



End of 2023 Florida Legislative Session Report

Overview

The Florida Legislature adjourned sine die Friday, May 5th after the passage of the fiscal year 2023-2024 state budget of \$117 billion (\$46.5 billion in General Revenue, \$29.5 billion in State Trust Funds, and \$41 billion in Federal Trust Funds). It represents a 5.5% increase over the current year budget. The Legislature also passed major bills relating to insurance reform, healthcare, education, housing, public safety, immigration, and elections. Several priorities of Governor Ron DeSantis, Senate President Kathleen Passidomo, and House Speaker Paul Renner passed.

So far, the 2023 regular session included:

1,873 Bills and PCBs filed

2,674 Amendments filed

3,229 Votes Taken

46 Floor Sessions

356 Bills passed both chambers

Below is a list of major bills that the Legislature passed this session.

Economy

HB 3 (Government and Corporate Activism) by Representative Rommel expands Governor DeSantis' directive regarding investing funds of the Florida Retirement System Defined Benefit Plan to cover all funds invested by state and local governments, including general revenue, trusts dedicated to specific purposes, money held by retirement plans, and surplus funds.

- Investment decisions, including written policies and the exercise of shareholder rights, must be driven solely by pecuniary factors, and may not sacrifice investment return to promote non-pecuniary factors.
- The Attorney General is authorized to bring civil or administrative actions to enforce provisions of the bill.

Governor DeSantis signed into law on 5/2/2023

SB 170 (Local Ordinances) by Senator Trumbull pertains to the passage and challenging of local ordinances.

- It adds to the process for local governments passing ordinances and gives certain additional rights to those challenging local ordinances.
- The bill requires counties and cities to produce a “business impact estimate” prior to passing an ordinance, with exceptions. The estimate must be published on the local

government's website and include certain information, such as the proposed ordinance's purpose, estimated economic impact on businesses, and compliance costs.

- Provides that a court may award up to \$50,000 in attorney fees to a prevailing plaintiff who successfully challenges an ordinance as arbitrary or unreasonable.

HB 7063 (Taxation) by Ways & Means Committee provides tax-related provisions designed to benefit both families and businesses.

For sales taxes, the bill:

- creates permanent exemptions for specified baby and toddler products and clothes, adult incontinence products, oral hygiene products, machinery and equipment to produce renewable natural gas, certain agricultural fencing, and small private investigative agency services.
- Provides a one-year exemption for certain ENERGY STAR certified refrigerators, refrigerator/freezer combinations, water heaters, and clothes washers and dryers; a one-year exemption for gas ranges and cooktops, and an estimated 13-month reduction in the business rent tax from 5.5% to 4.5%.
- Creates two 14-day “back-to-school” tax holidays, one in July and August 2023, and one in January 2024, for certain clothing, school supplies, learning aids and puzzles, and personal computers; a 14-day “disaster preparedness” holiday in May and June of 2023 for specified disaster preparedness supplies for families and their pets; a three-month “Freedom Summer” tax holiday from Memorial Day through Labor Day for specified

recreational items and activities; and a seven-day “Tool Time” tax holiday in September for tools and equipment needed in skilled trades.

For property taxes, the bill:

- Makes several changes to expand, clarify, or correct provisions related to homestead benefits for permanently and totally disabled veterans, first responders, and surviving spouses of either;
- Allows an educational facility to qualify for an exemption if they have a bona fide 98-year lease with nominal payments; and
- Makes technical and clarifying changes to several sections of existing law.

For corporate income tax, the bill:

- Adopts the Internal Revenue Code in effect on January 1, 2023, to maintain conformity with federal provisions; and

Creates a tax credit for homebuilders that purchase and install residential graywater systems, and for companies that purchase machinery and equipment for use in the production of human breast milk fortifiers.

HB 331 (Liens and Bonds) by Representative Overdorf modifies the notice of commencement, notice of termination, and notice of nonpayment forms. The bill further

- Allows licensed general or building contractors providing construction or program management services to claim construction liens for such services.

