

2022 Post Session Legislative Update





Brian Jogerst & Greg Black
Tallahassee, Florida

Goals / Strategy

- ▶ To be a trusted resource to legislators and staff...we know our issues.
- ▶ We meet prior to and during session with key legislators and staff – educating them on our position/concerns.
- ▶ During Session –we have legislators, legislative staff, and Governor's Office calling us to solicit our input and recommendations.

2022 Session Quick Facts

Number of bills filed:	3735
Number of Amendments filed:	1,896
Votes Taken:	4,324
Bills Passed House and Senate:	285

Budget Overview

The House and Senate approved a \$112.1 billion state budget, which is the largest in Florida's history. By way of background, the following is the size of the state budgets over the past 10 years:

FY 2021-2022:	\$101 billion
FY 2020-2021:	\$93 billion
FY 2019-2020:	\$91 billion
FY 2018-2019:	\$88 billion
FY 2017-2018:	\$82 billion
FY 2016-2017:	\$82 billion
FY 2015-2016:	\$78 billion
FY 2014-2015:	\$77 billion
FY 2013-2014:	\$74 billion
FYI 2012-2013:	\$69 billion

The increase over current year is due to the increased revenue from Florida's economic growth (\$4 billion in January 2022 alone) along with federal recovery/stimulus funding.

2022 Legislative Update

► Redistricting

- Every 10 years the Legislature must redraw the Senate, House, and Congressional districts to reflect the changes in population.
- House and Senate
 - On February 3, 2022, the Florida Legislature passed CS/SJR 100, which contains the new state House and state Senate districts, which were sent to the Florida Supreme Court for their review, and the Court did not object to the new maps.
- Congressional
 - On March 29, the Governor vetoed CS/SJR 102, which were the congressional maps initially approved by the Legislature.
 - Legislature adopted new Congressional Maps during special session April 19–22, which the Governor has approved and have been challenged in court.
 - Florida picked up 1 new Congressional Seat – in Tampa Bay Region

2022 Legislative Session

- ▶ **Clerk of the Court Guardianship Improvement Task Force**
 - During Summer of 2021, Clerks convened a work group to develop recommendations, including a statewide guardianship data base.
 - Legislation sponsored by Senator Jennifer Bradley and Representative Linda Chaney.
 - Overall, elder law attorneys supported and recognized that additional guardianship data should be collected; however, ELS and AFELA had concerns with the bills as originally written and believed the bills provided too much specific personal information.

2022 Legislative Session

- The bill was amended to create **two databases**.
 - The **first** will be accessible by the judges, direct judicial staff, and court and clerks of court personnel authorized by a judge to assist with guardianship matters to perform their respective duties and includes specific information about the guardianships.
 - The **second** database will be accessible by the public and include information relating to the public and professional guardians, including contact information, licensure status and whether there has been any disciplinary actions taken by the Department of Elderly Affairs (DoEA).
- Additionally, the Office of Program Policy Analysis and Government Accountability (OPPAGA) will conduct a comparative analysis between the use of guardianships in Florida and that of guardianship laws in other states.

2022 Legislative Session

▶ Nursing Home Staffing

- Legislation filed by Senator Ben Albritton and Representative Lauren Melo
 - Florida law required nursing homes to provide at least 3.6 hours of direct care per resident, per day, of which at least 1 hour must be provided by a licensed nurse and at least 2.5 hours must be provided by a certified nursing assistant (CNA).
 - The bill reduced the number of hours of required CNA direct care from 2.5 hours to 2 hours daily.
 - For the remaining 0.6 hours of the required 3.6 total hours of direct care, the bill allows nursing homes to count care provided by select professions of their direct care staff, including nursing, dietary, therapeutic, and mental health.
 - The bill requires nursing homes to maintain records documenting compliance with minimum staffing requirements for at least five years, and makes evidence of a facility's compliance with state minimum staffing requirements inadmissible as evidence of compliance with federal staffing requirements.
 - For a nursing home change of ownership (CHOW), the bill makes the transferee liable for any unsatisfied adverse final judgement against the transferor if the Agency for Health Care Administration (AHCA) approves the CHOW before the judgement is due to be paid.
 - The bill provides that forms filed with AHCA pursuant to annual financial reporting requirements, and the information disclosed within the forms, are discoverable and may be admissible in a civil or administrative action.

