 WHEREAS, the United States recently signed a new memorandum
 32 of understanding with the Israeli government regarding security
 33 assistance, consistent with long-standing support for Israel
 34 among successive administrations and Congresses and representing
 35 an important United States commitment toward Israel's
 36 qualitative military edge, and

37 WHEREAS, on November 29, 2016, the United States House of
 38 Representatives unanimously passed House Concurrent Resolution
 39 165, expressing and reaffirming long-standing United States
 40 policy in support of a direct, bilaterally negotiated settlement
 41 of the Israeli-Palestinian conflict and in opposition to United
 42 Nations Security Council resolutions that impose a solution to
 43 the conflict, and

44 WHEREAS, on December 23, 2016, the United States Permanent
 45 Representative to the United Nations disregarded House
 46 Concurrent Resolution 165 and departed from long-standing United
 47 States policy by abstaining and permitting United Nations
 48 Security Council Resolution 2334 to be adopted under Chapter VI
 49 of the United Nations Charter, and

50 WHEREAS, the United States' abstention on United Nations
 51 Security Council Resolution 2334 contradicts the Oslo Accords
 52 and its associated process that is predicated on resolving the
 53 Israeli-Palestinian conflict between the parties through direct,
 54 bilateral negotiations, and

55 WHEREAS, United Nations Security Council Resolution 2334
 56 claims that "the establishment by Israel of settlements in the
 57 Palestinian territory occupied since 1967, including East
 58 Jerusalem, has no legal validity and constitutes a flagrant
 59 violation under international law and a major obstacle to the
 60 achievement of the two-State solution and a just, lasting and
 61 comprehensive peace," and

62 WHEREAS, by referring to the "4 June 1967 lines" as the
 63 basis for negotiations, United Nations Security Council
 64 Resolution 2334 effectively states that the Jewish Quarter of
 65 the Old City of Jerusalem and the Western Wall, Judaism's
 66 holiest site, are "occupied territory," thereby equating these
 67 sites with outposts in the West Bank that the Israeli government
 68 has deemed illegal, and

69 WHEREAS, passage of United Nations Security Council
 70 Resolution 2334 effectively legitimizes efforts by the
 71 Palestinian Authority to impose its own solution through
 72 international organizations and unjustified boycotts or
 73 divestment campaigns against Israel by calling "upon all States,
 74 bearing in mind paragraph 1 of this resolution, to distinguish,

75 | in their relevant dealings, between the territory of the State
 76 | of Israel and the territories occupied since 1967," and will
 77 | require the United States and Israel to take effective action to
 78 | counteract the resolution's potential harmful impacts, and

79 | WHEREAS, United Nations Security Council Resolution 2334
 80 | did not directly call upon Palestinian leadership to fulfill
 81 | their obligations toward negotiations or mention that part of
 82 | the eventual Palestinian state is currently controlled by Hamas,
 83 | a designated terrorist organization, and

84 | WHEREAS, United Nations Security Council Resolution 2334
 85 | sought to impose or unduly influence solutions to final-status
 86 | issues and is biased against Israel, NOW, THEREFORE,

87 |

88 | Be It Resolved by the House of Representatives of the State of
 89 | Florida:

90 |

91 | That the Florida House of Representatives finds:

92 | (1) The passage of United Nations Security Council
 93 | Resolution 2334 undermined the long-standing position of the
 94 | United States to oppose and veto United Nations Security Council
 95 | resolutions that seek to impose solutions to final-status issues
 96 | or are one sided and anti Israel, reversing decades of
 97 | bipartisan agreement.

98 | (2) The passage of United Nations Security Council
 99 | Resolution 2334 undermines the prospect of Israelis and

100 Palestinians resuming productive, direct, bilateral
101 negotiations.

102 (3) The passage of United Nations Security Council
103 Resolution 2334 contributes to the politically motivated acts of
104 boycotting, divesting from, and sanctioning Israel and
105 represents a concerted effort to extract concessions from Israel
106 outside of direct, bilateral negotiations between the Israelis
107 and Palestinians, which must be actively rejected.

108 (4) Any future measures taken by any organization,
109 including the United Nations Security Council, to impose an
110 agreement or parameters for an agreement will set back the peace
111 process, harm the security of Israel, contradict the enduring
112 bipartisan consensus on strengthening the United States-Israel
113 relationship, and weaken support for such organizations.

114 (5) A durable and sustainable peace agreement between
115 Israel and the Palestinians is only possible with direct,
116 bilateral negotiations between the parties resulting in a
117 Jewish, democratic state living next to a demilitarized
118 Palestinian state in peace and security.

119 (6) The United States government should work to facilitate
120 serious, direct, unconditional negotiations between the parties
121 toward a sustainable peace agreement.

122 (7) The United States government should oppose and veto
123 future one-sided, anti-Israel United Nations Security Council

124 | resolutions that seek to impose solutions to final-status
 125 | issues.

126 | That the Florida House of Representatives opposes and
 127 | requests the repeal or fundamental alteration of United Nations
 128 | Security Council Resolution 2334 so that the resolution:

129 | (1) Is no longer one sided and anti Israel.

130 | (2) Authorizes all final-status issues toward a two-state
 131 | solution to be resolved through direct, bilateral negotiations
 132 | between the parties involved.

133 | BE IT FURTHER RESOLVED that copies of this resolution be
 134 | presented to the President of the United States, the President
 135 | and Secretary of the United States Senate, the Speaker and Clerk
 136 | of the United States House of Representatives, and the Israeli
 137 | Embassy in Washington, D.C., for transmission to the proper
 138 | authorities of the State of Israel as a tangible token of the
 139 | sentiments expressed herein.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 299 Central Florida Expressway Authority
SPONSOR(S): Goodson
TIED BILLS: IDEN./SIM. BILLS: SB 720

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N	Johnson	Vickers
2) Government Accountability Committee		Johnson <i>AS</i>	Williamson <i>AW</i>

SUMMARY ANALYSIS

The Central Florida Expressway Authority (CFX) is a multi-county, special district that has the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Central Florida Expressway System. The areas served by CFX include Lake, Orange, Osceola, and Seminole Counties.

CFX is governed by a nine member board. Five members of the authority constitute a quorum, and the vote of five members is required for any action taken by the authority.

The bill amends part III of Ch. 348, F.S., to incorporate Brevard County into CFX. It increases the number of members on CFX's board by one person to include a member appointed by the Brevard County Board of County Commissioners. The bill also allows the Governor to appoint a citizen member of CFX's board from Brevard County. The bill revises the quorum and vote requirements to conform to the increase in the number of board members. Additionally, the bill provides that the areas served by CFX include Brevard County.

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

Central Florida Expressway Authority

Part III of Ch. 348, F.S., creates the Central Florida Expressway Authority (CFX). It is a multi-county, special district that has the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Central Florida Expressway System.¹ It is the successor to the Orlando-Orange County Expressway Authority. The areas served by CFX include Lake, Orange, Osceola, and Seminole Counties.²

CFX may exercise all powers necessary, appurtenant, convenient, or incidental to the implementation of its stated purposes.³ With the consent of the county within whose jurisdiction the following activities occur, CFX has the right to construct, operate, and maintain roads, bridges, avenues of access, transportation facilities, thoroughfares, and boulevards outside the jurisdictional boundaries of Orange, Seminole, Lake, and Osceola Counties, together with the right to construct, repair, replace, operate, install, and maintain electronic toll payment systems thereon.⁴

CFX is governed by a nine member board whose members are as follows:

- The chairs of the boards of the county commissions of Lake, Osceola, and Seminole Counties each appoint one member from their respective county. The member must be a commission member or chair or the county mayor.
- The Mayor of Orange County appoints a member from the Orange County Commission.
- The Governor appoints three citizen members each of whom must be a resident of Lake, Orange, Osceola, or Seminole Counties. In addition, the citizen members must be confirmed by the Senate.
- The Mayor of Orange County and the Mayor of the City of Orlando serve as members.⁵

The executive director of the Florida Turnpike Enterprise serves as a nonvoting advisor to the board⁶

CFX is required to elect one of its members as the chair of the authority, one of its members as vice chair, and one of its members as treasurer. The chair, vice chair, and treasurer hold offices at the will of CFX's board. Five members constitute a quorum, and the vote of five members is required for any action taken by the board. A vacancy does not impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the authority.⁷

CFX is responsible for the construction, maintenance, and operation of a limited-access expressway system that serves a region with more than 2.3 million residents and an estimated 60 million annual visitors. The Central Florida Expressway system includes 109 centerline miles, 741 lane miles (including ramps), 59 interchanges, 285 bridges and 14 mainline toll plazas. The entire system is supported by tolls; no taxes of any kind fund CFX operations.⁸

¹ Section 348.754(1)(a), F.S.

² *Id.*

³ Section 348.754(2), F.S.

⁴ Section 348.754(2)(n), F.S.

⁵ Section 348.753(3), F.S.

⁶ *Id.*

⁷ Section 348.753(4)(a), F.S.

⁸ <https://www.cfxway.com/agency-information/agency-overview/about-cfx/> (Last visited January 30, 2017).

East Central Florida Corridor Task Force

In 2013, the Governor created the East Central Florida Corridor Task Force (Task Force) to develop consensus recommendations for future transportation planning in portions of Brevard, Orange, and Osceola Counties. Among the Task Force's recommendations are to identify future investment to maximize the use and add capacity to various corridors and to conduct evaluation studies of potential new corridors.⁹ The final report of the Task Force emphasizes the need for improving east-west connectivity between Brevard County and the rest of the study area, as well as improving north-south connectivity to the east of the Orlando International Airport in Orange and Osceola Counties.

Proposed Changes

The bill amends part III of Ch. 348, F.S., to incorporate Brevard County into CFX.

The bill amends s. 348.753(3), F.S., increasing from nine to 10 the number of members on CFX's governing board and provides that the board of county commissioners of Brevard County appoints one member from the county to serve on the board. The member must be a commission member or chair or the county mayor. The bill maintains the Governor's three appointments, but allows the Governor the option to fill one of the three appointments with a citizen member from Brevard County.

The bill amends s. 348.753(4)(a), F.S., increasing from five to six the number of members constituting a quorum of the board. It also provides that a vote of six members, instead of five members, is required for the board to take any action.

The bill amends s. 348.754, F.S., providing that the areas served by CFX include the geographical boundaries of Brevard County and authorizing CFX, with the consent of Brevard County, to construct, operate, and maintain certain transportation facilities outside of Orange, Seminole, Lake, Brevard, and Osceola Counties.

