



MUNICIPAL OPERATIONS COMMITTEE

**Friday, October 4, 2024
10:00 a.m. – 2:00 p.m. ET**

**Meeting Room: Florida Ballroom 4
Hilton Orlando
6001 Destination Parkway
Orlando, FL 32819**

FLC Staff Contact: Sam Wagoner



FLORIDA LEAGUE OF CITIES



Agenda



**Municipal Operations Legislative Policy Committee
Friday, October 4, 2024, from 10:00 a.m. to 2:00 p.m.
Hilton Orlando – Meeting Room: Florida Ballroom 4
6001 Destination Parkway, Orlando, Florida**

AGENDA

- I. Introduction and Opening Remarks..... **Chair Sandy Golding**
Mayor Pro Tem, City of Jacksonville Beach

- II. [FLC Policy Committee Process for 2024-2025](#) **Sam Wagoner, FLC Staff**

- III. Potential 2025 Priority and Policy Issues **Sam Wagoner, FLC Staff**
 - a. Sovereign Immunity
 - b. Public Safety Recruitment and Retention
 - c. Cybersecurity Incident Liability
 - d. Virtual Governing Body Meetings
 - e. Public Records Exemption for City Clerks and Staff
 - f. Recreational Marijuana

- IV. Other Business **Sam Wagoner, FLC Staff**

- V. Additional Information..... **Sam Wagoner, FLC Staff**
 - a. [Key Legislative Dates](#)
 - b. Key Contacts – [Click HERE to sign-up](#)
 - c. [2024 Legislative Session Final Report](#)

- VI. Closing Remarks..... **Chair Sandy Golding**
Mayor Pro Tem, City of Jacksonville Beach

- VII. Adjournment

Breakfast and Lunch provided by the Florida League of Cities

WiFi is Available
Network: FLCPC1024
Access Code: FLCPC1024



Committee Roster



2024-2025 Legislative Policy Committee Municipal Operations

Staffed by: *Sam Wagoner, Legislative Advocate*

Chair:

The Honorable Sandy Golding
Mayor Pro Tem, City of Jacksonville
Beach

Vice Chair:

The Honorable Mac Fuller
Mayor, City of Lake Alfred

Members:

Mike Andrews
Network Manager, City of Leesburg

The Honorable Gary Ball
Commissioner, City of Bartow

The Honorable Vincent Barile
Commissioner, Town of Sewalls Point

The Honorable Kyle Battie
Commissioner, City of Sarasota

The Honorable Blake Bell
Mayor, City of Brooksville

Troy Bell
City Manager, City of Palatka

The Honorable Pat Bentley
Mayor, City of West Melbourne

Brian Benton
City Manager, City of Sebastian

The Honorable Allyson Berry
Commissioner, City of Leesburg

Jacqueline Borja
Town Clerk, Town of Lake Hamilton

Terry Bovaird
City Manager, City of Williston

George Brown
City Manager, City of Boca Raton

Patricia Burke
Town Clerk-Manager, Town of Palm
Shores

The Honorable Cynthia Burton
Commissioner, City of Crescent City

The Honorable Ricky Butler
Councilmember, City of Pinellas Park

Rosemarie Call
City Clerk, City of Clearwater

Kristina Ciuperger
Deputy City Manager, City of Port St.
Lucie

Michael Connor
Chief of Police, Town of Indialantic

Ed Cook
City Manager, City of Callaway

Jimmy Crosby
Chief Administrative Officer, City of
Starke

Cale Curtis
City Manager, City of Margate

Robert Daniels
Town Manager, Town of Sewall's Point

Keith Davis

Attorney, Royal Palm Beach, Tequesta, Atlantis,

Bart Diebold

City Manager, City of Pinellas Park

Darrel Donatto

Fire Chief, Town of Jupiter

Brenda Fettrow

City Manager, City of Rockledge

The Honorable Sam Fite

Vice Mayor, City of Bowling Green

Jerome Fletcher

City Manager, City of North Port

The Honorable Jayson French

Council Member, Village of Tequesta

Stephanie Garcia

Administrative Assistant/Records Management Specialist, Town of Longboat Key

Elizabeth Garcia -Beckford

City Clerk, City of North Lauderdale

Donna Gardner

City Clerk, City of Casselberry

The Honorable Charlotte Gillis

Councilwoman, City of Edgewater

The Honorable Kimberly Glas-Castro

Vice Mayor, Town of Lake Park

Christian Gowan

City Clerk, City of Winter Springs

The Honorable Brian Grainger

Commissioner, City of Panama City

The Honorable Chelsea Granell

Mayor's Chief of Staff, City of Coral Gables

The Honorable Shirley Green Brown

Commissioner, City of Alachua

Angie Guy

City Clerk, City of Dade City

Leslie Guyer

City Clerk, City of Gulf Breeze

Chevelle Hall

Village Clerk, Village of Wellington

Chris Hawks

Intergovernmental Relations Coordinator, City of Largo

Julie A. Hennessy

City Clerk - Auditor, City of DeLand

Traci Houchin

City Clerk, City of Sanford

The Honorable Michael Howard

Councilor, Town of Indian Shores

The Honorable Anne Huffman

Commissioner, City of Haines City

Judelande Jeune

Attorney, Weiss Serota Helfman Cole + Bierman

Jennifer Jorgensen

Director, Governmental Affairs, City of Sarasota

The Honorable Bridget Keating

President Pro Tem, Town of Lake Clarke Shores

The Honorable NanDrycka King Albert

Councilmember, City of Midway

Marshall Labadie

Town Manager, Town of Highland Beach

Lynne Ladner
Town Manager, Town of Ocean Ridge

Edward Lavallee
City Manager, City of Venice

Austin Lee
Director of Communications, City of Greenacres

The Honorable Charlotte Leonard
Councilwoman, City of Westlake

The Honorable Darrell Lewis-Ricketts
Commissioner, City of North Lauderdale

The Honorable Sarah Malega
Vice Mayor, City of Lake Worth Beach

The Honorable Lisa Martin
Commissioner, City of New Smyrna Beach

Andrea McCue
City Manager, City of Greenacres

Lori McWilliams
Village Clerk, Village of Tequesta

The Honorable Tracy Mercer
Commissioner, City of Winter Haven

The Honorable Nancy Miller
Mayor, City of Daytona Beach Shores

Olivia Minshew
City Manager, City of Wauchula

Juliet Misconi
Deputy City Manager, City of Palm Bay

Cheryl Mooney
City Clerk, City of Temple Terrace

Brian Moree
City Manager, City of Atlantis

The Honorable Bernie Oder
Councilmember, City of Mary Esther

Steve Parker
Chief of Police, City of Davenport

Gwen Peirce
City Clerk, City of Satellite Beach

Richarrd Radcliffe
Executive Director, Palm Beach County League of Cities

The Honorable Jacquelyn Randall
Mayor, City of Hawthorne

The Honorable Mary Richardson
Commissioner, Town of Dundee

The Honorable Cal Rolfson
Council Member, City of Mount Dora

The Honorable Greg Ross
Mayor, City of Cooper City

The Honorable Arlene Schwartz
Vice Mayor, City of Margate

Alexis Silcox
City Clerk, City of Belleair Bluffs

The Honorable Suzy Sofer
Commissioner, City of Belleair Bluffs

Mike Staffopoulos
City Manager, City of Jacksonville Beach

The Honorable Susan Starkey
Vice Mayor, Town of Davie

The Honorable Dina Sweatt
Councilwoman, City of Groveland

The Honorable Alexander Tiamson
Vice Mayor, City of Orange City

The Honorable Marlene Wagner
Vice Mayor, Town of Lake Hamilton

Tijauna Warner
Deputy City Clerk, City of LaBelle

Erin West
City Clerk, City of Green Cove Springs

The Honorable Alice White
Mayor, City of North Port

Morgan Wilson
Assistant City Manager, City of
Bushnell

The Honorable Brandon Young
Councilman, City of South Daytona



FLC Policy Committee Process for 2024-2025

2024-2025 FLC LEGISLATIVE POLICY PROCESS

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

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

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

There are currently five standing legislative policy committees:

DEVELOPMENT, CODE COMPLIANCE, AND REDEVELOPMENT COMMITTEE:

This committee addresses development, redevelopment, housing, community planning, zoning, eminent domain, property rights, short-term rentals, code enforcement, building and fire code, building permitting, and concurrency management.

FINANCE AND TAXATION COMMITTEE: This committee addresses general finance and tax issues, fees, assessments, infrastructure funding, local option revenues, pension issues, revenue sharing, franchise fees, Communications Services Tax (CST), and ad valorem.

INTERGOVERNMENTAL RELATIONS, MOBILITY, AND EMERGENCY

MANAGEMENT COMMITTEE: This committee addresses transportation, municipal roads, traffic safety, municipal airports, drones, vertiports, ports, telecommunications, broadband, use of public rights-of-way, parking, signage, emergency management, homelessness, charter counties, annexation, ethics for public officers and employees, elections, special districts, and general preemptions.



2024-2025 FLC LEGISLATIVE POLICY PROCESS

MUNICIPAL OPERATIONS COMMITTEE: This committee addresses government operations, municipal service delivery, cybersecurity, technology, public safety, public meetings, public records, public property use and management, procurement, personnel, insurance, collective bargaining, workers' compensation, liability, and sovereign immunity.

UTILITIES, NATURAL RESOURCES, AND PUBLIC WORKS COMMITTEE: This committee addresses coastal management, environmental permitting, hazardous and toxic wastes, recycling, solid waste collection and disposal, stormwater, wastewater treatment and reuse, water management, water quality and quantity, resiliency, brownfields, and municipal utilities.

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

The Florida Legislature convenes the 2025 Legislative Session on March 4. The League's legislative policy committee meetings commence in October 2024 and meet three times. No new issues will be considered by a legislative policy committee after the second committee meeting. At the last meeting, each of the five policy committees adopts ONE legislative priority. In addition, a legislative policy committee may, but is not required to, recommend ONE policy position related to other relevant issues. The policy position must satisfy the same criteria for legislative priorities. Priority and policy position statements are capped at 75 words. Recommended legislative priorities and policy positions will be considered by the Legislative Committee. If favorably considered by the Legislative Committee, they will be considered by the general membership. If adopted by the general membership, the policy priorities and policy positions may be published as the League's Legislative Platform and communicated to legislators and others, as appropriate.

2024-2025 FLC LEGISLATIVE POLICY PROCESS

The Legislative Committee is composed of:

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

2024 Legislative Policy Committee Meeting Dates

- ▶ October 4, 2024, 10:00 a.m. to 2:00 p.m. at the Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819.
- ▶ November 8, 2024, 10:00 a.m. to 2:00 p.m. at the Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819.
- ▶ December 5, 2024, during the FLC Legislative Conference at the Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819.

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



FREQUENTLY ASKED QUESTIONS: 2024-2025 FLC LEGISLATIVE POLICY PROCESS

What is an FLC legislative policy committee?

- ▶ Policy committees help set the Legislative Platform for the Florida League of Cities (FLC) and Florida's municipalities in advance of the next legislative session.
- ▶ The five policy committees include the Development, Code Compliance, and Redevelopment Committee; Finance and Taxation Committee; Intergovernmental Relations, Mobility, and Emergency Management Committee; Municipal Operations Committee; and Utilities, Natural Resources, and Public Works Committee.
- ▶ Committees are made up of municipal officials from across the state.

Have there been any changes to the legislative policy committees this year?

- ▶ Yes! The League shifted some issues among committees to better match each committee's scope. Also, the names of four committees were changed to better represent their focus.
- ▶ Before signing up for a committee, carefully review each of the committee descriptions found in the *2024-2025 FLC Legislative Policy Committee Process* document.

When and how do I sign up for a policy committee?

- ▶ Sign-up opens in June each year.
- ▶ To sign up, contact Mary Edenfield at medenfield@flcities.com for the sign-up link or go to flcities.com.
- ▶ The FLC President makes the committee appointments, and appointments are announced in August after the FLC Annual Conference.

Can I serve on more than one policy committee?

- ▶ No. All committees meet simultaneously.

When are the meetings, and is there a virtual option?

- ▶ Committee meetings take place in person in Orlando in October, November, and December during the FLC Legislative Conference.
- ▶ There is no virtual meeting option; meetings are in person.



FREQUENTLY ASKED QUESTIONS: 2024-2025 FLC LEGISLATIVE POLICY PROCESS

How do I submit a policy issue for a committee to consider?

- ▶ If you want a committee to consider an issue as a League priority, contact the committee staff person before the October or November policy committee meeting.
 - **David Cruz**, FLC Legislative Counsel, staffs the Development, Code Compliance, and Redevelopment Committee.
 - **Charles Chapman**, Legislative Consultant, staffs the Finance and Taxation Committee.
 - **Jeff Branch**, FLC Senior Legislative Advocate, staffs the Intergovernmental Relations, Mobility, and Emergency Management Committee.
 - **Sam Wagoner**, FLC Legislative Advocate, staffs the Municipal Operations Committee.
 - **Rebecca O'Hara**, FLC Deputy General Counsel, staffs the Utilities, Natural Resources, and Public Works Committee.
- ▶ No new issues can be presented after the November meeting.

What can I expect at each meeting?

- ▶ First meeting in October: Discussions begin regarding potential priorities and policy positions.
- ▶ Second meeting in November: Discussions continue, and the committee may narrow down the list of considerations.
- ▶ Final meeting in December: The committee votes on one priority and one optional policy position, finalizing the text for the priority/policy position statements.

When will I get the meeting agenda?

- ▶ Meeting packets containing the agenda and related materials will be emailed to committee members one week before the meeting.
- ▶ You should bring a printed copy or your device to the meeting.
- ▶ Meeting packets are also available on flcities.com under the Advocacy tab.

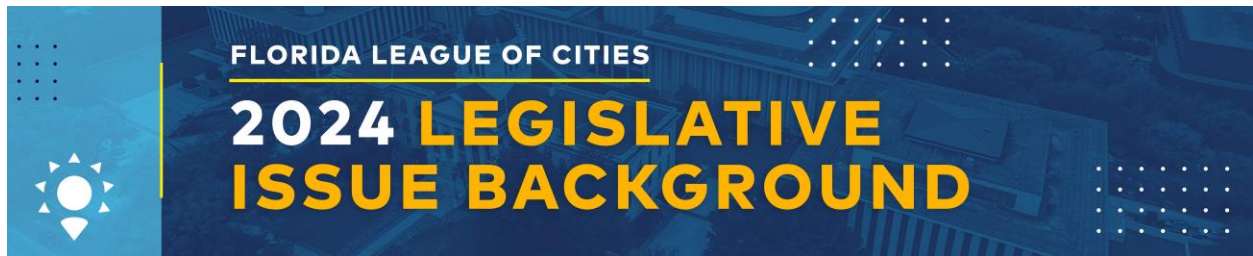
Does FLC cover any meeting expenses?

- ▶ The League provides breakfast and lunch on the meeting date.





Sovereign Immunity



Sovereign Immunity

Draft Statement: The Florida League of Cities SUPPORTS protecting Florida taxpayers by limiting the waiver of sovereign immunity on monetary damages recoverable in tort claims against government entities.

Background: The principle of sovereign immunity means that the government cannot be sued without its consent. However, Florida law allows suits for damages caused by government employees' negligence, under certain conditions. Currently, claims are capped at \$200,000 per person and \$300,000 per incident, and recovering more requires a special legislative claim bill.

Capping tort claims against Florida's government entities is necessary to protect taxpayers while ensuring that cities can continue to provide essential services. Services such as police and fire carry an inherent high degree of risk. However, these services are essential for all Floridians. The ability to collect larger settlements or judgments against government entities will serve to increase liability exposure and incentivize litigation, threatening the ability to provide the same level of services.

Local government entities are limited by state law in their ability to generate revenue or increase taxes. City budgets are already stretched thin. Increasing the sovereign immunity limits to unreasonably high levels puts cities at risk of a huge financial burden. To compound the gravity of these potential impacts, the insurance market in Florida is currently incredibly volatile. Securing adequate insurance has been difficult for cities. Florida's government entities have seen very large increases to insurance premiums over the last couple of years. Increasing the sovereign immunity limits will have a dramatic financial impact on all of Florida's government entities, and especially Florida's cities, which have limited resources.

Two bills from the 2024 Session, SB 472 and HB 569, aimed to raise the limits on tort claims against Florida's government entities from \$200,000 per person/\$300,000 per incident to \$400,000 per person/\$600,000 per incident. Later amendments to SB 472 reduced the proposed caps to \$300,000 per person/\$500,000 per incident. These bills also adjusted how limits could increase based on inflation and allowed settlements above statutory caps without a legislative claims bill. They shortened the statute of limitations on negligence claims from four years to two years.

By the Committees on Rules; Appropriations; and Governmental Oversight and Accountability; and Senators Brodeur and Rouson

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1 A bill to be entitled
2 An act relating to suits against the government;
3 amending s. 768.28, F.S.; increasing the statutory
4 limits on liability for tort claims against the state
5 and its agencies and subdivisions; prohibiting
6 insurance policies from placing conditions for payment
7 upon the enactment of a claim bill; authorizing a
8 subdivision of the state to settle a claim in excess
9 of the statutory limit without further action by the
10 Legislature regardless of insurance coverage limits;
11 prohibiting a party from lobbying against any agreed
12 upon settlement brought to the Legislature as a claim
13 bill; specifying that the limitations in effect on the
14 date when the claim incident occurred apply to a
15 claim; requiring the Department of Financial Services,
16 beginning on a specified date and every 5 years
17 thereafter, to adjust the limitations of liability for
18 claims, not to exceed a certain percentage for each
19 such adjustment; revising the period within which
20 certain claims must be presented to certain entities;
21 revising exceptions relating to instituting actions on
22 tort claims against the state or one of its agencies
23 or subdivisions; revising the period after which the
24 failure of certain entities to make final disposition
25 of a claim shall be deemed a final denial of the claim
26 for certain purposes; revising the statute of
27 limitations for tort claims against the state or one
28 of its agencies or subdivisions and exceptions
29 thereto; providing a claimant a specific timeframe to

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30 file suit; reenacting ss. 45.061, 110.504, 111.071,
31 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89,
32 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19,
33 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075,
34 394.9085, 395.1055, 403.706, 409.175, 409.993,
35 420.504, 420.507, 455.221, 455.32, 456.009, 456.076,
36 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
37 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112,
38 768.1355, 768.1382, 768.295, 944.713, 946.5026,
39 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351,
40 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and
41 1006.261, F.S., to incorporate the amendments made to
42 s. 768.28, F.S., in references thereto; providing
43 applicability; providing an effective date.

44

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

46

47 Section 1. Subsection (5), paragraphs (a) and (d) of
48 subsection (6), and subsection (14) of section 768.28, Florida
49 Statutes, are amended to read:

50 768.28 Waiver of sovereign immunity in tort actions;
51 recovery limits; civil liability for damages caused during a
52 riot; limitation on attorney fees; statute of limitations;
53 exclusions; indemnification; risk management programs.—

54 (5) (a) The state and its agencies and subdivisions shall be
55 liable for tort claims in the same manner and to the same extent
56 as a private individual under like circumstances, but liability
57 shall not include punitive damages or interest for the period
58 before judgment. Neither the state nor its agencies or

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59 subdivisions shall be liable to pay a claim or a judgment by any
60 one person which exceeds the sum of \$300,000 ~~\$200,000~~ or any
61 claim or judgment, or portions thereof, which, when totaled with
62 all other claims or judgments paid by the state or its agencies
63 or subdivisions arising out of the same incident or occurrence,
64 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or
65 judgments may be claimed and rendered in excess of these amounts
66 ~~and may be settled~~ and paid pursuant to this act up to \$300,000
67 ~~or \$500,000~~ ~~\$200,000~~ ~~or \$300,000~~, as the case may be; and that
68 portion of the judgment that exceeds these amounts may be
69 reported to the Legislature, and ~~but~~ may be paid in part or in
70 whole ~~only~~ by further act of the Legislature.

71 (b) Notwithstanding the limited waiver of sovereign
72 immunity provided in paragraph (a):

73 1. ~~herein~~, The state or an agency ~~or subdivision~~ thereof
74 may agree, within the limits of insurance coverage provided, to
75 settle a claim made or a judgment rendered against it in excess
76 of the waiver provided in paragraph (a) without further action
77 by the Legislature.

78 2. A subdivision of the state may agree to settle a claim
79 made or a judgment rendered against it in excess of the waiver
80 provided in paragraph (a) without further action by the
81 Legislature.

82
83 However, ~~but~~ the state or an agency or subdivision thereof may
84 ~~shall~~ not be deemed to have waived any defense of sovereign
85 immunity or to have increased the limits of its liability as a
86 result of its obtaining insurance coverage for tortious acts in
87 excess of the ~~\$200,000~~ ~~or \$300,000~~ waiver provided in paragraph

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88 (a). However, a party may not lobby against any agreed upon
89 settlement brought to the Legislature as a settled claim bill
90 above. An insurance policy may not condition the payment of
91 benefits, in whole or in part, on the enactment of a claim bill.

92 (c) The limitations of liability set forth in this
93 subsection shall apply to the state and its agencies and
94 subdivisions whether or not the state or its agencies or
95 subdivisions possessed sovereign immunity before July 1, 1974.

96 (d) ~~(b)~~ A municipality has a duty to allow the municipal law
97 enforcement agency to respond appropriately to protect persons
98 and property during a riot or an unlawful assembly based on the
99 availability of adequate equipment to its municipal law
100 enforcement officers and relevant state and federal laws. If the
101 governing body of a municipality or a person authorized by the
102 governing body of the municipality breaches that duty, the
103 municipality is civilly liable for any damages, including
104 damages arising from personal injury, wrongful death, or
105 property damages proximately caused by the municipality's breach
106 of duty. The sovereign immunity recovery limits in paragraph (a)
107 do not apply to an action under this paragraph.

108 (e) When determining liability limits for a claim, the
109 limitations of liability in effect on the date when the claim
110 incident occurred apply to the claim.

111 (f) Beginning July 1, 2029, and on July 1 every 5 years
112 thereafter, the Department of Financial Services shall adjust
113 the limitations of liability in this subsection to reflect
114 changes in the Consumer Price Index for the Southeast or a
115 successor index as calculated by the United States Department of
116 Labor, not to exceed 3 percent for any such adjustment.

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117 (6) (a) An action may not be instituted on a claim against
118 the state or one of its agencies or subdivisions unless the
119 claimant presents the claim in writing to the appropriate
120 agency, and also, except as to any claim against a municipality,
121 county, or the Florida Space Authority, presents such claim in
122 writing to the Department of Financial Services, within 18
123 months ~~3 years~~ after such claim accrues and the Department of
124 Financial Services or the appropriate agency denies the claim in
125 writing; except that, if:

126 1. Such claim is for contribution pursuant to s. 768.31, it
127 must be so presented within 6 months after the judgment against
128 the tortfeasor seeking contribution has become final by lapse of
129 time for appeal or after appellate review or, if there is no
130 such judgment, within 6 months after the tortfeasor seeking
131 contribution has either discharged the common liability by
132 payment or agreed, while the action is pending against her or
133 him, to discharge the common liability; or

134 2. Such action arises from a violation of s. 794.011
135 involving a victim who was younger than 16 years of age at the
136 time of the act, the claimant may present the claim in writing
137 at any time pursuant to s. 95.11(9) ~~is for wrongful death, the~~
138 ~~claimant must present the claim in writing to the Department of~~
139 ~~Financial Services within 2 years after the claim accrues.~~

140 (d) For purposes of this section, complete, accurate, and
141 timely compliance with the requirements of paragraph (c) shall
142 occur prior to settlement payment, close of discovery or
143 commencement of trial, whichever is sooner; provided the ability
144 to plead setoff is not precluded by the delay. This setoff shall
145 apply only against that part of the settlement or judgment

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146 payable to the claimant, minus claimant's reasonable attorney's
147 fees and costs. Incomplete or inaccurate disclosure of unpaid
148 adjudicated claims due the state, its agency, officer, or
149 subdivision, may be excused by the court upon a showing by the
150 preponderance of the evidence of the claimant's lack of
151 knowledge of an adjudicated claim and reasonable inquiry by, or
152 on behalf of, the claimant to obtain the information from public
153 records. Unless the appropriate agency had actual notice of the
154 information required to be disclosed by paragraph (c) in time to
155 assert a setoff, an unexcused failure to disclose shall, upon
156 hearing and order of court, cause the claimant to be liable for
157 double the original undisclosed judgment and, upon further
158 motion, the court shall enter judgment for the agency in that
159 amount. Except as provided otherwise in this subsection, the
160 failure of the Department of Financial Services or the
161 appropriate agency to make final disposition of a claim within 4
162 ~~6~~ months after it is filed shall be deemed a final denial of the
163 claim for purposes of this section. For purposes of this
164 subsection, in medical malpractice actions and in wrongful death
165 actions, the failure of the Department of Financial Services or
166 the appropriate agency to make final disposition of a claim
167 within 90 days after it is filed shall be deemed a final denial
168 of the claim. The statute of limitations ~~for medical malpractice~~
169 ~~actions and wrongful death actions~~ is tolled as to all
170 prospective defendants for the period of time taken by the
171 Department of Financial Services or the appropriate agency to
172 deny the claim. The claimant has 60 days from the date of the
173 Department of Financial Services' or the appropriate agency's
174 final disposition of a claim or the date at which final denial

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175 of the claim is deemed to have occurred, or the remainder of the
176 period of the statute of limitations, whichever is greater,
177 within which to file suit. The provisions of this subsection do
178 not apply to such claims as may be asserted by counterclaim
179 pursuant to s. 768.14.