- Changes when a notice of termination must be recorded and served, and when such notice is effective.
- Modifies service requirements for documents required by the construction lien law.
- Modifies the available alternative forms of security that may be filed in lieu of a payment bond for public projects.
- Authorizes a person intending to make a claim against a payment bond to serve the surety with a copy of the notice of nonpayment, instead of an original document.
- Specifies that the methods for discharging a lien may also be used to release a lien, in whole or in part, and modifies the requirements for recording a satisfaction or release of lien with the clerk's office.
- Increases the bond amount and documentation necessary to deposit or file with the clerk's office to transfer a lien to a security.
- Entitles the prevailing party in an action to enforce a lien transferred to a security to recover reasonable attorney fees.
- Specifies that after a clerk's office records a notice of contest of claim against a payment bond or a notice of contest of lien and a certificate of service for such notice, the clerk must serve a copy of the recorded notice on the lienor and on the owner or the owner's attorney.
- Authorizes a building permit applicant to provide the issuing authority with the clerk's office official records identifying information in lieu of a certified copy of the notice or a notarized statement of filing.

- Increases the contract amount which excuses a building permit applicant from filing a copy of the notice of commencement or an authorized alternative with the issuing authority, from \$2,500 to \$7,500.

SB 262 (Technology Transparency/Data Privacy) by Senator Bradley prohibits employees of a governmental entity from using their position or any state resources to communicate with a social media platform to request that it remove content or accounts. Additionally, a governmental entity cannot initiate or maintain any agreements with a social media platform for the purpose of content moderation. The bill provides certain exceptions.

The bill creates a unified scheme to allow Florida's consumers to control the digital flow of their personal data. Specifically, it gives consumers the right to:

- Confirm and access their personal data;
- Delete, correct, or obtain a copy of that personal data;
- Opt out of the processing of personal data for the purposes of targeted advertising, the sale of personal data, or profiling in furtherance of a decision that produces a legal or similarly significant effect concerning a consumer;
- Opt out of the collection of sensitive data; and
- Opt out of the collection of personal data collected through the operation of a voice recognition feature.

The data privacy provisions of the bill generally apply to businesses that collect Florida consumers' personal data, make in excess of \$1 billion in global gross annual revenues, and meet one of the following thresholds:

- Derives 50 percent or more of its global gross annual revenues from the sale of advertisements, including from providing targeted advertising or the sale of ads online;
- Operates a consumer smart speaker and voice command component service with an integrated virtual assistant connected to a cloud computing service that uses hands-free verbal activation; or
- Operates an app store or digital distribution platform that offers at least 250,000 different software applications for consumers to download and install.

The Florida Department of Legal Affairs has authority to enforce the bill.

The bill also adds “biometric data” and “geolocation information” to the definition of “personal information” under the Florida Information Protection Act.

Insurance

SB 360 (Causes of Action Based on Improvements to Real Property) by Senator Hutson shortens the timeframes within which a property owner may bring a cause of action against a builder for alleged construction defects.

- The bill revises the commencement of the 4-year statute of limitations by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest.
- It also shortens the 10-year statute of repose to 7 years and revises the commencement of the 7-year (currently 10-year) statute of repose by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest.

- The bill provides that if a newly constructed single-dwelling residential building is used as a model home, the time to bring a construction defect action begins to run from the date that a deed is recorded first transferring title to another party.

Governor DeSantis signed into law on 4/13/2023

HB 837 (Civil Remedies) by Representative Gregory changes Florida’s comparative negligence system from a “pure” comparative negligence system to a “modified” system, except for medical negligence cases, so that a plaintiff who is more at fault for his or her own injuries than the defendant may not generally recover damages from the defendant.

- The bill provides uniform standards to assist juries in calculating the accurate value of medical damages in personal injury or wrongful death actions.
- The bill modifies Florida’s “bad faith” framework to allow an insurer to avoid third-party bad faith liability if the insurer tenders the policy limits or the amount demanded by the claimant within 120 days after receiving actual notice of the claim.
- The bill clarifies that negligence alone is not enough to demonstrate bad faith.
- Claimants are required to act in good faith with respect to furnishing information, making demands, setting deadlines, and attempting to settle the insurance claim.
- An insurer is allowed, when there are multiple claimants in a single action, to limit the insurer’s bad faith liability by paying the total amount of the policy limits at the outset.

Governor DeSantis signed into law on 3/24/2023

SB 1002 (Motor Vehicle Glass) by Senator Stewart prohibits motor vehicle repair shops, their employees, and their representatives, from offering an inducement to a customer in exchange for making an insurance claim for motor vehicle glass replacement or repair. The bill prohibits a policyholder, or any other person, from entering an assignment agreement of post loss benefits for motor vehicle glass replacement or repair, including for calibration or recalibration of advanced driver assistance systems.

SB 7052 (Insurer Accountability) by Banking and Insurance Committee contains various provisions intended to increase consumer protection and insurer accountability in Florida.