B. SECTION DIRECTORY:

Section 1 amends s. 348.753, F.S., relating to the Central Florida Expressway Authority.

Section 2 amends s. 348.754, F.S., relating to the purposes and powers of the Central Florida Expressway Authority.

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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁹ East Central Florida Task Force Summary Report, December 1, 2014. (Copy on file with Transportation & Infrastructure Subcommittee).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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 the Central Florida Expressway
 3 Authority; amending s. 348.753, F.S.; increasing the
 4 membership of the governing board of the authority to
 5 include a member appointed by the chair of the Brevard
 6 County Commission; authorizing the Governor to appoint
 7 a citizen member from Brevard County; conforming
 8 quorum and voting requirements; amending s. 348.754,
 9 F.S.; adding the area within the geographical boundary
 10 of Brevard County to the area to be served by the
 11 authority; authorizing the authority to exercise
 12 certain powers outside the jurisdictional boundaries
 13 of Brevard County; providing an effective date.

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

16
 17 Section 1. Subsection (3) and paragraph (a) of subsection
 18 (4) of section 348.753, Florida Statutes, are amended to read:

19 348.753 Central Florida Expressway Authority.—

20 (3) The governing body of the authority shall consist of
 21 ten ~~nine~~ members. The chairs of the boards of the county
 22 commissions of Seminole, Lake, Brevard, and Osceola Counties
 23 shall each appoint one member from his or her respective county,
 24 who must be a commission member or chair or the county mayor.

25 The Mayor of Orange County shall appoint a member from the

26 Orange County Commission. Subject to confirmation by the Senate
 27 during the next regular session of the Legislature, the Governor
 28 shall appoint three citizen members, each of whom must be a
 29 resident of either Orange County, Seminole County, Lake County,
 30 Brevard County, or Osceola County. Refusal or failure of the
 31 Senate to confirm an appointment shall create a vacancy. The
 32 Mayor of Orange County and the Mayor of the City of Orlando
 33 shall also serve as members. The executive director of the
 34 Florida Turnpike Enterprise shall serve as a nonvoting advisor
 35 to the governing body of the authority. Each member appointed by
 36 the Governor shall serve for 4 years, with his or her term
 37 ending on December 31 of his or her last year of service. Each
 38 county-appointed member shall serve for 2 years. Each appointed
 39 member shall hold office until his or her successor has been
 40 appointed and has qualified. A vacancy occurring during a term
 41 must be filled only for the balance of the unexpired term. Each
 42 appointed member of the authority must be a person of
 43 outstanding reputation for integrity, responsibility, and
 44 business ability, but, except as provided in this subsection, a
 45 person who is an officer or employee of a municipality or county
 46 may not be an appointed member of the authority. Any member of
 47 the authority is eligible for reappointment.

48 (4) (a) The authority shall elect one of its members as the
 49 chair of the authority, one of its members as vice chair, and
 50 one of its members as treasurer. The chair, vice chair, and

51 treasurer shall hold such offices at the will of the authority.
 52 Six ~~Five~~ members of the authority constitute a quorum, and the
 53 vote of six ~~five~~ members is required for any action taken by the
 54 authority. A vacancy in the authority does not impair the right
 55 of a quorum of the authority to exercise all of the rights and
 56 perform all of the duties of the authority.

57 Section 2. Paragraph (a) of subsection (1) and paragraph
 58 (n) of subsection (2) of section 348.754, Florida Statutes, are
 59 amended to read:

60 348.754 Purposes and powers.—

61 (1)(a) The authority created and established under this
 62 part is granted and has the right to acquire, hold, construct,
 63 improve, maintain, operate, own, and lease in the capacity of
 64 lessor the Central Florida Expressway System, hereinafter
 65 referred to as "system." Except as otherwise specifically
 66 provided by law, including paragraph (2)(n), the area served by
 67 the authority shall be within the geographical boundaries of
 68 Orange, Seminole, Lake, Brevard, and Osceola Counties.

69 (2) The authority may exercise all powers necessary,
 70 appurtenant, convenient, or incidental to the implementation of
 71 the stated purposes, including, but not limited to, the
 72 following rights and powers:

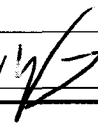
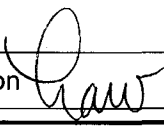
73 (n) With the consent of the county within whose
 74 jurisdiction the following activities occur, the authority shall
 75 have the right to construct, operate, and maintain roads,

76 | bridges, avenues of access, transportation facilities,
77 | thoroughfares, and boulevards outside the jurisdictional
78 | boundaries of Orange, Seminole, Lake, Brevard, and Osceola
79 | Counties, together with the right to construct, repair, replace,
80 | operate, install, and maintain electronic toll payment systems
81 | thereon.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 335 Resource Recovery and Management
SPONSOR(S): Natural Resources & Public Lands Subcommittee; Clemons, Sr. and others
TIED BILLS: IDEN./SIM. BILLS: SB 1104

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	12 Y, 0 N, As CS	Gregory	Shugar
2) Government Accountability Committee		Gregory 	Williamson 

SUMMARY ANALYSIS

Gasification is a manufacturing process that converts material containing carbon—such as coal, petroleum coke, biomass, or waste—into synthesis gas (syngas) by creating a chemical reaction with the material at high temperatures, without combustion, with a controlled amount of oxygen and/or steam. Gasification may be used to produce electricity, chemicals, fuels, fertilizers, plastics, and other products.

Pyrolysis is the heating of a material, such as plastics, at high temperatures in the absence of oxygen. Sometimes this process includes the introduction of pressure or water. Without oxygen, the material does not combust, but rather the chemical compounds that make up the material thermally decompose into gases and oil. Pyrolysis oil may be used directly as fuel or further refined into diesel or jet fuel.

Due to the increased demand for fuels and limited space in solid waste facilities, solid waste managers have increased efforts to employ gasification and pyrolysis on municipal solid waste (MSW) to decrease the amount of area needed for disposal in solid waste facilities and create fuels.

The Department of Environmental Protection (DEP) implements and enforces the state's solid waste management program. DEP may adopt rules to implement and enforce the state's solid waste management program, which includes a waste tire management program; administration of solid waste grant programs; and the classification, construction, operation, maintenance, and closure of solid waste management facilities.

Current law exempts certain wastes and activities from solid waste regulations. This includes recovered materials and recovered materials processing facilities that meet certain criteria. Further, DEP does not require solid waste combustors to obtain a solid waste permit if the facility operates under a currently valid permit for a stationary source of air pollution, open burning, or electrical power plant and transmission line siting.

The bill expands the exemption from solid waste regulations to facilities that convert recovered materials by gasification, pyrolysis, or other thermal conversion process. The bill also defines terms used in the exemption and makes conforming changes to other statutes.

The bill may have an insignificant fiscal impact on DEP. It does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Gasification

Gasification is a manufacturing process that converts material containing carbon—such as coal, petroleum coke, biomass, or waste—into synthesis gas (syngas) by creating a chemical reaction with the material at high temperatures, without combustion, with a controlled amount of oxygen and/or steam. Gasification may be used to produce electricity, chemicals, fuels, fertilizers, plastics, and other products. The United States Department of Energy believes gasification is a method to reduce our nation's dependence on foreign oil and provide a clean, carbon capture-ready source of energy.¹

Recently, efforts have increased to utilize gasification to convert municipal solid waste (MSW) into energy rather than traditional incineration. Incineration uses MSW as a fuel to create heat and electricity by burning the MSW with high volumes of air to form carbon dioxide and heat. Waste-to-energy plants then use these hot gases to make steam used to generate electricity. During the process, toxins escape in the exhaust steam.²

During the gasification process, the MSW is not a fuel, but rather a feedstock³ for a high temperature chemical conversion process. In the gasifier, MSW reacts with little or no oxygen, breaking down the feedstock into simple molecules and converting them into syngas. Instead of making just heat and electricity as is done with incineration, the syngas produced by gasification can be turned into commercial products such as transportation fuels, chemicals, and fertilizers. Further, the gasification process controls the release of toxins by inhibiting the formation of dioxins or furans by limiting oxygen in the chemical reaction. Lastly, the ash from gasification may be used to make cement, roofing shingles, asphalt filler, and material for sandblasting.⁴

Pyrolysis

Pyrolysis is the heating of a material, such as plastics, at high temperatures in the absence of oxygen. Sometimes this process includes the introduction of pressure or water. Without oxygen, the material does not combust, but rather the chemical compounds that make up the material thermally decompose into gases and oil. Pyrolysis oil may be used directly as fuel or further refined into diesel or jet fuel.⁵

Due to the increased demand for plastics and fuels and limited space in solid waste facilities, solid waste managers have increased efforts to employ pyrolysis on non-recycled plastics. Pyrolysis may be used to decrease the need to dispose plastics in landfills and create a renewable source of energy and fuels.⁶ The fuel produced from the pyrolysis of plastics does not contain sulphur because the plastic

¹ Gasification and Syngas Technologies Council, *The Gasification Process*, <http://www.gasification-syngas.org/technology/the-gasification-process/> (last visited Feb. 8, 2017); U.S. Department of Energy, *National Energy Technology Laboratory, What is Gasification?* <https://www.netl.doe.gov/research/coal/energy-systems/gasification/publications/photo#whatis> (last visited Feb. 8, 2017).

² Gasification and Syngas Technologies Council, *Gasification v. Incineration*, <http://www.gasification-syngas.org/applications/gasification-vs-incineration/> (last visited Feb. 8, 2017).

³ Feedstock is raw material supplied to a machine or processing plant. Merriam-Webster, *Feedstock*, <https://www.merriam-webster.com/dictionary/feedstock> (last visited Feb. 8, 2017).

⁴ Gasification and Syngas Technologies Council, *Gasification v. Incineration*, <http://www.gasification-syngas.org/applications/gasification-vs-incineration/> (last visited Feb. 8, 2017).

⁵ Whole System Foundation, *Recycling and Pyrolysis of Plastic*, http://www.whole-systems.org/recycling_and_pyrolysis_of_plastic.html (last visited Feb. 9, 2017).

