

FECA's Florida Legislative Update
Special Session 2021 - B
November 8, 2021

Earlier today, legislators filed a series of bills for the upcoming special session, which begins November 15. Below are summaries for each of the bills. There are two major issues at this point. First, since the special session will not convene until next week, the current situation is fluid and has the potential to change quickly. The second issue is whether or not any state laws governing vaccination mandates would preempt the federal contractor vaccine mandate and/or the OSHA Emergency Temporary Standard (ETS). However, if the federal directives are stayed and temporarily blocked nationwide by the courts, HB 1B/SB 2B would only impact a business that institutes a vaccine mandate.

Attached are all the bills filed so far for the special session. Please let Mike or me know if you have any questions.

COVID Vaccine Mandates

(SB 2B / HB 1B)

Sponsors: Sen. Burgess /Rep. Grall

Summary:

This legislation would prohibit private employers from imposing a COVID-19 vaccination mandate for employees unless certain exemptions are made available. The exemptions include: 1) medical reasons, including pregnancy or anticipated pregnancy; 2) religious reasons; 3) COVID-19 immunity; 4) periodic testing – at no cost to the employee; and 5) use of employer-provided personal protective equipment. The Florida Department of Health would promulgate emergency rules to specify the requirements for the exemptions and create forms that employees can use to document an exemption. An employee could file a complaint with the Department of Legal Affairs alleging that an exemption has not been offered or has been improperly applied or denied. An employer who fails to comply and terminates an employee improperly is subject to fines (up to \$10,000 for employers with less than 100 employees and up to \$50,000 for employers with over 100 employees.) The employer would be given a grace period to reinstate the aggrieved employee to avoid the fine. The bill also provides prohibition on COVID-19 vaccination mandates for students and public employees.

Committee Assignments:

SB 2B: Judiciary, Appropriations

HB 1B: Commerce

ACTION RECOMMENDED: NEUTRAL

Protect Private Health Care and Religious Information

(SB 4B / HB 3B)

Sponsors: Sen. Burgess /Rep. Massullo & Grall

Summary:

This legislation would make all information confidential if it relates to an investigation of a complaint alleging a private employer violated COVID-19 vaccination policies and practices. The information subject to the investigation would also be exempt from public record laws. Upon completion of the investigation, any records that would reveal medical information or employee religious beliefs would remain exempt from public record. Information may be released to another governmental entity and maintain a public record exemption. This statute would remain in effect until October 2, 2023.

Committee Assignments:

SB 4B: Judiciary, Appropriations

HB 3B: Commerce

ACTION RECOMMENDED: NEUTRAL

Florida Occupational Safety and Health State Plans

(SB 6B / HB 5B)

Sponsors: Sen. Hutson /Rep. Zika

Summary:

This legislation would establish the Florida Occupational Safety and Health State Plan that would implement and maintain policies, procedures, practices, rules and standards that would reduce the incidence of employee accidents, occupational diseases, and fatalities. The Executive Office of the Governor in conjunction with the Divisions within the Department Financial Services, Department of Revenue and Department of Business and Professional Regulation would develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees. A report will be submitted to the President of the Senate and Speaker of the House by January, 17, 2022 to determine the timelines for completion of the proposal and state plan implementation needs.

Committee Assignments:

SB 6B: Judiciary, Appropriations

HB 5B: Pandemics & Public Emergencies Committee

ACTION RECOMMENDED: NEUTRAL

Vaccinations During Public Health Emergencies

(SB 8B / HB 7B)

Sponsors: Sen. Bean /Rep. Andrade

Summary:

This legislation would remove the current authority of the State Health Officer to order vaccinations of individuals upon a declaration of a public health emergency.

Committee Assignments:

SB 8B: Judiciary, Appropriations

HB 7B: Health and Human Services

ACTION RECOMMENDED: NEUTRAL

