

CHAPTER 2021-269

Committee Substitute for Senate Bill No. 4-A

An act relating to gaming enforcement; amending s. 16.56, F.S.; expanding the authority of the Office of Statewide Prosecution within the Department of Legal Affairs to investigate and prosecute certain crimes; creating s. 16.71, F.S.; creating the Florida Gaming Control Commission within the Office of the Attorney General; providing for membership of the commission; authorizing the Governor to remove or suspend members of the commission under certain circumstances; requiring the Governor to remove or suspend members of the commission under certain circumstances; providing requirements and prohibitions relating to appointments; requiring the commission to appoint an executive director; providing requirements and duties for the executive director; requiring the chair of the commission to appoint an inspector general; creating s. 16.711, F.S.; creating the Division of Gaming Enforcement within the commission; specifying that the division shall be considered a criminal justice agency; requiring the commissioners to appoint a director of the division; providing requirements, powers, and duties of the director and investigators; authorizing the division and its investigators to seize and store certain contraband; defining the term “contraband”; providing construction; requiring the Department of Law Enforcement to provide certain assistance at the request of the division; requiring the commission to reimburse agencies for the actual cost of providing assistance; creating s. 16.712, F.S.; providing duties and responsibilities of the commission; authorizing the commission to take specified actions; requiring the commission to submit an annual report to the Governor and the Legislature; providing construction; creating s. 16.713, F.S.; specifying that certain persons are ineligible for appointment to or employment with the commission; providing prohibitions for commissioners and employees of the commission; defining the term “relative”; requiring commissioners and employees to provide notice relating to certain crimes; creating s. 16.714, F.S.; requiring the Department of Law Enforcement to perform specified background screenings upon the request of the division; requiring the commission to reimburse the department; requiring the division to conduct certain investigations; creating s. 16.715, F.S.; providing construction; providing standards of conduct for commissioners and employees of the commission; requiring commissioners and employees of the commission to complete specified annual training; requiring the Commission on Ethics to accept and investigate any alleged violations of the standards of conduct for commissioners and employees; providing requirements relating to such investigations; requiring a report to the Governor and the Legislature; authorizing a commissioner or an employee of the Florida Gaming Control Commission to request an advisory opinion from the Commission on Ethics; prohibiting certain persons from placing wagers in a facility licensed by the Florida Gaming Control Commission or by an Indian tribe that has a valid and active compact with the state;

providing prohibitions for former commissioners and former employees of the commission; providing civil penalties; defining the term “ex parte communication”; providing prohibitions and requirements relating to ex parte communications; providing civil penalties; amending s. 20.055, F.S.; revising definitions; amending s. 20.165, F.S.; conforming a provision to changes made by the act; amending s. 285.710, F.S.; revising the definition of the term “state compliance agency”; designating the commission as the state compliance agency having authority to carry out certain responsibilities; transferring to the commission by a type two transfer all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of the Department of Business and Professional Regulation related to certain responsibilities, effective on a specified date; transferring the Pari-mutuel Wagering Trust Fund to the commission, effective on a specified date; amending s. 932.701, F.S.; revising the definition of the term “contraband article”; providing a directive to the Division of Law Revision; providing an appropriation; requiring the department to provide administrative support for the commission during a specified fiscal year; requiring the department, in coordination with the Department of Legal Affairs and the Department of Management Services, to establish a working group for a specified purpose; providing requirements for such working group; providing construction; providing contingent effective dates.

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

Section 1. Paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate “budget entity” as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, home-invasion robbery, and patient brokering;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(8)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue

independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the Florida Anti-Fencing Act;
5. Any violation of the Florida Antitrust Act of 1980, as amended;
6. Any crime involving, or resulting in, fraud or deceit upon any person;
7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135 or any violation of chapter 827 where the crime is facilitated by or connected to the use of the Internet or any device capable of electronic data storage or transmission;
8. Any violation of chapter 815;
9. Any criminal violation of part I of chapter 499;
10. Any violation of the Florida Motor Fuel Tax Relief Act of 2004;
11. Any criminal violation of s. 409.920 or s. 409.9201;
12. Any crime involving voter registration, voting, or candidate or issue petition activities;
13. Any criminal violation of the Florida Money Laundering Act;
14. Any criminal violation of the Florida Securities and Investor Protection Act; ~~or~~
15. Any violation of chapter 787, as well as any and all offenses related to a violation of chapter 787; or
16. Any criminal violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. Informations or indictments charging such offenses shall contain general allegations stating the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