⁶ Feng Gao, *Pyrolysis of Waste Plastics into Fuels*, p. 6, available at:

https://ir.canterbury.ac.nz/bitstream/handle/10092/4303/Thesis_fulltext.pdf;jsessionid=75F7FC1942BA6D076AE426687A9FD20F?sequence=1 (last visited Feb. 9, 2017).

feedstock does not contain sulphur.⁷ Because pyrolysis does not incinerate the plastic waste, the emission of harmful compounds is reduced.⁸

Solid Waste Regulation

“Solid waste” is sludge unregulated under the federal Clean Water Act or Clean Air Act; sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.⁹

The Department of Environmental Protection (DEP) implements and enforces the state’s solid waste management program.¹⁰ DEP may adopt rules to implement and enforce the program, which includes a waste tire management program,¹¹ administration of solid waste grant programs,¹² and the classification, construction, operation, maintenance, and closure of solid waste management facilities.^{13,14}

Section 403.7045(1), F.S., exempts certain wastes and activities from solid waste regulations.¹⁵ This includes recovered materials and recovered materials processing facilities from solid waste regulations if they meet certain criteria.¹⁶

“Recovered materials” are metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other. The term does not include materials destined for any use that constitutes disposal. Recovered materials are not solid waste.¹⁷ A “recovered materials processing facility” is a facility engaged solely in the storage, processing, resale, or reuse of recovered materials.¹⁸ “Recycling” is any process that collects, separates, or processes and reuses or returns solid waste, or materials that would otherwise become solid waste, to use in the form of raw materials or products.¹⁹

Recovered materials or recovered materials processing facilities do not have to meet the solid waste regulations if:

- A majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within one year;
- The recovered materials handled by the facility or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water by the owner or operator of such facility so that such recovered materials, products or byproducts, or any constituent thereof may enter other lands or

⁷ *Id.* at 7.

⁸ Debora Almeida and Maria de Fatima Marques, *Thermal and catalytic pyrolysis of plastic waste*, http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-14282016000100007 (last visited Feb. 9, 2017).

⁹ s. 403.703(32), F.S.

¹⁰ s. 403.705, F.S.

¹¹ s. 403.717, F.S.; ch. 62-701, F.A.C.

¹² s. 403.7095, F.S.; ch. 62-716, F.A.C.

¹³ s. 403.703(35), F.S., defines a “solid waste management facility” as any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include recovered materials processing facilities that meet the requirements of s. 403.7046, F.S., except the portion of such facilities, if any, which is used for the management of solid waste.

¹⁴ s. 403.704(9), F.S.; chs. 62-701 through 62-722, F.A.C.

¹⁵ Ch. 88-130, Laws of Fla.; Ch. 403, F.S.; *See* 99-60 Fla. Op. Att’y Gen. 3 (1999).

¹⁶ s. 403.7045(1)(e), F.S.; *see also* r. 62-701.220(2)(c), F.A.C.

¹⁷ s. 403.703(24), F.S.

¹⁸ s. 403.703(25), F.S.

¹⁹ s. 403.703(27), F.S.

be emitted into the air or discharged into any waters, including groundwater, or otherwise enter the environment such that a threat of contamination in excess of applicable DEP standards and criteria is caused;

- The recovered materials handled by the facility are not hazardous wastes;²⁰ and
- The facility is registered with DEP.²¹

Further, DEP does not require solid waste combustors to obtain a solid waste permit if the facility operates under a current valid permit for a stationary source of air pollution, open burning, or electrical power plant and transmission line siting.²² A "solid waste combustor" is an enclosed device that uses controlled combustion whose primary purpose is to thermally break down solid, liquid, or gaseous combustible solid wastes to an ash residue that contains little or no combustible material. A solid waste combustor includes any facility that uses incineration, gasification, or pyrolysis to break down solid waste.²³ "Combustion" is the treatment of solid waste in a device that uses heat as the primary means to change the chemical, physical, or biological character or composition of the waste. Combustion processes include incineration, gasification, and pyrolysis.²⁴

EFFECT OF PROPOSED CHANGES

The bill amends s. 403.7045(1)(e)1., F.S., to expand the exemption from solid waste regulations for recovered materials and recovered materials processing facilities. Currently, recovered materials and recovered materials processing facilities do not have to meet solid waste regulations if a majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within one year.²⁵ The bill defines "used or reused," as used in the exemption, to include the conversion of recovered materials into crude, fuel, feedstock, or other raw material or intermediate or final product by gasification, pyrolysis, or another thermal conversion process.

The bill amends s. 403.703, F.S., to create definitions for the following terms used in the expanded exemption:

- "Gasification" is a process through which recovered materials are heated and converted to synthesis gas in an oxygen-deficient atmosphere, and then converted to crude, fuel, or chemical feedstock;
- A "post-use polymer" is a polymer²⁶ derived from any domestic, commercial, or municipal activity and recycled in commercial markets that might otherwise become waste if not converted to manufacture fuels or other raw materials or intermediate or final products using gasification, pyrolysis, or another thermal conversion process. A post-use polymer may contain incidental contaminants or impurities such as paper labels or metal rings;
- "Pyrolysis" is a process through which recovered materials are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted to crude oil, diesel, gasoline, home heating oil, or another fuel; feedstocks; diesel and gasoline blendstocks; chemicals, waxes, or lubricants; or other raw materials or intermediate or final products; and

²⁰ "Hazardous waste" is solid waste, or a combination of solid wastes, that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. s. 403.703(13), F.S.

²¹ s. 403.7045(1)(e), F.S.; r. 62-701.220(2)(c), F.A.C.; Any person in Florida who handles, purchases, receives, recovers, sells or is an end user of 600 tons or more of recovered materials must annually report to DEP, and to all counties from which it received materials, certain information for the preceding calendar year, unless such person is exempt. s. 403.7046, F.S., and r. 62-722.400(2), F.A.C.

²² r. 62-701.320(14)(a)&(b) and r. 62-701.710(1)(a), F.A.C.

²³ r. 62-701.200(108), F.A.C.

²⁴ r. 62-701.200(21), F.A.C.

²⁵ s. 403.7045(1)(e)1., F.S.

²⁶ A polymer is a chemical compound or mixture of compounds formed by polymerization and consisting essentially of repeating structural units. Merriam-Webster, Polymer, <https://www.merriam-webster.com/dictionary/polymer>, (last visited Feb. 9, 2017).

- A "pyrolysis facility" is a facility that collects, separates, stores, and converts recovered materials using gasification, pyrolysis, or another thermal conversion process. A pyrolysis facility is not a waste management facility.

Further, the bill amends s. 403.703, F.S., to change the following definitions for terms used in the expanded exemption:

- "Recovered materials" will now include post-use polymers that are converted to manufacture crude, fuels, or other raw materials or intermediate or final products using gasification, pyrolysis, or another thermal conversion process;
- "Recovered materials processing facility" will now include a pyrolysis facility; and
- "Recycling" will now include materials that are returned to use in the form of intermediate or final products, including, but not limited to, crude, fuel, and fuel substitutes.

Thus, facilities that use gasification, pyrolysis, or other thermal conversion process on recovered materials that were not previously exempt from solid waste regulations by rule or statute, will now be exempt. DEP will likely need to revise its solid waste rules as a result of the statutory changes in the bill.

Facilities using gasification, pyrolysis, or other thermal conversion processes on recovered materials that would be exempt from solid waste regulations under the proposed change, may still be required to meet other permitting criteria, such as registration of recovered materials processing facilities with DEP, obtaining a stationary source of air pollution permit, or obtaining an electrical power plant and transmission line siting permit.

Lastly, the bill amends ss. 171.205(2), 316.003(28), 377.709(2)(f), and 487.048(1), F.S., to make conforming changes.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 403.703, F.S., providing and revising definitions.
- Section 2.** Amends s. 403.7045, F.S., relating to application of the Resource Recovery and Management Act and integration with other acts.
- Section 3.** Amends s. 171.205, F.S., conforming a cross reference.
- Section 4.** Amends s. 316.003, F.S., conforming a cross reference.
- Section 5.** Amends s. 377.709, F.S., conforming a cross reference.
- Section 6.** Amends s. 487.048, F.S., conforming a cross reference.
- Section 7.** 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:

The bill appears to have an insignificant negative fiscal impact on DEP because the department will likely need to revise its solid waste rules as a result of the statutory changes in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on individuals or companies who operate facilities that use gasification, pyrolysis, or other thermal conversion processes on solid waste by exempting them from solid waste regulations.

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:

DEP has sufficient rulemaking authority to amend its solid waste regulations to conform to changes made by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 22, 2017, the Natural Resources & Public Lands Subcommittee adopted an amendment to the amendment and an amendment and reported the bill favorably with committee substitute.

Specifically, the amendment to the amendment and the amendment:

- Corrects a line number for the lines being amended;
- Changes the definition of "gasification" to mean the process of heating and converting "recovered materials" rather than "post-use polymers." Thus, the exemption from solid waste

regulations will apply to “gasification” of “recovered materials,” not just “post-use polymers.” Further, the amendment also includes “crude” as one of the products of “gasification;”

- Changes the definition of “post-use polymers” to allow post-use polymers to contain “impurities” when used during gasification, pyrolysis, and another thermal conversion process;
- Changes the definition of “pyrolysis” to mean the process of heating and converting “recovered materials” rather than “post-use polymers.” Thus, the exemption from solid waste regulations will apply to “pyrolysis” of “recovered materials,” not just “post-use polymers.” Further, the amendment also includes “crude oil” as one of the products of “pyrolysis;”
- Changes the definition of “pyrolysis facility” to mean a facility that collects, separates, stores, and converts “recovered materials” rather than “post-use polymers.” Thus, the exemption from solid waste regulations will apply to “pyrolysis facilities” that collect, separate, store, and convert “recovered materials,” not just “post-use polymers.”
- Changes the definition of “recovered materials” to include “crude” as one of the products that recovered materials may be converted to through the process of gasification, pyrolysis, or another thermal conversion process;
- Changes the definition of “recycling” to include “crude” as one of the products that solid waste or materials may be reused or returned to thorough collection, separation, and processing;
- Limits the exception from solid waste regulations for gasification, pyrolysis, and another thermal conversion process to instances where those processes are used to convert recovered materials into crude, fuel, feedstock, or other raw materials or intermediate or final products.

This analysis is drawn to the committee substitute reported favorably by the Natural Resources & Public Lands Subcommittee.