180 (14) Every claim against the state or one of its agencies
181 or subdivisions for damages for a negligent or wrongful act or
182 omission pursuant to this section shall be forever barred unless
183 the civil action is commenced by filing a complaint in the court
184 of appropriate jurisdiction:

185 (a) Within 2 4 years for an action founded on negligence.

186 (b) Within the limitations provided in s. 768.31(4) for an
187 action for contribution.

188 (c) Within the limitations provided in s. 95.11(4) for an
189 action for damages arising from medical malpractice or wrongful
190 death.

191 (d) At any time for an action arising from acts
192 constituting a violation of s. 794.011 involving a victim who
193 was younger than 16 years of age pursuant to s. 95.11(9).

194 (e) Within 4 years for any other action not specified in
195 this subsection after such claim accrues; except that an action
196 for contribution must be commenced within the limitations
197 provided in s. 768.31(4), and an action for damages arising from
198 medical malpractice or wrongful death must be commenced within
199 the limitations for such actions in s. 95.11(4).

200 Section 2. Sections 45.061, 110.504, 111.071, 125.01015,
201 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125,
202 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395,
203 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706,

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204 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009,
205 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
206 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355,
207 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,
208 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88,
209 1006.24, and 1006.261, Florida Statutes, are reenacted for the
210 purpose of incorporating the amendments made by this act to s.
211 768.28, Florida Statutes, in references thereto.

212 Section 3. This act applies to claims accruing on or after
213 October 1, 2024.

214 Section 4. This act shall take effect October 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 472

INTRODUCER: Rules Committee; Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Brodeur and others

SUBJECT: Suits Against the Government

DATE: February 27, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>
3.	<u>Harmsen</u>	<u>Twogood</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 472 increases the cap on the payment of judgments against government entities from \$200,000 to \$300,000 per individual, and from \$300,000 to \$500,000 per instance. The bill provides for the annual adjustment of the cap to reflect changes in the Consumer Price Index, beginning on July 1, 2029, recalculated every five years thereafter, and is not to exceed three percent for any adjustment.

The bill allows local government entities to settle a claim in any amount without the approval of a claim bill by the Legislature. If a state agency agrees to settle a claim or has a judgment rendered against it, the State agency may pay the amount in excess of the waiver of sovereign immunity and any insurance coverage, only by seeking excess payment from the Legislature through a claim bill.

The bill reduces from 3 years to 18 months the time allotted for pre-suit notice to the state, its agency, or a subdivision thereof, and also reduces the duration that entity has to review the notice from 6 months to 4 months.

The bill removes the statute of limitations and statute of repose for civil actions against state entities where the plaintiff in a sexual battery matter was younger than 16 years old at the time of the injury. The bill also reduces the statute of limitations for a negligence claim against the State, its agency, or a subdivision thereof from 4 years to 2 years.

The bill will likely have an indeterminate, significant negative fiscal impact on state and local governments. *See* Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2024, and applies to any claim that accrues on or after this date

II. Present Situation:

Presuit Procedures for a Claim against the Government

Before a claimant files a lawsuit against a government entity, the claimant must present the claim in writing to the government entity within a time period prescribed by law, which is generally 3 years.¹ If the claim is brought against the State, the claimant must also present the claim to the Department of Financial Services (DFS). The government entity generally then has 6-months to review the claim. If the government entity does not dispose of the claim within that 6-month period, the claimant may generally proceed with the lawsuit.²

Sovereign Immunity

Sovereign immunity is “[a] government’s immunity from being sued in its own courts without its consent.”³ The doctrine had its origin with the judge-made law of England. The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.⁴

Article X, s. 13 of the Florida Constitution authorizes the Legislature to enact laws that permit suits against the State and its subdivisions, thereby waiving sovereign immunity. Currently, Florida law allows tort lawsuits against the State and its subdivisions⁵ for damages that result from the negligence of government employees acting in the scope of their employment, but limits payment of judgments to \$200,000 per person and \$300,000 per incident.⁶ This liability exists only where a private person would be liable for the same conduct.⁷ Harmed persons who seek to recover amounts in excess of these limits may request that the Legislature enact a claim bill to appropriate the remainder of their court-awarded judgment.⁸ Article VII, s. 1(d) of the State Constitution prohibits funds from being drawn from the State Treasury except in pursuance

¹ *See* s. 768.28(6)(a), F.S.

² *See* s. 768.28(6)(d), F.S.

³ BLACK’S LAW DICTIONARY (11th ed. 2019).

⁴ *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981) (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

⁵ Section 768.28(2), F.S., defines “state agencies or subdivisions” to include “executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Florida Space Authority.”

⁶ Section 768.28, F.S.

⁷ Section 768.28(1), F.S.

⁸ Section 768.28(5)(a), F.S. *See also*, s. 11.066, F.S., which states that state agencies are not required to pay monetary damages under a court’s judgment except pursuant to an appropriation made by law.

of an appropriation made by law. However, local governments and municipalities are not subject to this provision, and therefore may appropriate their local funds according to their processes.

History of Florida Sovereign Immunity Law

Florida has adopted the common law of England as it existed on July 4, 1776.⁹ This adoption of English common law includes the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.¹⁰

The Legislature was first expressly authorized to waive the state's sovereign immunity under s. 19, Art. IV of the 1868 Florida Constitution.¹¹ When the Florida Constitution was amended in 1968, it again expressly authorized the Legislature to waive the State's sovereign immunity under s. 13, Art. X.¹²

Although the first general waiver of the State's sovereign immunity was not adopted until 1969, "one . . . could always petition for legislative relief by means of a claims bill."¹³ The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.¹⁴ The claim bill authorized payment to a person who supplied labor and building materials for the first permanent capitol building.¹⁵

The 1969 Legislature enacted s. 768.15, F.S., the State's first general waiver of sovereign immunity,¹⁶ which expired after one year.¹⁷ In 1973, the Legislature again adopted a law that waived the State's sovereign immunity.¹⁸ The statute, s. 768.28, F.S., was modeled after the Federal Tort Claims Act and remains substantially the same today.

Under s. 768.28(5), F.S. (1973), the State's ability to pay a tort judgment was limited to \$50,000 per person and \$100,000 per incident. In 1981, the Legislature increased the amount of damages that could be paid to \$100,000 per person and \$200,000 per incident.¹⁹ In 2010, the Legislature increased the limits to \$200,000 per person and \$300,000 per incident.²⁰ Attorney fees have been limited to 25 percent of the proceeds of judgments or settlements since 1979.²¹

⁹ Section 2.01, F.S. English common law that is inconsistent with state or federal law is not included.

¹⁰ *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).

¹¹ FLA. CONST. Art. IV, Section 19 (1868), states: "Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating."

¹² FLA. CONST. Art. X, s. 13 states: "Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating."

¹³ *Cauley*, 403 So. 2d at note 5.

¹⁴ D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April 1988).

¹⁵ *Id.*

¹⁶ Chapter 69-116, Laws of Fla.

¹⁷ Chapter 69-357, Laws of Fla.

¹⁸ Chapter 73-313, Laws of Fla.

¹⁹ Chapter 81-317, Laws of Fla.

²⁰ Chapter 2010-26, Laws of Fla.

²¹ Section 768.28(8), F.S.

Statutory Waivers of Sovereign Immunity

Section 768.28(1), F.S., allows tort lawsuits to be filed against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28, F.S., applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment”²²

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident. Although a court may award a judgment in excess of these statutory limits, a claimant cannot collect more than provided for in statute without passage of a special claim bill passed by the legislature.²³

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment unless the damages result from the employee’s bad faith, malicious purpose, or wanton and willful disregard for human rights, safety, or property.²⁴ A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.²⁵

Damages and Liability Caps

Generally, damages are of two kinds: compensatory and punitive. Compensatory damages are awarded as compensation for the loss sustained to make the party whole, insofar as that is possible. They arise from actual and indirect pecuniary loss. Punitive damages are the payment that a defendant is ordered to pay on top of compensatory damages and are often awarded when compensatory damages are deemed insufficient.²⁶ Punitive damages are designed to punish defendants whose conduct is considered grossly negligent or intentional.²⁷ Section 768.28, F.S., does not allow for the recovery of punitive damages, but only for the recovery of compensatory damages.

The liability caps in s. 768.28(5), F.S., of \$200,000 per person and \$300,000 per incident, apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.” In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

²² *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

²³ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

²⁴ Section 768.28(9)(a), F.S.

²⁵ *Id.*

²⁶ Investopedia.com, *What are Punitive Damages?*, <https://www.investopedia.com/terms/p/punitive-damages.asp#:~:text=Punitive%20damages%20are%20legal%20recompense,considered%20grossly%20negligent%20or%20intentional> (last visited Feb. 14, 2024).

²⁷ *Id.*

Claim Bill Process

“A claim bill is not an action at law, but rather a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.”²⁸

Persons who wish to seek the payment of claims in excess of the statutory cap must have a state legislator introduce a claim bill in the Legislature, which must pass both houses. Once a claim bill is filed, the presiding officer of each house of the Legislature may refer the bill to a Special Master,²⁹ as well as to one or more legislative committees, for review. Senate and House Special Masters typically hold a quasi-judicial, *de novo*³⁰ hearing to determine whether the elements of negligence have been satisfied: duty, breach, causation, and damages.³¹

The amount awarded by the Legislature in a claim bill is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.³² “Unlike civil judgments, private relief acts are not obtainable by right upon the claimant’s proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.”³³

The beneficiary of a claim bill recovers by its enactment, regardless of whether the governmental tortfeasor purchased liability insurance to pay an excess judgment.³⁴ However, where the governmental tortfeasor has liability insurance above the statutory cap, and the claimant receives compensation above that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.³⁵

²⁸ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

²⁹ The Florida Bar defines a Special Master as “adjuncts of the court who exercise limited judicial authority and appointed by the court to perform specific tasks.” The Florida Bar Journal, *Utilizing “Special Masters” in Florida: Unanswered Questions, Practical Considerations, and the Order of Appointment*, Vol. 18, No. 9 (Oct. 2007), p.12, <https://www.floridabar.org/the-florida-bar-journal/utilizing-special-masters-in-florida-unanswered-questions-practical-considerations-and-the-order-of-appointment/> (last visited Feb. 8, 2024). See also, Cornell Law School, Legal Information Institute, *Special Master*, https://www.law.cornell.edu/wex/special_master (last visited Feb. 8, 2024).

³⁰ *De novo* meaning anew; afresh; a second time. BLACK’S LAW DICTIONARY, (8th Ed. 2004), <https://www.latestlaws.com/wp-content/uploads/2015/04/Blacks-Law-Dictionary.pdf> (last visited Feb. 8, 2024).

³¹ See Fla. Senate R. 4.09(3) (2020-2024). See also, Florida Senate, *Legislative Claim Bill Manual*, 8-10 (Aug. 2023), available at <https://www.flsenate.gov/PublishedContent/ADMINISTRATIVEPUBLICATIONS/leg-claim-manual.pdf> (last visited Feb. 16, 2023).

³² *Wagner*, 960 So. 2d at 788 (citing Kahn, *Legislative Claim Bills*, Fla. B. Journal (April 1988)).

³³ *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

³⁴ *Servs. Auto Ass’n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

³⁵ *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544, 548 (Fla. 4th DCA 2003), citing *Bonvento v. Bd. of Pub. Instruction*, 194 So. 2d 605 (Fla. 1967).

The following table represents the annual summary of all claim bill activity in the Florida Legislature from 2019-2023:

Session Year	Total Claims Filed	Number of Claims that Became Law	Total Dollar Amount Claimed	Total Dollar Amount Paid
2019	19	5	\$30,209,967	\$4,000,000
2020	15	2	\$59,555,928	\$6,650,000
2021	13	2	\$46,099,864	\$2,800,000
2022	18	5	\$43,305,151	\$2,297,500
2023	16	8	\$54,120,900	\$20,112,000

Division of Risk Management

Effect of Insurance Coverage on Damages Cap

A government entity may, without a claim bill, settle a claim against it for an amount above the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.³⁶

Pre-Suit Notice and Statutes of Liability for Claims Against the State

A claimant must provide the State notice of his or her claim within specific notice periods prior to his or her attempt to file a civil action against the State in court.³⁷ Generally, a claimant must give pre-suit notice of his or her intent to institute a claim against the state or one of its agencies within 3 years after the claim accrues.³⁸ However, claims based on a claim on wrongful death must be presented to the State within 2 years after the claim accrues.³⁹ Claims for contribution based on a joint and severable claim made pursuant to s. 768.31, F.S., must be presented within 6 months after either the underlying judgment is made final, a claimant makes a payment based on a settlement, or a claimant takes some other action that constitutes an attempt to discharge the common liability.⁴⁰ The State must make a final determination whether to deny or settle the claim before the claimant may bring a civil action in court—the State must issue this determination within 6 months after its receipt of the claimant’s pre-suit notice, or else the claim is automatically deemed denied, and the claimant may then move forward with a civil action.⁴¹ A shorter, 90-day review period applies to medical malpractice and wrongful death actions; the claimant’s statute of limitations for filing a civil action based on these specific underlying claims is tolled during the State’s review.⁴²

A claimant that seeks damages pursuant to s. 768.28, F.S., must file an action based on the state’s negligent or wrongful act or omission within 4 years after the claim accrues. However, a

³⁶ *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

³⁷ Section 768.28(6)(b), F.S.

³⁸ Section 768.28(6)(a), F.S. This pre-suit notice requirement does not apply to claims against a municipality, county, or the Florida Space Authority.

³⁹ Section 768.28(6)(a)2., F.S.

⁴⁰ Section 768.28(6)(a)1., F.S.

⁴¹ Section 768.28(6)(d), F.S.

⁴² *Id.*

separate statute of limitation applies where the claimant seeks contribution for damages or for a matter involving medical malpractice or wrongful death.⁴³

Sexual Battery on a Person Under 16

Section 95.11, F.S., provides statutes of limitation for various types of civil actions. In 2010, the Legislature amended s. 95.11, F.S., to remove any statute of limitations applying to a civil action against a private entity for sexual battery if the victim was under 16 at the time of the crime.⁴⁴ The Legislature provided, however, that this amendment would not resuscitate any civil claims that were already barred by the statute of limitations at the time.⁴⁵

Cost of Florida's Waiver of Sovereign Immunity

The exact cost of the State's waiver of sovereign immunity under s. 768.28, F.S., is unknown. No centralized location exists for local government entities, such as cities, counties, school boards, sheriff's offices, special districts, and other entities to record the value of the total claims paid under the current sovereign immunity waiver. Information documenting the cost of the sovereign immunity waiver to state government entities is available from the Division of Risk Management (Division). The Division provides general liability insurance to state agencies up to the amount of the sovereign immunity waiver.⁴⁶ The Division also settles and defends tort suits filed against the agencies.

In Fiscal Year 2021-2022, the Division paid \$7,637,712 for the resolution of 2,080 general liability claims.⁴⁷ Additionally, the Division provides auto liability insurance to state agencies for claims arising out of the use of state vehicles. In Fiscal Year 2021-22, the Division paid \$6,691,380 for the resolution of 472 automobile liability claims.⁴⁸

Sovereign Immunity in Other Jurisdictions

At least 27 other state legislatures have placed monetary caps on recovery from actions in tort against their state or political subdivisions:

- Colorado: \$350,000 per person; \$990,000 per occurrence;⁴⁹
- Georgia: One million dollars per person; three million dollars per occurrence;⁵⁰
- Idaho: \$500,000 per occurrence, regardless of the number of people, unless the government is insured above the limit;⁵¹

⁴³ Section 95.11(4), F.S., generally requires a claim based on wrongful death or medical malpractice to be filed within 2 years of the claims accrual.

⁴⁴ Ch. 2010-54, s. 1, Laws of Fla.; s. 95.11(9), F.S.

⁴⁵ *Id.* ("This subsection applies to any such action other than one which would have been time barred on or before July 1, 2010").

⁴⁶ Section 284.30, F.S.

⁴⁷ Department of Financial Services, Division of Risk Management, *Fiscal Year 2022 Annual Report*, 8-9 (2022), available at https://www.myfloridacfo.com/docs-sf/risk-management-libraries/risk-documents/annual-reports/risk-mgmt-annual-report-2022---final.pdf?sfvrsn=59248690_2 (last visited Feb. 16, 2023).

⁴⁸ *Id.*

⁴⁹ Colo. Rev. Stat. §24-10-114.

⁵⁰ Ga. Code §50-21-29(a)-(b)(1).

⁵¹ Idaho Code §6-926.

- Illinois: \$2,000,000;⁵²
- Indiana: \$700,000 per person; five million dollars per occurrence;⁵³
- Kansas: \$500,000 per occurrence;⁵⁴
- Louisiana: \$500,000 per occurrence;⁵⁵
- Maine: \$400,000 per occurrence;⁵⁶
- Maryland: \$400,000 per person; \$890,000 per occurrence;⁵⁷
- Massachusetts: \$100,000;⁵⁸
- Minnesota: \$500,000 per person; \$1,500,000 per occurrence;⁵⁹
- Mississippi: \$500,000;⁶⁰
- Missouri: \$300,000 per person and two million dollars per occurrence;⁶¹
- Montana: \$750,000 per claim and \$1.5 million per occurrence;⁶²
- New Hampshire: \$475,000 per claimant and \$3.75 million per occurrence;⁶³
- New Mexico: \$200,000 per claim of property damage; \$300,000 per claim of medical expenses; \$400,000 for claims other than property damages or medical expenses; all claims limited to \$750,000 per occurrence;⁶⁴
- North Carolina: one million dollars per occurrence;⁶⁵
- North Dakota: \$375,000 per person; one million dollars per occurrence;⁶⁶
- Oklahoma: \$125,000 per person, with higher limits for specific categories; one million dollars per occurrence;⁶⁷
- Pennsylvania: \$250,000 per person; one million dollars per occurrence;⁶⁸
- Rhode Island: \$100,000;⁶⁹
- South Carolina: \$300,000 per person; \$600,000 per occurrence;⁷⁰
- Tennessee: \$300,000 per person; one million dollars per occurrence;⁷¹
- Texas: \$250,000 per person; \$500,000 per occurrence (\$100,000 per claim of destruction of personal property);⁷²

⁵² Ill. Ann. Stat. ch. 705, §505/8.

⁵³ Ind. Code §34-13-3-4.

⁵⁴ Kan. Stat. Ann. §75-6105.

⁵⁵ La. Rev. Stat. Ann. §13:5106.

⁵⁶ Me. Rev. Stat. Ann. tit. 14, §8105.

⁵⁷ Md. State Government Code Ann. §12-104(a)(2).

⁵⁸ Mass. Gen. Laws Ann. ch. 258, §2.

⁵⁹ Minn. Stat. Ann. §3.736(4).

⁶⁰ Miss. Code Ann. 11-46-15.

⁶¹ Mo. Ann. Stat. §537.610.

⁶² Mont. Code. Ann. §2-9-108.

⁶³ N.H. Rev. Stat. Ann. §541-B:14.

⁶⁴ N.M. Stat. Ann. §41-4-19.

⁶⁵ N.C. Gen. Stat. §143-299.2.

⁶⁶ N.D. Cent. Code S32-12.2-02.

⁶⁷ Okla. Stat. tit. 51, §154.

⁶⁸ Pa. Cons. Stat. Ann. Tit. 42, §8528.

⁶⁹ R.I. Gen. Laws §9-31-2.

⁷⁰ S.C. Code Ann. §15-78-120.

⁷¹ Tenn. Code Ann. §9-8-307.

⁷² Tex. Civ. Prac. & Rem. Code Ann. §101.023.

- Utah: \$233,600 for property damage; \$583,900 for personal injury person; three million dollars per occurrence;⁷³
- Vermont: \$500,000 per person; two million dollars per occurrence; and⁷⁴
- Virginia: \$100,000.⁷⁵

III. Effect of Proposed Changes:

Liability Caps

The bill amends s. 786.28, F.S., to increase the limits of the waiver of sovereign immunity for a claim made against the State and its agencies and subdivisions from \$200,000 to \$300,000 per person, and from \$300,000 to \$500,000 per incident or occurrence. Beginning July 1, 2025, the bill provides for the adjustment of the cap every five years to reflect changes in the Southeast Consumer Price Index or a successor index as calculated by the U.S. Department of Labor. A claim's liability limits will be determined on the date that the claim incident occurred.

Settlement in Excess of Liability Cap

The bill allows a subdivision of the State, but not the State or an agency, to settle a claim in any amount without approval of a claim bill by the Legislature. Under current law, amounts that exceed the sovereign immunity caps may be paid without approval of the Legislature only from the proceeds of an insurance policy.⁷⁶

This provision therefore allows a local government to pay a settled amount in excess of the sovereign immunity caps out of its own coffers, or through its insurance coverage. A state entity, however, is limited in its ability to pay above the sovereign immunity caps by either its insurance policy limit or a legislative appropriation resulting from the claim bill process.⁷⁷

Additionally, the bill prohibits a party from lobbying against any agreed upon settlement brought to the Legislature in the claims bill process and prohibits an insurance company from placing any conditions on the payment of benefits on the enactment of a claim bill.⁷⁸

Pre-suit Notice and Statutes of Limitation

The bill reduces the pre-suit notice timeframe from 3 years to 18 months, therefore requiring that a claimant provide quicker notice to the State, or one of its agencies or subdivisions than required under current law. The bill also reduces the Department of Financial Services' (DFS) or appropriate agency's allotted time to review a claim in the pre-suit notice phase from 6-months

⁷³ Utah Code. Ann. §63G-7-604.

⁷⁴ Vt. Stat. Ann. tit. 12, §5601.

⁷⁵ Va. Code §8.01-195.3.

⁷⁶ "No claims bill is necessary if excess insurance is purchased and the plaintiffs find it necessary to proceed directly against the excess carrier." *Hillsborough Co. v. Star Ins. Co.*, 847 F.3d 1296, 1306 (2017).

⁷⁷ See discussion of FLA. CONST. art. VII, s. 1(d), *infra*.

⁷⁸ This provision will likely prevent inclusion of contractual provisions that bar recovery for claimants pursuant to an insurance policy by, e.g., requiring the claimant to first go through the Legislative Claims Bill process before the insurance policy may be used for payment of a settlement. See, *Martin v. Nat'l. Union Fire Ins. Co. of Pittsburgh, Pa.*, 616 So. 2d 11433, 1145 (Fla. 4th DCA 1993).

to 4-months—during which the statute of limitations is now tolled for all defendants, not just in cases for medical malpractice and wrongful death actions. After the DFS or state agency issues its final disposition of a claim, or a final denial of a claim has occurred, the claimant has the greater of 60 days or the remainder of the period of the applicable statute of limitations to file suit against the appropriate actor.

The bill imposes varied statutes of limitations (barring the action unless commenced within prescribed timeframe), requiring a claimant to file a civil action against the State or an agency or subdivision of as follows:

- For claims based on negligence, within 2 years;
- For claims of sexual battery where the plaintiff was younger than 16 years old at the time of the injury (other than one which would have been time barred on or before July 1, 2010), there is no statute of limitations; and
- For any other claim—within 4 years.

The bill takes effect October 1, 2024, and applies to any claim that accrues on or after this date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article I, s. 10 of the State Constitution prohibits laws that impair the obligations of existing contracts.⁷⁹ Because the bill bars insurance conditioned on the payment of a claim bill, the Legislature should specify that this provision applies to insurance contracts entered into or renewed on or after the effective date of the bill.

⁷⁹ *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1190 (Fla. 2017).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may enable more individuals harmed by a state entity-tortfeasor to receive larger payments without the need to pursue a claim bill. The capacity for a larger reward without a claim bill may incentivize private attorneys to represent such claimants.

C. Government Sector Impact:

The bill has an indeterminate impact to state revenue and expenditures.

The cost to local governments is indeterminate as it relates to its ability to settle claims without regard to any statutory limit on damages under s. 768.28, F.S. However, local governments may experience an increase in expenditures due to settlements, awards, and other legal costs.

By reducing the statute of limitations for suits against the government arising in negligence, the bill may reduce the number of cases initiated and the potential damages sought by claimants from the government. Further, by reducing the pre-suit time period for a government entity or the Department of Financial Services (DFS) to review and dispose of a claim against the State, the bill may affect the pre-suit settlement process.

By increasing the statute of limitations for sexual battery on a victim under 16, the bill may increase the number of claims against the government for such sexual battery. The bill may reduce the workload of the Legislature by reducing the number of claim bills filed but may also reduce the legislative oversight of claims against local government entities.

The DFS estimates, in order to establish and maintain a separate section to process the increased claims and defense attorney billings, the bill will require an additional five positions, with recurring salaries and benefits cost of \$366,455 and nonrecurring costs of \$58,980.⁸⁰ The DFS did not include an estimate for rate associated with the requested positions.⁸¹ The DFS proposes the five positions as follows:⁸²

⁸⁰ Department of Financial Services, *Senate Bill 472 Agency Analysis* at 4 (on file with the Senate Committee on Appropriations).

⁸¹ *Id* at 4.

⁸² *Id* at 4.

DFS – Division of Risk Management Proposed Staffing to Implement SB 472							
Title	Pay Grade	Class Code	Salaries	Benefits	Expenses	TR/DMS	Total
Records Specialist	15	0130	\$35,000	\$21,958	\$11,436	\$360	\$68,754
Risk Management Program Specialist	22	3545	\$46,549	\$24,408	\$11,436	\$360	\$82,753
Risk Management Program Specialist	22	3545	\$46,549	\$24,408	\$11,436	\$360	\$82,753
Risk Management Program Specialist	22	3545	\$46,549	\$24,408	\$11,436	\$360	\$82,753
Risk Management Program Administrator	424	3546	\$75,000	\$31,626	\$11,436	\$360	\$118,422
Total			\$249,647	\$116,808	\$57,180	\$1,800	\$453,435

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.28 of the Florida Statutes.