Section 2. Section 16.71, Florida Statutes, is created to read:

16.71 Florida Gaming Control Commission; creation; meetings; membership.—

(1) CREATION; MEETINGS.—

(a) There is created within the Department of Legal Affairs, Office of the Attorney General, the Florida Gaming Control Commission, hereinafter referred to as the commission. The commission shall be a separate budget entity and the commissioners shall serve as the agency head. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by law.

(b) The commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including, but not limited to, personnel, purchasing transactions involving real or personal property, and budgetary matters.

(c) The commission shall convene at the call of its chair or at the request of a majority of the members of the commission. Meetings may be held via teleconference or other electronic means. Three members of the commission constitute a quorum, and the affirmative vote of the majority of a quorum is required for any action or recommendation by the commission. However, notwithstanding any other provision of law, the affirmative vote of three members is required to adopt a proposed rule, including an amendment to or repeal of an existing rule that meets or exceeds any of the criteria in s. 120.54(3)(b)1. or s. 120.541(2)(a). The commission may meet in any city or county of the state.

(2) MEMBERSHIP.—

(a) The commission shall consist of five members appointed by the Governor, and subject to confirmation by the Senate, for terms of 4 years. Members of the commission must be appointed by January 1, 2022. The Governor shall consider appointees who reflect Florida's racial, ethnic, and gender diversity. Of the initial five members appointed by the Governor, and immediately upon appointment, the Governor shall appoint one of the members as the initial chair and one of the members as the initial vice chair. At the end of the initial chair's and vice chair's terms pursuant to subparagraph 1., the commission shall elect one of the members of the commission as chair and one of the members of the commission as vice chair.

1. For the purpose of providing staggered terms, of the initial appointments, two members shall be appointed to 4-year terms, two members shall be appointed to 3-year terms, and one member shall be appointed to a 2-year term.

2. Of the five members, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for at least the preceding 10 years.

3. Of the five members, each appellate district shall have one member appointed from the district to the commission who is a resident of the district at the time of the original appointment.

(b) A commissioner shall serve until a successor is appointed, but commissioners may not serve more than 12 years. Vacancies shall be filled for the unexpired portion of the term. The salary of each commissioner is equal to that paid under state law to a commissioner on the Florida Public Service Commission.

(c) The Governor shall have the same power to remove or suspend commissioners as set forth in s. 7, Art. IV of the State Constitution. In addition to such power, the Governor must remove a member who is convicted of or found guilty of or has pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor that directly relates to gambling, dishonesty, theft, or fraud.

(d) Upon the resignation or removal from office of a member of the commission, the Governor shall appoint a successor pursuant to paragraph (a) who, subject to confirmation by the Senate, shall serve the remainder of the unfinished term.

(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

(a) A person may not be appointed by the Governor to the commission until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the Governor, and the Governor determines that the person meets all the requirements for appointment under this section. However, a person who is prohibited from being appointed under s. 16.713 may not be appointed by the Governor.

(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:

1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; an officer, official, or employee of such permitholder or licensee; or an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 550.002(37), of such entity; or

3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.

(4) EXECUTIVE DIRECTOR.—

(a) To aid the commission in its duties, the commission must appoint a person who is not a member of the commission to serve as the executive director of the commission. A person may not be appointed as executive director until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the commission, and the commission determines that the person meets all the requirements for appointment as the executive director. The executive director shall supervise, direct, coordinate, and administer all activities necessary to fulfill the commission's responsibilities. The commission must appoint the executive director by April 1, 2022.

(b) The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations.

(c) The executive director shall maintain headquarters in and reside in Leon County.

(d) The salary of the executive director is equal to that paid under state law to a commissioner on the Florida Public Service Commission.

(5) INSPECTOR GENERAL.—The chair of the commission shall appoint an inspector general who shall perform the duties of an inspector general under s. 20.055.