1 A bill to be entitled
 2 An act relating to resource recovery and management;
 3 amending s. 403.703, F.S.; providing and revising
 4 definitions; amending s. 403.7045, F.S.; revising
 5 criteria for exempting recovered materials and
 6 recovered materials processing facilities from
 7 specified regulations; amending ss. 171.205, 316.003,
 8 377.709, and 487.048, F.S.; conforming cross-
 9 references; providing an effective date.

10

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

12

13 Section 1. Subsections (2) and (3) of section 403.703,
 14 Florida Statutes, are renumbered as subsections (3) and (2),
 15 respectively, subsections (10) through (22) are renumbered as
 16 subsections (11) through (23), respectively, subsection (23) is
 17 renumbered as subsection (25), subsections (24) through (43) are
 18 renumbered as subsections (28) through (47), respectively,
 19 present subsections (24), (25), (27), and (32) are amended, and
 20 new subsections (10), (24), (26), and (27) are added to that
 21 section, to read:

22

403.703 Definitions.—As used in this part, the term:

23

(10) "Gasification" means a process through which

24

recovered materials are heated and converted to synthesis gas in

25

an oxygen-deficient atmosphere, and then converted to crude,

26 fuels, or chemical feedstocks.

27 (24) "Post-use polymer" means a polymer that is derived
 28 from any domestic, commercial, or municipal activity and
 29 recycled in commercial markets which might otherwise become
 30 waste if not converted to manufacture crude, fuels, or other raw
 31 materials or intermediate or final products using gasification,
 32 pyrolysis, or another thermal conversion process. A post-use
 33 polymer as defined in this subsection may contain incidental
 34 contaminants or impurities such as paper labels or metal rings.

35 (26) "Pyrolysis" means a process through which recovered
 36 materials are heated in the absence of oxygen until melted and
 37 thermally decomposed, and then cooled, condensed, and converted
 38 to:

- 39 (a) Crude oil, diesel, gasoline, home heating oil, or
- 40 another fuel;
- 41 (b) Feedstocks;
- 42 (c) Diesel and gasoline blendstocks;
- 43 (d) Chemicals, waxes, or lubricants; or
- 44 (e) Other raw materials or intermediate or final products.

45 (27) "Pyrolysis facility" means a facility that collects,
 46 separates, stores, and converts recovered materials using
 47 gasification, pyrolysis, or another thermal conversion process.
 48 A pyrolysis facility as defined in this subsection is not a
 49 waste management facility.

50 (28)~~(24)~~ "Recovered materials" means metal, paper, glass,

51 plastic, textile, or rubber materials that have known recycling
 52 potential, can be feasibly recycled, and have been diverted and
 53 source separated or have been removed from the solid waste
 54 stream for sale, use, or reuse as raw materials, whether or not
 55 the materials require subsequent processing or separation from
 56 each other, and include post-use polymers that are converted to
 57 manufacture crude, fuels, or other raw materials or intermediate
 58 or final products using gasification, pyrolysis, or another
 59 thermal conversion process. ~~but~~ The term does not include
 60 materials destined for any use that constitutes disposal.
 61 Recovered materials as defined ~~described~~ in this subsection are
 62 not solid waste.

63 ~~(29)(25)~~ "Recovered materials processing facility" means a
 64 facility, including a pyrolysis facility, engaged solely in the
 65 storage, processing, recycling, resale, or reuse of recovered
 66 materials. ~~Such~~ A recovered materials processing facility as
 67 defined in this subsection is not a solid waste management
 68 facility if it meets the conditions of s. 403.7045(1)(e).

69 ~~(31)(27)~~ "Recycling" means any process by which solid
 70 waste, or materials that would otherwise become solid waste, are
 71 collected, separated, or processed and reused or returned to use
 72 in the form of raw materials or intermediate or final products,
 73 including, but not limited to, crude, fuels, and fuel
 74 substitutes.

75 ~~(36)(32)~~ "Solid waste" means sludge unregulated under the

76 federal Clean Water Act or Clean Air Act, sludge from a waste
 77 treatment works, water supply treatment plant, or air pollution
 78 control facility, or garbage, rubbish, refuse, special waste, or
 79 other discarded material, including solid, liquid, semisolid, or
 80 contained gaseous material resulting from domestic, industrial,
 81 commercial, mining, agricultural, or governmental operations.
 82 Recovered materials as defined in subsection (28) ~~(24)~~ are not
 83 solid waste.

84 Section 2. Subsection (1) of section 403.7045, Florida
 85 Statutes, is amended to read:

86 403.7045 Application of act and integration with other
 87 acts.-

88 (1) The following wastes or activities shall not be
 89 regulated pursuant to this act:

90 (a) Byproduct material, source material, and special
 91 nuclear material, the generation, transportation, disposal,
 92 storage, or treatment of which is regulated under chapter 404 or
 93 the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923,
 94 as amended;

95 (b) Suspended solids and dissolved materials in domestic
 96 sewage effluent or irrigation return flows or other discharges
 97 which are point sources subject to permits pursuant to this
 98 chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217;

99 (c) Emissions to the air from a stationary installation or
 100 source regulated under this chapter or the Clean Air Act, Pub.

101 L. No. 95-95;

102 (d) Drilling fluids, produced waters, and other wastes
 103 associated with the exploration for, or development and
 104 production of, crude oil or natural gas which are regulated
 105 under chapter 377; or

106 (e) Recovered materials or recovered materials processing
 107 facilities, except as provided in s. 403.7046, if:

108 1. A majority of the recovered materials at the facility
 109 are demonstrated to be sold, used, or reused within 1 year. As
 110 used in this subparagraph, the term "used or reused" includes
 111 the conversion of recovered materials into crude, fuels,
 112 feedstocks, or other raw materials or intermediate or final
 113 products by gasification or pyrolysis, as defined in s. 403.703,
 114 or by another thermal conversion process.

115 2. The recovered materials handled by the facility or the
 116 products or byproducts of operations that process recovered
 117 materials are not discharged, deposited, injected, dumped,
 118 spilled, leaked, or placed into or upon any land or water by the
 119 owner or operator of the ~~such~~ facility so that the ~~such~~
 120 recovered materials, products or byproducts, or any constituent
 121 thereof may enter other lands or be emitted into the air or
 122 discharged into any waters, including groundwaters, or otherwise
 123 enter the environment such that a threat of contamination in
 124 excess of applicable department standards and criteria is
 125 caused.

126 3. The recovered materials handled by the facility are not
 127 hazardous wastes as defined in ~~under~~ s. 403.703~~7~~, and rules
 128 adopted under this section ~~promulgated pursuant thereto~~.

129 4. The facility is registered as required in s. 403.7046.

130 (f) Industrial byproducts, if:

131 1. A majority of the industrial byproducts are
 132 demonstrated to be sold, used, or reused within 1 year.

133 2. The industrial byproducts are not discharged,
 134 deposited, injected, dumped, spilled, leaked, or placed upon any
 135 land or water so that such industrial byproducts, or any
 136 constituent thereof, may enter other lands or be emitted into
 137 the air or discharged into any waters, including groundwaters,
 138 or otherwise enter the environment such that a threat of
 139 contamination in excess of applicable department standards and
 140 criteria or a significant threat to public health is caused.

141 3. The industrial byproducts are not hazardous wastes as
 142 defined in ~~under~~ s. 403.703 and rules adopted under this
 143 section.

144
 145 Sludge from an industrial waste treatment works that meets the
 146 exemption requirements of this paragraph is not solid waste as
 147 defined in s. 403.703 ~~403.703(32)~~.

148 Section 3. Subsection (2) of section 171.205, Florida
 149 Statutes, is amended to read:

150 171.205 Consent requirements for annexation of land under

151 | this part.—Notwithstanding part I, an interlocal service
 152 | boundary agreement may provide a process for annexation
 153 | consistent with this section or with part I.

154 | (2) If the area to be annexed includes a privately owned
 155 | solid waste disposal facility as defined in s. 403.703
 156 | ~~403.703(33)~~ which receives municipal solid waste collected
 157 | within the jurisdiction of multiple local governments, the
 158 | annexing municipality must set forth in its plan the effects
 159 | that the annexation of the solid waste disposal facility will
 160 | have on the other local governments. The plan must also indicate
 161 | that the owner of the affected solid waste disposal facility has
 162 | been contacted in writing concerning the annexation, that an
 163 | agreement between the annexing municipality and the solid waste
 164 | disposal facility to govern the operations of the solid waste
 165 | disposal facility if the annexation occurs has been approved,
 166 | and that the owner of the solid waste disposal facility does not
 167 | object to the proposed annexation.

168 | Section 4. Subsection (28) of section 316.003, Florida
 169 | Statutes, is amended to read:

170 | 316.003 Definitions.—The following words and phrases, when
 171 | used in this chapter, shall have the meanings respectively
 172 | ascribed to them in this section, except where the context
 173 | otherwise requires:

174 | (28) HAZARDOUS MATERIAL.—Any substance or material which
 175 | has been determined by the secretary of the United States

176 Department of Transportation to be capable of imposing an
 177 unreasonable risk to health, safety, and property. This term
 178 includes hazardous waste as defined in s. 403.703 ~~403.703(13)~~.

179 Section 5. Paragraph (f) of subsection (2) of section
 180 377.709, Florida Statutes, is amended to read:

181 377.709 Funding by electric utilities of local
 182 governmental solid waste facilities that generate electricity.-

183 (2) DEFINITIONS.-As used in this section, the term:

184 (f) "Solid waste facility" means a facility owned or
 185 operated by, or on behalf of, a local government for the purpose
 186 of disposing of solid waste, as ~~that term is~~ defined in s.
 187 403.703 ~~403.703(32)~~, by any process that produces heat and
 188 incorporates, as a part of the facility, the means of converting
 189 heat to electrical energy in amounts greater than actually
 190 required for the operation of the facility.

191 Section 6. Subsection (1) of section 487.048, Florida
 192 Statutes, is amended to read:

193 487.048 Dealer's license; records.-

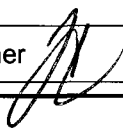
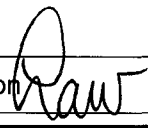
194 (1) Each person holding or offering for sale, selling, or
 195 distributing restricted-use pesticides must obtain a dealer's
 196 license from the department. Application for the license shall
 197 be filed with the department by using a form prescribed by the
 198 department or by using the department's website. The license
 199 must be obtained before entering into business or transferring
 200 ownership of a business. The department may require examination

201 or other proof of competency of individuals to whom licenses are
 202 issued or of individuals employed by persons to whom licenses
 203 are issued. Demonstration of continued competency may be
 204 required for license renewal, as set by rule. The license shall
 205 be renewed annually as provided by rule. An annual license fee
 206 not exceeding \$250 shall be established by rule. However, a user
 207 of a restricted-use pesticide may distribute unopened containers
 208 of a properly labeled pesticide to another user who is legally
 209 entitled to use that restricted-use pesticide without obtaining
 210 a pesticide dealer license. The exclusive purpose of
 211 distribution of the restricted-use pesticide is to keep it from
 212 becoming a hazardous waste as defined in s. 403.703 ~~403.703(13)~~.