The bill reenacts the following sections of the Florida Statutes: 45.061, 110.504, 111.071, 125.01015, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706, 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1335, 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS/CS by Rules on February 26, 2024:

The committee substitute:

- Increases the statutory caps on liability from \$200,000 and \$400,000 per individual/occurrence to \$300,000 and \$500,000, respectively. This is a decrease from the bill’s initial proposed increase of \$400,000 and \$600,000, respectively.
- Makes a technical correction, deleting the word “settled” from line 111.

CS/CS by Appropriations on February 22, 2024:

The committee substitute:

- Restores the home venue provision to current law;
- Establishes determination of liability limits for a claim is based on the limitations of liability in effect when the claim incident occurred versus the date of final judgment; and
- Provides the DFS shall adjust the limitations of liability every 5 years based on the changes in the Consumer Price Index for the Southeast or a successor index, not to exceed three percent.

CS by Governmental Oversight and Accountability on January 29, 2024:

The committee substitute:

- Abolishes the common law doctrine of “home venue privilege” in relation to negligence suits against the State.
- Allows a subdivision of the state, but not the State or an agency, to agree to settle a claim in excess of the sovereign immunity cap, and without regard to insurance coverage limits, without further state action.
- Allows the State or an agency to agree to settle a claim pursuant to the sovereign immunity waiver, and seek excess payment from the Legislature through a claim bill, or up to the maximum limit of its insurance coverage without further legislative action.
- Prohibits a party from lobbying the Legislature to vote against a claims bill that it agreed to settle.
- Sets the date on which a claim’s liability limits are determined as that on which a final judgment is entered.
- Delays the calculation of an adjusted sovereign immunity cap (based on CPI) to July 1, 2029, and requires a recalculation every five years.
- Requires a claimant to file pre-suit notice of a claim with the appropriate agency no later than 18 months, rather than three years, after the claim accrues in order to pursue an action against the State or one of its agencies or subdivisions.
- Reduces from six months to four months the general pre-suit statutory timeframe for a government entity’s review and disposal of a claim.
- Tolls the statute of limitations for all defendants, not just those in medical malpractice and wrongful death actions, for the duration of the Department of Financial Services’ (DFS) or agency’s pre-suit consideration of a claim.
- Provides 60 days or the remainder of the statute of limitations, whichever is greater, from the date on which the DFS or appropriate agency issues a final disposition of a claim or otherwise is deemed to have issued a final denial, for a claimant to file suit.
- Reduces the statute of limitations for filing a claim against a governmental entity for claims based in negligence from four to two years, but maintains the 4-year statute of limitations for “any other action not specified.”
- Removes the statute of limitations for filing a claim against a governmental entity for sexual battery of a victim under the age of 16.
- Changes the effective date to October 1, 2024, and states that it applies to claims that accrue on or after that date.

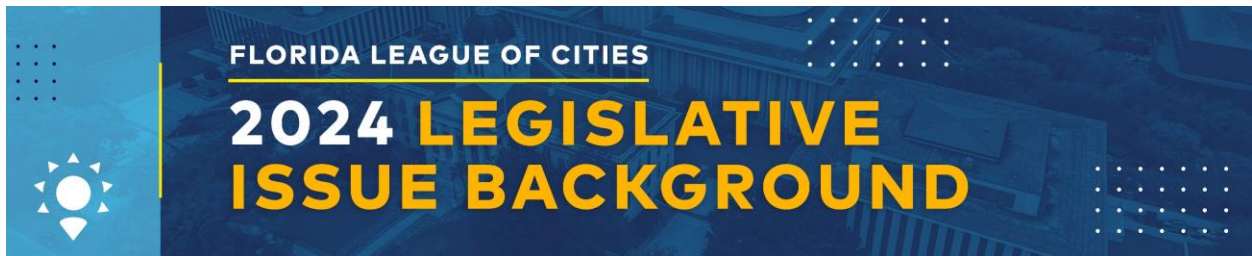
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



Public Safety Recruitment and Retention



Public Safety Recruitment and Retention

Draft Statement: The Florida League of Cities SUPPORTS legislation and funding that will enhance recruitment and retention into public safety positions across the state of Florida.

Background: Florida is currently adding 900 people per day with an estimated population of over 22 million. With population estimates reaching 26 million by 2030, services for these additional citizens will be required.

Public safety positions across Florida are desperately trying to keep pace with the rapid growth occurring here in the state. However, this growth is placing significant pressures on our public safety community. As the market tightens for police and firefighters, communities begin to compete, and with Florida's public safety talent pool being squeezed, the shortage of qualified individuals crushes smaller and more rural agencies.

Over the past several years, the Legislature has consistently supported and passed public safety initiatives that bolster the tools for local agencies to recruit and retain qualified candidates. These initiatives have primarily been focused on enhanced training, financial incentives, and educational opportunities.

Over the past three years, the Legislature has continually funded the "Florida Law Enforcement Recruitment Bonus Program." This program provides a bonus payment of up to \$5,000 for newly hired officers who have relocated from outside the state of Florida.

More recently, the Florida Fire Chiefs and the Florida Professional Firefighters have been developing rules that would permit temporary reciprocity for out of state firefighters who have equivalent certification standards from other states. The goal being to ease barriers and challenges faced by those incoming firefighters, allowing them to work in the state, while they obtain their Florida certifications.

Lastly, this past session, the Legislature allocated \$750,000 to a statewide law enforcement apprenticeship program. This program is available to all localities statewide, with a focus on fiscally constrained areas. Since July, the program has enrolled 28 applicants throughout the state. The program pays the applicant's salary while they obtain their training and schooling.

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

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

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

SUMMARY ANALYSIS

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

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

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

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

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

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

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

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

Financial Incentives

Florida Law Enforcement Recruitment Bonus Payment Program

Background

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

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

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

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

² *Id.*

³ Eric Glasser, *Study finds 86% of police departments experiencing staffing shortages*, WTSP (Sept. 16, 2020), <https://www.wtsp.com/article/news/local/study-finds-86-of-police-departments-experiencing-shortages/67-cd4f87c-1d5e-4840-b0b4-53614530249e> (last visited Mar. 15, 2022).

⁴ *Id.*

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

⁶ *Id.*

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

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

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

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

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

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

The Bonus Program expires on July 1, 2025.

Florida Law Enforcement Academy Scholarship Program

Background

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

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

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

S. 943.10(4), F.S.

¹¹ S. 943.16(1), F.S.

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

Effect of the Bill – Florida Law Enforcement Academy Scholarship Program

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

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

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

Equivalency Training Reimbursement

Background

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

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

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

¹² S. 943.16(2), F.S.

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

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

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

¹⁶ S. 943.131(2), F.S.

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

Effect of the Bill – Equivalency Training Reimbursement

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

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

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

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

Adoption Benefits

Background

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

¹⁷ *Id.*

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

¹⁹ S. 943.131(4), F.S.

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

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

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

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

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

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

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

Effect of the Bill – Adoption Benefits

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

Sheriff Salaries

Background

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

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

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

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

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

²⁵ Ss. 409.1664(2)(c) and (3), F.S.

²⁶ S. 409.1664(3), F.S.

²⁷ *Id.*

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

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

³⁰ S. 145.19, F.S.

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

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

Effect of the Bill – Sheriff Salaries

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

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

Law Enforcement Training and Education Requirements

Basic Recruit Training Program Entry Requirements

Background

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

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

The primary responsibilities of the CJSTC are to:

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

³² S. 145.012, F.S.

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

³⁴ S. 943.11, F.S.

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

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

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

Effect of the Bill – Basic Recruit Training Program Entry Requirements

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

Law Enforcement Training

Background

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

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

³⁵ *Id.*

³⁶ S. 943.17, F.S.

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

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

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

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

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

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

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

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

Effect of the Bill – Law Enforcement Training

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

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

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

Education

Family Empowerment Scholarship Program

Background

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

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

⁴⁴ S. 943.1726, F.S.

⁴⁵ S. 943.17295, F.S.

⁴⁶ S. 943.1716, F.S.

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

⁴⁸ S. 1002.394(1), F.S.

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

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

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

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

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

Effect of the Bill – Family Empowerment Scholarship Program

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

College Credit for Law Enforcement Training

Background

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

⁴⁹ S. 1002.394(12)(a)1, F.S.

⁵⁰ *Id.*

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

⁵² S. 1002.394(3)(a), F.S.

⁵³ S. 1002.394(4)(a), F.S.

⁵⁴ S. 1002.394(5)(a), F.S.

⁵⁵ Ch. 2021-27, Laws of Fla.

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

Effect of the Bill – College Credit for Law Enforcement Training

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

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

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

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

⁵⁶ S. 1004.096(1), F.S.

⁵⁷ S. 1004.096(2)(f), F.S.

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

Public Safety Training in Public Schools

911 Public Safety Telecommunication Training Programs

Background

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

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

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

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

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

Effect of the Bill – 911 Public Safety Telecommunication Training Programs

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

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

Law Enforcement Explorer Programs

Background

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

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

⁶¹ S. 401.465(2)(d), F.S.

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

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

Effect of the Bill – Law Enforcement Explorer Programs

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

Sheriff's Budget Authority

Background

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

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

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

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

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

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

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ S. 30.49, F.S.

⁶⁷ S. 30.49(2)(b), F.S.

⁶⁸ S. 30.49(2), F.S.

⁶⁹ S. 30.49(2)(c), F.S.

⁷⁰ S. 30.49(3), F.S.

⁷¹ *Id.*

⁷² S. 30.49(4), F.S.

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

Effect of the Bill – Sheriff’s Budget Authority

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

Law Enforcement Appreciation Day

Background

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

Effect of the Bill – Law Enforcement Appreciation Day

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

The effective date of this bill is July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁷³ S. 129.06(5), F.S.

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

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

⁷⁶ Ch. 72-322, Laws of Fla.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Recruitment Incentive Programs

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

Florida Law Enforcement Recruitment Bonus Program

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

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

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

Florida Law Enforcement Academy Scholarship Program

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

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

⁷⁷ S. 1009.23(3)(a), F.S.

⁷⁸ S. 1009.22(3)(c), F.S.

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

Equivalency Training Reimbursement Program

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

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

Adoption Benefits

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

Sheriff Salaries

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

Law Enforcement Training

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

Family Empowerment Scholarship Program

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

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

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

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

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

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

College Credit for Law Enforcement Training

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

SECTION 6 - GENERAL GOVERNMENT

based on anticipated client caseload to maximize the ability of the state to meet performance standards, including federal work participation rate requirements, and prioritize services provided to one-parent families.

From the funds provided in Specific Appropriation 2249, any expenditures by a local workforce development board for "outreach," "advertising," or "public relations" must have a direct program benefit and must be spent in strict accordance with all applicable federal regulations and guidance. For any expenditures exceeding \$5,000 for outreach purposes, a local workforce development board must obtain prior approval from the Department of Economic Opportunity before purchasing: promotional items, including but not limited to capes, blankets, and clothing; and memorabilia, models, gifts, and souvenirs.

Funds in Specific Appropriation 2249 may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of local workforce development boards, CareerSource Florida, or the Department of Economic Opportunity except as expressly authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel established in section 112.061, Florida Statutes, shall be in compliance with all applicable federal and state requirements. Funds in Specific Appropriation 2249 may not be used for entertainment costs and recreational activities for board members, staff, or employees.

Funds in Specific Appropriation 2249 may not be used to fund the salary, bonus, or incentive of any employee in excess of Federal Executive Level II, regardless of fund source.

2250	SPECIAL CATEGORIES	
	RISK MANAGEMENT INSURANCE	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	475,680
	FROM WELFARE TRANSITION TRUST FUND .	32,637

2250A	SPECIAL CATEGORIES	
	LAW ENFORCEMENT RECRUITMENT BONUS PROGRAM	
	FROM GENERAL REVENUE FUND	20,000,000

The funds provided in Specific Appropriation 2250A for the Florida Law Enforcement Recruitment Bonus Program are contingent upon HB 3, or substantially similar legislation, becoming a law.

2251	SPECIAL CATEGORIES	
	TRANSFER TO DEPARTMENT OF MANAGEMENT	
	SERVICES - HUMAN RESOURCES SERVICES	
	PURCHASED PER STATEWIDE CONTRACT	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	182,516
	FROM WELFARE TRANSITION TRUST FUND .	4,417

2251A	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND	
	NONSTATE ENTITIES - FIXED CAPITAL OUTLAY	
	WORKFORCE PROJECTS - FIXED CAPITAL OUTLAY	
	FROM GENERAL REVENUE FUND	1,350,000

The nonrecurring funds in Specific Appropriation 2251A shall be allocated as follows:

Construction of Commercial Training Kitchen, for Persons	
with Autism and Other Disabilities (HB 4045)(Senate	
Form 1669).....	350,000
Martin County REACH Center (HB 2977)(Senate Form 2066)....	1,000,000

The Department of Economic Opportunity shall directly contract with the entities allocated funds from Specific Appropriation 2251A.

2252A	DATA PROCESSING SERVICES	
	NORTHWEST REGIONAL DATA CENTER (NWRDC)	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	634,953
	FROM WELFARE TRANSITION TRUST FUND .	342,302

SECTION 6 - GENERAL GOVERNMENT

2299	SPECIAL CATEGORIES		
	GRANTS AND AIDS - SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)		
	FROM EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	1,000,000	
	FROM SPECIAL EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	250,000	
2300	SPECIAL CATEGORIES		
	GRANTS AND AIDS - CONTRACTED SERVICES		
	FROM EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	8,818,979	
	FROM WELFARE TRANSITION TRUST FUND .	575,000	
	FROM SPECIAL EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	147,604	
2301	SPECIAL CATEGORIES		
	GRANTS AND AIDS - LOCAL WORKFORCE DEVELOPMENT BOARDS		
	FROM EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	209,344,538	
	FROM WELFARE TRANSITION TRUST FUND .	52,514,907	

Funds provided in Specific Appropriation 2301 from the Welfare Transition Trust Fund are allocated for workforce services based on a plan approved by CareerSource Florida. The plan must maximize funds distributed directly to the local workforce development boards, and must identify any funds allocated for state-level and discretionary initiatives. The plan must equitably distribute funds to the boards based on anticipated client caseload to maximize the ability of the state to meet performance standards, including federal work participation rate requirements, and prioritize services provided to one-parent families.

From the funds provided in Specific Appropriation 2301, any expenditures by a local workforce development board for "outreach," "advertising," or "public relations" must have a direct program benefit and must be spent in strict accordance with all applicable federal regulations and guidance. For any expenditures exceeding \$5,000 for outreach purposes, a local workforce development board must obtain prior approval from the Department of Economic Opportunity before purchasing: promotional items, including but not limited to capes, blankets, and clothing; and memorabilia, models, gifts, and souvenirs.

Funds in Specific Appropriation 2301 may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of local workforce development boards, CareerSource Florida, or the Department of Economic Opportunity except as expressly authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel established in section 112.061, Florida Statutes, shall be in compliance with all applicable federal and state requirements. Funds in Specific Appropriation 2301 may not be used for entertainment costs and recreational activities for board members, staff, or employees.

Funds in Specific Appropriation 2301 may not be used to fund the salary, bonus, or incentive of any employee in excess of Federal Executive Level II, regardless of fund source.

2302	SPECIAL CATEGORIES		
	RISK MANAGEMENT INSURANCE		
	FROM EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	303,581	
	FROM WELFARE TRANSITION TRUST FUND .	16,724	

2303	SPECIAL CATEGORIES		
	LAW ENFORCEMENT RECRUITMENT BONUS PROGRAM		
	FROM GENERAL REVENUE FUND	20,000,000	

2304	SPECIAL CATEGORIES		
	TRANSFER TO DEPARTMENT OF MANAGEMENT SERVICES - HUMAN RESOURCES SERVICES		
	PURCHASED PER STATEWIDE CONTRACT		
	FROM EMPLOYMENT SECURITY		
	ADMINISTRATION TRUST FUND	201,519	
	FROM WELFARE TRANSITION TRUST FUND .	4,877	

SECTION 6 - GENERAL GOVERNMENT

2309	SPECIAL CATEGORIES	
	GRANTS AND AIDS - LOCAL WORKFORCE	
	DEVELOPMENT BOARDS	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	209,344,538
	FROM WELFARE TRANSITION TRUST FUND .	52,514,907

Funds provided in Specific Appropriation 2309 from the Welfare Transition Trust Fund are allocated for workforce services based on a plan approved by CareerSource Florida. The plan must maximize funds distributed directly to the local workforce development boards, and must identify any funds allocated for state-level and discretionary initiatives. The plan must equitably distribute funds to the boards based on anticipated client caseload to maximize the ability of the state to meet performance standards, including federal work participation rate requirements, and prioritize services provided to one-parent families.

From the funds provided in Specific Appropriation 2309, any expenditures by a local workforce development board for "outreach," "advertising," or "public relations" must have a direct program benefit and must be spent in strict accordance with all applicable federal regulations and guidance. For any expenditures exceeding \$5,000 for outreach purposes, a local workforce development board must obtain prior approval from the Department of Commerce before purchasing: promotional items, including but not limited to capes, blankets, and clothing; and memorabilia, models, gifts, and souvenirs.

Funds in Specific Appropriation 2309 may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of local workforce development boards, CareerSource Florida, or the Department of Commerce except as expressly authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel established in section 112.061, Florida Statutes, shall be in compliance with all applicable federal and state requirements. Funds in Specific Appropriation 2309 may not be used for entertainment costs and recreational activities for board members, staff, or employees.

Funds in Specific Appropriation 2309 may not be used to fund the salary, bonus, or incentive of any employee in excess of Federal Executive Level II, regardless of fund source.

2310	SPECIAL CATEGORIES	
	RISK MANAGEMENT INSURANCE	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	430,406
	FROM WELFARE TRANSITION TRUST FUND .	22,807
	FROM SPECIAL EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	14,592

2311	SPECIAL CATEGORIES	
	LAW ENFORCEMENT RECRUITMENT BONUS PROGRAM	
	FROM GENERAL REVENUE FUND	17,000,000

2312	SPECIAL CATEGORIES	
	TRANSFER TO DEPARTMENT OF MANAGEMENT	
	SERVICES - HUMAN RESOURCES SERVICES	
	PURCHASED PER STATEWIDE CONTRACT	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	206,557
	FROM WELFARE TRANSITION TRUST FUND .	4,999

2313	DATA PROCESSING SERVICES	
	NORTHWEST REGIONAL DATA CENTER (NWRDC)	
	FROM EMPLOYMENT SECURITY	
	ADMINISTRATION TRUST FUND	634,953
	FROM WELFARE TRANSITION TRUST FUND .	342,302

2313A	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND	
	NONSTATE ENTITIES - FIXED CAPITAL OUTLAY	
	WORKFORCE PROJECTS - FIXED CAPITAL OUTLAY	
	FROM GENERAL REVENUE FUND	15,940,000

The nonrecurring funds provided in Specific Appropriation 2313A shall be allocated as follows:

CHAPTER 69A-37
FIREFIGHTERS STANDARDS AND TRAINING

69A-37.054 Out of State Firefighter Certificate of Compliance and Special Certificate of Compliance.

(1) Out of State Firefighter Certificate of Compliance.

(a)1. An individual who has satisfactorily completed an International Fire Service Accreditation Congress (IFSAC) accredited or Pro Board accredited Firefighter II training course of at least 360 hours for firefighters in another state and is certified as a Firefighter II or greater in another state, shall be deemed by the division to have completed the required minimum standards course training and examination for certification with a certificate of compliance. Such certificate of compliance issued under this section shall be deemed revoked if such firefighter does not complete and submit proof of completion of the following training courses within 365 days from the date of issuance of the Florida Firefighter Certificate of Compliance:

a. State Emergency Response Plan;

b. FL-130, FL-190, FL-180 (or National Wildfire Coordinating Group curriculum equivalent);

c. Hazardous Materials Awareness and Hazardous Materials Operations;

b. Structural Collapse Awareness;

c. Active Shooter; and

d. Firefighter cancer and mental health awareness, prevention, mitigation, and treatment.

2. An individual seeking ~~seeks~~ a Firefighter Certificate of Compliance shall submit:

a. A completed Form DFS-K4-1309 "Firefighter Equivalency ~~Examination~~ Requirements," [REVISE FORM] which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C.

~~b. A completed Form DFS-K4-1016 "Application for Firefighter Certification Examination," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C.~~

~~e_b. Form DFS-K4-1022, "Medical Examination to Determine Fitness for Firefighter Training," completed in accordance with Rule 69A-37.037, F.A.C.~~

d. A copy of a high school diploma in accordance with Rule 69A-37.034, F.A.C.

e. Fingerprints in accordance with Rule 69A-37.036, F.A.C.

f. The appropriate fee in accordance with subsection 69A-37.050(6), F.A.C.

~~2. In order for a person to be eligible to be tested, a complete application must be received by the Bureau not less than 10 business days prior to the scheduled examination date for review, verification, and approval. The examination includes both a written and practical examination. The individual shall take and pass the written part of the examination prior to taking the practical part of the examination. The individual shall take the written part of the examination within three months of approval. An individual who fails to take the written part of this examination within three months of approval shall be required to submit a new application to the Bureau.~~

(b) The Bureau shall issue a certificate of compliance under this subsection to any qualified person who:

1. ~~Successfully demonstrates that they have completed an International Fire Service Accreditation Congress (IFSAC) accredited or Pro Board accredited Firefighter II training course of at least 360 hours in another state and they are certified as a Firefighter II or greater in another state. Successfully passes the written and practical examination as required by Rule 69A-37.056, F.A.C. This examination is given during February, May, September, and November and is administered only at the Florida State Fire College. However, a firefighter certified under the U.S. Department of Defense's Fire and Emergency Services Certification Program as a Firefighter II must take the practical examination at a certified training facility as required in Rule 69A-37.056, F.A.C., and the written examination shall be administered by a Field Representative of the Bureau or designee pursuant to paragraph 69A-37.056(6)(b), F.A.C.~~

2. Meets the other requirements of Section 633.408(4), F.S.; and,

3. Complies with the requirements of this section.

~~(c) Only one opportunity to repeat the written or practical part of the examination is permitted and must be taken within 6 months of the initial examination date. Any individual who failed the written or practical part of the examination twice within this timeframe shall forfeit the opportunity to obtain a Certificate of Compliance under this subsection and is required to take the Minimum Standards Course in order to obtain a Firefighter Certificate of Compliance.~~

~~(c) The Bureau shall maintain an up to date list of states whose Firefighter training programs meet the criteria in 1(a) and shall publish that list on the Bureau's website.~~

(2) Special Certificate of Compliance.

(a) The Bureau shall issue a special certificate of compliance to an individual who provides proof of employment as the Administrative and Command Head of a fire service provider if that individual also meets all the requirements of this subsection. The Administrative and Command Head of an organization is permitted to hold the title of director, fire chief, or other title. This individual is permitted to respond to emergency incidents with ultimate onsite management, command, and supervisory authority over employees engaged in operations involving fire, hazardous materials, building collapse, confined space rescue, and other emergency operations.

(b) Any person making application for a special certificate of compliance as the designated Administrative and Command Head of an organization must successfully pass the written part of the firefighter minimum standards examination with a score of 70% or higher. Individuals who fail the written part of the firefighter minimum standards examination may retake this written exam once within six months after the original examination date. The individual shall submit all the documents, and meet all the requirements of this paragraph, with the exception of the completion of the practical portion of the firefighter minimum standards examination. The applicant shall also:

1. Pass the Fire Officer I state examination with a score of 70% or higher within six months of the initial examination date.
2. Complete a course of instruction of at least six hours presented by the Bureau which shall include:
 - a. Chapter 633, F.S., "Fire Prevention and Control" and the applicable rules,
 - b. Chapter 447, F.S., "Labor Organizations" and the applicable rules,
 - c. The State Emergency Response Plan,
 - d. Chapter 286, F.S., known as the "Sunshine Law," and Chapter 119, F.S., known as the "Public Records Law."
3. Submit a completed Form DFS-K4-1016 "Application for Firefighter Certification Examination," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C.
4. Submit a completed Form DFS-K4-1309 "Preliminary Equivalency Application Firefighter Minimum Curriculum Requirements," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C.
5. Submit a copy of a medical examination taken within 6 months from the date the application for certification was received by the Bureau of Fire Standards and Training, with the results of the examination indicated on a completed Form DFS-K4-1022 "Medical Examination to Determine Fitness for Firefighter Training," which is incorporated by reference in Rule 69A-37.039, F.A.C.
6. Submit a copy of the applicant's high school diploma or its equivalent.
7. Submit the required fingerprint card, fingerprint card processing fee, and application fee.
8. Submit a completed Form DFS-K4-1390 "Application for Special Certificate of Compliance for Administrative & Command Head," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C.

(c) The special certificate of compliance will be assigned a registration number identifying the holder as the Administrative and Command Head of the organization.

(d) The special certificate of compliance is permitted to be transferred with the Administrative and Command Head to another fire/rescue/emergency services organization if a comparable position is held by the special certificate holder with the new organization.

(e) The special certificate of compliance shall expire upon the termination of the holder of the special certificate of compliance as the Administrative and Command Head of a fire service provider.

(f) Should the holder thereafter hold a position in any firefighter capacity other than Administrative and Command Head, the requirements of this section as they pertain to firefighters shall apply.