Section 3. Section 16.711, Florida Statutes, is created to read:

16.711 Division of Gaming Enforcement; creation; duties.—

(1) There is created within the Florida Gaming Control Commission a Division of Gaming Enforcement. The Division of Gaming Enforcement shall be considered a criminal justice agency as defined in s. 943.045.

(2) The commissioners shall appoint a director of the Division of Gaming Enforcement who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the division.

(3) The director and all investigators employed by the division must meet the requirements for employment and appointment provided by s. 943.13 and must be certified as law enforcement officers as defined in s. 943.10(1). The director and such investigators shall be designated law enforcement officers and shall have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, or any rule adopted pursuant thereto, or any law of this state. Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in

which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission shall also have access to, and shall have the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.

(4)(a) The division and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. For purposes of this section, the term “contraband” has the same meaning as the term “contraband article” in s. 932.701(2)(a)2.

(b) The division is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this paragraph.

(c) This subsection does not limit the authority of any other person authorized by law to seize contraband.

(5) The Department of Law Enforcement shall provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the executive director of the commission and agreed to by the executive director of the Department of Law Enforcement. Any other state agency, including the Department of Business and Professional Regulation and the Department of Revenue, shall, upon request, provide the commission with any information relevant to any investigation conducted pursuant to this section. The commission shall reimburse any agency for the actual cost of providing any assistance pursuant to this subsection.

Section 4. Effective July 1, 2022, section 16.712, Florida Statutes, is created to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(1) The commission shall do all of the following:

(a) Exercise all of the regulatory and executive powers of the state with respect to gambling, including, without limitation thereto, pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding games authorized by s. 15, Art. X of the State Constitution.

(b) Establish procedures consistent with chapter 120 to ensure adequate due process in the exercise of its regulatory and executive functions.

(c) Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849.

(d) Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribal Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.

(e) Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission related to any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events; any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and the use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission, and provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of nonproprietary information that may warrant further investigation by such entities to ensure the integrity of wagering activities in the state.

(f) Review any matter within the scope of the jurisdiction of the Division of Pari-mutuel Wagering.

(g) Review the regulation of licensees, permitholders, or persons regulated by the Division of Pari-mutuel Wagering and the procedures used by the division to implement and enforce the law.

(h) Review the procedures of the Division of Pari-mutuel Wagering which are used to qualify applicants applying for a license, permit, or registration.

(i) Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under chapter 24, part II of chapter 285, chapter 550, chapter 551, or chapter 849 and

determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.

(j) Refer criminal violations of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.

(k) Exercise all other powers and perform any other duties prescribed by the Legislature.

(2)(a) The commission may adopt rules to implement this section.

(b) The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers.

(c) The commission may submit written recommendations to enhance the enforcement of gaming laws of the state to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) By December 1 of each year, the commission shall make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include all of the following:

(a) Recent events in the gaming industry, including pending litigation, pending facility license applications, and new and pending rules.

(b) Actions of the commission relative to the implementation and administration of this section.

(c) The state revenues and expenses associated with each form of authorized gaming. Revenues and expenses associated with pari-mutuel wagering shall be further delineated by the class of license.

(d) The performance of each pari-mutuel wagering licensee, cardroom licensee, and slot licensee.

(e) Actions of the commission as the state compliance agency, and financial information published by the Office of Economic and Demographic Research, relative to gaming activities authorized pursuant to s. 285.710(13).

(f) A summary of disciplinary actions taken by the commission.

(g) The receipts and disbursements of the commission.

(h) A summary of actions taken and investigations conducted by the commission.

(i) Any additional information and recommendations that the commission considers useful or that the Governor, the President of the Senate, or the Speaker of the House of Representatives requests.

(4) The commission shall annually develop a legislative budget request pursuant to chapter 216. Such request is not subject to change by the Department of Legal Affairs or the Attorney General, but shall be submitted by the Department of Legal Affairs to the Governor for transmittal to the Legislature.

(5) The commission is authorized to contract or consult with appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties.

(6) The commission shall exercise all of its regulatory and executive powers and shall adopt, apply, construe, and interpret all laws and administrative rules in a manner consistent with the gaming compact ratified, approved, and described in s. 285.710(3).

