

Lawmakers returned to Tallahassee this week for a special session called by Governor Ron DeSantis in response to the Biden Administration's recent vaccine and testing mandate. The Florida House and Senate approved four bills, summarized below, to address concerns over the actions recently taken by the Biden Administration.

- **COVID-19 Mandates** | [HB 1B](#) by Rep. Erin Grall (R-Vero Beach) prohibits private employers from mandating COVID-19 vaccinations without providing employees the ability to opt out of the mandate. Private employers imposing a vaccine mandate must authorize exemptions for the following reasons: medical reasons, including pregnancy or anticipated pregnancy, religious, COVID-19 immunity, and periodic testing, and use of employer-provided personal protective equipment.

Florida's Attorney General is authorized to impose administrative fines up to \$50,000 per violation, if an employee is terminated for refusing a vaccination and the employer did not follow the exemption procedures. Employees improperly terminated may be eligible for reemployment benefits.

Further, educational institutions and local governments are prohibited from mandating a vaccine as a condition of employment and the Department of Health (DOH) may impose a fine up to \$5,000 per violation. Parents may bring an action against schools for declaratory and injunctive relief and courts must award attorney fees to the prevailing party. School boards are prohibited from requiring students to wear a face covering without providing an opt-out by parents. Lastly, quarantining of asymptomatic students and teachers is limited. The provisions in the bill sunset on June 1, 2023.

The approved measure is substantially less burdensome for employers than what was originally proposed by the Governor, which would have stripped COVID-19 liability protections from employers who mandate vaccines.

- **Employer COVID-19 Vaccination Policies/Public Records Exemption** | [HB 3B](#) by Rep. Ralph Massullo (R-Lecanto) makes an employee complaint that a private employer violated Florida law regarding vaccinations confidential and exempt from [Florida's Public Records Law](#). The public records exemption will expire on October 2, 2023.
- **Florida Occupational Safety and Health State Plan** | [HB 5B](#) by Rep. Ardian Zika (R-Land O'Lakes) directs the Governor's Office to develop a proposal for a state plan with jurisdiction over occupation safety and health issues for government and private employees. A status report must be submitted to the Senate President and House Speaker by January 17, 2022. Further, the plan must be developed in conjunction with the DOH, the Department of Financial Services (DFS), and the Department of Business and Professional Regulation (DBPR).

Federal law allows states to have a regulatory state plan in lieu of the federal Occupational Safety and Health Act (OSHA) regulations if it is at least as effective and stringent as OSHA and applies to public sector employees. Currently, there are 22 states with an OSHA-approved state program and five states with programs that apply only to public sector employees. To gain approval for a state plan, Florida must demonstrate that sufficient staff and regulations would be in place within three years. If approved, the state would be eligible for federal funding to pay for the program.

- **Vaccinations During Public Health Emergencies** | [HB 7B](#) by Rep. Alex Andrade (R-Pensacola) repeals the authority of the Florida Surgeon General to order an individual to be vaccinated for communicable diseases that present a severe danger to public health during a public health emergency.

Following passage, the bills will be sent to the Governor who is expected to sign them quickly into law. If approved, the bills take effect immediately, which sets the stage for a potential legal battle between the state and federal government. On November 12th, a federal appeals court in New Orleans stayed the federal vaccine mandate for private employers.

Legislators will return to the Capitol on Monday, November 29th for the final round of interim committee meetings. The 60-day 2022 Session is scheduled to commence on Tuesday, January 11th and end on Friday, March 11th.