(g) This special certificate is optional and the individual is permitted to choose to obtain the certificate of compliance for firefighters as provided in this rule.

(h) Any individual who failed the written part of the firefighter minimum standards examination twice within 6 months of the initial examination date shall forfeit the opportunity to obtain a Special Certificate of Compliance under this subsection.

Rulemaking Authority 633.128(2)(a), 633.408(1) FS. Law Implemented 633.128(1)(a), (e), 633.406, 633.408 FS. History—New 9-7-81, Formerly 4A-37.11, 4A-37.54, Amended 11-26-85, 1-3-90, 6-30-91, 3-20-95, 12-9-96, 12-10-01, Formerly 4A-37.054, Amended 3-19-09, 8-3-15.



Joint Position on Out of State Firefighters Obtaining Florida State Certification

The State of Florida Fire Service has experienced challenges associated with the recruitment and retention of new firefighters. This is a new phenomenon for many fire service agencies, as historically, the fire service has attracted plenty of people who enjoy and appreciate the opportunity to serve in a noble industry.

Florida, currently home to over 23 million residents and welcoming millions of visitors each year, is one of the nation's fastest-growing states, with an estimated 874 people a day moving to Florida. Florida's population growth increases are like adding a city slightly smaller than Orlando each year. Adding to that, Florida's birth rate remains negative.

This rapid growth is exerting significant pressure on the Florida Fire Service, creating an urgent need for more firefighters. Small towns and rural counties, in particular, are feeling the impact as people move to the suburbs or surrounding areas in search of more affordable housing.

In 2023, both the Florida Professional Firefighters and the Florida Fire Chiefs Association sounded the alarm on the issue of out-of-state firefighters facing significant challenges in obtaining Florida State certification as a firefighter despite equivalent training from another state. The Division of State Fire Marshal has hosted several listening sessions on this topic, with numerous first-hand accounts of the challenges faced and obstacles in place.

At the most recent listening session held on July 23, 2024 in Tampa, Florida, the State asked that we provide suggested rule language to address our concerns.

The attached proposed rule language represents the collaborative effort of the Florida Professional Firefighters and the Florida Fire Chiefs Association. We remain in lockstep in echoing our concern that the current process for out-of-state firefighters to come to Florida and become professional firefighters in Florida is broken and can be made better.

We believe that the proposed language represents a safe and effective mechanism to make Florida a destination location for firefighters, much as the State has done for law enforcement officers.

Respectfully,

Wayne Bernoska
President, Florida Professional Firefighters

Michael J. Choate
President, Florida Fire Chiefs' Association

The Florida House of Representatives
Appropriations Project Request - Fiscal Year 2024-25
For projects meeting the definition of House Rule 5.14

1. Title of Project: Florida Deputy Sheriff's Association Law Enforcement Apprenticeship Program
2. Date of Submission: 10/18/2023
3. House Member Sponsor: Shane Abbott

4. Details of Amount Requested:

- a. Has funding been provided in a previous state budget for this activity? No
- b. What is the most recent fiscal year the project was funded?
- c. Were the funds provided in the most recent fiscal year subsequently vetoed?
- d. Complete the following Project Request Worksheet to develop your request.

FY:	Input Prior Year Appropriation for this project for FY 2023-24 <i>(If appropriated in 2023-24 enter the appropriated amount, even if vetoed.)</i>			Develop New Funds Request for FY 2024-25 <i>(Requests for additional RECURRING funds are prohibited.)</i>		
Column:	A	B	C	D	E	F
Funds Description:	Recurring Funds	Nonrecurring Funds	Total Funds Appropriated	Recurring Base Budget	Additional Nonrecurring Request	TOTAL Nonrecurring plus Recurring Base Funds
Input Amounts:					10,000,000	10,000,000

e. Provide the total cost of the project for FY 2024-25 from all sources of funding (Enter "0" if amount is zero):

Type of Funding	Amount	Percent of Total	Are the other sources of funds guaranteed in writing?
1. Amount Requested from the State in this Appropriations Project Request	10,000,000	100.0%	N/A
2. Federal	0	0.0%	No
3. State (Excluding the requested Total Amount in #4d, Column F)	0	0.0%	No
4. Local	0	0.0%	No

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5. Other	0	0.0%	No
TOTAL	10,000,000	100%	

5. Is this a multi-year project requiring funding from the state for more than one year?

Yes

a. How much state funding would be requested after 2024-25 over the next 5 years?

- <1M
- 1-3M
- >3-10M
- >10M

b. How many additional years of state support do you expect to need for this project?

- 1 year
- 2 years
- 3 years
- 4 years
- >= 5 years

c. What is the total project cost for all years including all federal, local, state, and any other funds? Select the single answer which best describes the total project cost. If funds requested are for ongoing services or for recurring activities, select “ongoing activity”.

- Ongoing activity – no total cost
- <1M
- 1-3M
- >3-10M
- >10M

6. Which is the most appropriate state agency to place an appropriation for the issue requested? Department of Law Enforcement

a. Has the appropriate state agency for administering the funding, if the request were appropriated, been contacted? Yes

b. Describe penalties for failing to meet deliverables or performance measures which the agency should provide in its contract to administer the funding if appropriated.

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Performance measures include having a full-time member of the FDSA staff implement, administer and monitor this program to include oversight on the recruitment, registration and monitoring of progress of identified candidates. Should failures to meet these measures arise, the candidate would be removed from the program.

7. Requester:

- a. Name: Keith Dean
- b. Organization: Florida Deputy Sheriff's Association
- c. Email: kdean@fldeputysheriffs.org
- d. Phone #: (850)980-3745

8. Contact for questions about specific technical or financial details about the project.

- a. Name: Keith Dean
- b. Organization: Florida Deputy Sheriff's Association
- c. Email: kdean@fldeputysheriffs.org
- d. Phone #: (850)980-3745

9. Registered lobbyist working to secure funding for this project.

- a. Name: None
- b. Firm: None
- c. Email:
- d. Phone #:

10. Organization or Name of entity receiving funds:

- a. Name: Florida Deputy Sheriff's Association
- b. County (County where funds are to be expended): Statewide
- c. Service Area (Counties being served by the service(s) provided with funding): Statewide

11. What type of organization is the entity that will receive the funds?

- For Profit
- Non Profit 501(c)(3)
- Non Profit 501(c) (4)
- Local Government
- School District
- State Agency

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- University or College
- Other (Please describe)

12. What is the specific purpose or goal that will be achieved by the funds being requested?

Fund a statewide law enforcement apprenticeship program already certified by the Florida Department of Education to recruit, select, train, certify and retain Florida deputies who lack the funds to attend a certified law enforcement academy within the State. This effort, while statewide, will focus primarily on fiscally constrained counties and areas of great need with a goal of building a viable workforce for law enforcement in the State of Florida.

13. Provide specific details on how funds will be spent. (Select all that apply)

Spending Category	Description	Amount Requested (Should equal 4d, Col. E) Enter "0" if request is zero for the category
Administrative Costs:		
<input type="checkbox"/> a. Executive Director/Project Head Salary and Benefits		
<input checked="" type="checkbox"/> b. Other Salary and Benefits	New Position: Program Administrator - Salary \$50,000, Taxes \$4,500, Health Insurance \$18,000, Retirement \$2,500. FDSA anticipates a significant increase in administrative functions as the apprenticeship program gains in popularity. Through the pilot phase and a soft roll out, demand has increased and is anticipated to continuing a trend of utilization.	75,000
<input checked="" type="checkbox"/> c. Expense/Equipment/Travel/Supplies/Other	Apprenti-scope Program Management Software,	11,500

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	Computer, Phone, Travel Expenses, Workflow software.	
<input type="checkbox"/> d. Consultants/Contracted Services/Study		
Operational Costs:		
<input checked="" type="checkbox"/> e. Salaries and Benefits	Salaries and benefits for an apprentice based on a base salary of \$48,300 and associated benefits for an FTE, cost of \$81,497 annually. The apprenticeship period is projected to last approximately nine months to include law enforcement academy and a field training program. This period's FTE cost for S&B is estimated to be \$61,123.20. Base salary is subject to change by agency.	7,925,000
<input checked="" type="checkbox"/> f. Expenses/Equipment/Travel/Supplies/Other	Each apprentice will need a minimum amount of equipment, IT expenses, and supplies to include but not limited to ballistic vest, firearms, ammunition, uniforms, BWC, laptop, software, cell phone, and other costs deemed necessary by each agency based on agency policy. FTEs will also require tuition. This cost is estimated to be \$15,224.97 per	1,988,500

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	LEO but subject to change by agency.	
<input type="checkbox"/> g. Consultants/Contracted Services/Study		
Fixed Capital Construction/Major Renovation:		
<input type="checkbox"/> h. Construction/Renovation/Land/Planning Engineering		
TOTAL		10,000,000

14. For Fixed Capital Costs requested in Question 13, what type of ownership will the facility be under when complete?

- For Profit
- Non Profit 501(c) (3)
- Non Profit 501(c) (4)
- Local Government
- School District
- State Agency
- University or College
- Other (Please describe)

15. Is the project request an information technology project?

No

16. Is there any documented show of support for the requested project in the community including public hearings, letters of support, major organizational backing, or other expressions of support?

Yes

a. Please Describe:

Yes, letters of recommendation and support from Florida Sheriffs.

17. Has the need for the funds been documented by a study, completed by an independent 3rd party, for the area to be served?

No

The Florida House of Representatives
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18. Will the requested funds be used directly for services to citizens?

Yes

a. What are the activities and services that will be provided to meet the purpose of the funds?

Recruiting, vetting and training deputy sheriffs within the State of Florida. The longterm goal of this program is to support the mission of positioning the State of Florida as the safest state in the Union. As the state continues to grow, so must our law enforcement. This funding will enhance our ability to bolster a competent, highly trained workforce for years to come.

b. Describe the direct services to be provided to the citizens by the funding requested.

The program would identify Florida residents or those relocating to our state interested in serving fellow Floridians in law enforcement who lack the funding to attend a certified law enforcement academy. The program would allow the candidate to be recruited, trained, certified and hired with no cost to the candidate or the county sheriff for a specified period not to exceed 1 year.

c. Describe the target population to be served (i.e., "the majority of the funds requested will serve these target populations or groups"). Select all that apply to the target population:

- Elderly persons
- Persons with poor mental health
- Persons with poor physical health
- Jobless persons
- Economically disadvantaged persons
- At-risk youth
- Homeless
- Developmentally disabled
- Physically disabled
- Drug users (in health services)
- Preschool students
- Grade school students
- High school students
- University/college students
- Currently or formerly incarcerated persons
- Drug offenders (in criminal Justice)
- Victims of crime
- General (The majority of the funds will benefit no specific group)

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Other (Please describe): Law enforcement supports our society as a whole and this program will continue on this mission

d. How many in the target population are expected to be served?

- < 25
- 25-50
- 51-100
- 101-200
- 201-400
- 401-800
- >800

19. What benefits or outcomes will be realized by the expenditure of funds requested? (Select each Benefit/Outcome that applies)

Benefit or Outcome	Provide a specific measure of the benefit or outcome	Describe the method for measuring level of benefit or outcome
<input type="checkbox"/> Improve physical health		
<input type="checkbox"/> Improve mental health		
<input type="checkbox"/> Enrich cultural experience		
<input type="checkbox"/> Improve agricultural production/promotion/education		
<input checked="" type="checkbox"/> Improve quality of education	Increase the level and quality of education for Florida deputy sheriffs hired under the apprenticeship program.	Each candidate will attend an FDLE certified law enforcement academy and then take the FDLE certification exam. The training provides some 770 hours of training and education that can be applied towards a higher degree all monitored by the approved training facility, the hiring agency,

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		and the FDSA coordinator.
<input type="checkbox"/> Enhance/preserve/improve environmental or fish and wildlife quality		
<input checked="" type="checkbox"/> Protect the general public from harm (environmental, criminal, etc.)	Adding additional deputy sheriffs would move our State towards a safer place to live, work and play. Florida's booming tourism economy would have an additional layer of protection by adding additional deputy sheriffs.	Ample numbers are available detailing the shortage of law enforcement officers in our State. State, Local and National crimes are tracked on a regular basis using FLDE stats and the Department of Justice. An FDSA staff member would collate and study these numbers to ensure the program is having a positive impact.
<input checked="" type="checkbox"/> Improve transportation conditions	We can continue to ensure the safety of the motoring Florida public by adding more deputy sheriffs to Florida's roadways through the apprenticeship program.	Measuring DHSMV statistics before and after the implementation of this program and compare the inputs and expected outputs. Monitoring the crime data associated with Florida roadways before and after implementation of this program.
<input type="checkbox"/> Increase or improve economic activity		
<input checked="" type="checkbox"/> Increase tourism	Protect Florida's citizens and visitors as they visit Florida tourist establishments. This protection will continue to drive our	Measuring the reported number of crimes in and near heavily visited tourist destinations in Florida; comparing statistics before and after the

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	economy.	implementation of this program.
<input type="checkbox"/> Create specific immediate job opportunities		
<input type="checkbox"/> Enhance specific individual's economic self sufficiency		
<input checked="" type="checkbox"/> Reduce recidivism	Add to the Safety of Floridians and visitors to the State of Florida by adding to the number of law enforcement personnel who can monitor recently released low and high level criminals. Furthermore, additional law enforcement officers, could help with outreach and reintegration programs.	Carefully monitor and track the specific FDLE statistics associated with recidivism.
<input type="checkbox"/> Reduce substance abuse		
<input type="checkbox"/> Divert from Criminal/Juvenile justice system		
<input type="checkbox"/> Improve wastewater management		
<input type="checkbox"/> Improve stormwater management		
<input type="checkbox"/> Improve groundwater quality		
<input type="checkbox"/> Improve drinking water quality		
<input type="checkbox"/> Improve surface water quality		
<input type="checkbox"/> Other (Please describe):		



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2024-2025

LFIR # 3134

1. **Project Title**

2. **Senate Sponsor**

3. **Date of Request**

4. **Project/Program Description**

Fund a statewide law enforcement apprenticeship program already certified by the Florida Department of Education to recruit, select, train, certify and retain Florida deputies who lack the funds to attend a certified law enforcement academy with the State. This effort, while statewide, will focus primarily on fiscally constrained counties and areas of great need with the goal of building viable workforce for law enforcement in the State of Florida.

5. **State Agency to receive requested funds**

State Agency contacted? Yes

6. **Amount of the Nonrecurring Request for Fiscal Year 2024-2025**

Type of Funding	Amount
Operations	10,000,000
Fixed Capital Outlay	0
Total State Funds Requested	10,000,000

7. **Total Project Cost for Fiscal Year 2024-2025 (including matching funds available for this project)**

Type of Funding	Amount	Percentage
Total State Funds Requested (from question #6)	10,000,000	100%
Matching Funds		
Federal	0	0%
State (excluding the amount of this request)	0	0%
Local	0	0%
Other	0	0%
Total Project Costs for Fiscal Year 2024-2025	10,000,000	100%

8. **Has this project previously received state funding?** No

Fiscal Year (yyyy-yy)	Amount		Specific Appropriation #	Vetoed
	Recurring	Nonrecurring		

9. **Is future funding likely to be requested?** Yes

a. **If yes, indicate nonrecurring amount per year.**

b. **Describe the source of funding that can be used in lieu of state funding.**

This program is projected to have high demand as it reduces barriers for entry to those wishing to switch vocations to enter law enforcement. Potential federal funding for this registered apprenticeship could be identified.

10. **Has the entity requesting this project received any federal assistance related to the COVID-19 pandemic?**



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2024-2025

LFIR # 3134

If yes, indicate the amount of funds received and what the funds were used for.

Complete questions 11 and 12 for Fixed Capital Outlay Projects

11. Status of Construction

a. What is the current phase of the project?

- Planning
 Design
 Construction
 N/A

b. Is the project "shovel ready" (i.e permitted)?

c. What is the estimated start date of construction?

d. What is the estimated completion date of construction?

12. List the owners of the facility to receive, directly or indirectly, any fixed capital outlay funding. Include the relationship between the owners of the facility and the entity.

13. Details on how the requested state funds will be expended

Spending Category	Description	Amount
Administrative Costs:		
Executive Director/Project Head Salary and Benefits		0
Other Salary and Benefits	New Position: Program Administrator salary: \$50,000, Taxes \$4,500, Health Insurance \$18,000, Retirement \$2,500. FDSA anticipates a significant increase in administrative functions as the apprenticeship program gains in popularity. Through the pilot phase and a soft roll out, demand has increased and is anticipated to continuing a trend of utilization.	75,000
Expense/Equipment/Travel/Supplies/Other	Apprenti-scope Program Management Software. Computer, Phone, Travel Expenses, Workflow software.	11,500
Consultants/Contracted Services/Study		0
Operational Costs: Other		
Salary and Benefits	Salaries and benefits for an apprentice based on a base salary of \$48,300 and associated benefits for a FTE cost of \$81,497 annually. The apprenticeship period is projected to last approximately 9 months to include law enforcement academy and a field training program. This period's FTE cost for S/B is estimated to be \$61,123.20. Base salary is subject to change by agency.	7,925,000
Expense/Equipment/Travel/Supplies/Other	Each apprentice will need a minimum amount of equipment, IT expenses, and supplies to include but not limited to ballistic vest, firearms, ammunition, uniforms, BWC, laptop, software, cellphone, and other costs deemed necessary by each agency based on agency policy. FTEs will also require tuition. This cost is estimated to be \$15,224.97 per LEO but subject to change by agency.	1,988,500
Consultants/Contracted Services/Study		0



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2024-2025

LFIR # 3134

Fixed Capital Construction/Major Renovation:		
Construction/Renovation/Land/ Planning Engineering		0
Total State Funds Requested (must equal total from question #6)		10,000,000

14. Program Performance

a. What specific purpose or goal will be achieved by the funds requested?

Fund a statewide law enforcement apprenticeship program already certified by the Florida Department of Education to recruit, select, train, certify and retain Florida deputies who lack the funds to attend a certified law enforcement academy within the State. This effort, while statewide, will focus primarily on fiscally constrained counties and areas of great need with a goal of building a viable workforce for law enforcement in the State of Florida.

b. What activities and services will be provided to meet the intended purpose of these funds?

Recruiting, vetting and training deputy sheriffs within the State of Florida. The long-term goal of this program is to support the mission of positioning the State of Florida as the safest state in the Union. As the state continues to grow, so must our law enforcement. This funding will enhance our ability to bolster a competent, highly trained workforce for years to come.

c. What direct services will be provided to citizens by the appropriation project?

The program would identify Florida residents or those relocating to our state interested in serving fellow Floridians in law enforcement who lack the funding to attend a certified law enforcement academy. The program would allow the candidate to be recruited, trained, certified and hired with no cost to the candidate or the county sheriff for a specified period not to exceed 1 year.

d. Who is the target population served by this project? How many individuals are expected to be served?

This project is intended to serve the entire current Florida population and the over 137 million annual tourists who visit the great State of Florida. This project will also serve those who desire to call law enforcement their profession. Our state values low crime and strong law enforcement partnerships. This project invests in a workforce to support this mission for years to come.

e. What is the expected benefit or outcome of this project? What is the methodology by which this outcome will be measured?

Recruiting, vetting and training deputy sheriffs within the State of Florida. The long-term goal of this program is to support the mission of positioning the State of Florida as the safest state in the Union. As the state continues to grow, so must our law enforcement. This funding will enhance our ability to bolster a competent, highly trained workforce for years to come.

f. What are the suggested penalties that the contracting agency may consider in addition to its standard penalties for failing to meet deliverables or performance measures provided for the contract?

Performance measures include having a full-time member of the FDSA staff implement, administer and monitor this program to include over-site on the recruitment, registration and monitoring of progress of identified candidates. Should failures to meet these measures arise, the candidate would be removed from the program.

15. Requester Contact Information

a. First Name **Last Name**

b. Organization

c. E-mail Address

d. Phone Number **Ext.**

16. Recipient Contact Information

a. Organization



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2024-2025

LFIR # 3134

b. Municipality and County

c. Organization Type

- For Profit Entity
- Non Profit 501(c)(3)
- Non Profit 501(c)(4)
- Local Entity
- University or College
- Other (please specify)

d. First Name **Last Name**

e. E-mail Address

f. Phone Number

17. Lobbyist Contact Information

a. Name

b. Firm Name

c. E-mail Address

d. Phone Number

SECTION 4 - CRIMINAL JUSTICE AND CORRECTIONS

Alzheimer 's Project - Bringing the Lost Home (HF 2799) (SF 3463).....	250,000
Big Cypress/Tamiami Trail Emergency Management Support (HF 2931) (SF 3516).....	877,765
Blue 4 Blue (HF 1534) (SF 1710).....	6,000
City of Coral Springs - Public Safety Improvements (HF 1261) (SF 1990).....	500,000
City of High Springs Police Station (HF 3428) (SF 2513)...	300,000
City of Palatka - Police Patrol Cars (HF 3668) (SF 2464)..	250,000
Doral Police Department Mobile Command Vehicle (HF 2875) (SF 1837).....	1,000,000
Escambia County Law Enforcement Resilience Upgrades (HF 1440) (SF 1215).....	30,000
Florida City Mobile Command Center Technology Renovations (HF 2257) (SF 3338).....	250,000
Florida Deputy Sheriff's Association Law Enforcement Apprenticeship Program (HF 1307) (SF 3134).....	750,000
Florida Law Enforcement Active Shooter Training (HF 2823) (SF 3360).....	750,000
Florida Law Enforcement Recruitment and Retention Grant Program (HF 1418) (SF 3430).....	500,000
Florida Police Chiefs Education & Research Foundation - Police Chief Professional Training (HF 1420) (SF 1377)..	120,000
Hillsborough County Sheriff - Technology to Enhance Public Safety (HF 3552) (SF 3527).....	500,000
Hillsborough County Sheriff's Office Helicopter (HF 3551) (SF 1447).....	7,750,000
Jacksonville Sheriff's Office - Mobile Investigative Command Vehicle (HF 1551) (SF 1893).....	577,514
Lakeland Police Department Summer Trades Camp (HF 2512) (SF 2089).....	50,000
Miramar Real Time Crime Center Phase III (HF 2682) (SF 1541).....	200,000
Panama City Beach Unified Mobile Command Center (HF 1251) (SF 2899).....	350,000
Seminole County Sheriff's Office Rapid DNA Grant (HF 1890) (SF 1543).....	250,000
South Miami Police Department Radio Upgrade Program (HF 2980) (SF 1824).....	500,000
Sweetwater Mobile Command Post (HF 2978) (SF 1735).....	500,000
Tampa Jewish Community Preventative Security Initiative (HF 1392) (SF 1185).....	525,000
Tampa Police Department Ybor City Crime Reduction (SF 3178).....	479,646
The Florida Law Enforcement Education Initiative (HF 2715) (SF 1487).....	125,000
Wandering Rescue and Prevention Project (HF 1034) (SF 1240).....	250,000
Westgate CRA Enhanced Street Lighting & Safety Initiative (HF 2067) (SF 1959).....	250,000
Wilton Manors Transparency in Public Safety Project (HF 2496) (SF 2821).....	500,000
Winter Springs High Water Rescue Mission Purpose Built Vehicle (HF 1385).....	256,384

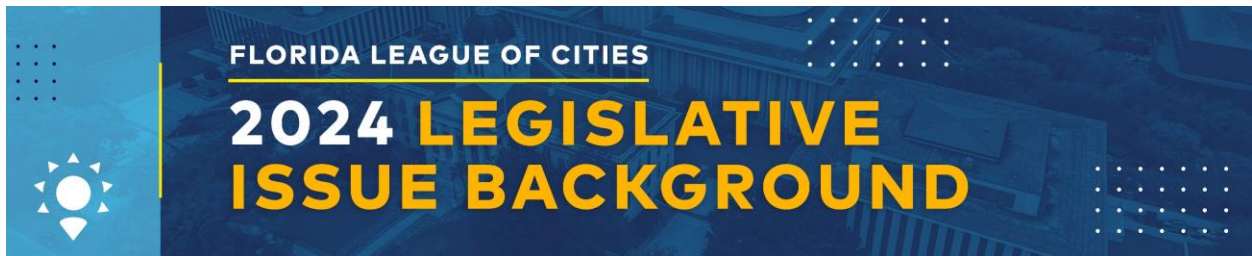
From the funds in Specific Appropriation 1290, \$2,000,000 in nonrecurring funds from the General Revenue Fund is appropriated for the Digital Forensic Center of Excellence (SF 2011). The Florida Department of Law Enforcement may use the funds to contract with local law enforcement agencies, including sheriff's offices, for the training of sworn law enforcement officers. Any equipment purchased with this funding shall be owned by the department. The department is authorized to enter into agreements with local law enforcement agencies for use of the equipment.

From the funds in Specific Appropriation 1290, \$20,906,874 in recurring funds from the General Revenue Fund is provided for salary increases for deputy sheriffs and correctional officers employed by sheriff's offices or boards of county commissioners in fiscally constrained counties, as defined in section 218.67(1), Florida Statutes, as follows:

Baker County Sheriff's Office.....	292,754
Bradford County Sheriff's Office.....	703,809
Calhoun County Sheriff's Office.....	434,740
Columbia County Sheriff's Office.....	1,378,388
Desoto County Sheriff's Office.....	521,994



Cybersecurity Incident Liability



Cybersecurity

Draft Statement: The Florida League of Cities SUPPORTS legislation that provides liability protections for local government in connection with a cybersecurity incident. The Florida League of Cities SUPPORTS the continuation of the State of Florida Local Cybersecurity Grant Program for the enhancement of municipal cybersecurity by providing funding for infrastructure improvements.