(7) The commission shall confirm, prior to the issuance of an operating license, that each permitholder has submitted proof with their annual application for a license, in such a form as the commission may require, that the permitholder continues to possess the qualifications prescribed by chapter 550, and that the permit has not been disapproved by voters in an election.

Section 5. Section 16.713, Florida Statutes, is created to read:

16.713 Florida Gaming Control Commission; appointment and employment restrictions.—

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—The following persons are ineligible for appointment to the commission:

(a) A person who holds any office in a political party.

(b) A person who within the previous 10 years has been convicted of or found guilty of or has pled nolo contendere to, regardless of adjudication, in any jurisdiction, any felony, or a misdemeanor that directly related to gambling, dishonesty, theft, or fraud.

(c) A person who has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a crime listed in s. 775.21(4)(a)1. or s. 776.08.

(d) A person who has had a license or permit issued under chapter 550, chapter 551, or chapter 849 or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—

(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:

1. Hold a permit or license issued under chapter 550 or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), of such entity;

3. Be a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission; or

4. Be a bingo game operator or an employee of a bingo game operator.

(b) A person is ineligible for appointment to or employment with the commission if, within the 2 years immediately preceding such appointment or employment, he or she violated paragraph (a) or solicited or accepted employment with, acquired any direct or indirect interest in, or had any direct or indirect business association, partnership, or financial relationship with, or is a relative of:

1. Any person or entity who is an applicant, licensee, or registrant with the Division of Pari-mutuel Wagering or the commission; or

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; any contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or any ultimate equitable owner, as defined in s. 550.002(37), of such entity.

(c) A person who is ineligible for employment with the commission under paragraph (b) due to being a relative of a person listed under subparagraph (b)1. or subparagraph (b)2. may submit a waiver request to the commission for the person to be considered eligible for employment. The commission shall consider waiver requests on a case-by-case basis and shall approve or deny each request. If the commission approves the request, the person is eligible for employment with the commission. This paragraph does not apply to persons seeking appointment to the commission.

For the purposes of this subsection, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(3) PERSONS INELIGIBLE FOR EMPLOYMENT WITH THE COMMISSION.—

(a) A person is ineligible for employment with the commission if he or she has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a felony within 5 years before the date of application; convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor within 5 years before the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or dismissed from prior employment for gross misconduct or incompetence or intentionally making a false statement concerning a material fact in connection with the application for employment to the commission.

(b) If an employee of the commission is charged with a felony while employed by the commission, the commission shall suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee of the commission is charged with a misdemeanor while employed by the commission, the commission shall suspend the employee, with or without pay, and may terminate employment with the commission upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

(4) NOTIFICATION REQUIREMENTS.—

(a) A commissioner or an employee of the commission must notify the commission within 3 calendar days after arrest for any offense.

(b) A commissioner or an employee must immediately provide detailed written notice of the circumstances to the commission if the member or employee is indicted, charged with, convicted of, pleads guilty or nolo contendere to, or forfeits bail for:

1. A misdemeanor involving gambling, dishonesty, theft, or fraud;
2. A violation of any law in any state, or a law of the United States or any other jurisdiction, involving gambling, dishonesty, theft, or fraud which would constitute a misdemeanor under the laws of this state; or
3. A felony under the laws of this or any other state, the United States, or any other jurisdiction.

Section 6. Section 16.714, Florida Statutes, is created to read:

16.714 Florida Gaming Control Commission background screening requirements; investigations by the Division of Gaming Enforcement.—

(1) LEVEL 2 BACKGROUND SCREENINGS.—The Department of Law Enforcement shall, at the request of the Division of Gaming Enforcement, perform a level 2 background screening pursuant to chapter 435 on an employee of the division and on any other employee of the commission for which the commission deems a level 2 background screening necessary, including applicants for employment. The commission shall reimburse the Department of Law Enforcement for the actual costs of such investigations.

(2) LEVEL 1 BACKGROUND SCREENINGS.—The Department of Law Enforcement shall, at the request of the division, perform a level 1 background screening pursuant to chapter 435 on any employee of the commission, including applicants for employment, who is not listed in subsection (1).

(3) INVESTIGATIONS.—The division shall conduct investigations of members and employees of the commission, including applicants for contract or employment, as are necessary to ensure the security and integrity of gaming operations in this state. The commission may require persons subject to such investigations to provide such information, including fingerprints, as is needed by the Department of Law Enforcement for processing or as is otherwise necessary to facilitate access to state and federal criminal history information.