213 Section 7. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 401 Notaries Public
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Abruzzo and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 440

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N, As CS	Renner	Miller
2) Government Accountability Committee		Renner 	Williamson 

SUMMARY ANALYSIS

The Governor may appoint as many notaries public as he or she deems necessary so long as they meet certain requirements, including being a legal resident of Florida. Notaries public are appointed for four years and may only use and exercise the office of notary public within Florida. A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument. Acceptable forms of identification that a notary public may rely on in notarizing a signature on a document include:

- A Florida identification card or driver license;
- A passport issued by the Department of State of the United States or by a foreign government if the document is stamped by the U.S. Bureau of Citizenship and Immigration Services;
- A driver license or an identification card issued by a state other than Florida, a U.S. territory, or Canada or Mexico;
- An identification card issued by any branch of the U.S. armed forces;
- An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections or by the U.S. Department of Justice, Bureau of Prisons, for an inmate who is in its custody;
- A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- An identification card issued by the U.S. Bureau of Citizenship and Immigration Services.

The bill expands the list of forms of identification that a notary public may rely on in notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Notary Public

Chapter 117, F.S., governs notaries public. The Governor may appoint as many notaries public as he or she deems necessary so long as they meet certain requirements, including being a legal resident of Florida. Notaries public are appointed for four years and may only use and exercise the office of notary public within Florida.¹

The application for appointment must be signed and sworn to by the applicant and must be accompanied by a fee of \$25, the \$10 commission fee, and a surcharge of \$4. The \$4 surcharge is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public.²

The application for appointment must include: the full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for one year or more, a list of all professional licenses and commissions issued by the state to the applicant during the previous 10 years and a statement as to whether or not such license or commission was revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights.³ A notary public must provide written notification to the Department of State of any change in his or her business address, home or business telephone number, home address, or criminal record within 60 days of the change.⁴ If a notary public lawfully changes his or her name during the period of his or her commission, a completed name change form must be submitted to the department and a \$25 fee is assessed.⁵

The application process must be completed regardless of whether an applicant is requesting his or her first notary commission, a renewal of a commission, or any subsequent commission.⁶

The department serves as the custodian of records for notary public applications, and maintains the record for the full term of a notary commission.⁷

The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution.⁸

A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument.⁹ "Personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable

¹ Section 117.01(1), F.S.

² Section 117.01(2), F.S.

³ *Id.*

⁴ *Id.*

⁵ Section 117.05(9), F.S.

⁶ Section 117.01(6), F.S.

⁷ Section 117.01(2), F.S.

⁸ Section 117.01(4), F.S.

⁹ Section 117.05(5), F.S.

certainty.¹⁰ "Satisfactory evidence" means the absence of any information, evidence, or other circumstances that would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims, and may be any one of the following:¹¹

- The sworn written statement of one credible witness personally known to the notary public or of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that:
 - The person whose signature is to be notarized is the person named in the document;
 - The person whose signature is to be notarized is personally known to the witnesses;
 - It is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;
 - It is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess certain identification documents ; and
 - The witnesses do not have a financial interest in nor are parties to the underlying transaction; or
- Reasonable reliance on the presentation to the notary public of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:
 - A Florida identification card or driver license;
 - A passport issued by the Department of State of the United States or by a foreign government if the document is stamped by the U.S. Bureau of Citizenship and Immigration Services;
 - A driver license or an identification card issued in another state, a U.S. territory, or Canada or Mexico;
 - An identification card issued by any branch of the U.S. armed forces;
 - An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections or by the U.S. Department of Justice, Bureau of Prisons, for an inmate who is in its custody;
 - A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
 - An identification card issued by the U.S. Bureau of Citizenship and Immigration Services.

Veteran Health Identification Card

In order to receive a Veteran Health Identification Card (VHIC), a veteran must be enrolled in the U.S. Department of Veterans Affairs (VA) health care system. Generally, if a person served in active military service and was separated under any condition other than dishonorable discharge, he or she may qualify for VA health care benefits.¹²

A VHIC is used for identification and check-in at VA appointments. The card contains a photo, a member identification number, a plan identification number, the branch of service, and any special awards. For increased security, a veteran must show one form of primary identification and one form of secondary identification when requesting a VHIC.¹³

¹⁰ Section 117.05(5)(a), F.S.

¹¹ Section 117.05(5)(b), F.S.

¹² United States Department of Veterans Affairs website on *Health Benefits*, available at <https://www.va.gov/HEALTHBENEFITS/apply/veterans.asp> (last visited February 10, 2017).

¹³ See United States Department of Veterans Affairs website, *Veteran Health Identification Cards*, available at <https://www.va.gov/healthbenefits/vhic/index.asp> (last visited February 10, 2017).

Effect of Proposed Changes

The bill expands the list of forms of identification that a notary public may rely on when notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

B. SECTION DIRECTORY:

- Section 1 Amends s. 117.05, F.S., by expanding the list of forms of identification that a notary public may rely on when notarizing a signature on a document.
- Section2 Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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:

The bill provides no authority nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 22, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment places the veteran health identification card in a separate paragraph from the Department of Defense issued identification cards and changes the word "information" to "identification" in the title.

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

1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 117.05, F.S.; expanding the list of forms of
 4 identification which a notary public may rely on in
 5 notarizing a signature on a document to include a
 6 veteran health identification card; providing an
 7 effective date.

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

10
 11 Section 1. Paragraph (b) of subsection (5) of section
 12 117.05, Florida Statutes, is amended to read:

13 117.05 Use of notary commission; unlawful use; notary fee;
 14 seal; duties; employer liability; name change; advertising;
 15 photocopies; penalties.—

16 (5) A notary public may not notarize a signature on a
 17 document unless he or she personally knows, or has satisfactory
 18 evidence, that the person whose signature is to be notarized is
 19 the individual who is described in and who is executing the
 20 instrument. A notary public shall certify in the certificate of
 21 acknowledgment or jurat the type of identification, either based
 22 on personal knowledge or other form of identification, upon
 23 which the notary public is relying.

24 (b) For the purposes of this subsection, "satisfactory
 25 evidence" means the absence of any information, evidence, or

26 other circumstances which would lead a reasonable person to
 27 believe that the person whose signature is to be notarized is
 28 not the person he or she claims to be and any one of the
 29 following:

30 1. The sworn written statement of one credible witness
 31 personally known to the notary public or the sworn written
 32 statement of two credible witnesses whose identities are proven
 33 to the notary public upon the presentation of satisfactory
 34 evidence that each of the following is true:

35 a. That the person whose signature is to be notarized is
 36 the person named in the document;

37 b. That the person whose signature is to be notarized is
 38 personally known to the witnesses;

39 c. That it is the reasonable belief of the witnesses that
 40 the circumstances of the person whose signature is to be
 41 notarized are such that it would be very difficult or impossible
 42 for that person to obtain another acceptable form of
 43 identification;

44 d. That it is the reasonable belief of the witnesses that
 45 the person whose signature is to be notarized does not possess
 46 any of the identification documents specified in subparagraph
 47 2.; and

48 e. That the witnesses do not have a financial interest in
 49 nor are parties to the underlying transaction; or

50 2. Reasonable reliance on the presentation to the notary

51 public of any one of the following forms of identification, if
 52 the document is current or has been issued within the past 5
 53 years and bears a serial or other identifying number:

54 a. A Florida identification card or driver license issued
 55 by the public agency authorized to issue driver licenses;

56 b. A passport issued by the Department of State of the
 57 United States;

58 c. A passport issued by a foreign government if the
 59 document is stamped by the United States Bureau of Citizenship
 60 and Immigration Services;

61 d. A driver license or an identification card issued by a
 62 public agency authorized to issue driver licenses in a state
 63 other than Florida, a territory of the United States, or Canada
 64 or Mexico;

65 e. An identification card issued by any branch of the
 66 armed forces of the United States;

67 f. A veteran health identification card issued by the
 68 United States Department of Veterans Affairs;

69 ~~g.f.~~ An inmate identification card issued on or after
 70 January 1, 1991, by the Florida Department of Corrections for an
 71 inmate who is in the custody of the department;

72 ~~h.g.~~ An inmate identification card issued by the United
 73 States Department of Justice, Bureau of Prisons, for an inmate
 74 who is in the custody of the department;

75 ~~i.h.~~ A sworn, written statement from a sworn law

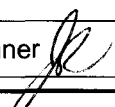
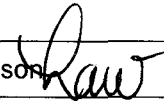
76 enforcement officer that the forms of identification for an
77 inmate in an institution of confinement were confiscated upon
78 confinement and that the person named in the document is the
79 person whose signature is to be notarized; or

80 j.~~h.~~ An identification card issued by the United States
81 Bureau of Citizenship and Immigration Services.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7029 PCB LFV 17-01 Department of Military Affairs Direct-support Organization
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Baez
TIED BILLS: **IDEN./SIM. BILLS:** SB 7010

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Renner	Miller
1) Government Accountability Committee		Renner 	Williamson 

SUMMARY ANALYSIS

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and for most, by a written contract with the agency the CSO or DSO was created to support.

In 2000, the Florida National Guard Foundation (FLNGF) became a DSO under the Department of Military Affairs (DMA). The mission of FLNGF is to:

- Provide support to Florida National Guard members in times of emergencies and deployments;
- Honor and assist soldiers and airmen who have sacrificed their health and well-being for the security of the state and nation; and
- Preserve the Florida National Guard's rich history so the sacrifices of the soldiers and airmen are not forgotten.

FLNGF's primary function is to fund and administer an emergency financial assistance grant program and a scholarship grant program for current members of the Florida National Guard and in some cases, their families. All current members of the Florida National Guard are eligible to apply for both grants.

The statutory authority for the DMA DSO is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

The bill removes the scheduled repeal of the law authorizing DMA to establish a DSO.