Regarding rates charged for insurance, the bill:

- Expands current law prohibiting authorized insurers from cancelling a residential property insurance policy until 90 days after repairs are complete. Under the bill, for all other types of losses, authorized insurers are prohibited from cancelling a property insurance policy during any pending claim until the earlier of when the property has been repaired or 1 year after the insurer issues the final claim payment;
- Protects policyholders whose insurance company becomes insolvent by requiring that Citizens Property Insurance Corporation cover property with open claims that are being handled by the Florida Insurance Guaranty Association;
- Requires insurers that violate the insurance code to obtain prior approval of forms from the Office of Insurance Regulation (OIR) for 3 years after the violation;

Regarding rates charged for insurance, the bill:

- Requires that property insurance and motor vehicle rate filings must include, and the OIR must consider in reviewing rates, the combined effect of recent legislative reforms;
 - o Appropriates \$500,000 from the Insurance Regulatory Trust Fund for the OIR to obtain an actuarial study to implement this requirement; and
- Requires that property insurance mitigation discounts be updated at least every 5 years and requires insurers to provide consumer-friendly information on their website describing hurricane mitigation discounts available to policyholders.

Regarding insurer claims handling, the bill:

- Requires liability insurers to follow proper claims handling practices on behalf of their insureds and that violations are subject to a 2.0 multiplier of fines;
- Requires residential property insurers to create and use claims-handling manuals that comply with the Insurance Code and comport to industry standards. The OIR may request a claims handling manual at any time and requires that each property insurer attest that their claims manuals comply with Florida law and that the insurer is able to properly implement their manual;

Regarding regulatory oversight of insurers, the bill:

- Specifies factors the OIR may consider in determining whether the continued operation of an insurer may be deemed to be hazardous to its policyholders, creditors, or the general public; specifies actions the OIR may take in determining an insurer's financial condition and actions the OIR may order an insurer to take in an effort to improve the insurer's financial condition.

- Increases maximum administrative fines that may be levied by the OIR on insurers by 250 percent generally, and 500 percent for violations stemming from a state of emergency such as a hurricane;

Tort

HB 1205 (Advertisements for Legal Services) by Representative Andrade prohibits a person or entity issuing a legal services advertisement from doing specified things, including presenting the advertisement as a medical alert or as offering advice from a state or federal governmental entity.

- Requires a person or entity issuing a legal services advertisement to solicit clients who may allege injury from an FDA-approved prescription drug or medical device to include specified statements and information in the advertisement, in the manner specified in the bill.
- Prohibits a person or entity from using, causing to be used, obtaining, selling, transferring, or disclosing a consumer's protected health information to another person or entity for the purpose of soliciting the consumer for legal services without the consumer's written authorization, except to an individual's legal representative under specified circumstances

HB 761 (Telephone Solicitation) by Representative Fabricio revises the prohibition on telephonic sales calls that use an automated system to specifically include unsolicited calls using

automated systems for the selection and dialing of telephone numbers or playing of a recorded message.

- Clarifies what constitutes consent and clear and conspicuous disclosure.
- Revises what constitutes a consumer’s “signature” for purposes of giving prior express written consent to include either an electronic or digital signature or an “act demonstrating consent,” which may include a simple affirmative response.
- Provides a safe harbor period of 15 days from the date a consumer notifies the telephone solicitor that he or she does not want to receive text message solicitations.

Healthcare

SB 300 (Pregnancy and Parenting Support) by Senator Grall prohibits abortion after six weeks of gestation unless an exception is met.

- Current-law exceptions to abortion time frames are maintained and a new exception is established for cases in which the pregnancy is the result of rape or incest.
- This new exception is available until the 15th week of gestation under the bill.

Governor DeSantis signed into law on 4/13/2023

SB 254 (Treatments for Sex Reassignment) by Senator Yarborough prohibits sex-reassignment prescriptions or procedures for patients younger than 18 years of age, except that prescription treatments may continue for such patients whose treatment was commenced before, and is still

active on, the bill's effective date, under specified parameters. The bill creates requirements for voluntary, informed consent that must be met in order for a patient 18 years of age or older to be treated with sex-reassignment prescriptions or procedures.

Education

HB 1 (Education) by Representative Tuck expands eligibility for the Florida Tax Credit Scholarship (FTC) and Family Empowerment Scholarship (FES-EO) scholarships to any student who is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school.