Section 7. Section 16.715, Florida Statutes, is created to read:

16.715 Florida Gaming Control Commission standards of conduct; ex parte communications.—

(1) STANDARDS OF CONDUCT.—

(a) In addition to the provisions of part III of chapter 112, which is applicable to commissioners on and employees with the Florida Gaming Control Commission by virtue of their being public officers and public employees, the conduct of commissioners and employees shall be governed by the standards of conduct provided in this subsection. Nothing shall prohibit the standards of conduct from being more restrictive than part III of chapter 112. Further, this subsection may not be construed to contravene the restrictions of part III of chapter 112. In the event of a conflict between this subsection and part III of chapter 112, the more restrictive provision shall apply.

(b)1. A commissioner or employee of the commission may not accept anything from any business entity that, either directly or indirectly, owns or controls any person regulated by the commission or from any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

2. A commissioner or an employee may attend conferences, along with associated meals and events that are generally available to all conference participants, without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner or an employee may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any person regulated by the commission and that are limited to commissioners or employees only, committee members, or speakers if the commissioner or employee is a member of a committee of the association of regulatory agencies which organized the conference or is a speaker at the conference. It is not a violation of this subparagraph for a commissioner or an employee to attend a conference for which conference participants who are employed by a person regulated by the commission have paid a higher conference registration fee than the commissioner or employee, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a person regulated by the commission.

3. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner or an employee may not accept any form of employment with or engage in any business activity with any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; any person regulated by the commission; or any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

4. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner, an employee, or a relative living in the same household as a commissioner or an employee may not have any financial interest, other than shares in a mutual fund, in any person regulated by the commission; in any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; or in any business entity that, either directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission. If a commissioner, an employee, or a relative living in the same household as a commissioner or an employee acquires any financial interest prohibited by this subsection during the commissioner's term of office or the employee's employment with the commission as a result of events or actions beyond the commissioner's, the employee's, or the relative's control, he or she shall immediately sell such financial interest. For the purposes of this subsection, the term "relative" has the same meaning as in s. 16.713(2)(b).

5. A commissioner or an employee may not accept anything from a party in a proceeding currently pending before the commission.

6. A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities

on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

7. A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

8. A commissioner or an employee may not act in an unprofessional manner at any time during the performance of official duties.

9. A commissioner or an employee must avoid impropriety in all activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.

10. A commissioner or an employee may not directly or indirectly, through staff or other means, solicit anything of value from any person regulated by the commission, or from any business entity that, whether directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.

11. A commissioner may not lobby the Governor or any agency of the state, members or employees of the Legislature, or any county or municipal government or governmental agency except to represent the commission in an official capacity.

(c) A commissioner or an employee of the commission must annually complete at least 4 hours of ethics training that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subjects are covered.

(d) The Commission on Ethics shall accept and investigate any alleged violations of this subsection pursuant to the procedures contained in ss. 112.322-112.3241. The Commission on Ethics shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112. A commissioner or an employee of the commission may request an advisory opinion from the Commission on Ethics, pursuant to s. 112.322(3)(a), regarding the standards of conduct or prohibitions set forth in this section or s. 16.71.

(e)1. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this subsection, allegations are made as to the identity of the person giving or providing the prohibited thing, that

person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense.

2. If the Commission on Ethics determines that the person gave or provided a prohibited thing, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

(f) A commissioner, an employee of the commission, or a relative living in the same household as a commissioner or an employee may not place a wager in any facility licensed by the commission or any facility in the state operated by an Indian tribe that has a valid and active compact with the state.

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(a) A commissioner, the executive director, and an employee of the commission may not personally represent another person or entity for compensation before the executive or legislative branch for a period of 2 years following the commissioner's or executive director's end of service or a period of 2 years following employment unless employed by another agency of state government.

(b) A commissioner may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's resignation or termination of service on the commission; or

3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game operator.

(d) Any person violating paragraph (b) or paragraph (c) shall be subject to the penalties for violations of standards of conduct for public officers, employees of agencies, and local government attorneys provided in s. 112.317 and a civil penalty of an amount equal to the compensation that the person receives for the prohibited conduct.