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:

Present Situation

Citizen Support Organizations and Direct-support Organizations

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and for most, by a written contract with the agency the CSO or DSO was created to support.

Prior to 2014, there was no formal review process in law to determine whether a CSO or DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida,¹ established reporting and transparency requirements for each CSO and DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The CSO or DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.² Specifically, a CSO or DSO must provide:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the 5th year after enactment, unless

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁸

CSO and DSO Audit Requirements

CSOs or DSOs with annual expenditures in excess of \$100,000 and that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant, with certain exceptions. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for its creation, administration, or approval of the CSO or DSO.⁹

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the accounts and records of the CSO or DSO.¹⁰ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹¹

CSO and DSO Ethics Code Requirements

A CSO or DSO created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹²

Florida National Guard Foundation

The Florida National Guard Foundation (FLNGF) was founded as a non-profit organization in 1983 to provide charitable and educational aide in the form of money and other property and services. In 2000, FLNGF became a DSO under the Department of Military Affairs (DMA).¹³

FLNGF is a corporation not for profit, incorporated under Ch. 617, F.S., and is approved by the Department of State. FLNGF must be determined by DMA to be operating in a manner consistent with the goals of DMA and the Florida National Guard in the best interest of the state. In addition, it must:¹⁴

- Be organized and operated exclusively to raise funds;
- Request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer in its own name securities, funds, or property;
- Support the processing of requests for assistance from the Soldiers and Airmen Assistance Program or similar programs, as directed by the Adjutant General; and
- Make expenditures to or for the direct or indirect benefit of the DMA or the Florida National Guard.

FLNGF's mission is to:¹⁵

- Provide support to Florida National Guard members in times of emergencies and deployments;
- Honor and assist soldiers and airmen who have sacrificed their health and well-being for the security of the state and nation; and
- Preserve the Florida National Guard's rich history so the sacrifices of the soldiers and airmen are not forgotten.

⁸ Section 20.058(5), F.S.

⁹ Section 215.981(1), F.S.

¹⁰ Section 11.45(3), F.S.

¹¹ Section 11.45(3)(d), F.S.

¹² Section 112.3251, F.S.

¹³ Chapter 2000-258, Laws of Fla.

¹⁴ Section 250.115(1)(a), F.S.

¹⁵ FLNGF website, *Our Mission*, available at <http://www.floridanationalguardfoundation.org/> (last visited January 21, 2017).

FLNGF's primary function is to fund and administer an emergency financial assistance grant program and a scholarship grant program for current members of the Florida National Guard and in some cases, their families. All current members of the Florida National Guard are eligible to apply for both grants.

FLNGF's emergency financial assistance program grants are provided to cover expenses relating to housing, food, child care, utilities, transportation, medical, and other immediate needs. The emergency financial assistance program also serves those who are eligible for the Soldiers and Airmen Assistance Program.

FLNGF's scholarship program provides grants to Florida National Guard members and their dependents pursuing advanced academic and vocational opportunities.

FLNGF is governed by an eight-member board of directors who are appointed by the president of the board. The Adjutant General appoints the president.¹⁶

FLNGF must operate under a written contract with DMA which must provide for:¹⁷

- Certification by DMA that FLNGF is complying with the terms of the contract and is doing so consistent with the goals and purposes of DMA and in the best interests of the state. The certification must be made annually and reported in the official minutes of a meeting of FLNG.
- The reversion of moneys and property held by FLNGF to DMA if FLNGF is no longer approved to operate, to DMA if FLNGF ceases to exist, or to the state if DMA ceases to exist.
- The disclosure of the material provisions of the contract, and the distinction between DMA and FLNGF, to donors of gifts, contributions, or bequests, including disclosure on all promotional and fundraising publications.

Each year FLNGF must submit to DMA its annual budget and financial reports, federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023), and a federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).¹⁸ Additionally, FLNGF must provide for an annual financial audit if its expenditures exceed \$100,000.¹⁹ For FY 2014-15, FLNFG expenditures exceeded \$100,000.²⁰

FLNGF is funded primarily by individual and corporate charitable contributions. However, for FY 2016-17, FLNGF received state funding for the first time in the amount of \$500,000 to be used exclusively to support Florida National Guard members and their immediate family members in circumstances of exceptional financial need.²¹

Soldiers and Airmen Assistance Program

The Soldiers and Airmen Assistance Program²² (program) provides financial assistance and services to eligible servicemembers²³ of the Florida National Guard and eligible members of their families. The program is administered by DMA and funded by FLNGF. FLNGF is authorized to assist DMA in the processing of applications and the administration of the program.

Assistance authorized under the program may include housing, living expenses, vehicle expenses, health care expenses, and other expenses not specifically enumerated but considered reasonable under the circumstances.

¹⁶ Section 250.115(2), F.S.

¹⁷ Section 250.115(3), F.S.

¹⁸ Section 250.115(6), F.S.

¹⁹ Section 250.115(7), F.S.

²⁰ FLNGF IRS Form 990 (2014), at <http://www.floridanationalguardfoundation.org/Reports/Tax%20Return%202014.pdf> (last visited February 14, 2017).

²¹ See 2016 General Appropriations Act (HB 5001), Line 2952.

²² Section 250.116, F.S.

²³ Section 250.01(19), F.S., defines a "servicemember" as any person serving as a member of the U.S. Armed Forces on active duty or state active duty and all members of the Florida National Guard and U.S. Reserve Forces.

The financial committee of the FLNGF board is required to perform a review of financial transactions of the program each quarter and to provide the results to DMA. The committee may also request the Office of Inspector General to conduct additional reviews of the program.

Staff Review of the FLNGF

Section 250.115, F.S., which provides the statutory authority for the DMA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Staff reviewed the FLNGF to verify its compliance with Florida Statutes.

Staff reviewed relevant FLNGF records from fiscal year 2009-2010 to present, and found that FLNGF is an active DSO that supports DMA primarily by providing emergency financial assistance and scholarship grants to members of the Florida National Guard. Staff identified seven deficiencies in which DMA and FLNGF were not in full compliance with the applicable Florida Statutes. The deficiencies are administrative or procedural and are as follows:

1. The DSO is required to submit a DSO report to DMA by August 1 of each year (s. 20.058(1), F.S.)
 - a. The DSO report was signed by DMA instead of the DSO and was addressed to incorrect entities.
2. DMA must publish the DSO report required by s. 20.058(1), F.S., on DMA's website (s. 20.058(2), F.S.)
 - a. The DSO report is not available on DMA's website.
3. DMA must annually certify that the DSO is compliant with the terms of the DMA-DSO contract. The DSO must report the annual DMA certification in the DSO meeting minutes (s. 250.115(3), F.S.)
 - a. The DSO application for certification was not signed by the appropriate authority.
 - b. The DSO did not submit its application for certification to the DMA prior to the deadline.
 - c. The DSO did not attach all required documents with its application for certification.
 - d. The DMA did not respond in writing to the DSO's application for certification in a timely manner.
 - e. The DSO did not report the annual DSO certification in its meeting minutes.
4. The DSO is required to submit its annual budget to DMA (s. 250.115(6), F.S.)
 - a. The DSO has not submitted its annual budget.
5. Each quarter the DSO must review the financial transactions of the Soldiers and Airmen Assistance Program and provide its review to DMA (s. 250.116(6), F.S.)
 - a. The DSO did not conduct the quarterly reviews of the Soldiers and Airmen Assistance Program and submit it to DMA.

In response to staff's findings, DMA and FLNGF developed an internal checklist of statutory requirements to ensure future compliance.

Effect of Proposed Changes

The bill amends s. 250.115, F.S., to remove the scheduled repeal of DMA's DSO, which is scheduled to repeal on October 1, 2017.

B. SECTION DIRECTORY:

- | | |
|-----------|---|
| Section 1 | Amends s. 250.115, F.S., saving from repeal the DMA DSO, which is scheduled to repeal on October 1, 2017. |
| Section 2 | Provides an effective date of July 1, 2017. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By saving the DSO from repeal, members of the Florida National Guard will have another source for financial and direct assistance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Appendix A

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>Total</u>
Total Revenue	\$755,323	\$89,403	\$242,990	\$290,902	\$295,407	\$166,820	\$1,840,845

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>Total</u>
DSO Service Expenses	\$770,041	\$138,233	\$111,556	\$245,724	\$243,745	\$120,935	\$1,630,234
Administrative Expenses	\$79,585	\$18,662	\$10,387	\$7,856	\$9,313	\$8,762	\$134,565
Fundraising Expenses	\$0	\$0	\$0	\$92,735	\$51,643	\$1,000	\$145,378
Total Expenditures	\$849,626	\$156,895	\$121,943	\$346,315	\$304,701	\$130,697	\$1,910,177

²⁴ Data retrieved from the FLNGF's IRS Form 990, Part VIII.

²⁵ Data retrieved from the FLNGF's IRS Form 990, Part IX.

1 A bill to be entitled
 2 An act relating to the Department of Military Affairs
 3 direct-support organization; amending s. 250.115,
 4 F.S.; abrogating the scheduled repeal of provisions
 5 governing a direct-support organization established by
 6 the department; providing an effective date.

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

9
 10 Section 1. Section 250.115, Florida Statutes, is amended
 11 to read:

12 250.115 Department of Military Affairs direct-support
 13 organization.—

14 (1) DEFINITIONS.—As used in this section, the term:

15 (a) "Direct-support organization" means an organization
 16 that is:

17 1. A Florida corporation not for profit, incorporated
 18 under chapter 617, and approved by the Department of State.

19 2. Organized and operated exclusively to raise funds;
 20 request and receive grants, gifts, and bequests of moneys;
 21 acquire, receive, hold, invest, and administer in its own name
 22 securities, funds, or property; support the processing of
 23 requests for assistance from the Soldiers and Airmen Assistance
 24 Program or similar programs, as directed by the Adjutant
 25 General; and make expenditures to or for the direct or indirect

26 benefit of the Department of Military Affairs or the Florida
 27 National Guard.

28 3. Determined by the Department of Military Affairs to be
 29 operating in a manner consistent with the goals of the
 30 Department of Military Affairs and the Florida National Guard
 31 and in the best interest of the state. Any organization that is
 32 denied certification by the Adjutant General may not use the
 33 name of the Florida National Guard or the Department of Military
 34 Affairs in any part of its name or its publications.