- Additionally, the bill provides flexibility for traditional public schools as it relates to educator certificate requirements, transportation, cost per student station, capital improvement funding, transfer of student records, and the online course requirement for high school graduation.
- The bill also requires the State Board of Education, with input from stakeholders, to report to the Governor and Legislature recommended repeals and revisions to the education code to reduce regulation on public schools.

Governor DeSantis signed into law on 3/27/2023

SB 266 (Higher Education) by Senator Grall requires the Board of Governors (BOG) of the State University System to:

- Include in the alignment of university missions, and in its strategic plan, economic development needs of the state and nondegree credential attainment, respectively.
- Provide a directive for universities regarding their programs for any violations of state law regarding discrimination and those based on specified theories.

The bill modifies personnel policies at each university by:

- Assigning hiring authority to the president, who may delegate authority to the executive team or individual deans.
- Specifying that the faculty grievance process terminates with the university president.
- Requiring the university president to present to the university board of trustees evaluations and salaries for personnel earning over \$200,000.
- Provides additional restrictions on public education institution spending, to include diversity, equity, and inclusion and social and political activism, with exceptions for students organizations, compliance with law, accreditation, and access programs.

Housing

SB 102 (Housing) by Senator Calatayud provides up to \$150 million annually to the State Apartment Incentive Loan (SAIL) program for certain specified uses such as infill and projects near military installations. These funds are to be redirected from the General Revenue service charge, and this provision sunsets 2033.

- The bill also provides up to a \$5,000 refund for sales tax paid on building materials used to construct an affordable housing unit funded through the (Florida Housing Finance Corporation) FHFC.

- The bill creates a new tax donation program to allow corporate taxpayers to direct certain tax payments to the FHFC, up to \$100 million annually, to fund the SAIL program.

Governor DeSantis signed into law on 3/29/2023

HB 1417 (Residential Tenancies) by Representative Esposito expressly preempts to the state the regulation of residential tenancies, the landlord-tenant relationship, and all other matters covered by the Act.

- The bill specifies that it supersedes any local government regulations on matters covered under the Act.
- It modifies the time for giving notice of termination of a tenancy for month-to-month tenancies and tenancies of a specified duration.

Public Safety

HB 543 (Public Safety) by Representative Brannan authorizes a person to carry a concealed weapon or concealed firearm (CWCF) if he or she has a valid license to carry a concealed weapon (CWL), or does not have a CWL, but otherwise satisfies the criteria for receiving and maintaining a CWL, except that such person is not required to demonstrate competency with a firearm or affirmatively state that he or she desires a legal means to carry a CWCF for lawful self-defense.

- The bill requires a person who carries a CWCF without a CWL to carry valid identification at all times when he or she is in actual possession of a CWCF and display

such identification upon demand by a law enforcement officer, a violation of which is punishable as a noncriminal violation and a \$25 fine; and obey the prohibition against carrying a CWCF in certain locations where a person with a CWL is not currently authorized to carry a CWCF, a violation of which is punishable as a second degree misdemeanor.

Governor DeSantis signed into law on 4/3/2023

Immigration

SB 1718 (Immigration) by Senator Ingoglia requires private employers with 25 or more employees to use the EVerify system for new employees beginning July 1, 2023.

- It also alters the defenses for employers using the I-9 Form or E-Verify system; and, beginning July 1, 2024, amends the penalties for an employer's noncompliance to register and use the EVerify system, including requiring reporting and allowing for the suspension and revocation of employer licenses in certain circumstances.
- The bill creates penalties for employers who knowingly employ unauthorized aliens, effective July 1, 2024.

Elections

SB 7050 (Elections) by Senator Hutson clarifies that Florida's resign-to-run law does not apply to persons seeking the office of President or Vice President of the United States.

SB 477 (Elections) by Representative Rizo reduces the length of the term limit for school board members to 8 years from 12 years. The term limit applies to terms of office beginning on or after November 8, 2022.

Public Employees

SB 256 (Employee Organizations Representing Public Employees) by Senator Ingoglia requires employees who wish to join certain employee organizations to sign a membership authorization form that is prescribed by the Public Employees Relations Commission (PERC), which must contain specific information.

- The bill also requires specific employee organizations to allow a member to revoke his or her membership in the organization at any time, and without any reason.
- The bill allows the PERC to inspect specific employee organization's membership authorization forms and membership revocation forms.
- It prohibits certain employee organizations from receiving their members' dues and assessments via salary deduction from the members' public employer.
- It requires an election whenever the membership of a public union falls below 60%.

If you have any questions regarding a bill listed or anything else concerning the 2023 session, please do not hesitate to contact us.



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