(3) EX PARTE COMMUNICATIONS.—

(a) As used in this section, the term “ex parte communication” means any communication that:

1. If it is a written or printed communication or is a communication in electronic form, is not served on all parties to a proceeding; or

2. If it is an oral communication, is made without adequate notice to the parties and without an opportunity for the parties to be present and heard.

(b) A commissioner may not initiate or consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding that is currently pending before the commission. An individual may not discuss ex parte with a commissioner the merits, threat, or offer of reward regarding any issue in a proceeding that is pending before the commission. This paragraph does not apply to commission staff.

(c) If a commissioner knowingly receives an ex parte communication relative to a proceeding to which the commissioner is assigned, the commissioner must place on the record of the proceeding copies of all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall give written notice to all parties to the communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if deemed by such commissioner to be necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair shall substitute another commissioner for the proceeding.

(d) Any individual who makes an ex parte communication shall submit to the commission a written statement describing the nature of such communication, to include the name of the person making the communication, the name of the commissioner or commissioners receiving the communication, copies of all written communications made, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made. The commission shall place on the record of a proceeding all such communications.

(e) Any commissioner who knowingly fails to place on the record any such communications in violation of this subsection within 15 days after the date of such communication is subject to removal and may be assessed a civil penalty not to exceed \$5,000.

(f1). It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this subsection pursuant to the procedures contained in ss. 112.322-112.3241.

2. If the Commission on Ethics finds that there has been a violation of this subsection by a commissioner, it shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112, and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection. The Governor shall remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated this subsection in a separate matter.

3. If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to this subsection, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

4. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this subsection, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

Section 8. Paragraphs (a) and (d) of subsection (1) of section 20.055, Florida Statutes, are amended, and subsection (2) of that section is republished, to read:

20.055 Agency inspectors general.—

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

(a) “Agency head” means the Governor, a Cabinet officer, or a secretary or executive director as those terms are defined in s. 20.03, the chair of the Public Service Commission, the Director of the Office of Insurance Regulation of the Financial Services Commission, the Director of the Office of Financial Regulation of the Financial Services Commission, the board of directors of the Florida Housing Finance Corporation, the executive director

of the Office of Early Learning, the chair of the Florida Gaming Control Commission, and the Chief Justice of the State Supreme Court.

(d) “State agency” means each department created pursuant to this chapter and the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, the Office of Early Learning, the Florida Gaming Control Commission, and the state courts system.

(2) An office of inspector general is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. It is the duty and responsibility of each inspector general, with respect to the state agency in which the office is established, to:

(a) Advise in the development of performance measures, standards, and procedures for the evaluation of state agency programs.

(b) Assess the reliability and validity of the information provided by the state agency on performance measures and standards, and make recommendations for improvement, if necessary, before submission of such information pursuant to s. 216.1827.

(c) Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.

(d) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency, except that when the inspector general does not possess the qualifications specified in subsection (4), the director of auditing shall conduct such audits.

(e) Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.

(f) Keep the agency head or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action.

(g) Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.

(h) Review, as appropriate, rules relating to the programs and operations of such state agency and make recommendations concerning their impact.

(i) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(j) Comply with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.

Section 9. Effective July 1, 2022, paragraph (g) of subsection (2) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(2) The following divisions of the Department of Business and Professional Regulation are established:

~~(g) Division of Pari-mutuel Wagering.~~

Section 10. Effective July 1, 2022, paragraph (f) of subsection (1) and subsection (7) of section 285.710, Florida Statutes, are amended to read:

285.710 Compact authorization.—

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

(f) “State compliance agency” means the Florida Gaming Control Commission ~~Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation~~ which is designated as the state agency having the authority to carry out the state’s oversight responsibilities under the compact.

(7) The Florida Gaming Control Commission ~~The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation~~ is designated as the state compliance agency having the authority to carry out the state’s oversight responsibilities under the compact authorized by this section.

Section 11. (1) Effective July 1, 2022, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds in the Department of Business and Professional Regulation related to the oversight responsibilities by the state compliance agency for authorized gaming compacts under s. 285.710, Florida Statutes, the regulation of pari-mutuel wagering under chapter 550, Florida Statutes, the regulation of slot machines and slot machine gaming under chapter 551, Florida Statutes, and the regulation of cardrooms under s. 849.086, Florida

Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Florida Gaming Control Commission within the Department of Legal Affairs, Office of the Attorney General.