2022 Legislative Session

► Trusts – CS/SB 1368-CS/HB 1001

- Legislation filed by Senator Joe Gruters and Representative Mike Beltran.
- The bill amends trust law to:
 - Extend the alternative perpetuities limit on the life of a trust from 360 years to 1,000 years for trusts created on or after the effective date of the bill.
 - Allow family trust companies, licensed family trust companies, and foreign licensed family trust companies, to elect a simplified form of periodic accounting, provided that the accounting contains sufficient notice of trust assets, debts, and transactions during the accounting period.
 - Allow, for family trust companies, licensed family trust companies, or foreign licensed family trust companies that are trustees of irrevocable trusts, the terms of such trusts to permit the accounting to the qualified beneficiaries only at the termination of the trust; upon the removal, resignation, or other event resulting in a trustee ceasing to serve as a trustee; or upon demand of a qualified beneficiary or the representative of a qualified beneficiary.
 - Simplify, for family trust companies, licensed family trust companies, and foreign licensed family trust companies, service of trust notices furnished by e-mail, including waiver of the current law requirement that the recipient annually agree to electronic notice.
 - Expand the scope of representation by a parent to include unborn descendants of an unborn child.
 - Extend the allowable life of a noncharitable trust to 1,000 years.
 - Extend the authority of a trust to reimburse the grantor for certain tax liabilities to apply to a trust formed under the laws of a foreign jurisdiction if the trust has a principal place of administration in this state.

2022 Legislative Session

► Misc. Bills

- HB 625–CS/SB 1502 – Estates and Trusts
 - Independent Action satisfied in certain circumstances, trusts for spouses and trustee resignation according to trust document
- SB 968–HB 649 – IRA's in Divorce
 - Clarifies that IRA's received in divorce are exempt from creditors
- SB 1796–HB 1395 – Alimony

2022 Legislative Session–failed

- ▶ **Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act**
 - Florida One of 4 States not part of uniform jurisdiction.
 - Legislation filed by Senator Danny Burgess and Representative Tracy Koster.
- ▶ Adopt uniform provisions for communication and cooperation between Florida courts and the courts of other states regarding a Florida resident who is temporarily within the borders of another state.
- ▶ Define when a person has significant connections to Florida such that the court of another state that has adopted the Uniform Act will honor the orders of the Florida court regarding the proper jurisdiction for the proceeding (Florida).
- ▶ Permit a Florida court to decline to exercise jurisdiction when the basis for jurisdiction would be based on the bad conduct of a person seeking the Florida court's jurisdiction.
- ▶ Outline a procedure when two states are attempting to exercise concurrent jurisdiction.
- ▶ Establish procedures for Florida to accept the transfer of a guardianship from another state, and the procedures to transfer a guardianship established in Florida to another state.

2022 Legislative Session – failed

- ▶ **Public Records / Elder Abuse Fatality Review Teams**
 - Legislation filed by Senator Audrey Gibson and Representative Fred Hawkins.
 - Bill created a public records and public meeting exemptions related to review teams by specifically requiring any information obtained by the review team for the purposes of conducting a case review, which is currently exempt from public records, *remains* exempt from public records.
 - ELS Supported the Bill.

2022 Elections

- ▶ Because of redistricting, all 40 Senate seats and all 120 seats in the House of Representatives will be on the ballot.
- ▶ In addition, the Governor and Cabinet, and 1 US Senate Seat are on the ballot.
- ▶ Assuming Republicans maintain control of the Legislature:
 - Senator Kathleen Passidomo will be the next Senate President
 - Two-time ELS Legislator of the Year.
 - Representative Paul Renner will be the next Speaker of the House.

Looking Ahead...

2023 Legislative Session

- ▶ After the 2022 Elections:
 - Organizational Session on November 20, 2022
 - One week of committee meetings in December 2022
 - Three week of committee meetings in January and February 2022.
 - 2023 Legislative Session
 - Begin March 11, 2023
 - End May 7, 2023

Medicaid Enrollment

- ▶ Enrollment in Florida's Medicaid program continued to increase in March and neared 5.19 million people. Here are monthly enrollment totals during the past year:

◦ April 2021:	4,743,135
◦ May 2021:	4,797,994
◦ June 2021:	4,846,412
◦ July 2021:	4,871,362
◦ August 2021:	4,917,093
◦ September 2021:	4,956,941
◦ October 2021:	5,002,662
◦ November 2021:	5,035,950
◦ December 2021:	5,060,593
◦ January 2022:	5,107,260
◦ February 2022:	5,144,598
◦ March 2022:	5,188,031

▪ + 444,906

• Source: Florida Agency for Health Care Administration

Thank You

*And thanks to Brian Jogerst for
the materials*