Background: Local governments are routinely entrusted with gigabytes of personally identifiable, confidential and proprietary information about the businesses and citizens who live and operate within their jurisdictions. With several high-profile cyber-incidents occurring in the public sector, it showcases the emerging challenges that local governments face in protecting data.

Current law requires local governments to implement, adopt and comply with cybersecurity training standards and incident notification protocols. Local governments must ensure that the standards from the National Institute for Standards and Technology (NIST) Cybersecurity Framework are met. The NIST is a non-regulatory federal agency housed under the federal Department of Commerce.

Since 2021, the legislature has taken steps to ensure that local governments across Florida have the tools they need to harden their systems and increase resiliency. From the passage of HB 7055 (the Florida Local Government Cybersecurity Act); to the allocation of \$70 Million over that past three years in the form of local government grants, to funding CyberFlorida to offer cybersecurity training for all local government employees at no cost.

In the 2024 Session, the Legislature passed HB 473, Cybersecurity Incident Liability, that provided local governments liability protections in connection with a cybersecurity incident if they substantially complied with current cyber trainings, protocols and standards. The bill also covered third-party entities acting on behalf of local governments. The Florida League of Cities supported this bill. Governor DeSantis vetoed the bill, citing that “substantial” compliance was only “doing the minimum” when protecting consumer data. He then went on to say that because of minimal compliance standards, consumers would have “inadequate recourse if a breach occurs.”

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CS/CS/HB 473

2024 Legislature

1
 2 An act relating to cybersecurity incident liability;
 3 creating s. 768.401, F.S.; providing definitions;
 4 providing that a county, municipality, other political
 5 subdivision of the state, covered entity, or third-
 6 party agent that complies with certain requirements is
 7 not liable in connection with a cybersecurity
 8 incident; requiring covered entities and third-party
 9 agents to adopt revised frameworks, standards, laws,
 10 or regulations within a specified time period;
 11 providing that a private cause of action is not
 12 established; providing that certain failures are not
 13 evidence of negligence and do not constitute
 14 negligence per se; specifying that the defendant in
 15 certain actions has a certain burden of proof;
 16 providing applicability; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 768.401, Florida Statutes, is created
 21 to read:

22 768.401 Limitation on liability for cybersecurity
 23 incidents.—

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

25 (a) "Covered entity" means a sole proprietorship,

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26 partnership, corporation, trust, estate, cooperative,
 27 association, or other commercial entity.

28 (b) "Third-party agent" means an entity that has been
 29 contracted to maintain, store, or process personal information
 30 on behalf of a covered entity.

31 (2) A county or municipality that substantially complies
 32 with s. 282.3185, and any other political subdivision of the
 33 state that substantially complies with s. 282.3185 on a
 34 voluntary basis, is not liable in connection with a
 35 cybersecurity incident.

36 (3) A covered entity or third-party agent that acquires,
 37 maintains, stores, processes, or uses personal information is
 38 not liable in connection with a cybersecurity incident if the
 39 covered entity or third-party agent does all of the following,
 40 as applicable:

41 (a) Substantially complies with s. 501.171(3)-(6), as
 42 applicable.

43 (b)1. Has adopted a cybersecurity program that
 44 substantially aligns with the current version of any standards,
 45 guidelines, or regulations that implement any of the following:

46 a. The National Institute of Standards and Technology
 47 (NIST) Framework for Improving Critical Infrastructure
 48 Cybersecurity;

49 b. NIST special publication 800-171;

50 c. NIST special publications 800-53 and 800-53A;

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- 51 d. The Federal Risk and Authorization Management Program
 52 security assessment framework;
- 53 e. The Center for Internet Security (CIS) Critical
 54 Security Controls;
- 55 f. The International Organization for
 56 Standardization/International Electrotechnical Commission 27000-
 57 series (ISO/IEC 27000) family of standards;
- 58 g. HITRUST Common Security Framework (CSF);
- 59 h. Service Organization Control Type 2 (SOC 2) Framework;
- 60 i. Secure Controls Framework; or
- 61 j. Other similar industry frameworks or standards; or
- 62 2. If regulated by the state or Federal Government, or
 63 both, or if otherwise subject to the requirements of any of the
 64 following laws and regulations, has adopted a cybersecurity
 65 program that substantially aligns with the current version of
 66 the following, as applicable:
- 67 a. The Health Insurance Portability and Accountability Act
 68 of 1996 security requirements in 45 C.F.R. part 160 and part 164
 69 subparts A and C.
- 70 b. Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L.
 71 No. 106-102, as amended.
- 72 c. The Federal Information Security Modernization Act of
 73 2014, Pub. L. No. 113-283.
- 74 d. The Health Information Technology for Economic and
 75 Clinical Health Act requirements in 45 C.F.R. parts 160 and 164.

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76 e. The Criminal Justice Information Services (CJIS)
 77 Security Policy.

78 f. Other similar requirements mandated by state or federal
 79 law or regulation.

80 (4) A covered entity's or third-party agent's substantial
 81 alignment with a framework or standard under subparagraph
 82 (3)(b)1. or with a law or regulation under subparagraph (3)(b)2.
 83 may be demonstrated by providing documentation or other evidence
 84 of an assessment, conducted internally or by a third-party,
 85 reflecting that the covered entity's or third-party agent's
 86 cybersecurity program is substantially aligned with the relevant
 87 framework or standard or with the applicable state or federal
 88 law or regulation. In determining whether a covered entity's or
 89 third-party agent's cybersecurity program is in substantial
 90 alignment, all of the following factors must be considered:

91 (a) The size and complexity of the covered entity or
 92 third-party agent.

93 (b) The nature and scope of the activities of the covered
 94 entity or third-party agent.

95 (c) The sensitivity of the information to be protected.

96 (5) Any covered entity or third-party agent must
 97 substantially align its cybersecurity program with any revisions
 98 of relevant frameworks or standards or of applicable state or
 99 federal laws or regulations within 1 year after the latest
 100 publication date stated in any such revisions in order to retain

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101 protection from liability.

102 (6) This section does not establish a private cause of
 103 action.

104 (7) Failure of a county, municipality, other political
 105 subdivision of the state, covered entity, or third-party agent
 106 to substantially implement a cybersecurity program that is in
 107 compliance with this section is not evidence of negligence and
 108 does not constitute negligence per se.

109 (8) In an action relating to a cybersecurity incident, if
 110 the defendant is a county, municipality, or political
 111 subdivision covered by subsection (2) or a covered entity or
 112 third-party agent covered by subsection (3), the defendant has
 113 the burden of proof to establish substantial compliance.

114 Section 2. The amendments made by this act apply to any
 115 suit filed on or after the effective date of this act and to any
 116 putative class action not certified on or before the effective
 117 date of this act.

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

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 473 Cybersecurity Incident Liability

SPONSOR(S): Judiciary Committee and Commerce Committee, Giallombardo and others

TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 658

FINAL HOUSE FLOOR ACTION: 81 Y's

28 N's

GOVERNOR'S ACTION: Vetoes

SUMMARY ANALYSIS

CS/CS/HB 473 passed the House on March 1, 2024, and subsequently passed the Senate on March 5, 2024.

Current law requires counties and municipalities (referred to as local governments in this section) to implement, adopt, and comply with cybersecurity training, standards, and incident notification protocols. Local governments are required to adopt cybersecurity standards that safeguard the local government's data, information technology, and information technology resources to ensure availability, confidentiality, and integrity. The standards must be consistent with generally accepted best practices for cybersecurity, including the National Institute for Standards and Technology (NIST) Cybersecurity Framework.

NIST is a non-regulatory federal agency housed within the United States Department of Commerce, whose role is to facilitate and support the development of cybersecurity risk frameworks. NIST is charged with providing a prioritized, flexible, repeatable, performance-based, and cost-effective approach, including information security measures and controls that may be voluntarily adopted by owners and operators of critical infrastructure to help them identify, assess, and manage cyber risks. While the NIST Cybersecurity Framework was developed with critical infrastructure in mind, it can also be used by organizations in any sector of the economy or society.

Additionally, current law requires covered entities, governmental entities, and third-party agents to comply with specified notification protocols in the event of a breach of security affecting personal information.

The bill provides that a county or municipality that substantially complies with the cybersecurity training, standards, and notification protocols under current law or any other political subdivision of the state that complies with these standards and protocols on a voluntary basis, is not liable in connection with a cybersecurity incident.

The bill also provides that a covered entity or third-party agent, that acquires, maintains, stores, processes, or uses personal information is not liable in connection with a cybersecurity incident if the covered entity or third-party agent substantially complies with notice protocols as provided in current law as applicable, and has also adopted a cybersecurity program that substantially aligns with the current version of any standards, guidelines, or regulations that implement any of the standards specified in the bill or with applicable state and federal laws and regulations. The bill provides certain requirements for a covered entity or third-party agent to retain its liability protection.

The bill does not establish a private cause of action. The bill further provides that its provisions apply to any suit filed on or after the effective date of the bill and to any putative class action not certified on or before the effective date of the bill.

The bill does not affect state or local government revenues or expenditures.

The effective date of the bill was upon becoming a law; however, this bill was vetoed by the Governor on June 26, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Access to Courts

The Florida Constitution broadly protects the right to access the courts, which "shall be open to every person for redress of any injury...."¹ However, this constitutional right is not unlimited.

In *Kluger v. White*,² the Supreme Court of Florida stated that it would not completely prohibit the Legislature from altering a cause of action, but neither would it allow the Legislature "to destroy a traditional and long-standing cause of action upon mere legislative whim...." The takeaway from *Kluger* and other relevant case law is that the Legislature may:

- Reduce the right to bring a cause of action as long as the right is not entirely abolished.³
- Abolish a cause of action that is not "traditional and long-standing"—that is, a cause of action that did not exist at common law, and that did not exist in statute before the adoption of the Florida Constitution's Declaration of Rights.⁴
- Abolish a cause of action if the Legislature either:
 - Provides a reasonable commensurate benefit in exchange;⁵ or
 - Shows an "overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown."⁶

Tort Liability and Negligence

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

- Provides a fair and equitable forum to resolve disputes;
- Appropriately compensates legitimately harmed persons;
- Shifts the loss to responsible parties;
- Provides an incentive to prevent future harm; and
- Deters undesirable behavior.⁷

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

¹ Art. I, s. 21, Fla. Const.

² *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

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

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

⁵ *Kluger*, 281 So. 2d at 4; see *Univ. of Miami v. Echarte*, 618 So. 2d 189 (Fla. 1993) (upholding a statutory cap on medical malpractice damages because the Legislature provided arbitration, which is a "commensurate benefit" for a claimant); accord *Lasky v. State Farm Ins. Co.*, 296 So. 2d 9 (Fla. 1974); but see *Smith v. Dept. of Ins.*, 507 So. 2d 1080 (Fla. 1992) (striking down a noneconomic cap on damages, which, while not wholly abolishing a cause of action, did not provide a commensurate benefit).

⁶ *Kluger*, 281 So. 2d at 4-5 (noting that in 1945, the Legislature abolished the right to sue for several causes of action, but successfully demonstrated "the public necessity required for the total abolition of a right to sue") (citing *Rotwein v. Gersten*, 36 So. 2d 419 (Fla. 1948); see *Echarte*, 618 So. 2d at 195 ("Even if the medical malpractice arbitration statutes at issue did not provide a commensurate benefit, we would find that the statutes satisfy the second prong of *Kluger* which requires a legislative finding that an 'overpowering public necessity' exists, and further that 'no alternative method of meeting such public necessity can be shown'").

⁷ Am. Jur. 2d Torts s. 2.

- Defendant had a legal duty of care requiring the defendant to conform to a certain standard of conduct for the protection of others, including the plaintiff, against unreasonable risks;
- Defendant breached his or her duty of care by failing to conform to the required standard;
- Defendant's breach caused the plaintiff's injury; and
- Plaintiff suffered actual damage or loss resulting from his or her injury.⁸

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

Slight Negligence	The failure to exercise great care. This often applies to injuries caused by common carriers charged with the duty to exercise the highest degree of care toward their passengers. ⁹
Ordinary Negligence	The failure to exercise that degree of care which an ordinary prudent person would exercise; or, in other words, a course of conduct which a reasonable and prudent person would know might possibly result in injury to others. ¹⁰
Gross Negligence	A course of conduct which a reasonable and prudent person knows would probably and most likely result in injury to another. ¹¹ To prove gross negligence, a plaintiff must usually show that the defendant had knowledge or awareness of imminent danger to another and acted or failed to act with a conscious disregard for the consequences. ¹² Once proven, gross negligence may support a punitive damage ¹³ award. ¹⁴

In Florida, before a court awards damages in a negligence action, the jury generally assigns a fault percentage to each party under the comparative negligence rule. Florida applies¹⁵ a "modified" comparative negligence rule, which generally prohibits a plaintiff from recovering damages if the plaintiff is more than 50 percent at fault for his or her own harm.¹⁶

The Florida Rules of Civil Procedure generally require a plaintiff in a civil action to file a complaint and require a defendant to file an answer to the complaint.¹⁷ Florida is a "fact-pleading jurisdiction." This means that a pleading setting forth a claim for relief, including a complaint, must generally state a cause of action and contain a:

- Short and plain statement of the grounds on which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds to support it;
- Short and plain statement of the ultimate facts¹⁸ showing the pleader is entitled to relief; and

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

⁹ See *Faircloth v. Hill*, 85 So. 2d 870 (Fla. 1956); see also *Holland America Cruises, Inc. v. Underwood*, 470 So. 2d 19 (Fla. 2d DCA 1985); *Werndli v. Greyhound Corp.*, 365 So. 2d 177 (Fla. 2d DCA 1978); 6 *Florida Practice Series* s. 1.2.

¹⁰ See *De Wald v. Quarnstrom*, 60 So. 2d 919 (Fla. 1952); see also *Clements v. Deeb*, 88 So. 2d 505 (Fla. 1956); 6 *Florida Practice Series* s. 1.2.

¹¹ See *Clements*, 88 So. 2d 505; 6 *Florida Practice Series* s. 1.2.

¹² See *Carraway v. Revell*, 116 So. 2d 16 (Fla. 1959).

¹³ Punitive damages are awarded in addition to actual damages to punish a defendant for behavior considered especially harmful. Florida generally caps punitive damage awards at \$500,000 or triple the value of compensatory damages, whichever is greater, and caps cases of intentional misconduct with a financial motivation at two million dollars or four times the amount of compensatory damages, whichever is greater. S. 768.73(1), F.S.

¹⁴ See *Glaab v. Caudill*, 236 So. 2d 180 (Fla. 2d DCA 1970); 6 *Florida Practice Series* s. 1.2; s. 768.72(2), F.S.

¹⁵ The comparative negligence standard does not apply to any action brought to recover economic damages from pollution, based on an intentional tort, or to which the joint and several liability doctrines is specifically applied in ch. 403, 498, 517, 542, and 895, F.S. S. 768.81(4), F.S.

¹⁶ S. 768.81(6), F.S. This comparative negligence rule does not apply to an action for damages for personal injury or wrongful death arising out of medical negligence pursuant to ch. 766, F.S.; therefore, a plaintiff who is more than fifty percent responsible for his or her own damages may still recover a portion of damages in a medical negligence suit.

¹⁷ Fla. R. Civ. P. 1.100.

¹⁸ Ultimate facts are facts that must be accepted for a claim to prevail, usually inferred from a number of supporting evidentiary facts, which themselves are facts making other facts more probable. See Legal Information Institute, *Ultimate Fact*, https://www.law.cornell.edu/wex/ultimate_fact (last visited Jan. 18, 2024); see also Legal Information Institute, *Evidentiary Facts*, https://www.law.cornell.edu/wex/evidentiary_fact (last visited Jan. 18, 2024).

- Demand for the relief to which the pleader believes he or she is entitled.¹⁹

However, certain allegations²⁰ must be plead with "particularity," which is a heightened level of pleading requiring a statement of facts sufficient to satisfy the elements of each claim.

Burden of Proof and Presumptions

The burden of proof is an obligation to prove a material fact in issue.²¹ Generally, the party who asserts the material fact in issue has the burden of proof.²² In a civil proceeding, for example, the burden of proof is on the plaintiff to prove the allegations contained in his or her complaint. Further, a defendant in either a criminal or a civil proceeding has the burden to prove any affirmative defenses²³ he or she may raise in response to the charges or allegations. However, there are certain statutory and common law presumptions²⁴ that may shift the burden of proof from the party asserting the material fact in issue to the party defending against such fact.²⁵ These presumptions remain in effect following the introduction of evidence rebutting the presumption, and the factfinder must decide if such evidence is strong enough to overcome the presumption.²⁶ A presumption is a legal inference that can be made with knowing certain facts. Most presumptions are able to be rebutted, if proven to be false or thrown into sufficient doubt by the evidence.²⁷

Local Government Cybersecurity

Section 282.3185, F.S., requires counties and municipalities (referred to as local governments in this section) to implement, adopt, and comply with cybersecurity training, standards, and incident notification protocols.

The Florida Digital Service is tasked with developing basic and advanced²⁸ cybersecurity training²⁹ curriculum for local government employees. All local government employees with access to the local government's network must complete basic cybersecurity training within 30 days after commencing employment and annually thereafter.³⁰ Additionally, all local government technology professionals and employees with access to highly sensitive information must also complete the advanced cybersecurity training within 30 days after commencing employment and annually thereafter.³¹

Additionally, local governments are required to adopt cybersecurity standards that safeguard the local government's data, information technology, and information technology resources to ensure availability, confidentiality, and integrity.³² The standards must be consistent with generally accepted best practices for cybersecurity, including the National Institute for Standards and Technology (NIST) Cybersecurity

¹⁹ See *Goldschmidt v. Holman*, 571 So. 2d 422 (Fla. 1990); Fla. R. Civ. P. 1.110.

²⁰ These allegations include fraud, mistake, condition of the mind, and denial of performance or occurrence. Fla. R. Civ. P. 1.120(b),(c).

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

²² *Id.*; see *Berg v. Bridle Path Homeowners Ass'n, Inc.*, 809 So. 2d 32 (Fla. 4th DCA 2002).

²³ An affirmative defense is a defense which, if proven, negates criminal or civil liability even if it is proven that the defendant committed the acts alleged. Examples include self-defense, entrapment, insanity, necessity, and *respondeat superior*. Legal Information Institute, *Affirmative Defense*, https://www.law.cornell.edu/wex/affirmative_defense (last visited Jan. 18, 2024).

²⁴ These presumptions tend to be social policy expressions, such as the presumption that all people are sane or that all children born in wedlock are legitimate. 5 *Florida Practice Series* s. 16:1.

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

²⁶ *Id.*

²⁷ Legal Information Institute, *Presumption*, <https://www.law.cornell.edu/wex/presumption> (last visited Jan. 18, 2024).

²⁸ Advanced cybersecurity training must develop, assess, and document competencies by role and skill level. The training curriculum must include training on the identification of each cybersecurity incident severity level contained in s. 282.318(3)(c)9.a., F.S. S. 282.318(3)(g), F.S.

²⁹ The training may be provided in collaboration with the Cybercrime Office of the Florida Department of Law Enforcement, a private sector entity, or an institution of the Florida State University System. S. 282.3185(3)(b), F.S.

³⁰ S. 282.3185(3)(a)1., F.S.

³¹ S. 282.3185(3)(a)2., F.S.

³² S. 282.3185(4)(a), F.S.

Framework.³³ Once the standards are adopted,³⁴ each local government is to notify the Florida Digital Service (FLDS)³⁵ as soon as possible.³⁶

Local governments are also required to comply with specified incident notification protocols in the event of a cybersecurity incident or ransomware incident, including:

- Notifying the Cybersecurity Operations Center (COC) of the Cybercrime Office of the Florida Department of Law Enforcement and the sheriff who has jurisdiction over the local government.
 - A local government must report all ransomware incidents and any cybersecurity incident determined by the local government to be of severity level 3, 4, or 5³⁷ as soon as possible but no later than 48 hours after discovery of the cybersecurity incident and no later than 12 hours after discovery of the ransomware incident.
 - The COC must notify the President of the Senate and the Speaker of the House of Representatives of any severity level 3, 4, or 5 as soon as possible but no later than 12 hours after receiving the local government's incident report. Such notification must include a high-level description of the incident and the likely effects.
 - A local government may report a cybersecurity incident determined by the local government to be of severity level 1 or 2.³⁸
- Submitting an after-action report to the Florida Digital Service within one week after the remediation of a cybersecurity or ransomware incident.
 - The after-action report must summarize the incident, the incident's resolution, and any insights gained as a result of the incident.³⁹

Any such local government notification report must contain, at a minimum, the following information:

- A summary of the facts surrounding the cybersecurity incident or ransomware incident.
- The date on which the local government most recently backed up its data; the physical location of the backup, if the backup was affected; and if the backup was created using cloud computing.
- The types of data compromised by the incident.
- The estimated fiscal impact of the incident.
- In the case of a ransomware incident, the details of the ransom demanded.⁴⁰

Cybersecurity Standards

NIST is a non-regulatory federal agency housed within the United States Department of Commerce.⁴¹ NIST's role was updated in the Cybersecurity Enhancement Act (CEA) of 2014 to facilitate and support the development of cybersecurity risk frameworks. The CEA charged NIST with providing a prioritized, flexible, repeatable, performance-based, and cost-effective approach, including information security measures and controls that may be voluntarily adopted by owners and operators of critical infrastructure⁴² to help them identify, assess, and manage cyber risks. This charge formalized "NIST's previous work developing Framework Version 1.0 under Executive Order 13636, 'Improving Critical

³³ *Id.*

³⁴ Each county with a population of 75,000 or more and each municipality with a population of 25,000 or more were required to adopt such cybersecurity standards by January 1, 2024. However, each county with a population of less than 75,000 and each municipality with a population of less than 25,000 have until January 1, 2025 to adopt appropriate standards. S. 282.3185(4)(b) – (c), F.S.

³⁵ FLDS works under Department of Management Services to implement policies for information technology and cybersecurity for state agencies.

³⁶ S.282.3185(4)(d), F.S.

³⁷ Severity levels are determined based on the criteria contained in s. 282.3185(3)(c)9.a.(I) – (V), F.S.

³⁸ S. 282.3185(5)(b) – (c), F.S.

³⁹ S. 282.3185(6), F.S.

⁴⁰ S. 282.3185(5)(a), F.S.

⁴¹ NIST, *NIST General Information*, <https://www.nist.gov/director/pao/nist-general-information> (last visited Feb. 12, 2024).

⁴² "Critical infrastructure" is defined as systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters. NIST, *Framework for Improving Critical Infrastructure Cybersecurity*, p. 1, <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf> (last visited Feb. 11, 2024).

Infrastructure Cybersecurity,' issued in February 2013, and provided guidance for future Framework evolution."⁴³

While the Framework was developed with critical infrastructure in mind, it can also be used by organizations in any sector of the economy or society. The Framework is designed to complement, and not replace, an organization's own unique approach to cybersecurity risk management. As such, there are a variety of ways to use the Framework and the decision about how to apply it is left to the implementing organization. For example, an organization may use its current processes and consider the Framework to identify opportunities to strengthen its cybersecurity risk management. Alternatively, an organization without an existing cybersecurity program can use the Framework as a reference to establish one. The Framework,⁴⁴ overall, provides an outline of best practices that helps organizations decide where to focus resources for cybersecurity protection.⁴⁵

Other cybersecurity standards include:

<p>NIST special publication 800-171</p>	<p>Provides recommended requirements for protecting the confidentiality of controlled unclassified information. Defense contractors must implement the recommended requirements to demonstrate their provision of adequate security to protect the covered defense information included in their defense contracts. Additionally, if a manufacturer, involved in supply chains tied to government contracts, is part of a Department of Defense, General Services Administration, NASA, or other state or federal agency supply chain then they must comply with these security requirements.⁴⁶</p>
<p>NIST special publications 800-53 and 800-53A</p>	<p>Contains a catalog of security and privacy controls designed to help protect organizations, assets, the privacy of individuals and to manage cybersecurity and privacy risks in cloud computing environments.⁴⁷</p>
<p>The Federal Risk and Authorization Management Program (FedRAMP) security assessment framework</p>	<p>Provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud services and cloud products offered by cloud service providers (CSPs). The FedRAMP authorization process determines whether CSPs meet federal cloud security guidelines. At the core of FedRAMP is the NIST Special Publication 800-53.^{48, 49}</p>

⁴³ *Id.*

⁴⁴ NIST Cybersecurity Framework 2.0 is to be released at the end of February 2024.

⁴⁵ *Id.* at p. 3.

⁴⁶ NIST, *What is the NIST SP 800-171 and Who Needs to Follow It?*, <https://www.nist.gov/blogs/manufacturing-innovation-blog/what-nist-sp-800-171-and-who-needs-follow-it-0#:~:text=NIST%20SP%20800-171%20is%20a%20NIST%20Special%20Publication,protecting%20the%20confidentiality%20of%20controlled%20unclassified%20information%20%28CUI%29> (last visited Feb. 11, 2024).

⁴⁷ NIST, *Selecting Security and Privacy Controls: Choosing the Right Approach*, <https://www.nist.gov/blogs/cybersecurity-insights/selecting-security-and-privacy-controls-choosing-right-approach> (last visited Feb. 11, 2024).

⁴⁸ RiskOptics, *How State and Local Agencies Can Use FedRAMP*, <https://reciprocity.com/how-state-and-local-agencies-can-use-fedram/> (last visited Feb. 11, 2024).