(2) Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Business and Professional Regulation to the Florida Gaming Control Commission within the Department of Legal Affairs, Office of the Attorney General, to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

(3) Effective July 1, 2022, the Pari-mutuel Wagering Trust Fund under s. 455.116, Florida Statutes, is transferred from the Department of Business and Professional Regulation to the Florida Gaming Control Commission.

Section 12. Paragraph (a) of subsection (2) of section 932.701, Florida Statutes, is amended to read:

932.701 Short title; definitions.—

(2) As used in the Florida Contraband Forfeiture Act:

(a) “Contraband article” means:

1. Any controlled substance as defined in chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of chapter 893, if the totality of the facts presented by the state is clearly sufficient to meet the state’s burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity, whether or not the use of the contraband article can be traced to a specific narcotics transaction.

2. Any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, was attempted to be used, or intended to be used in violation of the gambling laws of the state, including any violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849.

3. Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.

4. Any motor fuel upon which the motor fuel tax has not been paid as required by law.

5. Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of

any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

7. Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c).

8. Any motor vehicle offered for sale in violation of s. 320.28.

9. Any motor vehicle used during the course of committing an offense in violation of s. 322.34(9)(a).

10. Any photograph, film, or other recorded image, including an image recorded on videotape, a compact disc, digital tape, or fixed disk, that is recorded in violation of s. 810.145 and is possessed for the purpose of amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.

11. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201; any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, or currency; or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201.

12. Any personal property, including, but not limited to, any vehicle, item, object, tool, device, weapon, machine, money, security, book, or record, that is used or attempted to be used as an instrumentality in the commission of, or in aiding and abetting in the commission of, a person's third or subsequent violation of s. 509.144, whether or not comprising an element of the offense.

Section 13. The Division of Law Revision shall prepare a reviser's bill effective July 1, 2022, to replace references to the Division of Pari-mutuel

Wagering and references to the Department of Business and Professional Regulation relating to gaming with references to the Florida Gaming Control Commission to conform the Florida Statutes to the transfer described in section 11 of this act.

Section 14. (1) For the 2021-2022 fiscal year, the sum of \$2 million in nonrecurring funds from the General Revenue Fund is appropriated and 15 positions with associated salary rate of 1,250,000 are authorized to the Florida Gaming Control Commission for the purposes of implementing this act. These funds shall support five commissioners, an executive director, general counsel, and other agency personnel as needed. The funds shall cover all expenditures of the commission, including, but not limited to, salaries and benefits, travel, background investigations, and fingerprinting fees.

(2) For the 2021-2022 fiscal year, the sum of \$100,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Business and Professional Regulation for administrative support related to the Florida Gaming Control Commission. The Department of Business and Professional Regulation shall provide administrative support to the Florida Gaming Control Commission during the 2021-2022 fiscal year, including, but not limited to, human resource management, accounting, and budgeting.

Section 15. (1) The Department of Business and Professional Regulation, in coordination with the Department of Legal Affairs and the Department of Management Services, shall establish a working group to prepare the Florida Gaming Control Commission's legislative budget request for fiscal year 2022-2023 to be submitted by the Department of Business and Professional Regulation. The working group shall develop estimates for the amount of money needed for administration of the commission, including, but not limited to, costs relating to overall staffing and administrative support; infrastructure and office space; integration of technology systems and data needs and transfers; law enforcement accreditation, staffing, and training; organizational structure; and other matters deemed necessary or appropriate by the working group to assure the seamless establishment of the commission and orderly transition of the duties and responsibilities under the transfer described in section 11 of this act.

(2) This section shall take effect upon this act becoming a law.

Section 16. If any law amended by this act was also amended by a law enacted during the 2021 Regular Session of the Legislature, such laws shall be construed as if they had been enacted during the same session of the Legislature, and full effect shall be given to each if possible.

Section 17. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect on the same date that SB 2A or similar legislation takes effect, if

such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 25, 2021.

Filed in Office Secretary of State May 25, 2021.