35 (b) "Personal services" includes full-time or part-time
 36 personnel as well as payroll processing.

37 (2) BOARD OF DIRECTORS.—The organization shall be governed
 38 by a board of directors. The Adjutant General, or his or her
 39 designee, shall appoint a president of the board. The board of
 40 directors shall be appointed by the president of the board.

41 (3) CONTRACT.—The direct-support organization shall
 42 operate under a written contract with the department. The
 43 written contract must provide for:

44 (a) Certification by the department that the direct-
 45 support organization is complying with the terms of the contract
 46 and is doing so consistent with the goals and purposes of the
 47 department and in the best interests of the state. This
 48 certification must be made annually and reported in the official
 49 minutes of a meeting of the direct-support organization.

50 (b) The reversion of moneys and property held by the

51 direct-support organization:

52 1. To the department if the direct-support organization is
53 no longer approved to operate by the department;

54 2. To the department if the direct-support organization
55 ceases to exist; or

56 3. To the state if the department ceases to exist.

57 (c) The disclosure of the material provisions of the
58 contract and the distinction between the department and the
59 direct-support organization to donors of gifts, contributions,
60 or bequests, including such disclosure on all promotional and
61 fundraising publications.

62 (4) USE OF PROPERTY.—

63 (a) The Department of Military Affairs may permit the use
64 of property, facilities, and personal services of the Department
65 of Military Affairs by the direct-support organization, subject
66 to the provisions of this section.

67 (b) The Department of Military Affairs may prescribe by
68 rule any condition with which a direct-support organization
69 organized under this section must comply in order to use
70 property, facilities, or personal services of the Department of
71 Military Affairs.

72 (c) The Department of Military Affairs may not permit the
73 use of its property, facilities, or personal services by any
74 direct-support organization organized under this section which
75 does not provide equal employment opportunities to all persons

76 | regardless of race, color, national origin, gender, age, or
 77 | religion.

78 | (5) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
 79 | between the direct-support organization organized pursuant to
 80 | this section and another direct-support organization must be
 81 | approved by the Department of Military Affairs.

82 | (6) ANNUAL BUDGETS AND REPORTS.—The direct-support
 83 | organization shall submit to the Department of Military Affairs
 84 | its annual budget and financial reports, its federal Internal
 85 | Revenue Service Application for Recognition of Exemption form
 86 | (Form 1023), and its federal Internal Revenue Service Return of
 87 | Organization Exempt from Income Tax form (Form 990).

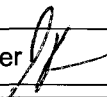
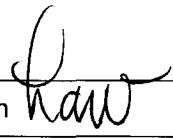
88 | (7) ANNUAL AUDIT.—The direct-support organization shall
 89 | provide for an annual financial audit in accordance with s.
 90 | 215.981.

91 | ~~(8) REPEAL. This section is repealed October 1, 2017,~~
 92 | ~~unless reviewed and saved from repeal by the Legislature.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7031 PCB LFV 17-02 Department of Veterans' Affairs Direct-support Organization
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Burgess, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** SB 7008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Renner	Miller
1) Government Accountability Committee		Renner 	Williamson 

SUMMARY ANALYSIS

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and for most, by a written contract with the agency the CSO or DSO was created to support.

In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the Florida Department of Veterans' Affairs (FDVA). The mission of FVF is to:

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the United States Department of Veterans Affairs, veteran service organizations, and educational institutions to improve veterans' physical, financial, mental, emotional, and social wellbeing; and
- Support the FDVA's mission of advocacy by educating veterans, the public, and governmental entities to increase awareness on veteran-related issues.

The statutory authority for the FDVA DSO is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

The bill removes the scheduled repeal of the law authorizing FDVA to establish a DSO.

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

Citizen Support Organizations and Direct-support Organizations

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and for most, by a written contract with the agency the CSO or DSO was created to support.

Prior to 2014, there was no formal review process in law to determine whether a CSO or DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida,¹ established reporting and transparency requirements for each CSO and DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The CSO or DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.² Specifically, a CSO or DSO must provide:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency is required to terminate the contract between the agency and the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the 5th year after enactment, unless

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁸

CSO and DSO Audit Requirements

CSOs or DSOs with annual expenditures in excess of \$100,000 and that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant, with certain exceptions. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for creation, administration, or approval of the CSO or DSO.⁹

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the accounts and records of the CSO or DSO.¹⁰ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹¹

CSO and DSO Ethics Code Requirements

A CSO or DSO created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹²

Florida Veterans Foundation, Inc. DSO

In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the Florida Department of Veterans' Affairs (FDVA). FVF's mission is to:¹³

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the United States Department of Veterans Affairs, veteran service organizations; and educational institutions to improve veterans' physical, financial, mental, emotional, and social wellbeing; and
- Support the FDVA's mission of advocacy by educating veterans, the public, and governmental entities to increase awareness on veteran-related issues.

FVF primarily provides assistance to veterans for emergency shelter, monthly rent or rental deposits, and utility bills. Veterans receive a onetime financial aid grant unless there are compelling reasons to do otherwise. FVF does not pay for car repairs or loans, insurance of any kind, cell phone or cable bills, college loans, property taxes, late fees, home repairs, and bills in the name of anyone other than the veteran.

Additionally, FVF hosts and contributes funding for veterans Stand Down events and Veterans Summits across the state. These events provide supplies and services to homeless veterans and veterans benefits counseling. FVF is statutorily required to administer the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden. It also provides annual funding for the Florida Veterans' Hall of Fame, which is administered by FDVA.

FVF must be determined by FDVA to be operating in a manner consistent with the goals of FDVA and in the best interest of the state¹⁴ and must:¹⁵

- Be organized and operated exclusively to obtain funds;

⁸ Section 20.058(5), F.S.

⁹ Section 215.981(1), F.S.

¹⁰ Section 11.45(3), F.S.

¹¹ Section 11.45(3)(d), F.S.

¹² Section 112.3251, F.S.

¹³ 2016 annual FDVA report. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

¹⁴ Section 292.055(2)(b)3., F.S.

¹⁵ Section 292.055(2)(b)2., F.S.

- Request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and
- Make expenditures to or for the direct or indirect benefit of FDVA, the veterans of this state, and congressionally chartered veteran service organizations having subdivisions that are incorporated in Florida.

FVF is governed by a board of directors that consists of no fewer than five members appointed by the executive director of FDVA. The board members serve three-year terms and may be reappointed when their term expires. In addition, they must be current residents of Florida and the majority must be veterans.¹⁶

FVF operates under a written contract with FDVA that provides for:¹⁷

- Certification by FDVA that FVF is complying with the terms of the contract and is doing so consistent with the goals and purposes of FDVA and in the best interests of the state. The certification must be made annually and reported in the official minutes of the FVF meeting.
- The reversion of moneys and property held by FVF to FDVA if the foundation is no longer approved to operate, to FDVA if FVF ceases to exist, or to the state if FDVA ceases to exist.
- The disclosure of the material provisions of the contract, and the distinction between FDVA and FVF, to donors of gifts, contributions, or bequests, including disclosure on all promotional and fundraising publications.

Each year FVF must submit to FDVA its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990). Additionally, FVF must provide for an annual financial audit if its annual expenditures exceed \$100,000.¹⁸ Since FY 2011-12, FVF's expenditures have exceeded \$100,000.¹⁹

Staff Review of FVF

Section 292.055, F.S., which provides the statutory authority for the FDVA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Staff reviewed the FVR to verify its compliance with Florida Statutes.

Staff reviewed FVF records from fiscal year 2009-2010 to present, and found that FVF is an active DSO that supports FDVA primarily by providing emergency financial assistance and outreach programs to Florida veterans. Staff identified five deficiencies in which FDVA and FVF were not in full compliance with applicable Florida Statutes, including FVF's code of ethics which did not include the standards of conduct and disclosures required by s. 112.3251, F.S. The deficiencies were administrative or procedural. FDVA and FVF have resolved each deficiency and intend to comply with applicable Florida Statutes moving forward.

Effect of Proposed Changes

The bill amends s. 292.055, F.S., to remove the scheduled repeal of FDVA's DSO, which is scheduled to repeal on October 1, 2017.

B. SECTION DIRECTORY:

- | | |
|-----------|--|
| Section 1 | Amends s. 292.055, F.S., saving from repeal the FDVA DSO, which is scheduled to repeal on October 1, 2017. |
| Section 2 | Provides an effective date of July 1, 2017. |

¹⁶ See s. 292.055(3), F.S.

¹⁷ Section 292.055(4), F.S.

¹⁸ Section 292.055(8), F.S.

¹⁹ Data retrieved from FVF's IRS Form 990 for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2014-16.

The FVF's FY 2015-16 IRS Form 990 is not yet available. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

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:

By saving the DSO from repeal, veterans have another source for financial and direct assistance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Appendix A

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
Total Revenue	\$129,018	\$65,448	\$239,700	\$392,404	\$257,333	\$335,407	\$837,447	\$2,256,757

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
DSO Service Expenses	\$59,665	\$20,664	\$107,361	\$134,285	\$248,515	\$210,402	\$468,385	\$1,249,277
Administrative Expenses	\$18,066	\$30,061	\$50,929	\$70,490	\$102,903	\$101,358	\$179,659	\$535,616
Fundraising Expenses	\$0	\$0	\$0	\$0	\$31,850	\$8,129	\$1,788	\$41,767
Total Expenditures	\$77,731	\$50,725	\$158,290	\$204,775	\$383,268	\$319,889	\$649,832	\$1,844,510

²⁰ Data retrieved from FVF's IRS Form 990, Part VIII for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2015-16.

²¹ Data retrieved from FVF's IRS Form 990, Part IX for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2015-16.

1 A bill to be entitled
 2 An act relating to the Department of Veterans' Affairs
 3 direct-support organization; amending s. 292.055,
 4 F.S.; abrogating the scheduled repeal of provisions
 5 governing a direct-support organization established by
 6 the department; providing an effective date.

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

9
 10 Section 1. Section 292.055, Florida Statutes, is amended
 11 to read:

12 292.055 Direct-support organization.—

13 (1) SHORT TITLE; DIRECT-SUPPORT ORGANIZATION ESTABLISHED.—

14 This section may be cited as the "Sergeant First Class Paul R.
 15 Smith Memorial Act." The Department of Veterans' Affairs may
 16 establish a direct-support organization to provide assistance,
 17 funding, and support for the department in carrying out its
 18 mission. This section governs the creation, use, powers, and
 19 duties of the direct-support organization.