⁴⁹ Although state and local agencies are not authorized to directly access FedRAMP security documentation (which is housed in a secured federal portal), they can still apply the FedRAMP framework in their own cloud contracts and assessments. *Id.*

<p>The Center for Internet Security (CIS) Critical Security Controls</p>	<p>CIS Critical Security Controls are a prescriptive, prioritized, and simplified set of best practices for strengthening cybersecurity for different organizations. CIS was created in response to extreme data losses experienced by organizations in the U.S. defense industrial base.⁵⁰</p>
<p>The International Organization for Standardization/International Electrotechnical Commission 27000 – series (ISO/IEC 27000) family of standards</p>	<p>The mainstay of the ISO/IEC 27000 family series is ISO 27001, which sets out the specification for an information security management system (ISMS).⁵¹ ISO 27001 is an international standard that helps organizations manage the security of their information assets. ISO 27001 provides a management framework for implementing an ISMS to ensure the confidentiality, integrity, and availability of all corporate data such as, financial information, intellectual property, employee data, and information managed by third parties. ISO 27001 audits can be conducted to review an organization’s practices, policies, and procedures to determine if the organization’s ISMS meets the requirements of the standard.⁵²</p>
<p>HITRUST Common Security Framework (CSF)</p>	<p>The CSF can be utilized to manage and certify compliance with information security controls and to consolidate compliance reporting requirements. The CSF normalizes security and privacy requirements for organizations from a variety of sources, including: HIPPA security requirements; NIST 800-53, and other industry frameworks. The CSF helps organizations consolidate these various sources into a single control set.⁵³</p>
<p>Service Organization Control Type 2 (SOC 2) Framework</p>	<p>SOC 2 is a cybersecurity compliance framework developed by the American Institute of Certified Public Accountants. The primary purpose of SOC 2 is to ensure that third-party service providers store and process client data in a secure manner. The framework specifies criteria to uphold high standards of data security, based on five trust service principles: security, privacy, availability, confidentiality, and processing integrity. SOC 2 is able to provide different requirements for every organization depending on the organizations operating models.⁵⁴</p>

⁵⁰ CIS, *CIS Critical Security Controls*, <https://www.cisecurity.org/controls> (last visited Feb. 11, 2024).

⁵¹ IT Governance, *ISO 27000 Series of Standards*, <https://www.itgovernanceusa.com/iso27000-family> (last visited Feb. 11, 2024).

⁵² IT Governance, *ISO 27001, the International Information Security Standard*, <https://www.itgovernanceusa.com/iso27001#:~:text=ISO%2027001%20is%20a%20globally%20recognized%20information%20security,trusted%20benchmark.%20Protect%20your%20data%2C%20wherever%20it%20lives> (last visited Feb. 11, 2024).

⁵³ Linford & Co., LLP, *Understanding the HITRUST CSF: A Guide for Beginners*, <https://linfordco.com/blog/hitrust-csf-framework/> (last visited Feb. 16, 2024) (The CSF is updated roughly annually with minor versions being released between major revisions).

⁵⁴ One Login, *What is SOC 2?* <https://www.onelogin.com/learn/what-is-soc-2#:~:text=SOC%20%2C%20aka%20Service%20Organization%20Control%20Type%20%2C.and%20process%20client%20data%20in%20a%20secure%20manner.> (last visited Feb. 16, 2024).

Secure Controls Framework	Secure Controls Framework is a metaframework that contains a variety of cybersecurity and data privacy controls that organizations can use to build secure and compliant cybersecurity and data privacy programs. ⁵⁵
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Additionally, there are certain cybersecurity standards that apply when certain information is being maintained:

The Health Insurance Portability and Accountability Act of 1996 security requirements⁵⁶	The HIPAA Security Rule protects all individually identifiable health information that is created, received, maintained, or transmitted in electronic form. To comply with the HIPAA Security Rule, specified entities must: (1) ensure confidentiality of all electronic protected health information, (2) detect and safeguard against anticipated threats to information security, (3) protect against anticipated impermissible uses or disclosures, and (4) certify compliance by their workforce. ⁵⁷
Title V of the Gramm-Leach-Bliley Act of 1999⁵⁸	Requires the Federal Trade Commission, in conjunction with other regulators, to issue regulations ensuring that financial institutions protect the privacy of consumers' personal financial information. ⁵⁹
The Federal Information Security Modernization Act of 2014⁶⁰	Requires agencies to report the status of their information security programs to the Office of Management and Budget and requires Inspectors General to conduct annual independent assessments of those programs. ⁶¹
The Health Information Technology for Economic and Clinical Health Act requirements⁶²	Addresses the privacy and security concerns associated with the electronic transmission of health information, in part, through several provisions that strengthen the civil and criminal enforcement of the HIPAA rules. ⁶³
The Criminal Justice Information Services (CJIS) Security Policy	CJIS provides criminal justice agencies and non-criminal justice agencies with a minimum set of security requirements for access to Federal Bureau of Investigation CJIS Division systems and

⁵⁵ Secure Controls Framework, *About the SCF*, <https://securecontrolsframework.com/about-us/> (last visited Feb. 16, 2024); Secure Controls Framework, *SCF Frequently Asked Questions (FAQ)*, <https://securecontrolsframework.com/faq/> (last visited Feb. 16, 2024).

⁵⁶ In 45 C.F.R. part 160 and part 164 subparts A and C.

⁵⁷ Centers for Disease Control and Prevention, *Health Insurance Portability and Accountability Act of 1996 (HIPAA)*, <https://www.cdc.gov/phlp/publications/topic/hipaa.html> (last visited Feb. 11, 2024).

⁵⁸ Pub. L. No. 106-102, as amended.

⁵⁹ Federal Trade Commission, *Gramm-Leach-Bliley Act*, <https://www.ftc.gov/legal-library/browse/statutes/gramm-leach-bliley-act> (last visited Feb. 11, 2024).

⁶⁰ Pub. L. No. 113-283.

⁶¹ U.S. Chief Information Officers Council, *Federal Information Security Modernization Act (FISMA)*, <https://www.cio.gov/policies-and-priorities/FISMA/> (last visited Feb. 11, 2024).

⁶² 45 C.F.R. parts 160 and 164.

⁶³ U.S. Department of Health and Human Services, *HITECH Act Enforcement Interim Final Rule*, <https://www.hhs.gov/hipaa/for-professionals/special-topics/hitech-act-enforcement-interim-final-rule/index.html> (last visited Feb. 11, 2024).

Security of Confidential Personal Information

Section 501.171, F.S., requires covered entities,⁶⁵ governmental entities,⁶⁶ and third-party agents⁶⁷ to take reasonable measures to protect and secure data in electronic form containing personal information.^{68, 69}

Covered entities and governmental entities are required to provide notice to the Department of Legal Affairs (DLA) of any breach of security affecting 500 or more individuals in this state. Such notice must be provided as expeditiously as practicable, but no later than 30 days after the determination of a breach or reason to believe a breach occurred.⁷⁰ Additionally, such entities must give notice to each individual in this state whose personal information was, or such entity reasonably believes to have been, accessed as a result of the breach. Notice to individuals must be made as expeditiously as practicable and without unreasonable delay, taking into account the time necessary to allow the entity to determine the scope of the breach of security, to identify individuals affected by the breach, and to restore the reasonable integrity of the data system that was breached, but no later than 30 days after the determination of a breach or reason to believe a breach occurred.^{71, 72}

Additionally, if a covered entity or governmental entity discovers circumstances that require notice to more than 1,000 individuals at a single time, the entity must also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis⁷³ of the timing, distribution, and content of the notices sent to such individuals.⁷⁴

⁶⁴ Federal Bureau of Investigation, *Criminal Justice Information Services (CJIS) Security Policy*, https://www.fbi.gov/file-repository/cjis_security_policy_v5-9_20200601.pdf/view (last visited Feb. 16, 2024).

⁶⁵ "Covered entity" means a sole proprietorship, partnership, corporation, trust, estate, cooperative, association, or other commercial entity that acquires, maintains, stores, or uses personal information. S. 501.171(1)(b), F.S.

⁶⁶ "Governmental entity" means any department, division, bureau, commission, regional planning agency, board, district, authority, agency, or other instrumentality of this state that acquires, maintains, stores, or uses data in electronic form containing personal information. S. 501.171(1)(f), F.S.

⁶⁷ "Third-party agent" means an entity that has been contracted to maintain, store, or process personal information on behalf of a covered entity or governmental entity. S. 501.171(1)(h), F.S.

⁶⁸ S. 501.171(2), F.S.

⁶⁹ "Personal information" means either of the following:

a. An individual's first name or first initial and last name in combination with anyone or more of the following data elements for that individual:

(I) A social security number;

(II) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;

(III) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;

(IV) Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or

(V) An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.

b. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

The term does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable. S. 501.171(1)(g), F.S.

⁷⁰ S. 501.171(3)(a), F.S.

⁷¹ S. 501.171(4)(a), F.S.

⁷² Notice is not required if the entity reasonably determines that the breach has not and will not likely result in identity theft or any other financial harm to the individuals whose personal information has been accessed. S. 501.171(4)(c), F.S.

⁷³ As defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(p).

⁷⁴ S. 501.171(5), F.S.

Third-party agents are required to notify the covered entity or governmental entity, whose personal information it is maintaining, storing, or processing, of a breach of security as expeditiously as practicable, but no later than 10 days following the determination of the breach of security or reason to believe the breach occurred.⁷⁵

A violation of s. 501.171, F.S., is treated as an unfair or deceptive trade practice in any action brought by DLA under s. 501.207, F.S., against a covered entity or third-party agent.

Section 501.207, F.S., authorizes DLA to bring an action:

- To obtain a declaratory judgment that an act or practice violates the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).⁷⁶
- To enjoin any person who has violated, is violating, or is otherwise likely to violate, FDUTPA.
- On behalf of one or more consumers or governmental entities for the actual damages caused by an act or practice in violation of FDUTPA.⁷⁷

In addition to the above-enumerated remedies, a covered entity that violates notice requirements to DLA and individuals as provided under s. 501.171, F.S., is liable for a civil penalty⁷⁸ not to exceed \$500,000, as follows:

- In the amount of \$1,000 for each day up to the first 30 days following any notification violation and, thereafter, \$50,000 for each subsequent 30-day period or portion thereof for up to 180 days.
- If the violation continues for more than 180 days, in an amount not to exceed \$500,000.⁷⁹

Effect of the Bill

The bill provides that a county or municipality that substantially complies with the cybersecurity training, standards, and notification protocols under s. 282.3185, F.S., or any other political subdivision of the state that complies with s. 282.3185, F.S., on a voluntary basis, is not liable in connection with a cybersecurity incident.

The bill defines the following terms:

- “Covered entity” means a sole proprietorship, partnership, corporation, trust, estate, cooperative, association, or other commercial entity.
- “Third-party agent” means an entity that has been contracted to maintain, store, or process personal information on behalf of a covered entity.

The bill provides that a covered entity or third-party agent that acquires, maintains, stores, processes, or uses personal information is not liable in connection with a cybersecurity incident if the entity or third-party agent substantially complies with the notice protocols required under s. 501.171, F.S., and either:

- Has adopted a cybersecurity program that substantially aligns with the current version of any standards, guidelines, or regulations that implement any of the following:
 - NIST Framework for Improving Critical Infrastructure Cybersecurity;
 - NIST special publication 800-171;
 - NIST special publications 800-53 and 800-53A;
 - The Federal Risk and Authorization Management Program security assessment framework;
 - CIS Critical Security Controls;

⁷⁵ S. 501.171(6), F.S.

⁷⁶ FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable, deceptive, or unfair acts or practices in the conduct of trade or commerce. FDUTPA was modeled after the Federal Trade Commission Act. S. 501.202, F.S.

⁷⁷ S. 501.207(1), F.S.

⁷⁸ The civil penalties for failure to notify apply per breach and not per individual affected by the breach. S. 501.171(9)(b), F.S.

⁷⁹ S. 501.171(9)(b)1.-2., F.S.

- The International Organization for Standardization/International Electrotechnical Commission 27000 – series family of standards;
- HITRUST Common Security Framework (CSF);
- Service Organization Control Type 2 (SOC 2) Framework;
- Secure Controls Framework;
- Other similar industry frameworks or standards; or
- If regulated by the state or federal government, or both, or if otherwise subject to the requirements of any of the following laws and regulations, has substantially aligned its cybersecurity program to the current version of:
 - The security requirements of the Health Insurance Portability and Accountability Act of 1996;
 - Title V of the Gramm-Leach-Bliley Act of 1999, as amended;
 - The Federal Information Security Modernization Act of 2014;
 - The Health Information Technology for Economic and Clinical Health Act;
 - The Criminal Justice Information Services (CJIS) Security Policy; or
 - Other similar requirements mandated by state or federal law or regulation.

The bill provides that a covered entity or third-party agent may demonstrate “substantial alignment” with the relevant frameworks, standards, laws, or regulations by providing documentation or other evidence reflecting such alignment following an assessment conducted internally or by a third party. In determining whether a covered entity’s or third-party agent’s cybersecurity program is in substantial alignment, all of the following factors must be considered:

- The size and complexity of the covered entity or third-part agent;
- The nature and scope of the activities of the covered entity or third-party agent; and
- The sensitivity of the information to be protected.

The bill requires a covered entity or third-party agent to make changes as necessary to substantially align its cybersecurity program with any revisions of relevant frameworks or standards or of applicable laws or regulations within one year after the implementation of such revisions, in order to retain protection from liability.

In an action in connection with a cybersecurity incident, if the defendant is a county, municipality, other political subdivision, covered entity, or third-party agent covered by s. 768.401, F.S., the defendant has the burden of proof to establish substantial compliance.

The bill does not establish a private cause of action. It provides that the failure of a county, municipality, other political subdivision of the state, covered entity, or third-party agent to substantially implement a cybersecurity program as specified in the bill is not evidence of negligence and does not constitute negligence per se.

The bill further provides that the amendments made by the bill apply to any suit filed on or after the effective date of the bill and to any putative class action⁸⁰ not certified on or before the effective date of the bill.

The bill provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁸⁰ “A putative class action is a lawsuit brought by one or more named plaintiffs on behalf of a potential group of similarly situated individuals (known as a class) who allegedly suffered a common claim. Lawsuits do not become class actions until an actual class has been certified by the court. Therefore, a putative class action means the class has not yet been certified by the court. If the court certifies the class, the lawsuit becomes a class action.” International Risk Management Institute, *Putative Class Action*, <https://www.irmi.com/term/insurance-definitions/putative-class-action#:~:text=A%20putative%20class%20action%20is,allegedly%20suffered%20a%20common%20claim> (last visited Feb. 12, 2024).

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on private individuals as it provides an incentive for counties, municipalities, other political subdivisions, covered entities, and third-party agents to take actions that better protect data (including taxpayer and consumer personal information), information technology, and information technology resources that, if accessed by unauthorized persons, could cause harm to persons and businesses. This action may reduce the frequency and impact of cyber-attacks on private individuals in the state.

The bill may also make it more difficult for plaintiffs to recover damages in a cybersecurity action against entities that comply with the standards outlined in the bill.

D. FISCAL COMMENTS:

The bill does not affect state or local government revenues or expenditures.



RON DESANTIS
GOVERNOR

June 26, 2024

FILED

2024 JUN 26 PM 5:03

DEPARTMENT OF STATE
TALLAHASSEE, FL

Secretary Cord Byrd
Secretary of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Dear Secretary Byrd:

By the authority vested in me as Governor of the State of Florida, under the provisions of Article III, Section 8 of the Constitution of Florida, I do hereby veto and transmit my objection to Committee Substitute for Committee Substitute for House Bill 473 (CS/CS/HB 473), enacted during the 126th Session of the Legislature of Florida during the Regular Session 2024 and entitled:

An act relating to Cybersecurity Incident Liability

CS/CS/HB 473 provides broad liability protections for state and local governments and private companies that only substantially comply with minimum cybersecurity standards in the event of a data breach or other cybersecurity event.

As passed, the bill could result in Floridians' data being less secure as the bill provides across-the-board protections for only substantially complying with standards. This incentivizes doing the minimum when protecting consumer data. While my Administration has prioritized policies to reduce frivolous litigation, the bill before me today may result in a consumer having inadequate recourse if a breach occurs.

I encourage interested parties to coordinate with the Florida Cybersecurity Advisory Council to review potential alternatives to the bill that provide a level of liability protection while also ensuring critical data and operations against cyberattacks are protected as much as possible – and the disruption that comes with the release of potentially sensitive information.

For these reasons, I withhold my approval of CS/CS/HB 473 and do hereby veto the same.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

SECTION 200. The unexpended balance of funds provided to the Department of Management Services in Specific Appropriation 3013A of chapter 2023-239, Laws of Florida, shall revert and is appropriated to the department in Fiscal Year 2024-2025, in the Grants and Aids Cybersecurity Grants appropriation category, to provide nonrecurring assistance to local governments for the development and enhancement of cybersecurity risk management programs.

The department shall include language in the local government agreements that releases the state from all liability related to cybersecurity incidents impacting the local government recipient. The funding shall be placed in reserve and the department is authorized to submit budget amendments requesting the release of these funds pursuant to chapter 216, Florida Statutes. Release of these funds is contingent upon submission of a detailed spend plan, which shall include the vendors, services provided, and local government recipients. No funds shall be distributed to contracts not competitively procured.

SECTION 201. The nonrecurring sum of \$3,000,000 from the General Revenue Fund is appropriated to the Department of Management Services in Fixed Capital Outlay for Fiscal Year 2023-2024 to complete security updates of the Capitol Complex, including entry turnstiles. This section is effective upon becoming law.

SECTION 202. The nonrecurring sum of \$1,487,961 from the State Employees Health Insurance Trust Fund and \$3,843,276 from the State Personnel System Trust Fund is appropriated to the Department of Management Services for Fiscal Year 2023-2024 for administrative expenses associated with the inclusion of the Florida College System into the State Group Insurance Program. This section is effective upon becoming law. Any unexpended balance of funds remaining on June 30, 2024, shall revert and are appropriated for the same purpose for Fiscal Year 2024-2025.

SECTION 203. The nonrecurring sum of \$4,171,800 from the Purchasing Account within the Operating Trust Fund is appropriated to the Department of the Management Services for Cloud Migration and Modernization in Fiscal Year 2023-2024. The funds shall be placed in reserve. The department is authorized to submit quarterly budget amendments requesting release of these funds pursuant to the provisions of chapter 216, Florida Statutes, and based on the department's planned quarterly expenditures. Release is contingent upon approval of a detailed operational work plan and monthly spend plan that identifies all project activities and costs budgeted for Fiscal Year 2024-2025. The department shall provide monthly status reports to the department, the Executive Office of the Governor's Office of Policy and Budget, the chair of the Senate Committee on Appropriations, and the chair of the House of Representatives Appropriations Committee. Each status report must include progress made to date for each project milestone, deliverable, and task order, planned and actual completion dates, planned and actual costs incurred, and project issues and risks. Funds remaining at the end of Fiscal Year 2023-2024 shall revert and are appropriated for Fiscal Year 2024-2025 for the same purpose. This section is effective upon becoming law.

SECTION 204. The recurring sums of \$169,391 from the General Revenue Fund and \$346,214 from the Federal Grants Trust Fund are appropriated for Fiscal Year 2023-2024 to the Department of Revenue for the Child Support Program partner agencies' distribution of the Discretionary Pay Plan effective October 1, 2023, and for legal services costs. This section is effective upon becoming law.

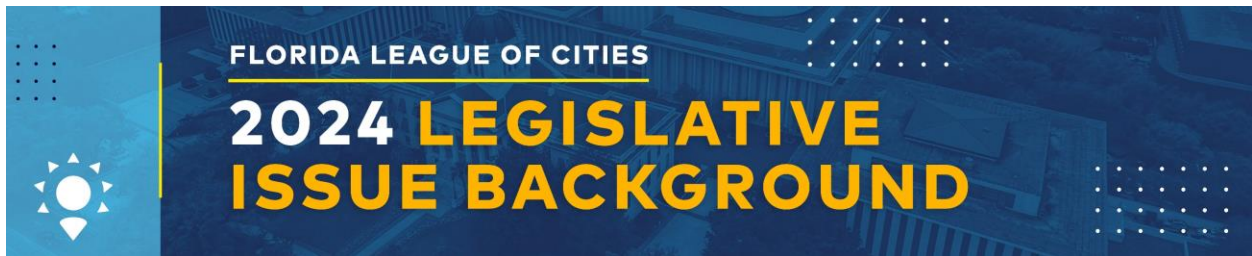
SECTION 205. The nonrecurring sum of \$16,202,335 from the General Revenue Fund is appropriated to the Department of Revenue for the purpose of mitigating deficits in the Fiscally Constrained Counties distributions as determined by the January 11, 2024, Revenue Estimating Conference. This section is effective upon becoming law.

SECTION 206. The unexpended balance of funds appropriated to the Department of Commerce for the American Rescue Plan Act's Homeowner Assistance Fund in section 188 of chapter 2023-239, Laws of Florida, shall revert and is appropriated to the department for Fiscal Year 2024-2025 for the same purpose.

SECTION 207. The unexpended balance of funds appropriated to the Department of Commerce for the Capital Projects Fund Program in section 187 of chapter 2023-239, Laws of Florida, shall revert and is appropriated to the department for Fiscal Year 2024-2025 for the same purpose.



Virtual Governing Body Meetings



Virtual Governing Body Meetings

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

Background: Municipal governments are vital institutions that represent the interests and needs of their residents. They are responsible for making decisions on various matters of public safety, authorizing expenditures, entering into agreements, and more. However, in Florida, seasonal communities exist, and many people only live in the community for part of the year. Although the residents of the community may be seasonal, the work of the governing body is not.

Conducting an all-remote meeting is currently only permitted when the law is waived, generally under a state of emergency. According to Attorney General Advisory Opinion (AGO) 2020-03, it is the belief that a physically present quorum is required to conduct official business unless a state of emergency exists, and such statutory requirements are waived.

Current statute is silent on whether a non-physically present member of a governing body is required to be physically present to conduct official business before the body. There are multiple AGOs that provide if a physical quorum is present, then the non-physically present member can also participate.

During the 2023 Legislative Session, SB 894 and HB 157 were proposed to allow municipal governing bodies to conduct official business meetings no more than twice a year via teleconferencing or other electronic means, if all public notice and input requirements were met. The bills provided that anything could be conducted at these electronic meetings except for, formal actions taken on ordinance changes, and conducting of any quasi-judicial hearings.

Technology has paved the way for how our residents and municipal officials participate in the governing process. Updating the law to mirror our updated forms of participation will allow municipalities to continue running effectively, while accommodating our more seasonal communities.

Public meeting quorums using technology

Number: AGO 2020-03

Date: March 19, 2020

Subject:
Public meeting quorums using technology

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

Dear Governor DeSantis:

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

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

Question Presented

Under these circumstances, you ask the following question:

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

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

Discussion

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

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

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

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

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

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

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

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

Gen. Fla. 2010-34 (2010).

Conclusion

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

Sincerely,

Ashley Moody
Attorney General

AM/ttlm

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

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

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

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The 2024 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 166](#)
MUNICIPALITIES

[View Entire Chapter](#)

166.0213 Governing body meetings.—

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

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

History.—s. 1, ch. 2011-147; s. 1, ch. 2014-14.

By the Committee on Governmental Oversight and Accountability;
and Senators Bradley and Yarborough

585-03004-24

2024894c1

1 A bill to be entitled
2 An act relating to governing body meetings; amending
3 s. 166.0213, F.S.; authorizing governing bodies of
4 municipalities to convene meetings and conduct
5 official business via teleconferencing or other
6 technological means if certain conditions are met;
7 providing limitations on such meetings; providing that
8 certain limitations placed on such meetings may be
9 suspended by the Governor, for a specified timeframe,
10 upon a declared state of emergency impacting the
11 municipality in which the meeting would occur;
12 providing an effective date.

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

15
16 Section 1. Subsection (3) is added to section 166.0213,
17 Florida Statutes, to read:

18 166.0213 Governing body meetings.—

19 (3) (a) The governing body of a municipality may convene
20 meetings and conduct official business via teleconferencing or
21 other technological means as long as such meetings:

22 1. Meet all of the requirements for public notice, public
23 access, and public participation.

24 2. Do not convene meetings via teleconferencing or other
25 technological means more than two times per calendar year.

26 3. Do not include formal action on ordinances.

27 4. Are not a quasi-judicial hearing.

28 (b) The limitations placed on meetings conducted via
29 teleconferencing or other technological means under sub-

585-03004-24

2024894c1

30 paragraphs (a)2., (a)3., and (a)4. may be suspended by the
31 Governor during the first 60 days of a state of emergency
32 declared by the Governor pursuant to chapter 252 which affects
33 the municipality in which the meeting would occur.

34 Section 2. This act shall take effect July 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 894

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Bradley and Yarborough

SUBJECT: Governing Body Meetings

DATE: February 7, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 894 allows a municipality’s governing body to convene meetings and conduct official business via teleconferencing or other technological means two times per calendar year as long as such meetings meet all the requirements of public notice, public access, and public participation.

Meetings that include formal actions on ordinances or are quasi-judicial may not be conducted via teleconferencing or other technological means.

The Governor may suspend specific limitations placed on local meetings conducted via teleconferencing or other technological means for the first 60 days of a state of emergency that affects the municipality in which the meeting would occur, through his or her declaration of a state of emergency pursuant to ch. 252, F.S.

There is no impact state revenues and expenditures, but the bill may have an insignificant, indeterminate impact on local government expenditures relating to the implementation of meetings technology. See Section V.

The bill takes effect July 1, 2024.

II. Present Situation:

Open Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.¹ Each collegial body must provide reasonable notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.³ Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,” or the “Sunshine Law,” requires all meetings of any board or commission of any state agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken must be open to the public at all times.⁴ The governing board or commission must provide the public reasonable notice of such meetings.⁵

Members of the public must be given a reasonable opportunity to be heard on a proposition before a board or commission, with certain exceptions,⁶ including certain emergency situations affecting the public health, welfare, or safety of citizens and official acts that are no more than a ministerial.⁷

Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.⁸ Minutes of a public meeting must be promptly recorded and open to public inspection.⁹ Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.¹⁰ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹¹

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., authorizes state agencies to conduct public meetings via communications media technology¹² provided that the board complies with uniform rules of

¹ FLA CONST., art. I, s. 24(b).

² *Id.*

³ *Id.* Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

⁴ Section 286.011(1)-(2), F.S.

⁵ *Id.*

⁶ Section 286.0114(2), F.S.

⁷ Section 286.0114(3), F.S.

⁸ Section 286.011(6), F.S.

⁹ Section 286.011(2), F.S.

¹⁰ Section 286.011(1), F.S.

¹¹ Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

¹² Section 120.54(5)(b)2, F.S. The term “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

procedure¹³ adopted by the state Administration Commission.¹⁴ These rules contain notice requirements and procedures for providing points of access to the public. For example, a body subject to public meetings laws that will conduct its meeting exclusively using communications media technology must provide a means for a member of the public to attend, which must include physical attendance if the available technology is insufficient to permit all interest persons to attend.¹⁵ The public access to the meeting must be provided via a “designated place where a person interested in attending a communications media technology proceeding may go for the purpose of attending the proceeding.”¹⁶

While state agencies may conduct meetings, hearings, or workshops by communications media technology, there is no similar statute providing such authorization for local governments.

Over the years, the Office of the Attorney General has opined on a number of questions relating to the use of communications media technology for local government meetings. The Attorney General has concluded that where a quorum of membership is required for a local body to discuss or transact relevant public business in a properly noticed public meeting, that quorum of members must be present physically at the meeting place in order to constitute a proper quorum.¹⁷

Most recently, during the COVID-19 pandemic, the Attorney General was presented with the question whether and to what extent local governments may utilize teleconferencing or other technological means to convene meetings and conduct official business.¹⁸ The Attorney General advised that local governments may only conduct meetings by teleconferencing or other technological means if either:

- A statute permits a quorum to be present by means other than in person; or
- The in-person requirement for constituting a quorum is lawfully suspended during a state of emergency.¹⁹

However, in such case, public access must be afforded which permits the public to attend the meeting, which public access may be provided by teleconferencing or technological means.²⁰

The Attorney General has also advised that if a quorum of a local board is physically present, “the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances such as illness.”²¹

¹³ Rule 28-109, F.A.C.

¹⁴ See Op. Att’y Gen. Fla. 98-28 (1998). The Administration Commission is composed of the Governor and the Cabinet (s. 14.202, F.S.) The Cabinet is composed of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet (s. 20.03(1), F.S.).

¹⁵ See, Rule 28-109.004, F.A.C.

¹⁶ Rule 28-109.002(1), F.S.

¹⁷ Op. Att’y Gen. Fla. 2020-03 (2020).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Op. Att’y Gen. Fla 2003-41 (2003).

Additionally, the physical presence of a quorum has not been required where electronic media technology is used to allow public access and participation at workshop meetings where no formal action will be taken.²² For example, the Attorney General advised that airport authority members may conduct information discussions and workshops over the internet, provided proper notice is given, and interactive access by members of the public is provided.²³

Statutory Authorizations for Use of Communication Media Technology

There are instances in current law that expressly allow specified local entities to conduct public meetings via communications media technology with varying limitations. For example:

- A voting member of a regional planning council²⁴ that covers three or more counties may participate via telephone or videoconferencing to be counted towards a quorum, provided that at least one-third of the voting members are physically present at the meeting location.
- Certain entities created by interlocal agreement whereby the member agencies are located in at least five counties, of which three are not contiguous, may conduct public meetings and workshops by means of communications media technology.²⁵
- The Jacksonville Transit Authority may meet via communications media technology, however; a resolution, rule, or formal action is not binding unless a quorum is physically present at the noticed meeting location, and only members physically present may vote on any item.²⁶

Additionally, ch. 2017-214, Laws of Florida, authorizes the Monroe County School Board, Monroe County Commission, or any political subdivision thereof, to adopt rules and procedures for using communications media technology for meetings at which no final action is taken. Due to the length of the Florida Keys, Monroe County conducts physical meetings in three separate locations.²⁷ The highway connecting the Florida Keys spans 113 miles.²⁸

Municipal Governance

There are 411 municipalities in Florida, ranging in population from 8 to 924,900.²⁹ Just above 50 percent of Floridians live within the borders of a municipality.³⁰ The governing board of a

²² Office of the Attorney General, *Government-in-the-Sunshine Manual*, 39 (2023 ed.), .), available at <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last visited Jan. 11, 2024).

²³ Op. Att’y Gen. Fla 2001-66 (2001). *See Id.*

²⁴ Section 120.525(4), F.S. Pursuant to ch. 186, F.S., regional planning councils (RPCs) are comprehensive planning districts of the state, designated as the primary organization to address problems and plan solutions that are of greater-than-local concern or scope and recognized as Florida’s multipurpose regional entities in a position to plan for and coordinate intergovernmental solutions to growth-related problems. By statute, the state is divided into 10 RPC regions. Each county must be a member of their respective RPC and municipalities may be members at their option.

²⁵ Section 163.01(18), F.S.

²⁶ Section 349.04, F.S.

²⁷ *See* Monroe County Board of County Commissioners website, <https://www.monroecounty-fl.gov/1015/Board-of-County-Commissioners> (last visited Jan. 31, 2024).

²⁸ Miami Herald, *Driving down the Overseas Highway in the Florida Keys? What to know about your trip*, available at <https://www.miamiherald.com/news/local/community/florida-keys/article253285093.html> (last visited Jan. 12, 2024).

²⁹ Florida League of Cities, *Florida’s Cities*, https://www.floridaleagueofcities.com/docs/default-source/resources/about-florida-cities5ff9bbc41a9e6c4e8be5ff0000e8da5f.pdf?sfvrsn=ba67d7d5_0 (last visited Jan 31, 2024).

³⁰ *Id.*

municipality can have any number of members, whereby the smallest board has three members and the largest has 19.³¹ Ch. 166, F.S., governs the laws regarding municipalities.³²

Municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.³³ The governing body of a municipality has broad “home rule” legislative powers to enact ordinances, local laws, to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government’s residents.

Municipalities must notice intent to consider an ordinance 10 days before adoption and read the ordinance by title or in full on at least two separate days before adoption by vote.³⁴ While law making is done through ordinances, municipalities also have public meetings for many informal actions as well. To conduct business a municipality must have a quorum physically present, and a quorum is typically a majority of members of a governing board.³⁵

While members of a municipal governing body must participate in a public meeting in person to take action on any item, some municipalities have adopted a hybrid meeting process to allow participants from the public to participate in meetings via teleconferencing.³⁶

Section 166.0213, F.S., provides specified allowances to municipalities regarding their public meetings. Small municipalities with less than 500 residents can hold meetings within 5 miles of the exterior jurisdictional boundary of the municipality under certain circumstances.³⁷ Additionally, municipalities may hold joint meetings to receive, discuss, and act upon matters of mutual interest with the governing body of the county where the municipality is located or the governing body of another municipality.³⁸

Quasi-Judicial Hearings

Municipalities also must convene quasi-judicial meetings when citizens challenge certain land use decisions. A quasi-judicial process is a meeting of the governing body where members can only consider the competent and substantial evidence before the board, and the matters function similar to a court proceeding.³⁹ The Sunshine Law does not allow governing boards to hold

³¹ Florida League of Cities, *Florida Is Her Cities*, <https://floridaleagueofcities.com/docs/default-source/resources/yc-fun-facts-flyer-2019.pdf?> (last visited Jan. 31, 2024).

³² Section 166.011, F.S.

³³ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

³⁴ Section 166.041(3)(a), F.S.

³⁵ Op. Att’y Gen. Fla. 2010-34 (2010).

³⁶ *See* Tampa City Council, *Quasi-Judicial and Legislative Virtual Meeting Information*, <https://www.tampa.gov/city-council/quasi> (last visited Jan. 31, 2024) and City of Lake Worth Beach, *Virtual Meetings*, <https://lakeworthbeachfl.gov/government/virtual-meetings/> (last visited Jan 31, 2024).

³⁷ Section 166.0213(1), F.S.

³⁸ Section 166.0213(2), F.S.

³⁹ City of North Miami, *Resident’s Guide to a Quasi-Judicial Process*, <https://www.northmiamifl.gov/960/Residents-Guide-to-a-Quasi-Judicial-Proc> (last visited Jan. 31, 2024).

closed-door hearings or deliberations purely because the board is acting in a “quasi-judicial” capacity.⁴⁰

States of Emergency

The State Emergency Management Act, ch. 252, F.S., was enacted to be the legal framework for state emergency management activities, recognizing Florida’s vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.⁴¹ In order to reduce Florida’s vulnerability to these circumstances and to prepare to respond to them, the act promotes the state’s emergency readiness through enhanced coordination, long-term planning, and adequate funding.⁴²

The act also delineates the Governor’s authority to declare a state of emergency. When a state of emergency is issued, the Governor has the power to issue executive orders, proclamations and rules that have the force and effect of law.⁴³ In March 2020, during a state of emergency in response to the COVID-19 pandemic, the Governor issued an executive order suspending the requirement that a quorum be present in person and allowing local governments to meet via communications media technology, such as telephonic and video conferencing, as provided in s. 120.54(5)(b)2, F.S.⁴⁴

III. Effect of Proposed Changes:

The bill amends s. 166.0213, F.S., to allow the governing body of a municipality to convene meetings and conduct official business via teleconferencing or other technological means, as long as such meetings:

- Do not exceed two times per year;
- Meet all of the requirements for public notice, public access, and public participation;
- Do not include formal action on ordinances;
- Are not a quasi-judicial hearing.

The bill allows the Governor to waive the above limitations, except for the requirement to provide public notice, access, and participation, by issuance of a declaration of a state of emergency, pursuant to ch. 252, F.S., the State Emergency Act, that affects the municipality in which the meeting would occur. The waiver of the requirements must be specifically stated in the declaration of a state of emergency, and cannot extend for more than the first 60 days of the state of emergency.

The bill takes effect July 1, 2024.

⁴⁰ Office of the Attorney General, *Government-in-the-Sunshine Manual*, 36 (2023 ed.), <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last visited Jan. 31, 2024).

⁴¹ Section 252.311(1), F.S.

⁴² Section 252.311(2), F.S.

⁴³ Section 252.36(1)(b), F.S.

⁴⁴ Office of the Governor Executive Order 20-69, available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-69.pdf (last visited Feb. 1, 2024).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Municipal governments that wish to conduct public meetings via teleconferencing or other technological means may be required to spend additional funds to implement appropriate technology to allow for public attendance procedures required by law and rule.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 166.0213 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on February 6, 2024:

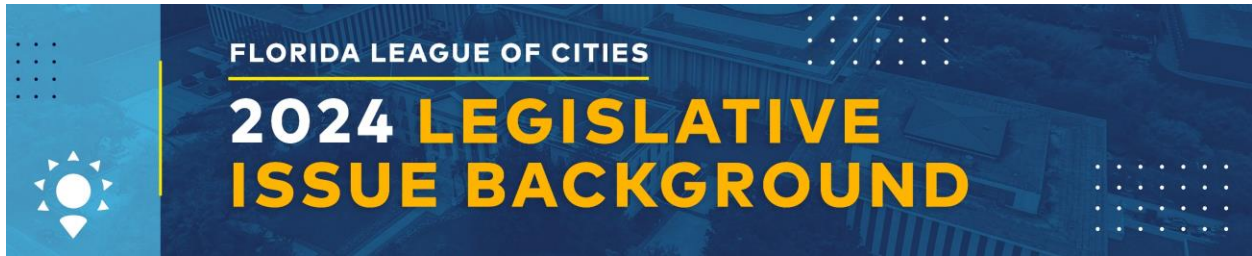
- Clarifies that the Governor’s declaration of a state of emergency cannot waive constitutional requirements of public notice, public accommodation, and public participation.
- Requires that a state of emergency affect the municipality in which the meeting would occur in order to allow for a waiver of limitations on meetings using teleconferencing or other technological means.
- Requires the Governor to specifically waive the limitations on meetings using teleconferencing or other technological means in his or her declaration of a state of emergency.

- B. **Amendments:**

None.



Public Records Exemption for City Clerks and Staff



Public Records Exemption for City Clerks and Staff

Draft Statement: The Florida League of Cities SUPPORTS legislation that provides a public records exemption for the personal information of current municipal clerks, investigative personnel and employees who perform municipal elections work.

Background: Many municipal staff who perform duties that include, or result in, investigations into complaints regarding election fraud, legal enforcement of hearings related to neglect or abuse, or other activities that could lead to a criminal prosecution, are exposed to threats and other acts of violence.

Municipal clerks often administer elections. Election workers are being targeted for threats and violence due to the nature of materials they are responsible for. Further, clerks are often involved in legal enforcement proceedings in actions related to violations of codes and ordinances. Occasionally, these proceedings have led to retaliation and threats by defendants.

There are currently 27 public records exemption in Florida. Of these exemptions, eight are for local personnel who either investigate, enforce or otherwise provide a service that can result in contentious interactions when action is taken. Municipal clerks and their respective staffs, fall within the window for greater protections.

The 2024 Florida Statutes

[Title X](#) [Chapter 119](#) [View Entire Chapter](#)
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS PUBLIC RECORDS

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

(1) AGENCY ADMINISTRATION.—

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.

(b)1. For purposes of this paragraph, "competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.

2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

(c) Any financial statement or other financial information necessary to verify the financial adequacy of a prospective bidder which an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a solicitation for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

(d)1. A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. 27.7001, the Attorney General's office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.

2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

(e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. 119.07(1).

(f) Agency-produced data processing software that is sensitive is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive does not prohibit an agency head from sharing or exchanging such software with another public agency.

(g)1. Information relating to communications services locations, project proposals, and challenges submitted to the Department of Commerce under s. 288.9962 or pursuant to a federal broadband access grant program implemented by the Department of Commerce is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such information is not otherwise publicly available and the release of such information would reveal:

- a. The location or capacity of communications network facilities;
- b. Communications network areas, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
- c. The features, functions, and capabilities of communications network infrastructure and facilities;
- d. Security, including cybersecurity, of the design, construction, and operation of the communications network and associated services and products;
- e. Specific customer locations; or
- f. Sources of funding or in-kind contributions for a project.

2. This exemption does not apply to any required functions of the department under s. 288.9962 relating to publishing a description of the proposed unserved areas to be served and the proposed broadband Internet speeds of the areas to be served as provided by the applicant and approved by the department.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) AGENCY INVESTIGATIONS.—

(a) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Whenever criminal intelligence information or criminal investigative information held by a non-Florida criminal justice agency is available to a Florida criminal justice agency only on a confidential or similarly restricted basis, the Florida criminal justice agency may obtain and use such information in accordance with the conditions imposed by the providing agency.

(c)1. Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2.a. A request made by a law enforcement agency to inspect or copy a public record that is in the custody of another agency and the custodian's response to the request, and any information that would identify whether a law enforcement agency has requested or received that public record are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, during the period in which the information constitutes active criminal intelligence information or active criminal investigative information.

b. The law enforcement agency that made the request to inspect or copy a public record shall give notice to the custodial agency when the criminal intelligence information or criminal investigative information is no longer active so that the request made by the law enforcement agency, the custodian's response to the request, and information that would identify whether the law enforcement agency had requested or received that public record are available to the public.

c. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption be applied to requests for information received before, on, or after the effective date of this paragraph.

(d) Any information revealing surveillance techniques or procedures or personnel is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any comprehensive inventory of state and local law enforcement resources compiled pursuant to part I, chapter 23, and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to an emergency, as defined in s. 252.34, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and unavailable for inspection, except by personnel authorized by a state or local law enforcement agency, the office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Division of Emergency Management as having an official need for access to the inventory or comprehensive policies or plans.

(e) Any information revealing the substance of a confession of a person arrested is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

(f) Any information revealing the identity of a confidential informant or a confidential source is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(g)1. All complaints and other records in the custody of any agency which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring practices, position classifications, salary, benefits, discipline, discharge, employee performance, evaluation, or other related activities are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding.

a. This exemption does not affect any function or activity of the Florida Commission on Human Relations.

b. Any state or federal agency that is authorized to have access to such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties.

2. If an alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(h)1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Any information that reveals the identity of the victim of the crime of child abuse as defined by chapter 827 or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking proscribed in s. 787.06(3)(a).

b. Any information that may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.

c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. 810.145, chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim.

2. Criminal investigative information and criminal intelligence information made confidential and exempt under this paragraph may be disclosed by a law enforcement agency:

a. In the furtherance of its official duties and responsibilities.

b. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

c. To another governmental agency in the furtherance of its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

(i) Any criminal intelligence information or criminal investigative information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(j)1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(k) A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of

misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
2. Concluded the investigation with a finding to proceed with disciplinary action or file charges.

(l)1. As used in this paragraph, the term:

a. "Body camera" means a portable electronic recording device that is worn on a law enforcement officer's body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.

b. "Law enforcement officer" has the same meaning as provided in s. 943.10.

c. "Personal representative" means a parent, a court-appointed guardian, an attorney, or an agent of, or a person holding a power of attorney for, a person recorded by a body camera. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney or agent; or the parent or guardian of a surviving minor child of the deceased. An agent must possess written authorization of the recorded person to act on his or her behalf.

2. A body camera recording, or a portion thereof, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the recording:

- a. Is taken within the interior of a private residence;
- b. Is taken within the interior of a facility that offers health care, mental health care, or social services; or
- c. Is taken in a place that a reasonable person would expect to be private.

3. Notwithstanding subparagraph 2., a body camera recording, or a portion thereof, may be disclosed by a law enforcement agency:

- a. In furtherance of its official duties and responsibilities; or
- b. To another governmental agency in the furtherance of its official duties and responsibilities.

4. Notwithstanding subparagraph 2., a body camera recording, or a portion thereof, shall be disclosed by a law enforcement agency:

a. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;

b. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;

c. To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.

d. Pursuant to a court order.

(I) In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court shall consider whether:

(A) Disclosure is necessary to advance a compelling interest;

(B) The recording contains information that is otherwise exempt or confidential and exempt under the law;

(C) The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;

(D) Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;

(E) Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;

(F) Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;

(G) The recording could be redacted to protect privacy interests; and

(H) There is good cause to disclose all or portions of a recording.

(II) In any proceeding regarding the disclosure of a body camera recording, the law enforcement agency that made the recording shall be given reasonable notice of hearings and shall be given an opportunity to participate.

5. A law enforcement agency must retain a body camera recording for at least 90 days.

6. The exemption provided in subparagraph 2. applies retroactively.

7. This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption shall continue to be exempt or confidential and exempt.

(m) Criminal intelligence information or criminal investigative information that reveals the personal identifying information of a witness to a murder, as described in s. 782.04, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 2 years after the date on which the murder is observed by the witness. A criminal justice agency may disclose such information:

1. In the furtherance of its official duties and responsibilities.

2. To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered.

3. To another governmental agency for use in the performance of its official duties and responsibilities.

4. To the parties in a pending criminal prosecution as required by law.

(n) Personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such information identifies that person as an alleged victim or as a victim of sexual harassment. Confidentiality may be waived in writing by the alleged victim or the victim. Such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator.

(p)1. As used in this paragraph, the term:

a. "Killing of a law enforcement officer who was acting in accordance with his or her official duties" means all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

b. "Killing of a minor" means all acts or events that cause or otherwise relate to the death of a victim who has not yet reached the age of 18 at the time of the death, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of the death of a victim under the age of 18, events that depict a victim under the age of 18 being killed, or events that depict the body of a victim under the age of 18 who has been killed.

c. "Killing of a victim of mass violence" means events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.

d. "Suicide of a person" means events that depict the suicide of a person, the body of a person whose manner of death was suicide, or any portion of such person's body.

2.a. A photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, the surviving parents shall have access to such records. If there is no surviving spouse or parent, the adult children shall have access to such records. Nothing in this sub-subparagraph precludes a surviving spouse, parent, or adult child of the victim from sharing or publicly releasing such photograph or video or audio recording.

b. A photograph or video or audio recording that depicts or records the killing of a minor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving parent of the deceased minor may view and copy any such photograph or video recording or listen to or copy any such audio recording. Nothing in this sub-subparagraph precludes a surviving parent of the victim from sharing or publicly releasing such photograph or video or audio recording.

c. A photograph or video or audio recording that depicts or records the suicide of a person is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the deceased may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, the surviving parents must have access to such records. If there is no surviving spouse or parent, the adult children and siblings must have access to such records. This section does not preclude a surviving spouse, parent, adult child, or sibling of the victim from sharing or publicly releasing such photograph or video or audio recording.

3.a. The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing an agent to obtain such records.

b. Notwithstanding subparagraph 2., a local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may view or copy a photograph or video recording or may listen to or copy an audio recording of the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person, and, unless otherwise required in the performance of its duties, the identity of the deceased shall remain confidential and exempt.

c. The custodian of the record, or his or her designee, may not permit any other person to view or copy such photograph or video recording or listen to or copy such audio recording without a court order.

4.a. The court, upon a showing of good cause, may issue an order authorizing any person to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person or to listen to or copy an audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person and may prescribe any restrictions or stipulations that the court deems appropriate.

b. In determining good cause, the court shall consider:

(I) Whether such disclosure is necessary for the public evaluation of governmental performance;

(II) The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and

(III) The availability of similar information in other public records, regardless of form.

c. In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass

violence, the killing of a minor, or the suicide of a person must be under the direct supervision of the custodian of the record or his or her designee.

5.a. A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, or to listen to or copy any such audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, such notice must be given to the parents of the deceased and, if there is no surviving parent, to the adult children of the deceased.

b. A surviving parent must be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a minor or to listen to or copy any such audio recording; a copy of such petition; and reasonable notice of the opportunity to be present and heard at any hearing on the matter.

c. A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the suicide of a person, or to listen to or copy any such audio recording; a copy of such petition; and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, such notice must be given to the parents of the deceased and, if there is no surviving parent, to the adult children and siblings of the deceased.

6.a. Any custodian of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person who willfully and knowingly violates this paragraph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

b. Any person who willfully and knowingly violates a court order issued pursuant to this paragraph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

c. A criminal or administrative proceeding is exempt from this paragraph but, unless otherwise exempted, is subject to all other provisions of chapter 119; however, this paragraph does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recording in the manner prescribed in this paragraph.

7. The exemptions in this paragraph shall be given retroactive application and shall apply to all photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person, regardless of whether the killing or suicide of the person occurred before, on, or after May 23, 2019. However, nothing in this paragraph is intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, the killing of a minor, or the suicide of a person.

8. This paragraph applies only to such photographs and video and audio recordings held by an agency.

9. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

(q)1. As used in this paragraph, the term:

a. "Conviction integrity unit" means a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

b. "Conviction integrity unit reinvestigation information" means information or materials generated during a new investigation by a conviction integrity unit following the unit's

formal written acceptance of an applicant's case. The term does not include:

(I) Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding.

(II) Petitions by applicants to the conviction integrity unit.

(III) Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from this section.

2. Conviction integrity unit reinvestigation information is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

(r)1. As used in this paragraph, the term:

a. "DNA record" means all information associated with the collection and analysis of a person's DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.

b. "Genetic genealogy" means the use of DNA testing in combination with traditional genealogical methods to infer relationships between persons and determine ancestry.

c. "Investigative genetic genealogy" means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing persons.

d. "Investigative genetic genealogy information and materials" means the information, records, and DNA records created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research, and includes the names and personal identifying information of persons identified through the use of genealogy databases, traditional genealogical methods, or other investigative means. The term does not include the name or personal identifying information of:

(I) The donor of a biological sample attributable to a perpetrator; or

(II) A person identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation.

e. "Traditional genealogical methods" means the use of genealogical databases and historical records to trace the family lineage of a person.

2. Investigative genetic genealogy information and materials are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Notwithstanding subparagraph 2., a law enforcement agency:

a. May disclose investigative genetic genealogy information and materials in furtherance of its official duties and responsibilities or to another governmental agency in the furtherance of its official duties and responsibilities.

b. Shall disclose investigative genetic genealogy information and materials pursuant to a court order for furtherance of a criminal prosecution. If a court orders the disclosure of such information and materials, the recipient of the information and materials must maintain the confidential and exempt status of the information and materials and may only publicly disclose the information and materials as necessary for purposes of a criminal prosecution as determined by the court.

4. The exemption in this paragraph applies to investigative genetic genealogy information and materials held by an agency before, on, or after July 1, 2023.

5. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) SECURITY AND FIRESAFETY.—

(a)1. As used in this paragraph, the term "security or firesafety system plan" includes all:

- a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;
 - b. Threat assessments conducted by any agency or any private entity;
 - c. Threat response plans;
 - d. Emergency evacuation plans;
 - e. Sheltering arrangements; or
 - f. Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.
2. A security or firesafety system plan or portion thereof for:
- a. Any property owned by or leased to the state or any of its political subdivisions; or
 - b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security or firesafety system plans held by an agency before, on, or after April 6, 2018.