20 (2) DEFINITIONS.—As used in this section, the term:

21 (a) "Department" means the Department of Veterans'
 22 Affairs.

23 (b) "Direct-support organization" means an organization
 24 that is:

25 1. A Florida corporation not for profit, incorporated

26 under chapter 617, exempted from filing fees, and approved by
 27 the Department of State.

28 2. Organized and operated exclusively to obtain funds;
 29 request and receive grants, gifts, and bequests of moneys;
 30 acquire, receive, hold, invest, and administer in its own name
 31 securities, funds, or property; and make expenditures to or for
 32 the direct or indirect benefit of the department, the veterans
 33 of this state, and congressionally chartered veteran service
 34 organizations having subdivisions that are incorporated in this
 35 state.

36 3. Determined by the department to be operating in a
 37 manner consistent with the goals of the department and in the
 38 best interest of the state.

39 (c) "Personal services" includes full-time or part-time
 40 personnel.

41 (3) BOARD OF DIRECTORS.—The direct-support organization
 42 shall be governed by a board of directors.

43 (a) The board of directors shall consist of no fewer than
 44 five members appointed by the executive director of the
 45 department. Veteran service organizations in this state may
 46 recommend nominees to the executive director of the department.

47 (b) The term of office of the board members shall be 3
 48 years, except that the terms of the initial appointees shall be
 49 for 1 year, 2 years, or 3 years in order to achieve staggered
 50 terms. A member may be reappointed when his or her term expires.

51 | The executive director of the department or his or her designee
 52 | shall serve as an ex officio member of the board of directors.

53 | (c) Members must be current residents of this state. A
 54 | majority of the members must be veterans, as defined in s.
 55 | 1.01(14), and highly knowledgeable about the United States
 56 | military, its service personnel, its veterans, and its missions.
 57 | The executive director of the department may remove any member
 58 | of the board for cause and with the approval of a majority of
 59 | the members of the board of directors. The executive director of
 60 | the department shall appoint a replacement for any vacancy that
 61 | occurs.

62 | (4) CONTRACT.—A direct-support organization shall operate
 63 | under a written contract with the department. The written
 64 | contract must provide for:

65 | (a) Certification by the department that the direct-
 66 | support organization is complying with the terms of the contract
 67 | and is doing so consistent with the goals and purposes of the
 68 | department and in the best interests of the state. This
 69 | certification must be made annually and reported in the official
 70 | minutes of a meeting of the direct-support organization.

71 | (b) The reversion of moneys and property held by the
 72 | direct-support organization:

73 | 1. To the department if the direct-support organization is
 74 | no longer approved to operate for the department;

75 | 2. To the department if the direct-support organization

76 ceases to exist; or

77 3. To the state if the department ceases to exist.

78 (c) The disclosure of the material provisions of the
 79 contract, and the distinction between the department and the
 80 direct-support organization, to donors of gifts, contributions,
 81 or bequests, including such disclosure on all promotional and
 82 fundraising publications.

83 (5) USE OF PROPERTY.—

84 (a) The department may permit the use of property,
 85 facilities, and personal services of the department by the
 86 direct-support organization, subject to this section.

87 (b) The department may prescribe by contract any condition
 88 with which the direct-support organization must comply in order
 89 to use property, facilities, or personal services of the
 90 department.

91 (c) The department may not permit the use of its property,
 92 facilities, or personal services by any direct-support
 93 organization organized under this section which does not provide
 94 equal employment opportunities to all persons regardless of
 95 race, color, national origin, gender, age, or religion.

96 (6) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
 97 between the direct-support organization organized under this
 98 section and another direct-support organization or other entity
 99 must be approved by the executive director of the department.

100 (7) ANNUAL BUDGETS AND REPORTS.—

101 (a) The fiscal year of the direct-support organization
 102 shall begin on July 1 of each year and end on June 30 of the
 103 following year.

104 (b) The direct-support organization shall submit to the
 105 department its federal Internal Revenue Service Application for
 106 Recognition of Exemption form (Form 1023) and its federal
 107 Internal Revenue Service Return of Organization Exempt from
 108 Income Tax form (Form 990).

109 (8) ANNUAL AUDIT.—The direct-support organization shall
 110 provide for an annual financial audit in accordance with s.
 111 215.981.

112 (9) CONFIDENTIALITY OF DONORS.—

113 (a) Any information identifying a donor or prospective
 114 donor to the direct-support organization who desires to remain
 115 anonymous is confidential and exempt from s. 119.07(1) and s.
 116 24(a), Art. I of the State Constitution.

117 (b) Portions of meetings of the direct-support
 118 organization during which the identity of a donor or prospective
 119 donor, whose identity is confidential and exempt pursuant to
 120 paragraph (a), is discussed are exempt from s. 286.011 and s.
 121 24(b), Art. I of the State Constitution.

122 ~~(10) REPEAL. This section is repealed October 1, 2017,~~
 123 ~~unless reviewed and saved from repeal by the Legislature.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7045 PCB OTA 17-03 OGSR/Reports of Unclaimed Property
SPONSOR(S): Oversight, Transparency & Administration Subcommittee, Raulerson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Toliver	Harrington
1) Government Accountability Committee		Toliver <i>HT</i>	Williamson <i>Raw</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.

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than five years after the property becomes payable or distributable. Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners. Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with the Department of Financial Services by May 1 for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year. The report must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.

Current law provides a public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by the Department of Financial Services.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (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:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects 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.
- Protects 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.

Unclaimed Property

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than five years after the property becomes payable or distributable.⁶ Savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes are potentially unclaimed property.⁷ Holders of unclaimed property, which typically include banks and insurance companies, are required to report unclaimed property to the Department of Financial Services (DFS).⁸ If the property remains unclaimed, all proceeds from abandoned property are deposited by DFS into the Department of Education School Trust Fund (State School Fund), except for a \$15 million balance that is retained in a separate account (the Unclaimed Property Trust Fund) for the prompt payment of verified claims.⁹

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 717.102(1), F.S.

⁷ Sections 717.104 – 717.116, F.S.

⁸ Section 717.117(1), F.S.

⁹ Section 717.123, F.S.

Florida Disposition of Unclaimed Property Act

The Florida Disposition of Unclaimed Property Act¹⁰ serves to protect the interest of missing owners of property while the people of the state derive a benefit from the unclaimed and abandoned property until the property is claimed, if ever. DFS administers the Act through its Division of Unclaimed Property (division).¹¹

Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners.¹² Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with DFS by May 1 for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year.¹³ The report generally must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.¹⁴

Current law places an obligation on the state to notify owners of unclaimed property accounts valued at over \$250, in a cost-effective manner, including through attempts to directly contact the owner.¹⁵ DFS indicates that the means used to find lost property owners include social security numbers, direct mailing, motor vehicle records, state payroll records, newspaper advertisements, and a state website¹⁶ where unclaimed property can be found.¹⁷

Attorneys, Florida-certified public accountants, Florida-licensed private investigators, and Florida-licensed private investigative agencies register with DFS in order to act as a claimant's representative, acquire ownership or entitlement to unclaimed property, and receive a distribution of fees and costs from DFS.¹⁸ Claimants' representatives access information from the division's website or the division itself.

Public Record Exemption under Review

Current law provides a public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by DFS. Prior to 2012, the exemption provided an exception which allowed social security numbers to be released to certain persons registered with DFS to act as claimants' representatives.¹⁹ In 2012, the Legislature repealed the exception to the public record exemption and reenacted the exemption, requiring all social security numbers and property identifiers to be kept confidential and exempt²⁰ from public record requirements.²¹

The 2012 public necessity statement provides that:

Social security numbers, which are used by a holder of unclaimed property to identify such property, could be used to fraudulently obtain unclaimed property. The release of social security numbers could also place owners of unclaimed

¹⁰ Section 717.001, F.S. Chapter 717, F.S., may be cited as the "Florida Disposition of Unclaimed Property Act."

¹¹ Section 20.121(2)(k), F.S.

¹² Section 717.117(4), F.S.

¹³ Section 717.117(3), F.S.

¹⁴ Section 717.117(1), F.S.

¹⁵ Section 717.118(1), F.S.

¹⁶ www.fltreasurehunt.org (last visited February 3, 2017).

¹⁷ Section 717.118(1), F.S.

¹⁸ Section 717.1400, F.S.

¹⁹ Section 717.117, F.S. (2011).

²⁰ 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).

²¹ Chapter 2012-227, L.O.F., and s. 717.117(8)(b), F.S.

property at risk of identity theft. Therefore, the protection of social security numbers is a public necessity in order to prevent the fraudulent use of such information by creating falsified or forged documents that appear to demonstrate entitlement to unclaimed property and to prevent opportunities for identity theft.²²

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reenacted by the Legislature.²³

During the 2016 interim, subcommittee staff consulted with staff from DFS as part of the Open Government Sunset Review process. DFS staff indicated that protecting social security numbers and property identifiers is critical to preventing fraud and identity theft related to unclaimed property claims. According to the department, protecting the social security number and property identifiers has not impaired property locators' ability to locate the property owners. As such, DFS staff recommended reenactment of the exemption without changes.

Effect of the Bill

The bill removes the repeal date thereby reenacting the public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by DFS.

B. SECTION DIRECTORY:

Section 1 amends s. 717.117, F.S., to save from repeal the public record exemption for unclaimed property reports.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²² *Id.*

²³ Section 717.117(8)(c), F.S.

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; amending s. 717.117, F.S., relating
 4 to an exemption from public record requirements for
 5 social security numbers and property identifiers
 6 contained in reports of unclaimed property; removing
 7 the scheduled repeal of the exemption; providing an
 8 effective date.

9

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

11

12 Section 1. Subsection (8) of section 717.117, Florida
 13 Statutes, is amended to read:

14 717.117 Report of unclaimed property.—

15 (8) (a) As used in this subsection, the term "property
 16 identifier" means the descriptor used by the holder to identify
 17 the unclaimed property.

18 (b) Social security numbers and property identifiers
 19 contained in reports required under this section, held by the
 20 department, are confidential and exempt from s. 119.07(1) and s.
 21 24(a), Art. I of the State Constitution.

22 (c) This exemption applies to social security numbers and
 23 property identifiers held by the department before, on, or after
 24 the effective date of this exemption.

25 ~~(d) This subsection is subject to the Open Government~~

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

HB 7045

2017

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

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