3. Information made confidential and exempt by this paragraph may be disclosed:
 - a. To the property owner or leaseholder;
 - b. In furtherance of the official duties and responsibilities of the agency holding the information;
 - c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
 - d. Upon a showing of good cause before a court of competent jurisdiction.

(b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:
 - a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
 - b. To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or
 - c. Upon a showing of good cause before a court of competent jurisdiction.
4. The entities or persons receiving such information shall maintain the exempt status of the information.

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development, which records are held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

3. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

4. As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

(I) Encompasses more than 400,000 square feet of gross floor area; or

(II) Provides parking spaces for more than 2,500 motor vehicles.

e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

f. "Health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.

g. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

(d) Information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if release of such information would reveal:

1. The design, development, construction, deployment, and operation of network facilities;

2. Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;

3. The features, functions, and capabilities of network infrastructure and facilities;

4. The features, functions, and capabilities of network services provided to first responders, as defined in s. 112.1815, and other network users;

5. The design, features, functions, and capabilities of network devices provided to first responders and other network users; or

6. Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

(e)1.a. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency, and geographical maps indicating actual or proposed locations of 911, E911, or public safety radio communication system infrastructure or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency, before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:

a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;

b. To a licensed architect, engineer, or contractor who is performing work on or related to the 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency; or

c. Upon a showing of good cause before a court of competent jurisdiction.

4. The entities or persons receiving such information must maintain the exempt status of the information.

5. For purposes of this paragraph, the term "public safety radio" is defined as the means of communication between and among 911 public safety answering points, dispatchers, and first responder agencies using those portions of the radio frequency spectrum designated by the Federal Communications Commission under 47 C.F.R. part 90 for public safety purposes.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

(4) AGENCY PERSONNEL INFORMATION.—

(a)1. The social security numbers of all current and former agency employees which are held by the employing agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. The social security numbers of current and former agency employees may be disclosed by the employing agency:

a. If disclosure of the social security number is expressly required by federal or state law or a court order.

b. To another agency or governmental entity if disclosure of the social security number is necessary for the receiving agency or entity to perform its duties and responsibilities.

c. If the current or former agency employee expressly consents in writing to the disclosure of his or her social security number.

(b)1. Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission or pursuant to court order.

2.a. Personal identifying information of a dependent child of a current or former officer or employee of an agency, which dependent child is insured by an agency group insurance plan, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this exemption, "dependent child" has the same meaning as in s. 409.2554.

b. This exemption is remedial in nature and applies to such personal identifying information held by an agency before, on, or after the effective date of this exemption.

(c) Any information revealing undercover personnel of any criminal justice agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care

facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges and current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges¹ and current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.01; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I

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

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(27).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

w. The home addresses, telephone numbers, dates of birth, and photographs of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; and the names and locations of schools and day care facilities attended by the children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I

of the State Constitution. This exemption does not apply to a county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

x. The home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners of the Florida Gaming Control Commission; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

y. The home addresses, telephone numbers, dates of birth, and photographs of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; and the names and locations of schools and day care facilities attended by the children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. [192.001\(3\)](#), or a county tax collector, as defined in s. [192.001\(4\)](#), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

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

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

(e)1. As used in this paragraph, the term "law enforcement geolocation information" means information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of a law enforcement officer or a law enforcement vehicle.

2. Law enforcement geolocation information held by a law enforcement agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by an agency before, on, or after the effective date of the exemption. This exemption does not apply to uniform traffic citations, crash reports, homicide reports, arrest reports, incident reports, or any other official reports issued by an agency which contain law enforcement geolocation information.

3. A law enforcement agency shall disclose law enforcement geolocation information in the following instances:

- a. Upon a request from a state or federal law enforcement agency;
- b. When a person files a petition with the circuit court in the jurisdiction where the agency having custody of the requested law enforcement geolocation information is located specifying the reasons for requesting such information and the court, upon a showing of good cause, issues an order authorizing the release of the law enforcement geolocation information. In all cases in which the court releases law enforcement geolocation information under this sub-subparagraph, such information must be viewed or copied under the direct supervision of the custodian of the record or his or her designee; or
- c. When law enforcement geolocation information is requested for use in a criminal, civil, or administrative proceeding. This sub-subparagraph does not prohibit a court in such a criminal, civil, or administrative proceeding, upon a showing of good cause, from restricting or otherwise controlling the disclosure of such information.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

(5) OTHER PERSONAL INFORMATION.—

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. An agency shall identify in writing the specific federal or state law governing the collection, use, or release of social security numbers for each purpose for which the agency collects the social security number, including any authorized exceptions that apply to such collection, use, or release. Each agency shall ensure that the collection, use, or release of social security numbers complies with the specific applicable federal or state law.

c. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2. The written statement also shall state whether collection of the individual's social security number is authorized or mandatory under federal or state law.

4. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption. This exemption does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemption for social security numbers existing prior to May 13, 2002, or created thereafter.

6. Social security numbers held by an agency may be disclosed if any of the following apply:

a. The disclosure of the social security number is expressly required by federal or state law or a court order.

b. The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.

c. The individual expressly consents in writing to the disclosure of his or her social security number.

d. The disclosure of the social security number is made to comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or Presidential Executive Order 13224.

e. The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., provided that the authorized commercial entity complies with the requirements of this paragraph.

f. The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or his or her dependents.

g. The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, deferred compensation plan, or defined contribution plan.

h. The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the accuracy of personal information received by a commercial entity in the normal course of its business, including identification or prevention of fraud or matching, verifying, or retrieving information. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity, including the identification of any specific federal or state law that permits such use.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding \$500 per violation.

9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

(c)1. For purposes of this paragraph, the term:

a. "Child" means any person younger than 18 years of age.

b. "Government-sponsored recreation program" means a program for which an agency assumes responsibility for a child participating in that program, including, but not limited to, after-school programs, athletic programs, nature programs, summer camps, or other recreational programs.

2. Information that would identify or locate a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Information that would identify or locate a parent or guardian of a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

4. This exemption applies to records held before, on, or after the effective date of this exemption.

(d) All records supplied by a telecommunications company, as defined by s. 364.02, to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(f)1. The following information held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Medical history records and information related to health or property insurance provided by an applicant for or a participant in a federal, state, or local housing assistance program.

b. Property photographs and personal identifying information of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance for a presidentially declared disaster.

2. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs.

3. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

4. Sub-subparagraph 1.b. is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

(g) Biometric identification information held by an agency before, on, or after the effective date of this exemption is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this paragraph, the term "biometric identification information" means:

1. Any record of friction ridge detail;
2. Fingerprints;
3. Palm prints; and
4. Footprints.

(h)1. Personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency before, on, or after the effective date of this exemption.

3. Confidential and exempt personal identifying information shall be disclosed:

- a. With the express written consent of the applicant or recipient or the legally authorized representative of such applicant or recipient;
- b. In a medical emergency, but only to the extent that is necessary to protect the health or life of the applicant or recipient;
- c. By court order upon a showing of good cause; or
- d. To another agency in the performance of its duties and responsibilities.

(i)1. For purposes of this paragraph, "identification and location information" means the:

- a. Home address, telephone number, and photograph of a current or former United States attorney, assistant United States attorney, judge of the United States Courts of

Appeal, United States district judge, or United States magistrate;

b. Home address, telephone number, photograph, and place of employment of the spouse or child of such attorney, judge, or magistrate; and

c. Name and location of the school or day care facility attended by the child of such attorney, judge, or magistrate.

2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such attorney, judge, or magistrate submits to an agency that has custody of the identification and location information:

a. A written request to exempt such information from public disclosure; and

b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

(j) Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information held by an agency before, on, or after the effective date of this exemption.

(k)1. For purposes of this paragraph, the term:

a. "Identification and location information" means the:

(I) Home addresses, telephone numbers, and dates of birth of current and former military personnel, and the telephone numbers associated with the personal communication devices of current and former military personnel.

(II) Home addresses, telephone numbers, and dates of birth of the spouses and dependents of current and former military personnel, and the telephone numbers associated with the personal communication devices of such spouses and dependents.

(III) Names and locations of schools attended by the spouses of current and former military personnel and schools or day care facilities attended by dependents of current and former military personnel.

b. "Military personnel" means persons employed by the United States Department of Defense who are authorized to access information that is deemed "secret" or "top secret" by the Federal Government or who are servicemembers of a special operations force.

c. "Special operations force" has the same meaning as provided in s. 943.10(22).

2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the current or former military personnel member submits to an agency that has custody of the identification and location information:

a. A written request to exempt the identification and location information from public disclosure; and

b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

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

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 4, ch. 75-225; ss. 2, 3, 4, 6, ch. 79-187; s. 1, ch. 82-95; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-86; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-80; s. 63, ch. 90-136; s. 4, ch. 90-211; s. 78, ch. 91-45; s. 1, ch. 91-96; s. 1, ch. 91-149; s. 90, ch. 92-152; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 20, 25, 29, 31, 32, 33, 34, ch. 95-398; s. 3, ch. 96-178; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-259; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 1, ch. 2001-361; s. 1, ch. 2001-364; s. 1, ch. 2002-67; ss. 1, 3, ch. 2002-256; s. 1, ch. 2002-257; ss. 2, 3, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-16; s. 1, ch. 2003-100; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss.

1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; s. 4, ch. 2005-213; s. 41, ch. 2005-236; ss. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, ch. 2005-251; s. 14, ch. 2006-1; s. 1, ch. 2006-158; s. 1, ch. 2006-180; s. 1, ch. 2006-181; s. 1, ch. 2006-211; s. 1, ch. 2006-212; s. 13, ch. 2006-224; s. 1, ch. 2006-284; s. 1, ch. 2006-285; s. 1, ch. 2007-93; s. 1, ch. 2007-95; s. 1, ch. 2007-250; s. 1, ch. 2007-251; s. 1, ch. 2008-41; s. 2, ch. 2008-57; s. 1, ch. 2008-145; ss. 1, 3, ch. 2008-234; s. 1, ch. 2009-104; ss. 1, 2, ch. 2009-150; s. 1, ch. 2009-169; ss. 1, 2, ch. 2009-235; s. 1, ch. 2009-237; s. 1, ch. 2010-71; s. 1, ch. 2010-171; s. 1, ch. 2011-83; s. 1, ch. 2011-85; s. 1, ch. 2011-115; s. 1, ch. 2011-140; s. 48, ch. 2011-142; s. 1, ch. 2011-201; s. 1, ch. 2011-202; s. 1, ch. 2012-149; s. 1, ch. 2012-214; s. 1, ch. 2012-216; s. 1, ch. 2013-69; s. 119, ch. 2013-183; s. 1, ch. 2013-220; s. 1, ch. 2013-243; s. 1, ch. 2013-248; s. 1, ch. 2014-72; s. 1, ch. 2014-94; s. 1, ch. 2014-105; s. 1, ch. 2014-172; s. 1, ch. 2015-37; s. 1, ch. 2015-41; s. 1, ch. 2015-86; s. 1, ch. 2015-146; s. 1, ch. 2016-6; s. 1, ch. 2016-27; s. 1, ch. 2016-49; s. 1, ch. 2016-159; s. 1, ch. 2016-164; s. 1, ch. 2016-178; s. 1, ch. 2016-214; s. 2, ch. 2017-11; s. 1, ch. 2017-53; s. 1, ch. 2017-66; s. 1, ch. 2017-96; s. 1, ch. 2017-103; s. 1, ch. 2018-2; s. 1, ch. 2018-53; s. 1, ch. 2018-60; s. 1, ch. 2018-64; s. 1, ch. 2018-77; s. 8, ch. 2018-110; s. 1, ch. 2018-117; s. 1, ch. 2018-146; s. 1, ch. 2018-147; s. 26, ch. 2019-3; s. 1, ch. 2019-12; s. 1, ch. 2019-28; ss. 1, 3, ch. 2019-46; s. 1, ch. 2020-13; s. 1, ch. 2020-34; s. 1, ch. 2020-170; s. 1, ch. 2020-183; s. 1, ch. 2021-48; s. 1, ch. 2021-52; s. 1, ch. 2021-105; s. 30, ch. 2021-170; s. 1, ch. 2021-182; s. 3, ch. 2021-215; s. 1, ch. 2022-88; s. 1, ch. 2022-107; s. 1, ch. 2022-172; s. 1, ch. 2023-44; s. 1, ch. 2023-75; s. 1, ch. 2023-107; s. 1, ch. 2023-119; s. 1, ch. 2023-131; s. 1, ch. 2023-153; s. 1, ch. 2023-177; s. 1, ch. 2023-235; s. 1, ch. 2023-264; s. 3, ch. 2024-3; s. 16, ch. 2024-6; s. 1, ch. 2024-18; s. 1, ch. 2024-56; s. 53, ch. 2024-70; s. 1, ch. 2024-111; s. 5, ch. 2024-176; s. 1, ch. 2024-235; s. 1, ch. 2024-236; s. 1, ch. 2024-239; s. 1, ch. 2024-252.

¹**Note.**—The word “of” following the word “and” was deleted by the editors to provide contextual consistency.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading “Public Records.”

B. Portions former ss. 119.07(6), 119.072, and 119.0721; subparagraph (2)(g)1. former s. 119.0711(1); paragraph (2)(p) former s. 406.136.



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Public Records Exemptions

Records exempt from public records disclosure include:

- Lists of retirees' names or addresses.
- Social Security numbers of current and former members.
- Birth certificates and cause of death on death certificates.
- Medical information (only released if the member has provided a release).
- All personal identifying information regarding a participant in the FRS Investment Plan.
- Information regarding complaints of misconduct filed with an agency against an employee.
- Information identifying undercover personnel with any law enforcement agency.
- Home and mailing addresses, all personal telephone numbers and dates of birth for members employed in the positions listed below, if a written request for confidentiality is submitted to the Division of Retirement. A

request can be submitted by a member, the employer on a member's behalf or a qualifying spouse or child (see below).

- The name, home and mailing addresses, all personal telephone numbers and dates of birth of the spouses and children/dependents of such personnel are also exempt from disclosure.
- If a spouse or child/dependent of a member listed below is also an FRS member, a separate request to make the information in their own file exempt must be made.
- Photographs of current clerks of the circuit courts, deputy clerks of the circuit courts, clerks of the circuit courts personnel, county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys and their spouses and children.
- Addresses and corresponding telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence.
- Personal identifying information of the alleged victim in an allegation of sexual harassment.
- Personal identifying information of an injured or deceased employee which is contained in reports, notices, records or supporting documentation held by the Department of Financial Services pursuant to the Workers' Compensation Law.

Personnel eligible for public record exemptions include:

1. Current or former sworn or civilian law enforcement officers;
2. Current or former correctional officers and correctional probation officers;
3. Current or former personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft or other criminal activities;
4. Current or former personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect; as well as current and former employees of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed

against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health;

5. Current or former personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement;
6. Current or former non-sworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities or state regulatory requirement violations;
7. Current or former non-sworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities or state regulatory requirement violations;
8. Current or former emergency medical technicians or paramedics certified under Chapter 401;
9. Current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation or other activities that could lead to criminal prosecution or administrative discipline;
10. Current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile detention officer supervisors, juvenile justice residential officers, juvenile justice residential office supervisors I or II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselors, human services counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, or social services counselors of the Department of Juvenile Justice;
11. Current or former Firefighters;
12. Current or former Justices of the Supreme Court, district court of appeal judges, circuit and county court judges;
13. Current or former state attorneys and assistant state attorneys, statewide prosecutors, assistant statewide prosecutors, public defenders, assistant

public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;

14. Current general or special magistrates, compensation claim judges, Division of Administrative Hearing law judges, or child support enforcement hearing officers;
15. Current or former human resource, labor relations, or employee relations directors, assistant directors, managers or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration or other personnel-related duties;
16. Current or former code enforcement officers;
17. Current or former investigators or inspectors of the Department of Business and Professional Regulation;
18. Current county tax collectors;
19. Current or former guardian ad litem, as defined in section 39.820, Florida Statutes;
20. Current or former judges of United States Courts of Appeal, United States district judges, or United States magistrate judges;
21. Current or former United States attorneys or assistant United States attorneys; and
22. A current or former impaired practitioner consultant who is retained by an agency or current or former employee of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession.
23. Current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys.
24. Current clerks of the circuit courts, deputy clerks of the circuit courts, and clerk of the circuit courts personnel.
25. Current or former commissioners of the Florida Gaming Control Commission.
26. Current or former inspectors or investigators of the Department of Agriculture and Consumer Services.

27. Current and former military personnel.

For information regarding public records exemptions for universities and local agencies see the FRS Online Manual.

For information regarding public records exemptions for State employees contact your agency's human resource office.

Retirement

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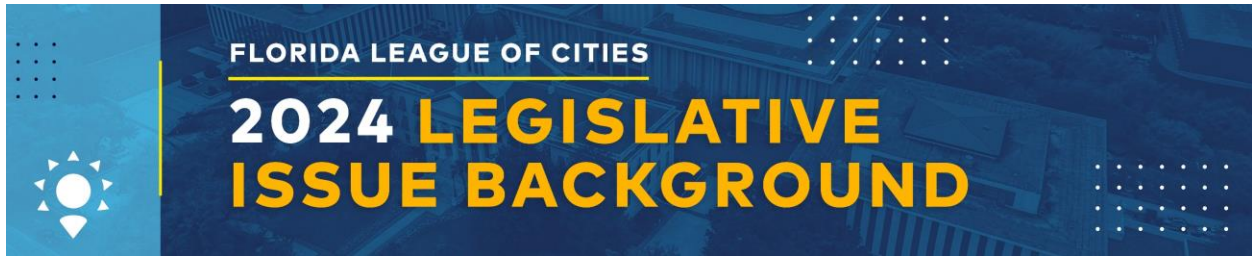
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Recreational Marijuana



Recreational Marijuana Legalization in the United States

Current Legal Status

- **Recreational Use:** As of 2023, **23 states**, along with Washington D.C., have legalized marijuana for adult recreational use. These states include major markets like California, Colorado, Illinois, Michigan, Massachusetts, Nevada, and Oregon.
- **Medical Use:** Over **37 states** have legalized marijuana for medical purposes, allowing patients with qualifying conditions to access cannabis through dispensaries and caregivers.
- **Decriminalization:** Several states have decriminalized possession of small amounts of marijuana, reducing or eliminating criminal penalties without fully legalizing sales or cultivation.

Recent Developments

- **Federal Landscape:** While marijuana remains illegal at the federal level, there has been growing bipartisan support for reforms. Discussions around potential federal legalization or decriminalization continue, which could significantly impact state regulations and the national market.
- **New States Legalizing:** States like **New York** and **Virginia** have recently legalized recreational marijuana, adding to the expanding list and signaling a nationwide shift toward acceptance.

Marijuana Tax Revenue by State

Top Revenue-Generating States

1. California

- **Revenue:** California has emerged as the largest cannabis market in the U.S., generating over **\$1 billion** in tax revenue annually.
- **Tax Structure:** Includes excise taxes, cultivation taxes, and sales taxes, which fund education, public health, and environmental programs.

2. Colorado

- **Revenue:** Colorado consistently ranks among the top states, with annual tax revenues exceeding **\$300 million**.

- **Usage of Funds:** Revenues support local governments, public schools, substance abuse programs, and law enforcement.

3. Illinois

- **Revenue:** Since legalizing recreational use in 2020, Illinois has generated over **\$500 million** in cannabis tax revenue.
- **Allocation:** Funds are directed towards community reinvestment, education, healthcare, and infrastructure projects.

4. Michigan

- **Revenue:** Michigan's cannabis industry brings in approximately **\$300 million** annually.
- **Spending:** Investments are made in substance abuse prevention, community grants, and regulatory oversight.

5. Massachusetts

- **Revenue:** Massachusetts has generated over **\$200 million** in tax revenue from cannabis sales.
- **Funding Areas:** Public health initiatives, education, and support for local communities.

Tax Structures

- **Excise Taxes:** Applied at various stages of production and sale, often a fixed amount per ounce or percentage of sales.
- **Sales Taxes:** Standard state and local sales taxes applied to cannabis products.
- **Special Taxes:** Some states impose additional taxes earmarked for specific purposes, such as environmental protection or public safety.

Economic Impact

- **Job Creation:** The cannabis industry has created tens of thousands of jobs in cultivation, distribution, retail, and ancillary services.
- **Business Growth:** Numerous small and large businesses have emerged, contributing to local economies and fostering entrepreneurship.
- **Tourism:** States like Colorado and California attract tourists interested in cannabis tourism, further boosting local economies.

Challenges and Considerations

Regulatory Complexity

- **State vs. Federal Laws:** The discrepancy between state legalization and federal prohibition creates challenges for businesses, particularly regarding banking and interstate commerce.
- **Compliance Costs:** High regulatory standards require significant investment in compliance, which can be a barrier for smaller businesses.

Black Market Persistence

- **Competitive Pricing:** High taxes and strict regulations can keep legal prices higher than black market alternatives, allowing illegal operations to persist.
- **Enforcement:** Ensuring compliance and cracking down on illegal sales remain ongoing challenges for state authorities.

Social Equity

- **Inclusion Programs:** Many states are implementing social equity programs to ensure that communities disproportionately affected by past marijuana prohibition can benefit from the legal market.
- **Licensing Barriers:** Ensuring fair access to licensing and business opportunities is crucial for equitable growth.

Future Trends

Federal Legalization Prospects

- **Potential Legislation:** Bills like the Marijuana Opportunity Reinvestment and Expungement (MORE) Act have gained traction, which could pave the way for federal legalization, taxation, and regulation.
- **Market Expansion:** Federal legalization would likely lead to a significant expansion of the market, increased investment, and standardized regulations across states.

Product Innovation

- **Diversification:** Growth in cannabis-infused products, such as edibles, beverages, and topicals, is expected to continue, catering to diverse consumer preferences.
- **Medical Research:** Ongoing research into the medical benefits of cannabis could lead to new therapeutic applications and products.

International Influence

- **Global Markets:** Changes in U.S. policy could influence global cannabis markets, leading to increased international trade and investment in the sector.

- **Regulatory Models:** The U.S. experience may serve as a model for other countries considering legalization, shaping global standards and practices.

Conclusion

Marijuana legalization and taxation in the United States have evolved rapidly over the past decade, generating substantial tax revenues and economic benefits for states. While challenges such as regulatory complexity and black-market competition persist, the overall trend points toward continued growth and broader acceptance. Future developments, including potential federal legalization and further product innovation, are likely to shape the industry's trajectory in the coming years.

State Marijuana Tax Research

State	Tax Rate	<u>Tax Revenue Allocations</u>											
		General Fund	Public Safety	Public Health	Public Schools	City Police	Fire Districts	Transportation Fund	Reseach & Regulatory	Environmental	Local Governments	Social Equity Programs	Veterans
Alaska	Weight-Based Tax	✓	✓	✓									
Arizona	16% Excise Tax				✓	✓	✓	✓					
California	15% Excise Tax		✓	✓						✓			
Colorado	15% Excise Tax + 15% Retail Tax		✓		✓								
Connecticut	\$0.62 Per Milligram + 6.35% Retail Sales Tax	✓		✓								✓	
Illinois	7% Excise Tax	✓			✓						✓	✓	
Maine	Weight-Based Tax + 10% Sales Tax	✓	✓										
Maryland	9% Sales and Use Tax	✓		✓					✓				
Massachusetts	10.75% Excise + 6.25% Sales + Local Tax < 3.25%												
Michigan	10% Excise + 6% Retail Tax				✓			✓			✓		
Missouri	6% Sales Tax		✓	✓									✓
Montana	20% Recreational Sales Tax	✓		✓									✓
Nevada	10% of Purchase + 15% Fair Market Value	✓											
New Jersey	6.625% Recreational Sales Tax	✓	✓						✓				
New Mexico	12% Excise Tax exp. 2025, Gradual Increase to 18%	✓									✓		
New York	9% Retail + 4% Local Tax + Weight-Based Tax			✓	✓						✓		
Oregon	17% State Retail + 3% for Localities		✓	✓	✓						✓	✓	
Rhode Island	7% Sales Tax + 10% Excise Tax + 3% Local Tax		✓	✓								✓	
Vermont	14% Excise Tax + 6% Sales Tax				✓							✓	
Washington	21% Excise Tax + 5.3% Sales Tax	✓		✓							✓		



Key Dates



2024 - 2025 Key Legislative Dates

October 2024

4 FLC Policy Committee Meetings (Round 1) – Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819

November 2024

5 General Election

8 FLC Policy Committee Meetings (Round 2) Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819

13-16 National League of Cities City Summit – Tampa, FL

December 2024

2-6 Legislative Interim Committee Meetings (House of Representatives only)

4-6 FLC Legislative Conference – Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819; FLC Policy Committee Meetings on Dec. 5 (Round 3)

9-13 Legislative Interim Committee Meetings (Senate only)

January 2025

13-17 Legislative Interim Committee Meetings

21-24 Legislative Interim Committee Meetings

February 2025

3-7 Legislative Interim Committee Meetings

10-14 Legislative Interim Committee

17-21 Legislative Interim Committee

20 FLC Legislative Session Preview Webinar at 2:00 p.m. ET



March 2025

- 4 Regular Legislative Session Convenes
- 10-12 NLC Congressional City Conference – Washington, DC
- 24-26 FLC Legislative Action Days – Tallahassee, FL

May 2025

- 2 Last Day of Regular Legislative Session
- 15 FLC Post Legislative Session Review Webinar at 2:00 p.m. ET

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



Notes

